

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission.

5. **Lot 2, Block 1, Whispering Bay (being replatted as Lots 1-11, Block 1, Whispering Pointe) and Lot 1, Block 1, Whispering Bay – Zoning Change (R10 to R5) (Klee)33**

Staff recommendation: approve

approve continue table deny

OTHER BUSINESS

6. **Other**

ADJOURNMENT

7. **Adjourn.** The next regular meeting date is scheduled for Wednesday, November 17, 2010.

Enclosure: Minutes of the September 22, 2010 meeting
 Major Building Permits Report for September 2010
 Building Permit Activity Report for September 2010

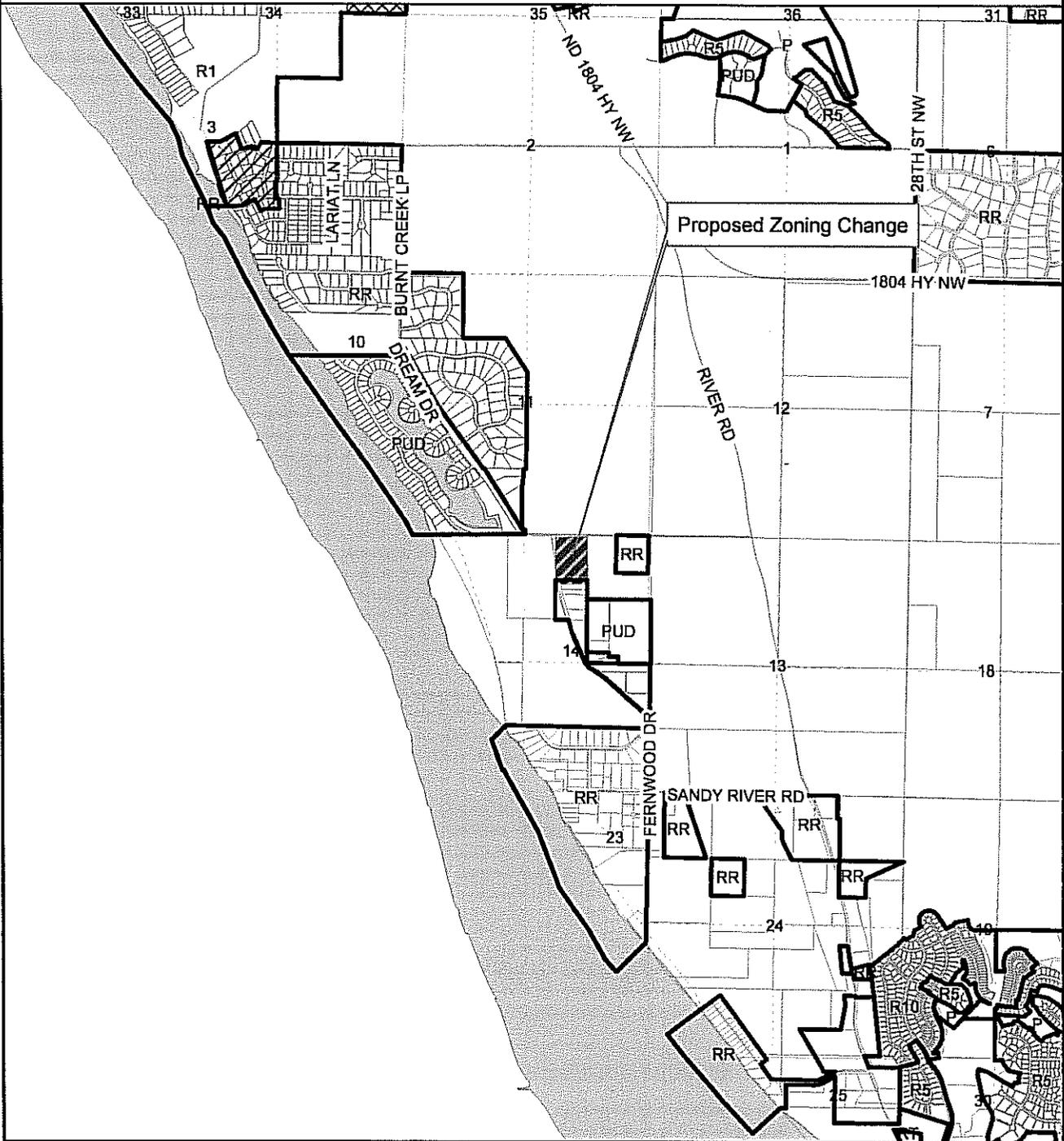
**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: Fernwood Subdivision – Zoning Change (A to RR)	
Status: Planning Commission – Consideration	Date: October 27, 2010
Owner(s): Robert Robinson – Lots 1-4 Emile Kirschenmann – Lots 5-6	Engineer: Swenson Hagen & Co.
Reason for Request: Plat and rezone partially developed property for purpose of creating additional parcels.	
Location: Along the east side of Fernwood Drive at the intersection with the southern east-west portion of Burnt Creek Loop (part of the E½ of the NW¼ of the NE¼ of Section 14, T139N-R81W/ West Hay Creek Township).	
Project Size: 14.42 acres	Number of Lots: 6 lots in one block
EXISTING CONDITIONS:	
Land Use: Rural residential	PROPOSED CONDITIONS:
Zoning: A – Agriculture	Land Use: Rural residential
Uses Allowed: Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit per 40 acres	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). 2. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include a combination of rural residential and agricultural. 3. The property included in the proposed subdivision is partially developed, has access via Fernwood Drive and Burnt Creek Loop and is served by South Central Regional Water District; therefore, the proposed zoning change will not place an undue burden on public services. 4. The proposed zoning change would not adversely affect property in the vicinity. 5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance. 6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice. 	

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing on the zoning change for Fernwood Subdivision from A – Agricultural to RR – Residential.

Proposed Zoning Change (A to RR) Fernwood Subdivision

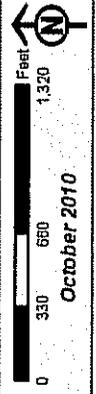
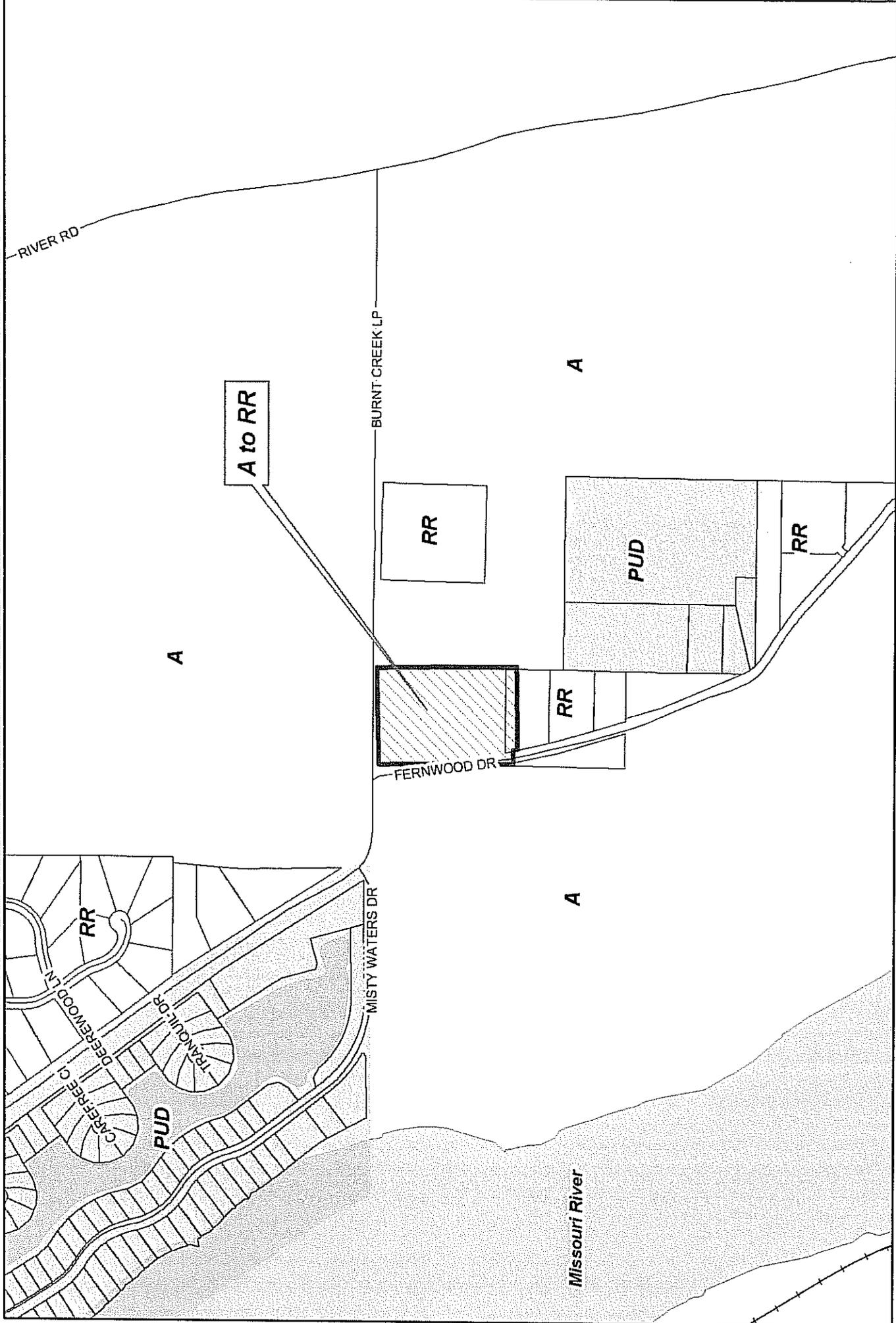


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Map was Updated/Created: September 28, 2010 (kdg)

