

4. **Erickson Subdivision – Final Plat (G²)**17

Apple Creek Township

Staff recommendation: approve approve continue table deny

5. **Lots 2-6, Block 1, Pearce Estates – Zoning Change (A & RR to PUD) (Klee)** 25

Hay Creek Township

Staff recommendation: approve approve continue table deny

OTHER BUSINESS

6. **Other Business**

ADJOURNMENT

7. **Adjourn.** The next regular meeting date is scheduled for Wednesday, September 23, 2009.

Enclosure: Minutes of the July 22, 2009 meeting
 Major Building Permits Report for July 2009
 Building Permit Activity Report for July 2009

**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: Missouri Valley Complex – Major PUD Amendment	
Status: Planning Commission - Consideration	Date: August 26, 2009
Owner(s): Burleigh County	Engineer: None
Reason for Request: Amend PUD to add “utilities” as a permitted use. Although utilities are allowed in all zoning districts, provisions for utilities were not included in the written statement for this PUD. Now a cell tower is proposed for this area. To allow the cell tower, the PUD must be amended to allow utilities.	
Location: On the east edge of Bismarck, south of County Highway 10/Main Ave. and east of Bismarck Expressway.	
Project Size: 478.36 acres	Number of Lots: 20 lots in 3 blocks
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Fairgrounds (various uses)	Land Use: Fairgrounds (various uses)
Zoning: PUD – Planned Unit Development	Zoning: PUD – Planned Unit Development
Uses Allowed: Uses specified by PUD	Uses Allowed: Uses specified by PUD
Maximum Density Allowed: N/A	Maximum Density Allowed: N/A
PROPERTY HISTORY:	
Zoned: 05/89	Platted: 11/04
FINDINGS:	
<ol style="list-style-type: none"> 1. The City PUD ordinance indicates that the PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Approval of PUD amendments require a majority vote of the Bismarck Planning & Zoning Commission. 2. All land uses in a PUD are specified in the PUD written statement. If a specific type of land use is not specified, it is not allowed. 3. To allow utilities, new language is proposed as an addition to the permitted uses for this PUD. 4. The proposed PUD amendment would not create incompatibilities with the existing adjacent land uses. Adjacent land uses include undeveloped agricultural land to the north, state prison to the east, industrial land to the southeast and south, undeveloped land to the east zoned A-Agricultural and RR-Residential, and industrial land to the northeast. 5. The property is annexed; therefore, the proposed PUD amendment would not place an undue burden on public services. 6. The proposed PUD amendment is consistent with adopted plans, policies and accepted planning practice. 	

RECOMMENDATION:

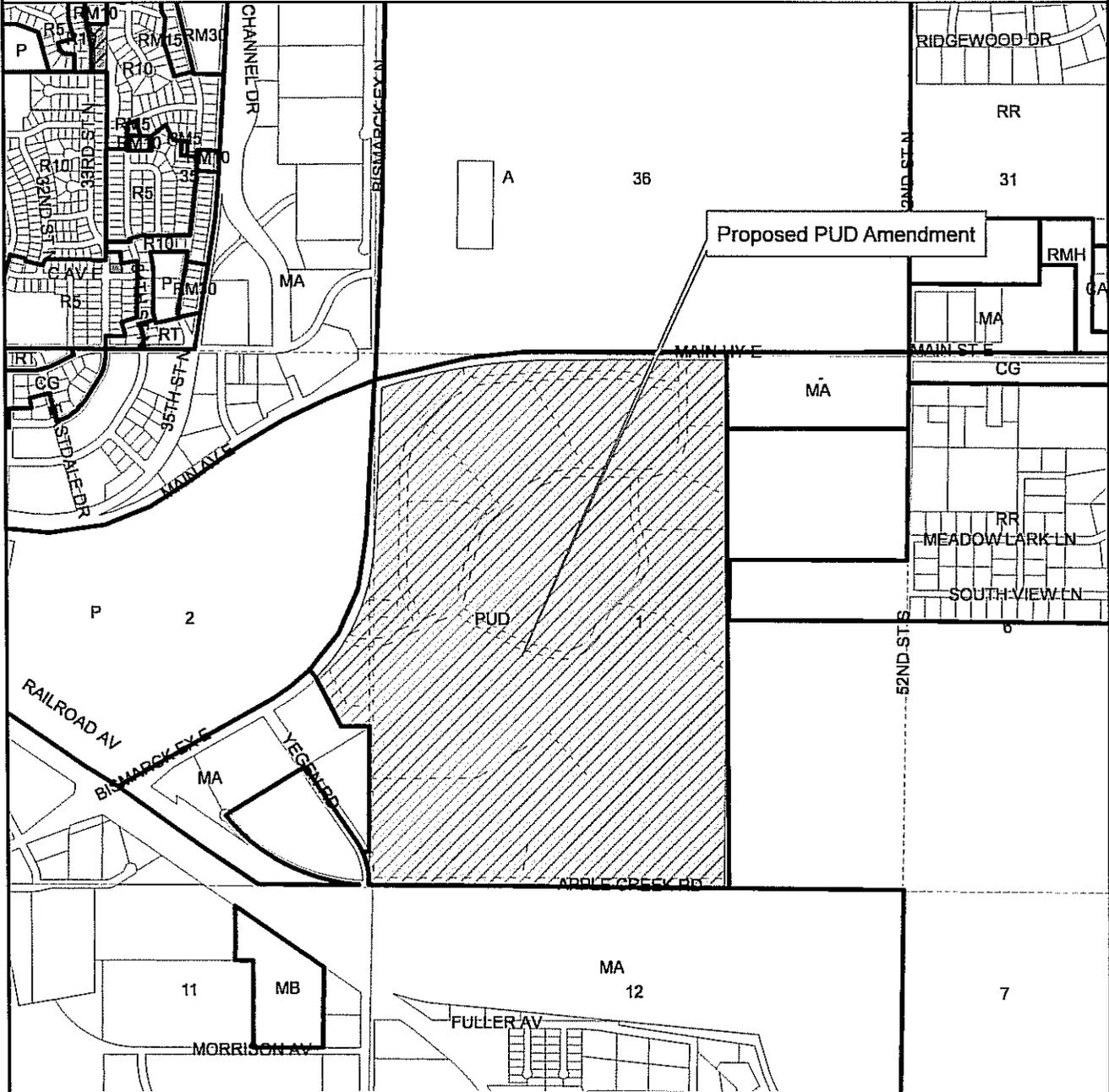
Based on the above findings, staff recommends scheduling a public hearing on the major PUD amendment for Missouri Valley Complex to add the following language to the permitted uses section of the existing PUD ordinance:

All lots – Utility Systems

For the benefit of the public, utility systems for gas, water, communication, electrical and sewer are allowed on any lot when the following factors are present:

- 1) The structure or use is necessary for the safe or efficient operation of the utility.*
- 2) The utility which the structure or use serves is one available to the general public.*
- 3) The design and location of the premises and structures are in compliance with the development standards for this PUD and other applicable codes.*
- 4) The use complies with setback regulations specified for this PUD.*
- 5) Wherever the lot on which the use is located adjoins a lot in a residential district, there is planted and maintained a landscaped screened planting strip no less than five feet in width adjacent to all lot boundaries so adjoining a lot in a residential district.*
- 6) Proper fencing with lot entrances shall be erected at least six (6) feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located.*
- 7) The following uses are declared to be typical utilities:*
 - a. Electric transformer or substations.*
 - b. Electric transmission lines.*
 - c. Sanitary sewer lift stations.*
 - d. Water pumping stations.*
 - e. Cell phone, microwave, radio, TV, and similar communication towers.*
 - f. Gas regulator stations, excluding stations emitting noise of more than fifty (50) decibels at any property line adjacent to any residentially zoned area.*

Proposed PUD Amendment Missouri Valley Complex



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 derived thereon. Map was Updated/Created: July 9, 2009 [et al]

Source: City of Des Moines



RECEIVED

JUL - 1 2009

STATE OF NORTH DAKOTA

County of Burleigh

221 NORTH 5TH STREET • P.O. BOX 5518 • BISMARCK, NORTH DAKOTA 58506-5518



June 29, 2009

Ms. Kim Lee
Planning Division
Community Development Department
City of Bismarck:

Dear Ms. Lee:

Please accept this written statement as an explanation of the zoning change request submitted by Burleigh County.

The County of Burleigh is presently negotiating with ALTELL for a cell tower site on the Missouri Valley Complex. A review of the current zoning shows the PUD for the Missouri Valley Complex Addition does not include utilities as an allowable use.

The County of Burleigh therefore desires to modify the existing PUD to include utilities as an allowable use as in all other zoning districts.