Source: City of Bismarck



Fernwood Subdivision - Zoning Change - A to RR



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October 2010

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

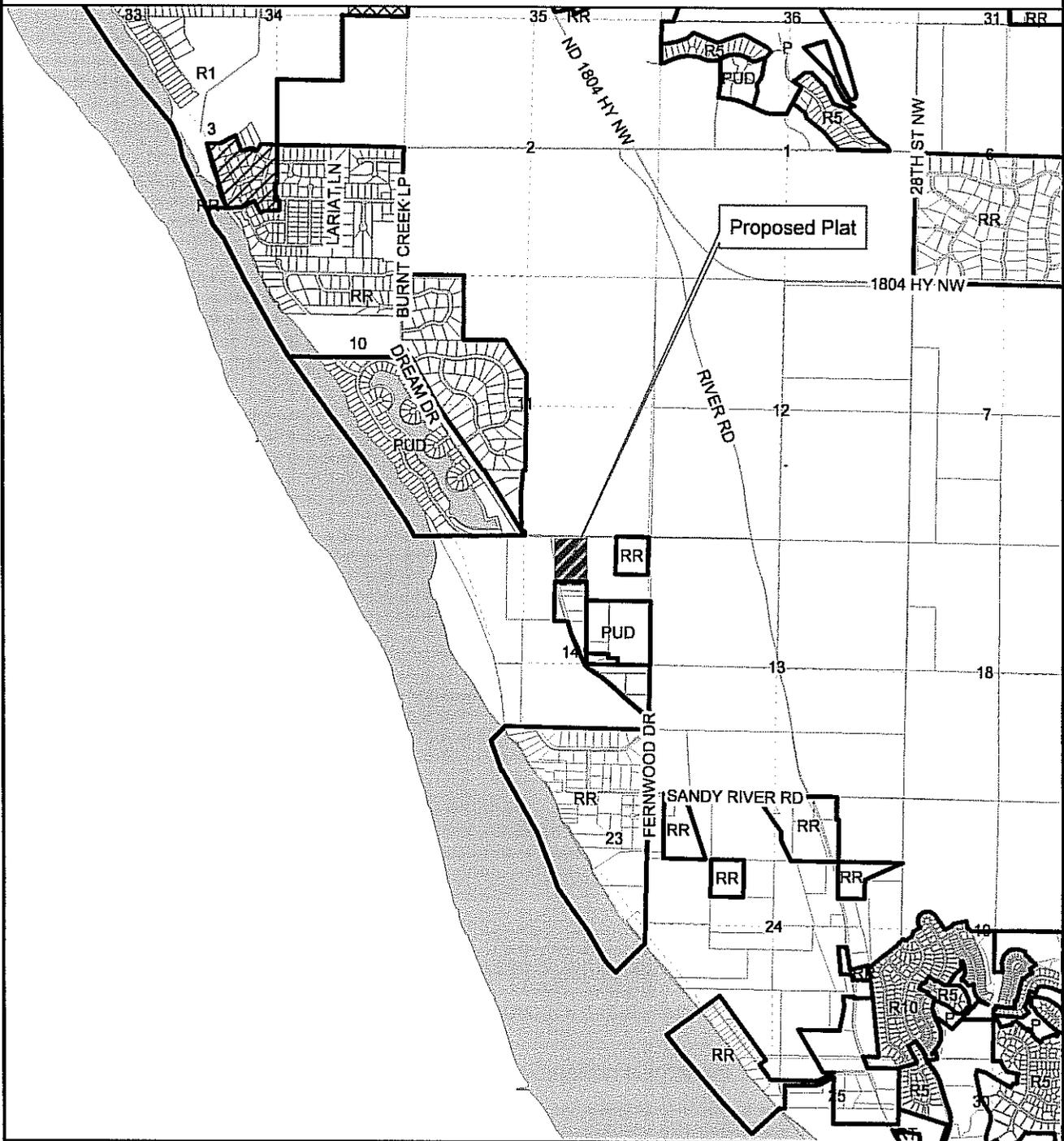
BACKGROUND:	
Title: Fernwood Subdivision – Preliminary Plat	
Status: Planning Commission – Consideration	Date: October 27, 2010
Owner(s): Robert Robinson – Lots 1-4 Emile Kirschenmann – Lots 5-6	Engineer: Swenson Hagen & Co.
Reason for Request: Plat and rezone partially developed property for purpose of creating additional parcels.	
Location: Along the east side of Fernwood Drive at the intersection with the southern east-west portion of Burnt Creek Loop (part of the E½ of the NW¼ of the NE¼ of Section 14, T139N-R81W/ West Hay Creek Township).	
Project Size: 14.42 acres	Number of Lots: 6 lots in one block
EXISTING CONDITIONS:	
Land Use: Rural residential	Land Use: Rural residential
Zoning: A – Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit per 40 acres	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> 1. The Hay Creek Township Board of Supervisors has not yet commented on the proposed subdivision. 2. This property is located within the Urban Service Area Boundary (USAB) and is subject to ghost platting. The applicants have requested a waiver of the ghost platting requirement because Lots 2 and 3 are four (4) feet below the current base flood elevation and are unlikely to become urban lots in the future. 	
FINDINGS:	
<ol style="list-style-type: none"> 1. All technical requirements for consideration of a preliminary plat have been met. 2. The proposed subdivision is in general conformance with the Fringe Area Road Master Plan, which identifies both Fernwood Drive and Burnt Creek Loop as arterials. Because they are identified as arterials, the dedication of additional right-of-way may be required. 2. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include a combination of rural residential and agricultural. 	
<i>(continued)</i>	

3. The property included in the proposed subdivision is partially developed, has access via Fernwood Drive and Burnt Creek Loop and is served by South Central Regional Water District; therefore, the proposed subdivision will not place an undue burden on public services.
3. The proposed subdivision would not adversely affect property in the vicinity.
4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
5. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends tentative approval of the preliminary plat for Fernwood Subdivision, granting a waiver of the ghost platting requirements, and with the understanding that the amount of right-of-way required for both Burnt Creek Loop and Fernwood Drive will need to be resolved prior to a public hearing being scheduled on the final plat.

Proposed Plat Fernwood Subdivision



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Map was Updated/Created: September 28, 2010 (kdg)

Source: City of Bismarck



Preliminary Plat

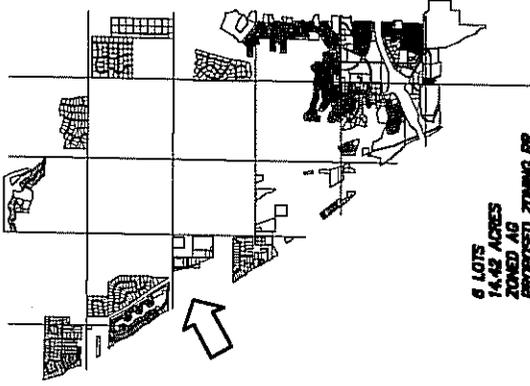
FERNWOOD SUBDIVISION

E 1/2 NW 1/4 NE 1/4
SECTION 14, T. 139 N., R. 81 W.

BURLEIGH COUNTY NORTH DAKOTA

01026
11/19
2000
RECEIVED

LOCATION MAP



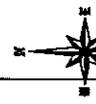
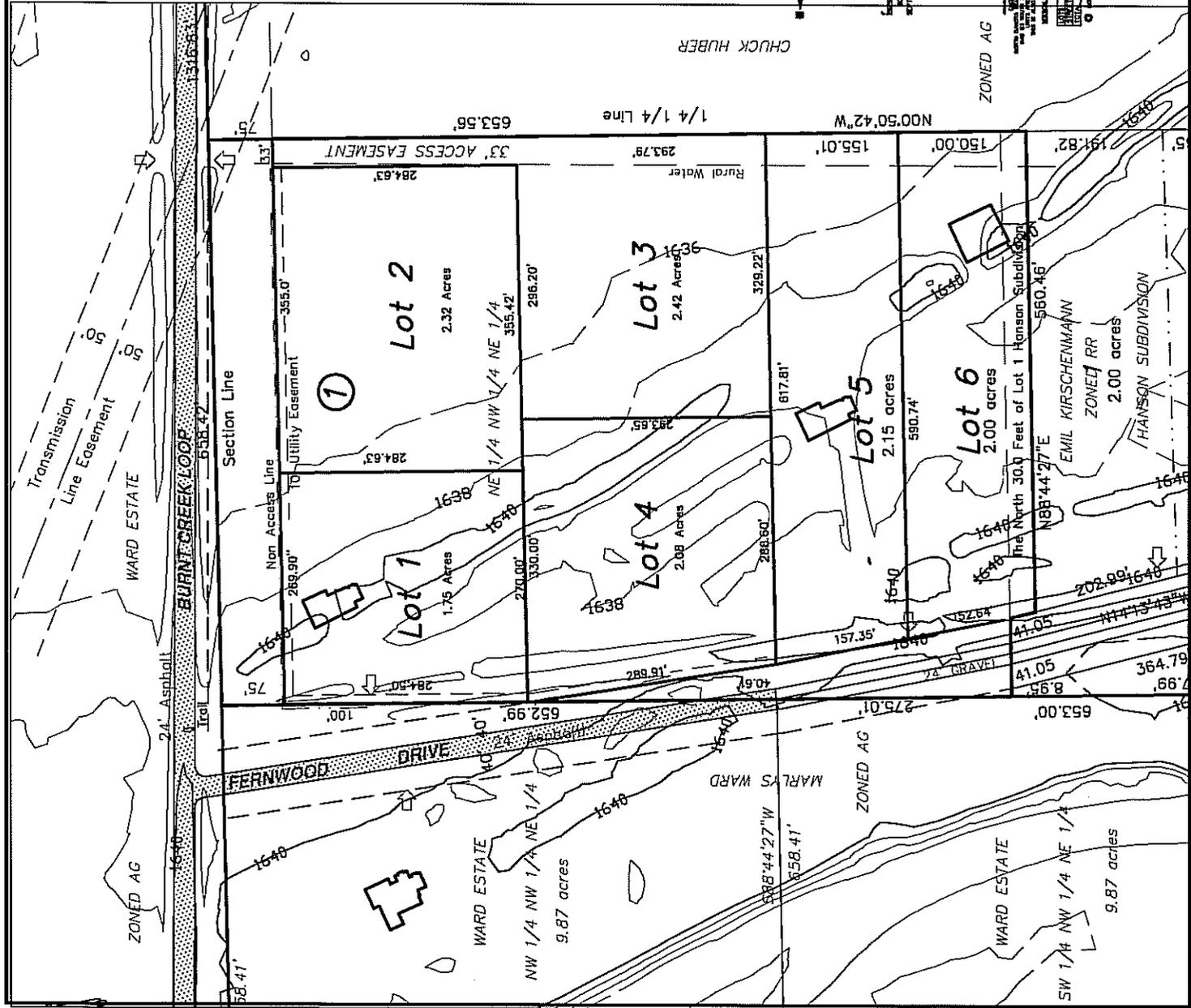
6 LOTS
14.42 ACRES
ZONED AG
PROPOSED ZONING RR

ROBERT ROBINSON Lot 1-4
2230 WEST HARBOR DRIVE
BISMARCK NORTH DAKOTA
258-8337

EMIL KIRSCHENMANN Lot 5-8
5401 FERNWOOD DRIVE
BISMARCK NORTH DAKOTA
258-1403

100YR FLOOD PLAN 1644.0 MA1D 88

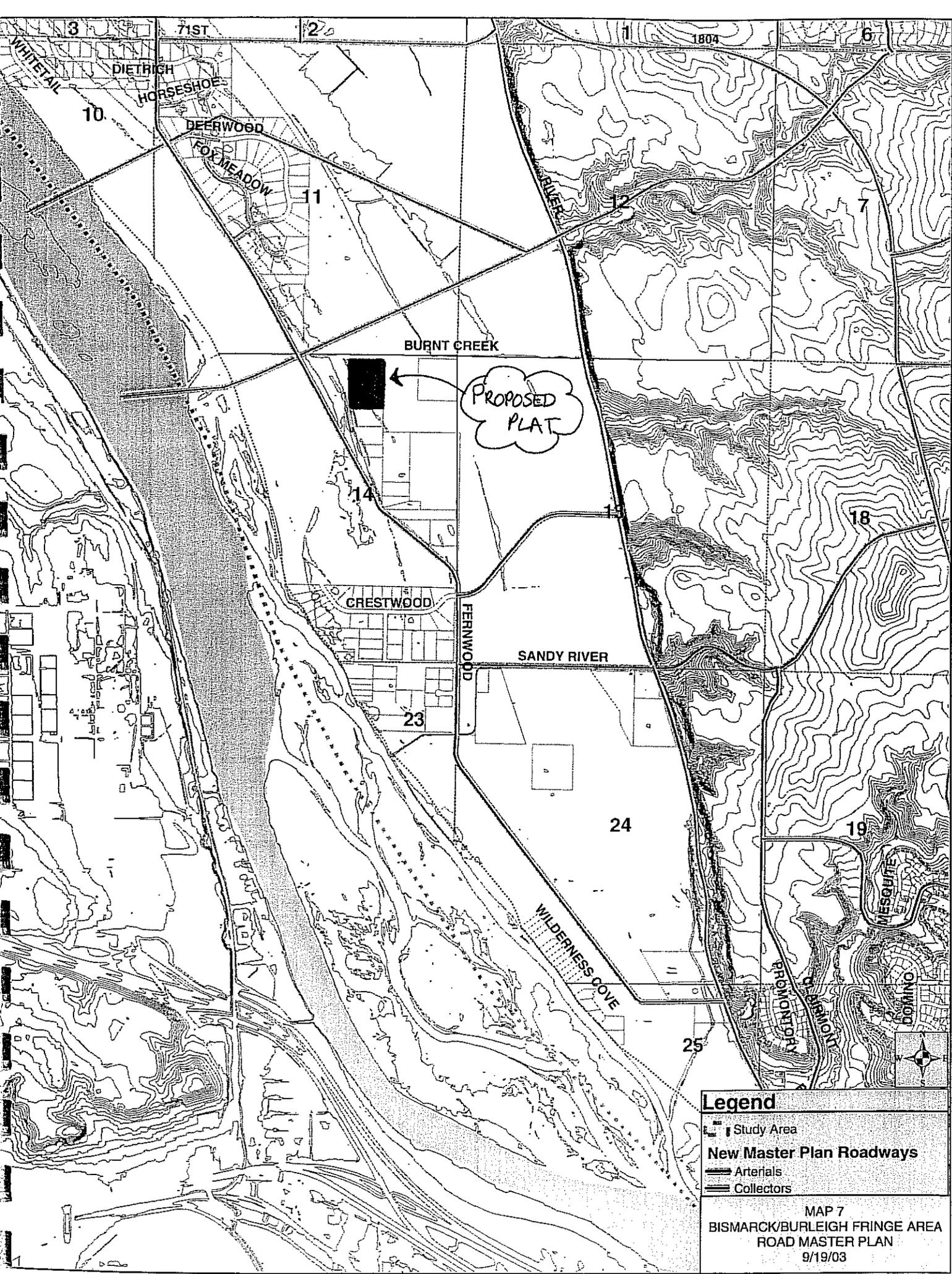
NOTE: THE WATER SERVICE AGREEMENT BETWEEN THE CITY OF BISMARCK AND BURLIEIGH COUNTY, NORTH DAKOTA, DOES NOT INCLUDE THE CITY OF BISMARCK AND BURLIEIGH COUNTY, NORTH DAKOTA, DOES NOT HAVE THE RIGHT TO DISCONNECT WATER SERVICE TO ANY LOT OR LOTS IN THIS SUBDIVISION.



SCALE
1" = 100'
SEPTEMBER 14, 2000

MEMORANDUM
THIS PLAT WAS PREPARED BY SWENSON, HAGEN & COMPANY P.C. FOR THE CITY OF BISMARCK AND BURLIEIGH COUNTY, NORTH DAKOTA. THE CITY OF BISMARCK AND BURLIEIGH COUNTY, NORTH DAKOTA, DOES NOT HAVE THE RIGHT TO DISCONNECT WATER SERVICE TO ANY LOT OR LOTS IN THIS SUBDIVISION.

Document is preliminary and not for construction, recording purposes or implementation



PROPOSED
PLAT

Legend

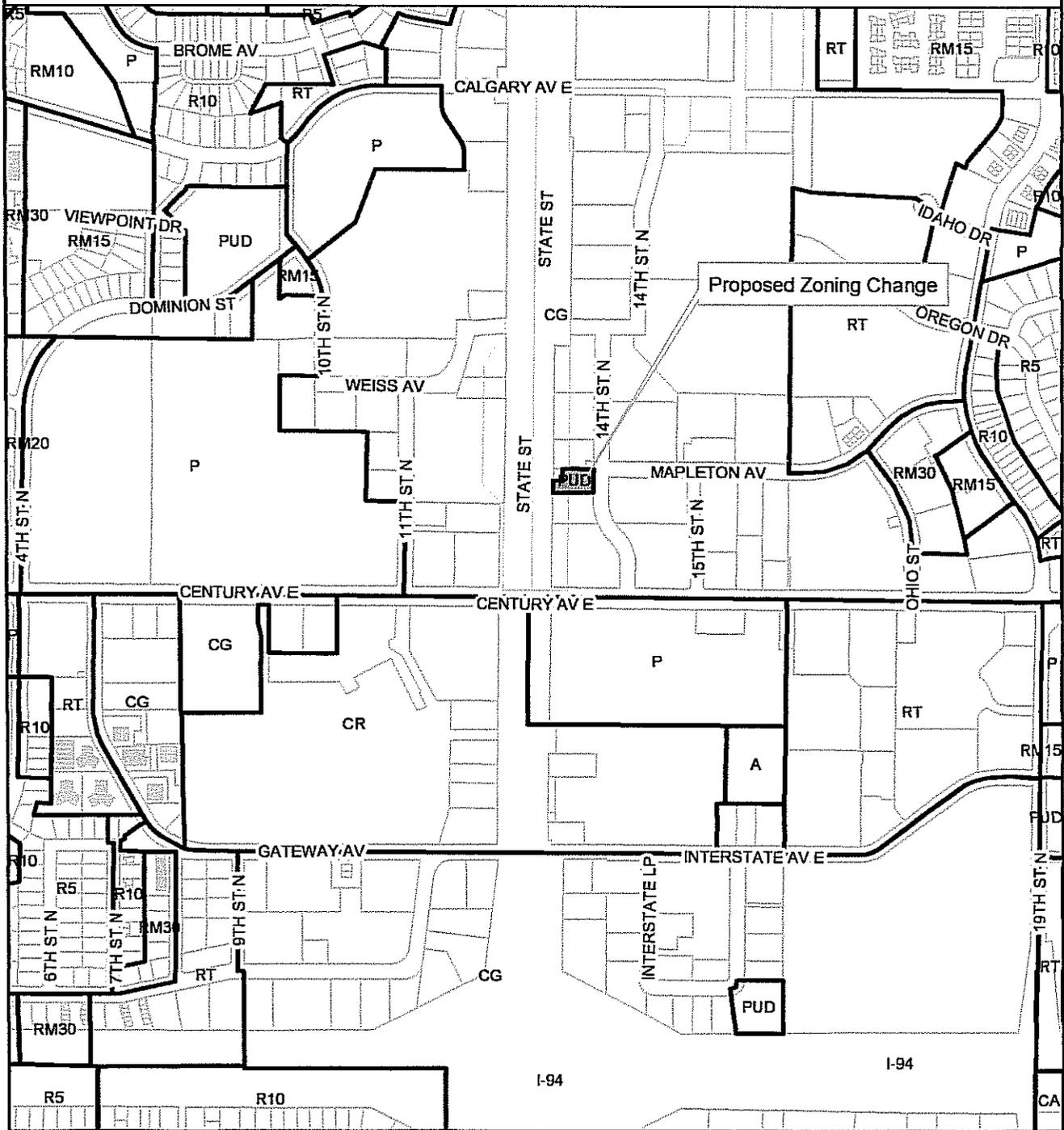
- Study Area
- New Master Plan Roadways**
 - Arterials
 - Collectors

MAP 7
BISMARCK/BURLEIGH FRINGE AREA
ROAD MASTER PLAN
9/19/03

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

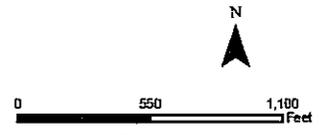
BACKGROUND:		
Title: Lot A-1, Block 1, U-Rent Subdivision– Zoning Change (PUD to CG)		
Status: Planning Commission – Consideration	Date: October 27, 2010	
Owner(s): Security First Bank of North Dakota	Engineer: Kadrmaz, Lee & Jackson	
Reason for Request: Rezone property to have contiguous zoning over the entire parcel.		
Location: Along the east side of State Street near the intersection of 14 th Street North and Mapleton Avenue. (Lot A-1, Block 1, U-Rent Subdivision)		
Project Size: 25,450 square feet	Number of Lots: 7 lots in one block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant office building	Land Use: Two model homes and one office building.	
Zoning: PUD – Planned Unit Development	Zoning: CG – Commercial	
Uses Allowed: Storage building and one office	Uses Allowed: General commercial	
Maximum Density Allowed: N/A	Maximum Density Allowed: N/A	
PROPERTY HISTORY:		
Zoned: 09/87	Platted: 09/87	Annexed: Pre-1980
FINDINGS:		
<ol style="list-style-type: none"> 1. The proposed zoning change is consistent with the Land Use Plan which identifies the long range use of this area as commercial (Bismarck-Mandan Regional Land Use Plan. 2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include commercial properties surrounding this parcel. 2. The subdivision is already annexed and utilities are in place; therefore, the zoning change will not place an undue burden on public services. 3. The proposed zoning change would not adversely affect property in the vicinity 4. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance 5. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice. 		
RECOMMENDATION:		
Based on the above findings, staff recommends scheduling a public hearing for the zoning change for Lot A-1, Block 1, U-Rent Subdivision from PUD – Planned Unit Development to CG - Commercial.		

Proposed Zoning Change (PUD to CG) Lot A-1, Block 1, U-Rent Subdivision

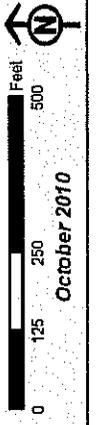
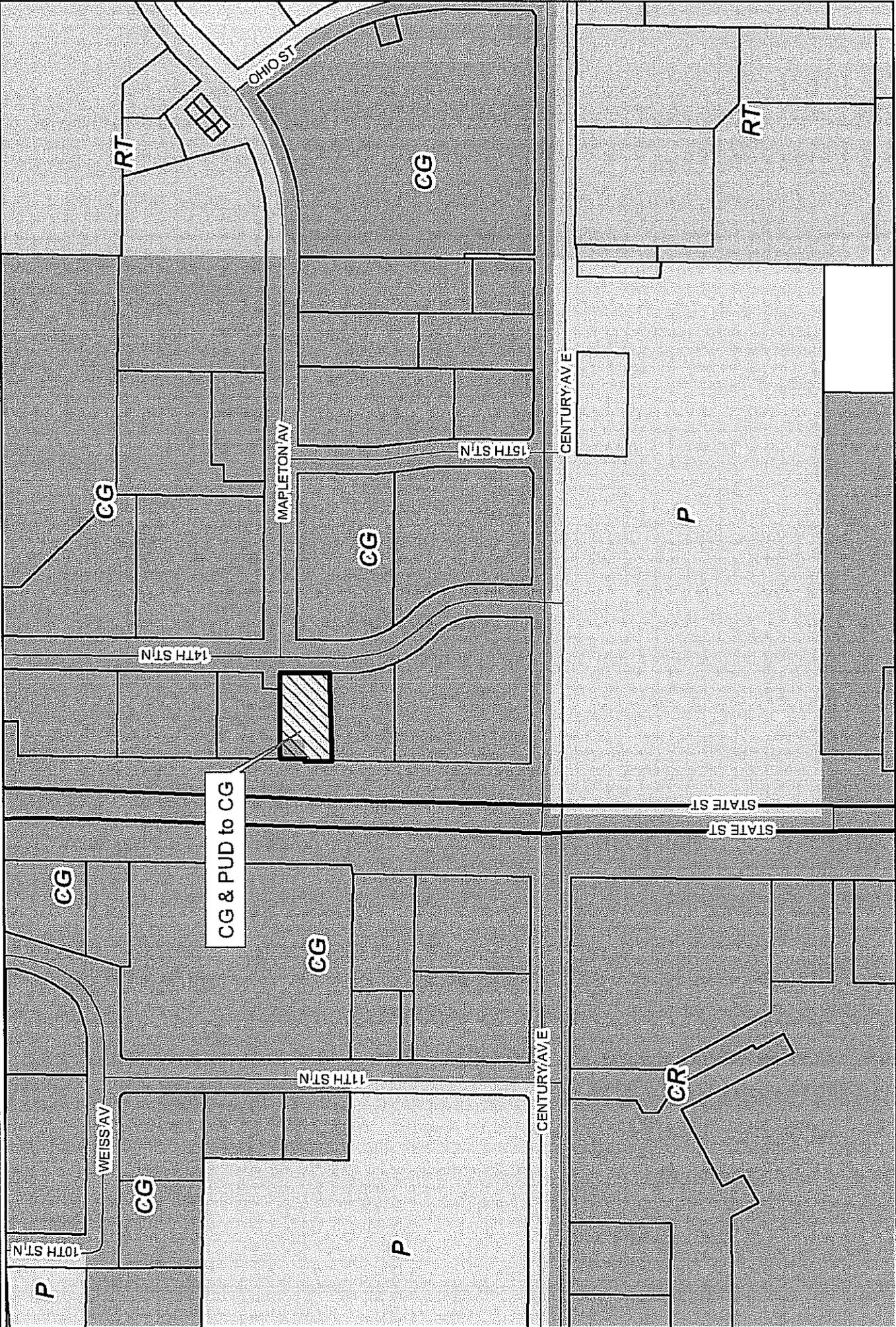


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Map was Updated/Created: September 16, 2010 (tdg)

Source: City of Bismarck



Lot A-1, Block 1, U-Rent Subdivision - Zoning Change - CG & PUD to CG



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CITY OF BISMARCK Ordinance No. XXXX

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-11 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO LANDSCAPING AND SCREENING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-11 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Landscaping and Screening is hereby amended and re-enacted to read as follows:

14-03-11. Landscaping and Screening.

1. *Purpose.* The purpose of these regulations are to maintain the City's quality and character by enhancing its visual appearance through the use of landscaping; enhance environmental conditions by providing shade, air purification, reduction of storm water run-off, and filtering of noise and light; screen off-street parking areas and exterior storage areas from view of persons on public streets and adjoining properties; provide buffer areas between land uses of differing intensity; and encourage the planting of trees and other plant materials throughout the community that are native or generally suitable for this area.

2. *Applicability.* The landscaping requirements contained herein shall apply to any of the following:

a. The construction of any principal commercial, industrial, institutional, or multi-family building(s) with ~~more than 4~~ three (3) or more units or an accessory building for any of the above uses.

- b. The installation of any parking area or the expansion of any existing parking area by five (5) or more required off-street parking spaces; and
 - c. A change in the use of the property that requires rezoning to a more intensive zoning classification or a special use permit.
 - d. The reconstruction of any portion of an existing off-street parking lot, regardless of whether or not required parking spaces are added, and provided the required plant materials do not reduce the number of off-street parking spaces below what is required. Reconstruction includes any land disturbance activity, exposure of any subgrade or soil material. Regular maintenance, minor repairs, patch work or a partial mill and overlay would not constitute reconstruction.
3. *General Requirements.* All exposed ground areas, including areas not devoted to off-street parking, drives, sidewalks or other such improvements shall be landscaped with grass, vegetative ground cover, shrubs, trees or other ornamental landscape materials within 1 year following the date of building occupancy in conjunction with site development. All landscaped areas shall be kept neat, clean and uncluttered. No required landscaped area shall be used for parking of vehicles or for the storage or display of materials, supplies or merchandise. Boulevard areas shall be subject to the requirements of Sections 10-03-14 and 10-05-04.
4. *Landscaping Plan Required.* A landscape plan shall be required for all development subject to the provisions of this subsection. All landscape plans submitted for approval shall contain, at a minimum, the following information:
 - a. North point and scale;
 - b. The boundary lines of the property with dimensions and area;

- c. The location of all driveways, parking areas, sidewalks, structures, utilities, or other features, existing or proposed, affecting the landscaping of the site;
 - d. The location, common name, scientific name to the species level, size and quantity of all existing trees, shrubs or other vegetation intended for use in meeting the requirements of this subsection;
 - e. The location, common name, scientific name to the species level, size and quantity of all proposed landscape materials;
 - f. The location and height of any proposed earthen berms, masonry fences or other features used to meet the landscaping or buffer yard requirements; and
 - g. The location of any existing and/or proposed easements.
 - h. The square footage of each interior parking lot landscaping area and the overall square footage of all interior parking lot landscaping areas shown.
5. *Landscape Design Considerations.* Landscape design should serve to provide visually interesting open space, reduce the potential negative impact of development on adjacent land uses, and complement the scale of the development and its surroundings. The following items are to be considered in developing a landscape plan for submittal to the City:
- a. Landscape materials and structural items placed within the sight triangle of a corner lot, as defined in Section 14-02-03, shall not have a height of more than 3 feet above the curb level during all stages of plant growth. Deciduous trees may be planted within the sight triangle provided they are not an obstruction to vision between three feet and ten feet above the curb level;

- b. Landscape materials and structural items at driveway entrances shall be placed so that visibility for vehicles entering or exiting a parking lot is not obstructed;
- c. Trees or shrubs shall not be planted under utility lines when their ultimate height may interfere with the lowest lines;
- d. Landscaped areas shall be of adequate size to promote proper plant growth and to protect plantings from pedestrian traffic, vehicle traffic, and other types of concentrated activity;
- e. Landscaped areas and plantings shall be located in a manner to allow adequate room for proper maintenance;
- f. A variety of tree and shrub species shall be utilized to provide year around visual interest. Except for continuous hedges and street trees, not more than fifty (50) percent of the required number of trees or shrubs may be comprised of any one (1) species. In addition, not more than fifty (50) percent of the shrubs and perennials within any planting bed larger than 500 square feet in area may be comprised of any one (1) genus;
- g. Final slopes greater than a 3:1 ratio, including slopes on earthen berms, will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing or retaining walls; and
- h. Within the DC - Downtown Core and DF - Downtown Fringe zoning districts, streetscape elements from the City's Streetscape Guidelines should be incorporated into the perimeter parking lot landscaping.

6. *Landscape Materials Standards.*

- a. *Plant Quality.* Plants installed to satisfy the requirements of this subsection must meet or exceed the plant quality standards of the most recent edition of *American Standards for Nursery*

Stock, published by the American Association of Nurserymen, be nursery grown and adapted to the local area.

b. Artificial Plants. No artificial plants or vegetation may be used to meet any standard of this section.

c. Sizes.

Type of Material	Minimum Size at Time of Planting
Shade or Ornamental Trees	Caliper of 1½ inches measured 6 inches above the root collar for trees with a mature height of 30 feet or greater
<u>Ornamental Trees</u>	Caliper of 1 inch measured 6 inches above the root collar for trees with a mature height of less than 30 feet
Upright Coniferous Trees	Minimum height of 4 feet above grade
Shrubs	Minimum height of 2 feet above grade or a minimum container size of 2 gallons and minimum mature height of 3 feet above grade
Perennials	Minimum container size of 1 gallon

d. Existing Plant Material. Existing, healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum sizes specified above.

e. Ground Cover. Vegetative ground cover shall be of a size and spacing to provide a minimum of 50 percent coverage during the first full growing season and complete coverage upon maturity. Only pervious weed barriers shall be allowed. Mulch may not be used in lieu of vegetative ground cover, except in those situations where mulch is necessary to promote healthy tree and shrub growth.

Where mulch is used, an adequate vertical barrier must be included around the perimeter of the mulch area to prevent mulch from washing into the public right-of-way or on to adjacent properties.

- f. Soil in Landscaped Areas. Soil in landscaped areas shall consist of loose, friable, loamy topsoil that is free of excess acid and alkali. It shall be free from objectionable amounts of sod, hard lumps, gravel, subsoil or other undesirable material, to a depth of 18 inches.

7. Street Trees.

- a. Purpose. The street tree requirements are intended to promote air quality, shade, neighborhood character, traffic calming, reduced storm water runoff, wildlife habitat, pedestrian amenity and aesthetic value.

- b. Applicability. Street trees shall be installed in conjunction with the construction of any principal commercial, industrial, institutional or multi-family building with more than 3 units along a section of public roadway with curb and gutter installed or scheduled to be installed in conjunction with the project.

- c. Location. Street trees shall be installed within the ~~street~~ public right-of-way or within 10 feet of the ~~street~~ public right-of-way.

- d. Spacing and Planting Requirements. Unless the City Forester determines that it is necessary to address specific site conditions, three (3) deciduous trees are required for every 100 linear feet of street frontage. Street trees need not be placed at exact intervals, but they must be placed evenly along the street frontage. The City Forester shall have the authority to determine the final location of street trees in accordance with Section 13-02-01 of the City Code. Mulch shall be installed to a minimum coverage thickness of 2 inches within a radius of 3 feet of the trunk base. Tree grates may be used in lieu of mulching at the discretion of the City Forester.

e. Permit Required. A planting permit must be obtained from the Forestry Division prior to planting any trees within the public right-of-way.

8. *Perimeter Parking Lot Landscaping.*

- a. Purpose. The perimeter parking lot landscaping requirements are intended to screen views of parking lots and access lanes from public rights-of-way, mitigate headlight pollution, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Perimeter parking lot landscaping shall be required with the installation or reconstruction of any off-street parking area or access lane adjacent to the public right-of-way and/or visible from and within 300 feet of a public right-of-way.
- c. Standards. All parking lots and access lanes shall provide perimeter landscaping between said off-street parking areas and access lanes and adjacent ~~street~~ public rights-of-way. Said perimeter landscaping shall be constructed with standard poured-in-place concrete curbing on the parking lot side in order to minimize damage to plant material.
- d. Trees and Shrubs. Trees and shrubs shall be installed in accordance with the following table. The intent of the minimum requirements column is to provide a total number of trees and shrubs required based on street frontage, not to dictate the spacing of the trees and shrubs within that frontage. For fractions of the specified linear feet, the number of trees and shrubs required shall be the corresponding fraction.

Parking Lot Size (Number of Spaces)	Minimum Landscaping Width	Minimum Requirements
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Less than 100	4 feet; or	Masonry wall, decorative fencing or continuous evergreen or deciduous hedge with a minimum height of 3 feet.
	6 feet	1 shade or ornamental tree and 5 shrubs for every 25 linear feet of street frontage.
<u>101 to 399 400</u>	10 feet; or	4 shade or ornamental trees and 40 shrubs for every 100 linear feet of street frontage; or
		Masonry wall, decorative fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 3 feet
	20 feet; or	Earthen berm with a minimum height of 3 feet plus 2 shade or ornamental trees for every 100 linear feet of street frontage; or
		2 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage.
30 feet	4 shade or ornamental trees and 10 shrubs for every 100 linear feet of street frontage.	
<u>More than 400 or more</u>	<u>20 feet; or to 30 feet;</u>	Earthen berm with a minimum height of 3 feet plus 4 shade or ornamental trees for every 100 linear feet of street frontage; or
		4 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage; or

		Masonry wall, decorative iron fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 4 feet.
	30 feet; or to 40 feet;	4 shade or ornamental trees and 15 10 shrubs for every 100 linear feet of street frontage.
	40 feet <u>or</u> <u>greater</u>	4 shade or ornamental trees for every 100 linear feet of street frontage.

- e. Applicability to Industrial Districts. within the MA - Industrial and MB - Industrial zoning districts, the City Forester may waive or modify perimeter parking lot landscaping requirements based on site conditions if the parking lot has 25 or fewer parking spaces and the property is not located along a collector or arterial roadway.
- f. Grade Differential. Consideration will be made for parking areas and access lanes that are significantly above or below the finish grade of the adjacent to the public right-of-way. Modifications to the required plant quantities will be considered on a case-by-case basis by the Community Development Director and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.
- g. Separation. For off-street parking areas with varying widths adjacent to a public right-of-way, the average separation distance between the parking area and the right-of-way will be the basis for the required plant materials.
- h. Substitutions. The City Forester may allow perennials to be substituted for a portion of the

required shrubs on a one-to-one basis, and for one shade tree to be substituted for three shrubs, based on specific site conditions and the overall landscape design for the site.

9. *Interior Parking Lot Landscaping.*

- a. Purpose. The interior parking lot landscaping requirements are intended to break up large expanses of pavement, provide relief from the heat island effect associated with paved areas, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Interior parking lot landscaping applies to any new or reconstructed parking lot.
- c. Standards. All parking lots containing 50 or more off-street parking spaces shall provide interior landscape areas within the parking lot. Said landscape areas shall be provided at the rate of 10 square feet per parking space, shall be no less than 10 feet by 10 feet (100 square feet), and shall be constructed with poured-in-place concrete curbing to minimize damage to plant material. The poured-in-place concrete curbing requirement may be waived for landscape beds intended to function as rain gardens, storm water infiltration areas or storm water detention facilities. For parking lots with 100 to 400 parking spaces, at least 50% of the landscape areas shall be no less than 600 square feet in area with a minimum width dimension of 10 feet. For parking lots with more than 400 parking spaces, at least 50% of the landscape areas shall be no less than 1200 square feet in area with a minimum width dimension of 10 feet.
- d. Placement of Landscape Areas. Live plant material should be evenly dispersed throughout the parking area.
- e. Trees and Shrubs. At least one (1) shade tree and three (3) shrubs shall be provided for every 20 parking spaces or fraction thereof within the off-street parking area. One shade tree may be

substituted for 3 shrubs, but shrubs may not be substitutes for shade trees. The City Forester may allow perennials to be substituted for a portion of the required shrubs on a one-to-one basis, based on specific site conditions and the overall landscape design for the site.

~~f. Transfer of Interior Parking Lot Landscaping Areas. For parking lots containing 100 or fewer parking spaces, the required interior landscaping area and plantings may be transferred and combined with the required perimeter parking lot landscape area.~~

10. Buffer Yards.

- a. Purpose. The buffer yard requirements are intended to provide separation between land uses of differing intensity. Buffer yards utilize a combination of distance and plantings to form a dense landscaping screen to mitigate the undesirable impacts associated with incompatible land uses on adjacent properties. Earthen berms and/or opaque wood or similar screening fence as defined in this section may also be used where appropriate at the discretion of the City Forester.
- b. Applicability. Buffer yards shall be required between a single- or two-family residential use and any other non-agricultural land use, and between a multiple family residential use (3 or more units) and any commercial, industrial or institutional use. Buffer yards shall also be required for parking lots and access lanes associated with these uses, whether they are located on the same parcel or on a separate parcel.
- c. Location of Buffer Yards. Buffer yards shall be located along the entire length of any lot line where two land uses of differing intensity abut excluding areas adjacent to access points and sight triangles. Such buffer yards may be located within required yards, but not within any portion of the public right-of-way or over any established trail or access easement.

- d. Responsibility of Buffer Yard Installation. All required buffer yards shall be the responsibility of the proposed higher intensity use and shall be located on the lot of the higher intensity use unless a perpetual landscape easement is obtained from the property owner with the lower intensity use, in which case the buffer yard may be located on the lot with the lower intensity use. In situations where the higher intensity use was in place prior to the adoption of this ordinance ~~(October 8, 2002)~~ or any subsequent amendments, a buffer yard shall not be required with the subsequent development of the adjacent lower intensity land use. Landscape easements for buffer yards may be required in conjunction with the platting process in situations where such buffer yards will be required based on existing or proposed zoning and/or land uses.
- e. Standards. Buffer yards shall be installed in accordance with the following table:

Area Where Buffer Yard Required	<u>Minimum Width</u> of Buffer Yard	Landscape Materials Required per 100 Linear Feet
Side or rear yard of any expanding higher intensity land use adjacent to single and two-family residential uses or zoning	10 feet w/6-foot screening fence	4 shade trees and 2 ornamental trees

<u>Side or rear yard of any new high density multi-family use or zoning(9+ units) adjacent to medium density multi-family residential use or zoning(3-8 units)</u>	<u>15 feet</u>	<u>2 shade trees, 2 ornamental trees, 2 large upright coniferous trees and 10 shrubs (50% of shrubs must be upright evergreens)</u>
	<u>or</u>	
	<u>15 feet w/6-foot screening fence</u>	<u>2 shade trees and 2 ornamental trees and 2 large upright coniferous trees</u>
Side or rear yard of any new multi-family land use adjacent to single and two-family residential uses or zoning or Side or rear yard of any new commercial or institutional use adjacent to a multi-family residential use or zoning	15 feet	3 shade trees and 4 ornamental trees and 2 large upright coniferous trees or 10 small upright coniferous trees and 14 shrubs (25% of shrubs must be evergreens)
	15 feet w/6-foot screening fence	2 shade trees and 2 ornamental trees and 2 large upright coniferous trees

Side or rear yard of any new commercial or institutional land use adjacent to a single or two-family residential use or zoning	20 feet	2 shade trees and 4 ornamental trees and 3 large upright coniferous trees and 10 small upright coniferous trees and 14 shrubs
	<u>or</u>	
	20 feet w/6-foot screening fence	2 shade trees and 3 ornamental trees and 2 large upright coniferous trees
Side or rear yard of any new industrial use adjacent to any residential use or zoning	50 feet w/6-foot berm	5 shade trees and 7 ornamental trees and 10 large upright coniferous trees and 10 small upright coniferous trees and 24 shrubs

A screening fence may be made of solid wood, composite material with the appearance of solid wood, vinyl with the appearance of solid wood, masonry, or a combination of masonry and any of the other materials listed. In situations where the rear walls of accessory garages are located within 20 feet of a property line, the planting material numbers required for a buffer yard with a screening fence will apply, provided the wall of the accessory garages is at least 100 feet in length and provided that the number of planting materials required for a buffer yard without a fence are provided in areas not occupied by such garages.

In order to provide flexibility in the application of this ordinance, the City Forester may allow material numbers and/or types to be modified on a case-by-case basis with the submittal of an oblique view or elevation sketch of the buffer yard showing how the proposed

materials will meet the dense landscaping screen intent of this ordinance within 5 years of initial installation and at full maturity.

f. Sizes. In order to provide an effective landscaping screen in conjunction with site development, minimum sizes at the time of planting and minimum heights at maturity have been established. The classification of various types of materials shall be based on the City of Bismarck's Forestry standards and specifications.

Type of Materials	Minimum Size at Time of Planting	Minimum Height at Maturity
Shade Trees	Caliper of 2 inches measured 6 inches above the root collar	20 feet
Ornamental Trees	Caliper of 1½ inches measured 6 inches above the root collar	15 feet
Small Upright Coniferous Trees	Minimum height of 2 feet above grade or minimum container size of 5 gallons	6 feet
Large Upright Coniferous Trees	Minimum height of 4 feet above grade	20 feet
Shrubs	Minimum height of 2 feet above grade or a minimum container size of 2 gallons	3 feet

g. Applicability to Non-Conforming Uses. Proposed modifications to a required buffer yard adjacent to any non-conforming use, based on zoning, may be considered on a case-by-case basis by the

Community Development Director and the City Forester.

- h. Applicability to Buffer Yards in Areas Within the Extraterritorial Area. Consideration will be given by the Director of Community Development and the City Forester on a case-by-case basis to allow a modified buffer yard in developing areas within the extraterritorial area. Consideration will be given for reduced plant quantities, sizes, locations and plant species.
11. *Installation, Maintenance, Replacement, Inspection and Enforcement.*
- a. Installation of Street Trees. The City Forester shall determine the time for installation of street trees.
 - b. Installation of Other Required Landscaping. All other landscaping and buffer yards required by this subsection shall be healthy and in-place as soon as grading or construction has been completed to eliminate or reduce wind and/or water erosion. When landscaping can not be completed immediately due to seasonal constraints, the plant material shall be installed immediately during the next growing season, within one (1) year following the date of building or site occupancy, unless otherwise approved by the City Forester. Upon installation of all landscape materials, the landscape architect, ~~or~~ designer or civil engineer who prepared the landscape plan, the construction manager or site superintendent who oversaw site construction or the property owner must provide certification to the Community Development Director and the City Forester that the landscape materials were installed in accordance with the approved landscape plan approved by the City. Certification of the required plant material shall be delivered in the form of a letter representing the owner of the property and intended to inform the Community Development Director and the City Forester that the required plant materials have been installed in accordance with the approved landscape plan.

c. Maintenance and Replacement. The owner, or successors in interest, or agent, if any, shall be responsible for regular maintenance of all landscaping in good condition in a way that presents a healthy, neat and orderly appearance. All landscaping must be maintained free from disease, pests, weeds and litter. This maintenance must include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. Dead plants must be promptly removed and replaced within the next growing season. Trees located along fire department access routes, as identified on an approved site plan, must be pruned as needed to maintain a vertical clearance height of no less than 14 feet.

d. Inspection and Enforcement. All landscaping shall be subject to periodic inspection by the City Forester. Landscaping that is not installed, maintained or replaced as needed to comply with the approved landscape plan shall be considered a violation of this Section and shall be subject to the enforcement provisions Chapter 13-02-14.

(Ord. 5437, 06-28-05; Ord. 5450, 08-23-05; Ord. 5562, 11-28-06; Ord. 5640, 10-09-07)

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage and adoption.

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

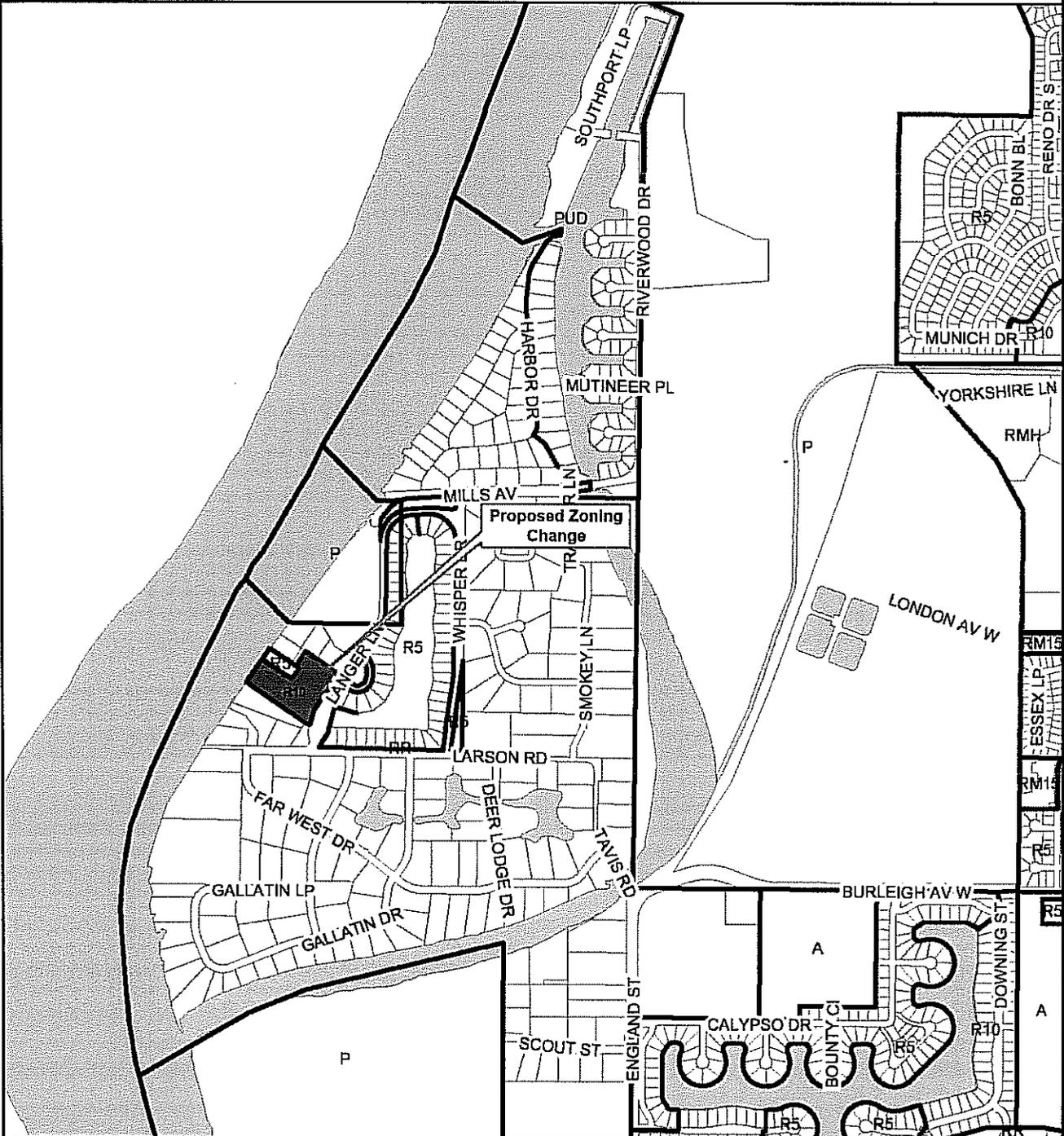
BACKGROUND:		
Title: Lot 2, Block 1, Whispering Bay (which is being replatted as Lots 1-11, Whispering Pointe) and Lot 1, Block 1, Whispering Bay – Zoning Change (R10 to R5)		
Status: Planning Commission – Public Hearing	Date: October 27, 2010	
Owner(s): Whispering Bay Corporation	Engineer: Kadrmass Lee & Jackson	
Reason for Request: Rezone property being replatted as Whispering Pointe (Lot 2, Block 1, Whispering Bay) and the adjacent channel (Lot 1, Block 1, Whispering Bay) to bring zoning in line with the proposed use as single-family residential.		
Location: Along the west side of Langer Lane between Mills Avenue and Larson Road.		
Project Size: 7.67 acres	Number of Lots: 2 lots in one block (12 lots in two blocks with replat)	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped and channel	Land Use: Single family residential and channel	
Zoning: R10 – Residential	Zoning: R5 – Residential	
Uses Allowed: One and two-family residential	Uses Allowed: Single-family residential	
Maximum Density Allowed: 10 units/acre	Maximum Density Allowed: 5 units/acre	
PROPERTY HISTORY:		
Zoned: 12/09 (Whispering Bay)	Platted: 12/09 (Whispering Bay)	Annexed: 12/09 (Whispering Bay)
ADDITIONAL INFORMATION		
1. The plat of Whispering Pointe was approved by the Board of City Commissioners on September 14, 21010.		
FINDINGS:		
1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).		
2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include rural residential to the north and south, undeveloped R5 – Residential zoned property to the east and the Missouri River to the west.		
3. The subdivision proposed for this property is already annexed and will be served via private utilities in Langer Lane; therefore, the zoning change will not place an undue burden on public services.		
4. The proposed zoning change would not adversely affect property in the vicinity.		
<i>(continued)</i>		

5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the zoning change from the R10-Residential zoning district to the R5-Residential zoning district for Lot 2, Block 1, Whispering Bay (which is being replatted as Lots 1-11, Block 1, Whispering Pointe) and the City-initiated request for a zoning change from the R10-Residential to the R5-Residential zoning district for the adjacent Lot 1, Block 1, Whispering Bay (channel lot).

Lot 2, Block 1, Whispering Bay (which is being replatted as Lots 1-11, Block 1, Whispering Pointe) and a City initiated request for a zoning change from R10-Residential to R5-Residential zoning district for the adjacent Lot 1, Block 1, Whispering Bay



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.
Map was Updated/Created: July 26, 2010 (kag)

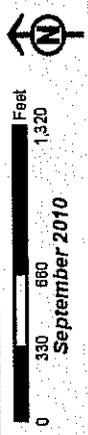
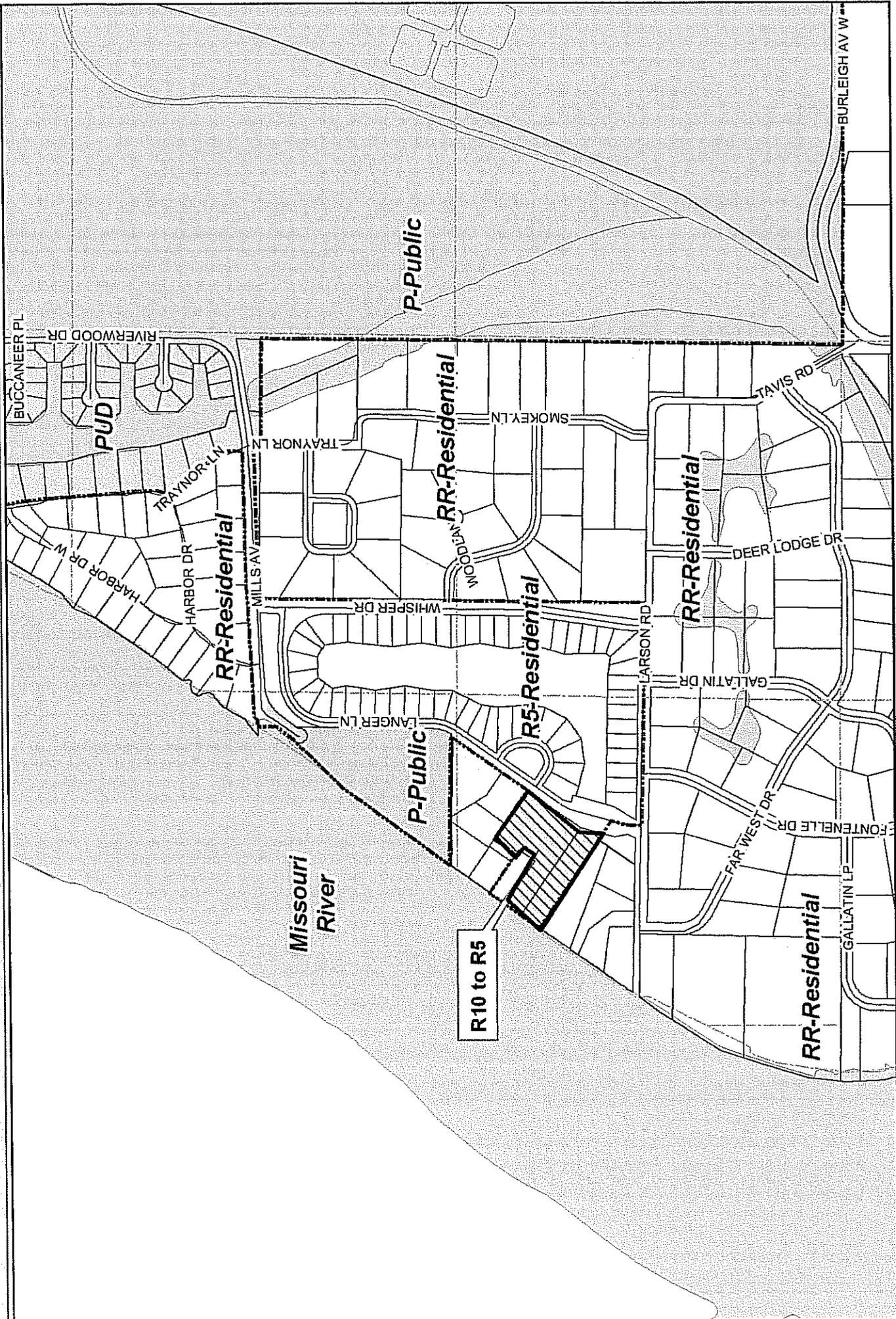
Source: City of Bismarck

N



0 650 1,300 Feet

Whispering Pointe - Zoning Change



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
September 22, 2010

The Bismarck Planning & Zoning Commission met on September 22, 2010, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Vice Chairman Armstrong presided.

Commissioners present were Mel Bullinger, Jo Conmy, Jack Hegedus, Curt Juhala, Vernon Laning, Ken Selzler, Lisa Waldoch and John Warford.

Commissioner Wayne Yeager was absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Gregg Greenquist – Planner, Jason Tomanek – Planner, Kimberley Gaffrey– Office Assistant III and Charlie Whitman – City Attorney.

Others present were Brian Eiseman – 128 Soo Line Drive, Brent and Trish Levinson – 2830 Langer Lane, Steve Iverson – 4265 45th Street South #200, Fargo, Ron Haugom – 1942 Jackson Avenue, John Hauck – 6420 TJ Lane, Mark Lardy – 5304 Walker Drive and Steven Langlie – 1701 East Capitol Avenue.

MINUTES

Vice Chairman Armstrong called for consideration of the minutes of the August 25, 2010 meeting.

MOTION: Commissioner Laning made a motion to approve the minutes of the August 25, 2010 meeting as received. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler and Waldoch voting in favor of the motion.

CONSIDERATIONS –

**ZONING CHANGE FROM R5, R10 & RM15 TO R5 & R10 AND PRELIMINARY PLAT –
ROCKY HEIGHTS ADDITION**

**ZONING CHANGE FROM A TO RR AND PRELIMINARY PLAT – WOODRUFF
SUBDIVISION**

ZONING CHANGE FROM R10 TO R5 – WHISPERING POINTE

Vice Chairman Armstrong called for consideration of the following consent agenda items:

- A zoning change from R5-Residential, R10-Residential, RM15-Residential zoning districts to R5-Residential and R10-Residential zoning districts and preliminary plat for Rocky Heights Addition. The property is 12 lots in one block on 10 acres located in north Bismarck, along the east side of North Washington Street, north of Century Avenue between the Juniper Drive and Aspen Drive intersections (SW¼ of Section 21, T139N-R80W/ Hay Creek Township).

- A zoning change from A-Agricultural zoning district to RR-Residential zoning district and preliminary plat for Woodruff Subdivision. The property is 1 lot in one block on 2.07 acres located west of 66th Street NE, south of 71st Avenue NE and north of Rocky Road (part of the NE¼ of Section 7, T139N-R79W/Gibbs Township).
- A zoning change from R10-Residential zoning district to R10-Residential and R5-Residential zoning district for Whispering Pointe (a replat of Lot 2, Block 1, Whispering Bay) and the adjacent Lot 1, Block 1, Whispering Bay. The property is located along the west side of Langer Lane between Mills Avenue and Larson Road.

MOTION: Commissioner Selzler made a motion to approve the consent agenda. Commissioner Hegedus seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler and Waldoch voting in favor of the motion.

Commissioner Warford arrived at the meeting.

FINAL CONSIDERATION – DETACHMENT – LOT 3, BLOCK 1, WHISPERING BAY

Vice Chairman Armstrong called for the final consideration for the detachment for Lot 3, Block 1, Whispering Bay. The property is located along the west side of Langer Lane between Mills Avenue and Larson Road.

Ms. Lee provided an overview of the request and listed the following findings for the detachment:

1. The City and other agencies are able to provide necessary public services, facilities and programs to serve the property.
2. The proposed detachment would not adversely affect property in the vicinity.
3. The proposed detachment is not consistent with the general intent and purpose of the zoning ordinance. In particular, the lot proposed for detachment does not meet the minimum lot size of 65,000 square feet for a rural residential lot.
4. The proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, the detachment of property that is readily serviceable with municipal utilities is not consistent with previous City actions and established policy.

Ms. Lee then listed the following additional information:

1. This property was purchased by the Levinsons during the process of platting Whispering Bay and they consented to the property being included in the plat. No objection to the annexation of this property was voiced by the Levinsons during the approval process for Whispering Bay.
2. Municipal utilities are available in Langer Lane and could be extended to this property through a utility easement in Langer Way in the Whispering Pointe plat. It is our

understanding that utilities will be installed in Langer Way yet this fall or next spring/early summer.

3. The minimum lot size in the RR – Residential zoning district is 65,000. This property was originally platted when the minimum lot sizes varied based on soil conditions.
4. County tax records indicate that the property taxes for this property were \$6,655.29 in 2006, \$6,845.20 in 2007, \$7,184.30 in 2008 and \$5935.53 in 2009 (which included a value reduction based on flood damage). A building permit for an addition to the home on the property was issued in late 2008. As the addition was not started until after the February 1st assessment date for 2009, it did not show up as an increase in value until the 2010 assessment, which is also the first assessment done by the City. The County assessed the value of this property at \$513,200 in 2008 and \$559,400 in 2009. The City's 2010 assessed value of this property is \$632,100.

Ms. Lee said based on the above findings, staff recommends denial of the detachment for Lot 3, Block 1, Whispering Bay.

Brent Levinson said he purchased his property in October of 2008 as a county parcel and it was annexed as part of the Whispering Bay development in 2009. He went on to say that they did not want to annex to the City, however, did not have a choice. Mr. Levinson said the reason his property was annexed was to expedite the process for the Whispering Bay plat and that is now completed. He continued by saying his lot does not have any covenants, he does not receive any city services and if his home was connected to city sewer there would be a significant disruption to his home because of having to trench 150 feet through the middle of his yard. Mr. Levinson stated that he had two assessments on his property. The first one was by the County at the end of 2009 and the other by the City at the beginning of 2010 because he finished building a shop. He commented that the taxable value on his home with the County increased \$90,000 and even though there may have been a value reduction because of flood damages, it was at a nominal rate compared to everyone else in Fox Island because he did not have flood damage. Mr. Levinson said the people that are around him are considered in the County and he will be the only property that will face anywhere from \$18,000-\$22,000 for the city road being built for Whispering Bay. He added that he thinks this is very unfair. Mr. Levinson concluded by saying he should be put back in the County where the property belongs and grant his request for detachment.

MOTION: Commissioner Waldoch made a motion to approve the detachment for Lot 3, Block 1, Whispering Bay. Commissioner Laning seconded the motion with Commissioners Armstrong, Conmy, Juhala, Laning, Selzler, Waldoch and Warford voting in favor of the motion and Commissioners Bullinger and Hegedus voting against. The motion passed 7-2.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – HAY CREEK INDUSTRIAL REPLAT

Vice Chairman Armstrong called for the public hearing for the minor subdivision final plat for Hay Creek Industrial Subdivision Replat. The property is located along the north side of 71st Avenue NE, east of 19th Street NE.

Ms. Lee provided an overview of the request and listed the following findings for the minor subdivision final plat:

1. The proposed plat meets the criteria for a minor subdivision final plat.
2. All technical requirements for approval of a minor subdivision final plat have been met.
3. The storm water management plan amendment has been approved by the City Engineer.
4. The proposed minor subdivision is not completely compatible with adjacent land uses. Adjacent land uses include agricultural to the north, south, east and west. Rural residential uses are located across the railroad tracks southeast of this subdivision and approximately ¼ mile to the east on both the north and south sides of 71st Avenue NE.
5. In order to mitigate the visual impact of the development on nearby rural residential uses, a 30-foot landscape easement was included along the eastern edge of the underlying plat and a 15-foot landscape easement was included along the northern edge. These easements have also been included in the proposed replat. In addition, the PUD ordinance includes provisions for the planting of these buffer yards and installing additional landscaping along 71st Avenue and 19th Street in conjunction with development of the site.
6. The proposed minor subdivision will be located near the intersection of two major roadways (US Highway 83 and Highway 1804), will be temporarily served by South Central Regional Water District and will be annexed to the City when municipal services can be provided to the property; therefore, the proposed subdivision will not place an undue burden on public services.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then provided the following additional information:

1. This property is located within a Planned Unit Development. When the PUD was approved in December 2008, a provision was included in the PUD ordinance indicating that this property could be further subdivided through the minor subdivision plat process. The PUD ordinance will continue to apply to all of the property included in the proposed replat.
2. The property is currently in violation of the PUD ordinance because an outdoor storage area was created too close to 19th Street NE. The fence installer has been contacted and will move the fence back to the required 40-foot setback; however, we have not been notified that this has occurred.
3. The proposed subdivision is located within the Urban Service Area Boundary (USAB) and is subject to those development requirements.
4. Hay Creek Township has no objection to the plat.

Ms. Lee said based on the above findings, staff recommends approval of minor subdivision final plat of Hay Creek Industrial Subdivision Replat, with the understanding that the minor subdivision final plat will not be forwarded to the Board of City Commissioners for final action until the PUD violation is resolved.

Vice Chairman Armstrong opened the public hearing for the minor subdivision final plat for Hay Creek Industrial Subdivision Replat.

Steven Langlie, with Houston Engineering, said he believes the fence has been moved.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the minor subdivision final plat for Hay Creek Industrial Subdivision Replat, with the understanding that the request will not be forwarded to the Board of City Commissioners for final action until the PUD violation is resolved (fence moved). Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch and Warford voting in favor of the motion.

PUBLIC HEARING – RURAL RESIDENTIAL LOT SPLIT – LOT 23B, BLOCK 3, FALCONER ESTATES

Vice Chairman Armstrong called for the public hearing for the rural residential lot split for Lot 23B, Block 3, Falconer Estates. The property is located along the south side of Apple Creek Drive between Falconer Drive and Walker Drive.

Ms. Lee provided an overview of the request and listed the following findings for the rural residential lot split:

1. All technical requirements for approval of a rural residential lot split have been met.
2. The resulting parcels will not meet the minimum area requirements (65,000 square feet) for lots within the RR – Residential zoning district and the western parcel will not meet the minimum lot depth requirement (200 feet).
3. The proposed lot split is compatible with adjacent land uses. While this lot is one of several lots in the northwest corner of this subdivision that is larger, the majority of lots within Falconer Estates are similar in size to the parcels resulting from the proposed lot split.
4. As rural water service is in place and Apple Creek Drive is improved, the proposed lot split and the resulting parcels will not place an undue burden on existing public services and facilities.
5. The proposed lot split is not compatible with adopted plans, policies and accepted planning practice. In particular, it will create lots that do not meet the current minimum lot area requirements for a parcel in the RR – Residential zoning district.

Ms. Lee then provided the following additional information:

1. Falconer Estates was platted when the minimum lot sizes ranged from 40,000 square feet to 85,000 square feet, depending on soil conditions. The plat contains a variety of lot sizes, but most are under the current 65,000 square foot requirement.
2. A plat of irregular description was recorded in March 1996 to create Lots 23A and 23B. This request would further split Lot 23B.
3. If approved, the resulting parcels would be subject to the City's policy for development of substandard lots, a copy of which is attached.

Ms. Lee said based on the above findings, staff recommends denial of the rural residential lot split to split Lot 23B, Block 3, Falconer Estates into two parcels, an eastern parcel of 1.2 acres & a western parcel of 1.24 acres. If the Planning & Zoning Commission decides to approve the rural residential lot split, staff recommends that the above findings be amended to reflect the action and the following conditions be added: 1) a soils test shall be completed to determine the soils present and whether or not a septic system can be installed to meet the needs of any future development on the western parcel, as required by the City's policy on the development of substandard lots, and 2) if the soils test indicates that the western lot could be developed, a plat of irregular description must be prepared and recorded with the County Recorder's Office to describe the resulting parcels.

Vice Chairman Armstrong opened the public hearing for the rural residential lot split for Lot 23B, Block 3, Falconer Estates.

Mark Lardy said that if approved, the lots will be approximately 52,000 square feet and 54,000 square feet, which is just below the 65,000 square foot requirement of zoning requirement, however, well above the 40,000 requirement of the North Dakota State plumbing law. He went on to say that majority of the other lots in Falconer Estates are below the 65,000 square foot requirement and he would like the Bismarck Planning & Zoning Commission to consider the lot split.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the revised findings contained in the staff reports, Commissioner Hegedus made a motion to approve the rural residential lot split to split Lot 23B, Block 3, Falconer Estates into two parcels, an eastern parcel of 1.2 acres & a western parcel of 1.24 acres, with the following conditions; 1) a soils test shall be completed to determine the soils present and whether or not a septic system can be installed to meet the needs of any future development on the western parcel, as required by the City's policy on the development of substandard lots, and 2) If the soils test indicates that the western lot could be developed, a plat of irregular description must be prepared and recorded with the County Recorder's Office to describe the resulting parcels. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch and Warford voting in favor of the motion.

MAJOR PUD AMENDMENT – LOT 1, BLOCK 1, CAPITOL VIEW ADDITION

Vice Chairman Armstrong called for the public hearing for the Major PUD Amendment for Lot 1, Block 1, Capitol View Addition. The property is located along the east side of State Street just south of Divide Avenue.

Mr. Tomanek indicated that this is a request to amend/revise the existing PUD to change the use of a three-story hotel as the only permitted use.

Mr. Tomanek provided an overview of the request and listed the following findings for the Major PUD Amendment:

1. The proposed use would be compatible with adjacent land uses. Adjacent land uses include the Capitol grounds to the west, commercial uses to the north, offices and apartments to the south and single and two-family residential to the east. The orientation of the proposed 45'5", 3-story hotel would be a minimal impact on the adjacent single and two-family dwellings to the east due to the east-west alignment of the proposed building which provides a north-south exposure for the 82 rooms within the hotel.
2. The property is already annexed; therefore, the zoning change will not place an undue burden on public services
3. The proposed PUD amendment and subsequent development would not adversely affect property in the vicinity.
4. The proposed PUD amendment and subsequent development is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed PUD amendment and subsequent development is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the major PUD amendment for Lot 1, Block 1, Capitol View Addition to allow a 3-story, hotel as outlined in the PUD amendment.

Vice Chairman Armstrong opened the public hearing for major PUD amendment for Lot 1, Block 1, Capitol View Addition.

No public comment was received.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Juhala made a motion to approve the Major PUD Amendment for Lot 1, Block 1, Capitol View Addition, as outlined in the PUD amendment document. Commissioner Conmy seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch and Warford voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR TRACT 1 OF LOTS 1 AND 2, BLOCK 1, ELKS ADDITION (710 WASHINGTON STREET)

Vice Chairman Armstrong called for the public hearing for a special use permit to allow a drive-through window in conjunction with a bank on Tract 1 of Lots 1-2, Block 1, Elks Addition. The property is located along the south side of West Arbor Avenue and the west side of South Washington Street (710 South Washington Street).

Mr. Tomanek provided an overview of the request and listed the following findings for the special use permit:

1. A bank with a drive-through window is allowed as a special use in the CG zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Zoning).
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed special use would not be detrimental to the use or development of adjacent properties.
4. The use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area.
5. Adequate public facilities and services are in place.
6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
7. Adequate measures have been taken to minimize traffic congestion in the public streets and provide for appropriate on-site circulation of traffic, in particular, adequate off-street parking would be provided.
8. The City Traffic Engineer has reviewed the proposed site plan and has no opposition to the special use permit.

Mr. Tomanek said that based on the above findings, staff recommends approval of the special use permit to allow a drive-through window in conjunction with a bank on Tract 1 of Lots 1-2, Block 1, Elks Addition, with the following conditions: 1) the construction of a drive-through window must meet all applicable requirements for such a use in the CG zoning district, and 2) development of the site generally conforms to the site plan submitted with the application.

Vice Chairman Armstrong opened the public hearing for the special use permit on Tract 1 of Lots 1-2, Block 1, Elks Addition (710 South Washington Street).

Steve Iverson said he is representing Paces Lodging Corporation and is available for any questions.

Vice Chairman Armstrong closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Hegedus made a motion to approve the special use permit allow a drive-through window in conjunction with a bank on Tract 1 of Lots 1-2, Block 1, Elks Addition, with the following conditions: 1) the construction of a drive-through window must meet all applicable requirements for such a use in the CG zoning district, and 2) development of the site generally conforms to the site plan submitted with the application. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch and Warford voting in favor of the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business Vice Chairman Armstrong declared the Bismarck Planning & Zoning Commission adjourned at 5:49 p.m. to meet again on October 27, 2010.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Mark Armstrong
Vice Chairman

**Major Permit Activity
September 2010**

Non-deeded Owner:	Simonson State Store
Address:	1309 East Interstate Avenue
Cost:	\$1,724,522.00
Description:	130' x 57' single story building with detached canopy

Permit Type	***** 9/2010 *****		***** 9/2010 *****		***** 9/2010 *****		***** 9/2010 *****		***** 9/2010 *****		***** 9/2010 *****	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
SINGLE FAMILY DETACHED	28	4,834,708.00	22	3,547,318.00	9	1,439,174.00	8	1,115,684.00	0	.00	3	449,488.00
SINGLE FAMILY ATTACHED	21	2,632,131.00	0	.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	1	334,112.00	0	.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	1	603,291.00	0	.00	0	.00	0	.00	0	.00	0	.00
CONDO/TOWNHOUSE-1 HR.WALL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MANUFACTURED HOMES	2	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	0	.00	5	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	0	.00	1	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	1	507,734.00	0	.00	0	.00	0	.00	0	.00	0	.00
STRUCTURE OTHER THAN BLDG	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AMUSEMENT & RECREATION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
CHURCHES AND RELIGIOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	2	266,000.00	1	585,000.00	2	548,935.00	1	345,323.00	0	.00	0	.00
RESEARCH & DEVELOPMENT	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AVTO SERVICE AND REPAIR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOSPITALS & INSTITUTIONAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	1	340,289.00	0	.00	0	.00	0	.00	0	.00	0	.00
SCHOOLS AND EDUCATIONAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
COMM (RETAIL SALES)	2	1,769,522.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER (PUBLIC PARKING GAR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER STRUCTURES	18	1,258,000.00	1	2,640.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	0	.00	1	18,420.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	4	93,507.00	4	74,094.00	2	40,644.00	1	44,576.00	0	.00	0	.00
RESIDENTIAL GARAGES	6	78,448.00	11	111,200.00	8	156,032.00	10	161,000.00	2	37,728.00	1	46,080.00
PATIOS AND COVERS	9	24,690.00	10	40,140.00	2	4,920.00	3	12,825.00	0	.00	1	18,000.00
SWIMMING POOLS AND SPAS	1	1,200.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	14	42,726.00	13	34,130.00	1	1,000.00	2	1,200.00	0	.00	0	.00
HOME OCCUPATIONS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	10	33,800.00	13	18,150.00	1	3,072.00	1	2,688.00	0	.00	0	.00
BASEMENT FINISH	14	78,036.00	8	35,479.00	2	12,160.00	3	15,037.00	0	.00	0	.00
INDUSTRIAL BUILDINGS	2	293,506.00	0	.00	0	.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	3	136,145.00	3	648,900.00	0	.00	1	33,000.00	0	.00	0	.00

DATE SELECTION 9/2010

Permit Type	***** CITY *****		***** DATE SELECTION *****		***** EPA *****		***** COUNTY *****	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
OFFICE & PROFESSIONAL BLD	5	624,683.00	7	2,578,040.00	0	.00	0	.00
OTHER	1	97,450.00	3	633,300.00	0	.00	0	.00
ALTER PUBLIC	1	127,540.00	0	.00	0	.00	0	.00
APTS TO CONDO	0	.00	0	.00	0	.00	0	.00
TO/FROM RESIDENTIAL	0	.00	0	.00	0	.00	0	.00
RESIDENTIAL	0	.00	0	.00	0	.00	0	.00
OTHER	2	.00	0	.00	0	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00	0	.00
FIREWORKS SALES	0	.00	0	.00	0	.00	0	.00
NURSERY STOCK SALES	0	.00	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERMI	1	.00	1	.00	0	.00	0	.00
CIRCUS/CARNIVAL	0	.00	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	0	.00	0	.00	0	.00	0	.00
MOVE INTO PERMIT LOCATION	0	.00	0	.00	0	.00	0	.00
MOVE WITHIN PMT LOCATION	1	.00	0	.00	0	.00	0	.00
NEW SIGN PERMIT	14	152,532.00	6	32,836.00	0	.00	0	.00
SIGN ALTERATION	0	.00	0	.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00	0	.00
Permit Type Total	168	14,497,106.00	110	8,359,647.00	27	2,205,937.00	30	1,731,333.00
							2	37,728.00
							5	513,568.00

Permit Type	***** CITY *****		***** ETA *****		***** COUNTY *****	
	Permits 9/2010	Permits 9/2009	Permits 9/2010	Permits 9/2009	Permits 9/2010	Permits 9/2009
Plumbing	46	63	5	16	1	1
Electrical	80	111	0	0	0	0
Mechanical	100	107	28	26	0	2
Drain Field	0	0	13	19	2	1
Hood Suppression	0	1	0	0	0	0
SprinklerStandpipe	4	4	0	0	0	0
Alarm Detection	0	0	0	0	0	0
Total	230	286	46	61	3	4

DATE SELECTION 9/2010

DATE SELECTION 9/2010

Living Units	***** CITY *****		***** DATE SELECTION *****		***** ETA *****		***** COUNTY *****	
	Units	9/2010	Units	9/2009	Units	9/2009	Units	9/2009
SINGLE FAMILY DETACHED	28	22	9	0	8	0	3	
SINGLE FAMILY ATTACHED	21	0	0	0	0	0	0	
TWO UNIT	2	0	0	0	0	0	0	
FIVE & MORE FAMILY	7	0	0	0	0	0	0	
MOBILE HOME WITHOUT EXTRA	0	2	0	0	0	0	0	
MOBILE HOME WITH EXTRAS	0	1	0	0	0	0	0	
GROUP QUARTERS	7	0	0	0	0	0	0	
ROOM ADDITONS	1	0	1	0	0	0	0	
RESIDENTIAL GARAGES	0	0	0	0	1	0	0	
BASEMENT FINISH	0	0	0	0	1	0	0	
Total	66	25	10	0	10	0	3	

DATE SELECTION 9/2010

Permit Type	9/2010		9/2009		9/2010		9/2009		9/2010		9/2009	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
SINGLE FAMILY DETACHED	183	32,349,740.00	124	21,584,034.00	69	12,780,989.00	56	10,373,955.00	9	1,672,683.00	8	1,447,128.00
SINGLE FAMILY ATTACHED	73	10,724,639.00	18	2,768,747.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	2	456,971.00	0	.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	3	1,720,000.00	11	3,413,935.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	3	2,747,291.00	3	4,008,000.00	0	.00	0	.00	0	.00	0	.00
CONDO/TOWNHOUSE-1 HR.WALL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MANUFACTURED HOMES	18	5,100.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	5	4,095.00	22	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	2	.00	3	2,700.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	2	31,516.00	4	7,175.00	0	.00	0	.00	0	.00	0	.00
HOTELS	1	4,362,000.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	3	652,434.00	2	327,693.00	0	.00	0	.00	0	.00	0	.00
STRUCTURE OTHER THAN BLDG	2	4,380,824.00	3	14,571,030.00	0	.00	0	.00	0	.00	0	.00
AMUSEMENT & RECREATION	1	475,000.00	1	2,896,625.00	1	500.00	0	.00	0	.00	0	.00
CHURCHES AND RELIGIOUS	1	120,000.00	0	.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	9	4,588,341.00	7	1,695,300.00	6	824,534.00	14	2,034,900.00	0	.00	1	210,867.00
RESEARCH & DEVELOPMENT	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AUTO SERVICE AND REPAIR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOSPITALS & INSTITUTIONAL	0	.00	2	18,648,860.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	8	28,692,482.00	0	.00	0	.00	0	.00	0	.00	0	.00
SCHOOLS AND EDUCATIONAL	0	.00	2	10,323,743.00	0	.00	1	44,075.00	0	.00	0	.00
COMM (RETAIL SALES)	5	2,571,193.00	1	13,606.00	0	.00	0	.00	0	.00	0	.00
OTHER (PUBLIC PARKING GAR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER STRUCTURES	25	1,772,243.00	7	447,941.00	5	2,500.00	2	155,000.00	0	.00	0	.00
PUBLIC BUILDING	6	1,898,031.00	14	14,721,805.00	0	.00	1	753,000.00	0	.00	1	22,786.00
ROOM ADDITIONS	17	378,360.00	20	745,760.00	17	1,203,643.00	17	841,339.00	2	97,680.00	2	12,064.00
RESIDENTIAL GARAGES	69	623,164.00	68	986,343.00	67	1,154,755.00	76	1,360,498.00	18	531,080.00	9	177,600.00
PATIO AND COVERS	110	376,414.80	106	572,827.00	12	49,187.00	17	65,710.00	4	17,265.00	2	18,960.00
SWIMMING POOLS AND SPAS	2	71,595.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	155	1,623,296.00	147	1,015,015.00	12	299,301.00	15	323,694.00	4	12,500.00	1	1,000.00
HOME OCCUPATIONS	3	.00	2	.00	1	.00	2	.00	0	.00	0	.00
STORAGE SHEDS	90	172,186.00	68	125,353.00	12	27,754.00	5	10,063.00	1	5,120.00	0	.00
BASEMENT FINISH	105	496,439.00	110	588,968.00	39	223,715.00	49	303,449.00	2	12,650.00	1	4,940.00
INDUSTRIAL BUILDINGS	17	1,747,393.00	13	760,455.00	1	5,688.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	22	2,421,638.00	30	2,368,423.00	1	988,684.00	2	336,000.00	0	.00	0	.00

Permit Type	***** CITY *****		***** DAYE SELECTION *****		***** ETA *****		***** COUNTY *****	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
OFFICE & PROFESSIONAL BUD	60	8,662,854.00	56	8,405,976.00	1	97,000.00	1	625,402.00
OTHER	10	1,559,206.00	15	2,929,293.00	1	16,995.00	0	.00
ALTER PUBLIC	14	6,155,308.00	7	363,886.00	0	.00	0	.00
APTS TO CONDO	0	.00	0	.00	0	.00	0	.00
TO/FROM RESIDENTIAL	0	.00	0	.00	0	.00	0	.00
RESIDENTIAL	11	.00	8	.00	0	.00	0	.00
OTHER	8	.00	9	.00	0	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00	0	.00
FIREWORKS SALES	2	.00	1	.00	10	.00	0	.00
NURSERY STOCK SALES	3	.00	3	.00	9	.00	0	.00
TEMPORARY STRUCTURE PERMIT	4	.00	15	.00	0	.00	0	.00
CIRCUS/CARNIVAL	1	.00	0	.00	5	.00	3	.00
MOVE OUT OF PMT LOCATION	3	.00	5	.00	0	.00	0	.00
MOVE INTO PERMIT LOCATION	0	.00	0	.00	0	.00	0	.00
MOVE WITHIN PMT LOCATION	2	.00	2	.00	0	.00	0	.00
NEW SIGN PERMIT	49	393,688.00	44	651,154.00	1	1,945.00	0	.00
SIGN ALTERATION	1	26,915.00	5	110,885.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00	0	.00
	1111	122,427,412.80	958	115,055,532.00	261	17,677,190.00	271	17,227,085.00
					40	2,348,978.00	25	1,895,345.00

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 9/2010

Permit Type	City		DATE SELECTION		EMA		County	
	Permits 9/2010	Permits 9/2009						
Plumbing	373	336	84	76	10	8		
Electrical	776	737	0	0	0	0		
Mechanical	777	706	153	147	18	10		
Drain Field	0	0	13	19	2	1		
Hood Suppression	0	1	0	0	0	0		
Sprinkler Standpipe	4	4	0	0	0	0		
Alarm Detection	0	0	0	0	0	0		
Total	1959	1616	311	283	37	26		

DATE SELECTION 9/2010

Living Units	Units 9/2010	City Units 9/2009	ETA Units 9/2010	ETA Units 9/2009	County Units 9/2010	County Units 9/2009
SINGLE FAMILY DETACHED	183	124	69	56	9	8
SINGLE FAMILY ATTACHED	73	18	0	0	0	0
TWO UNIT	4	0	0	0	0	0
THREE & FOUR FAMILY	12	26	0	0	0	0
FIVE & MORE FAMILY	28	80	0	0	0	0
MANUFACTURED HOMES	1	0	0	0	0	0
MOBILE HOME WITHOUT EXTRA	0	3	0	0	0	0
MOBILE HOME WITH EXTRAS	1	1	0	0	0	0
MOBILE HOME MISCELLANEOUS	0	1	0	0	0	0
GROUP QUARTERS	9	4	0	0	0	0
AMUSEMENT & RECREATION	4	0	0	0	0	0
HOSPITALS & INSTITUTIONAL	0	294	0	0	0	0
ROOM ADDITIONS	4	0	5	4	1	0
RESIDENTIAL GARAGES	1	1	1	3	1	1
PATIO'S AND COVERS	1	1	0	2	0	0
OTHER	5	3	0	1	0	1
STORAGE SHEDS	2	0	0	0	0	0
BASEMENT FINISH	6	0	1	3	0	0
COMMERCIAL BUILDINGS	0	1	0	23	0	0
ALTER PUBLIC	0	7	0	0	0	0
RESIDENTIAL	0	1	0	0	0	0
FIREWORKS SALES	0	0	0	1	0	0
Total	334	565	76	93	11	10

BIP140-2 10/01/2010

MAJOR PERMIT ACTIVITY OVER \$1,000,000

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PERMIT LOCATION PERMIT NUMBER

PROPERTY ADDRESS DATE SELECTION 09/2010

OWNERS NAME CONTRACTOR

VALIDATION

CITY OF BISMARCK 2010-0001280

1309 E INTERSTATE AV

SIMONSON STATION STORE
INNES CONSTRUCTION

1,724,522.00