Should you have any questions regarding this application feel free to call on me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Glatt", is written over the typed name.

Kevin J. Glatt
Burleigh County Auditor/Treasurer

Copy: County Commission

**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

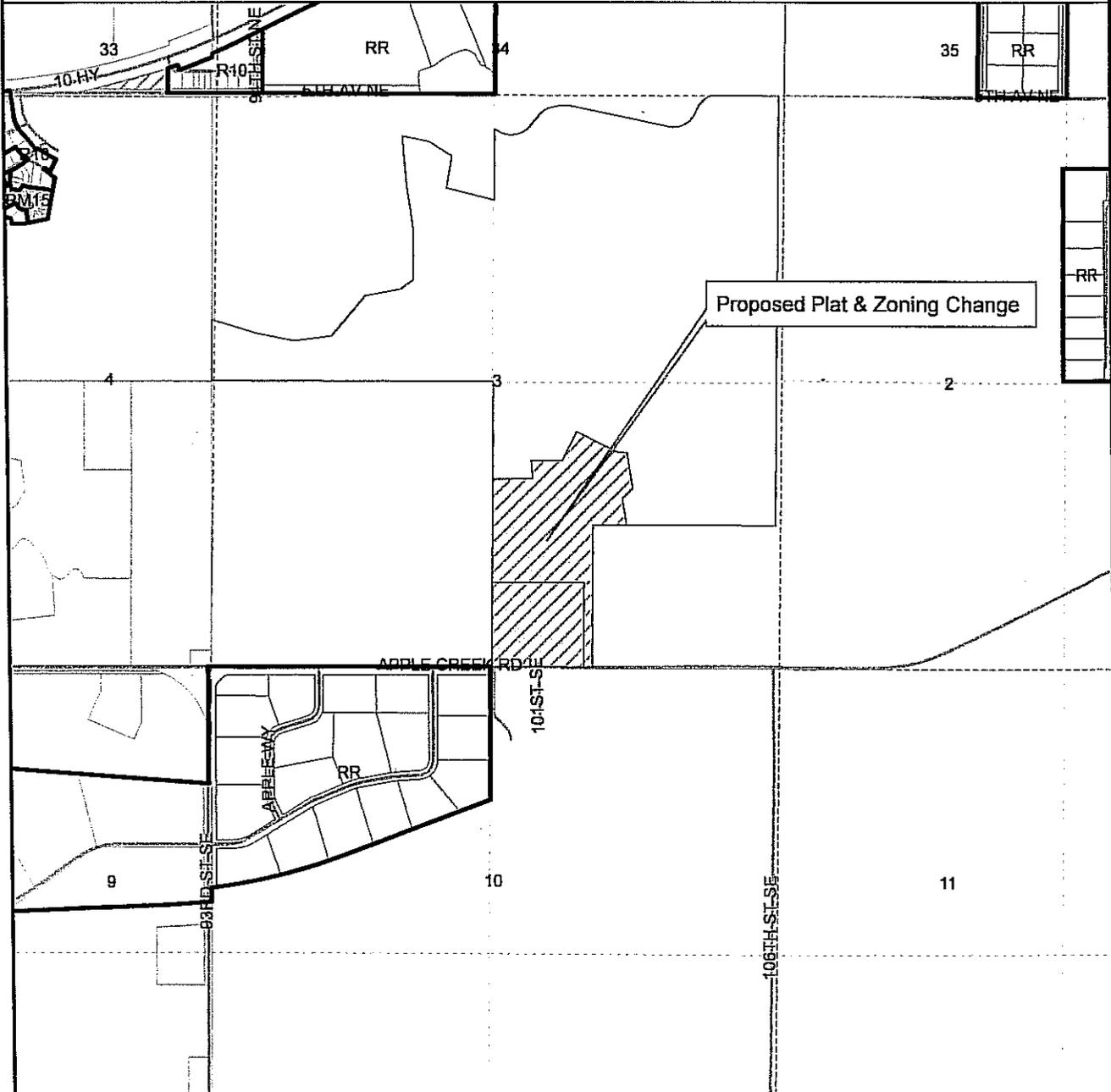
BACKGROUND:	
Title: Golfview Estates – Zoning Change (A to RR)	
Status: Planning Commission – Public Hearing	Date: August 26, 2009
Owner(s): Apple Creek, LLP Paul & Carmen Cain	Engineer: Kadmas Lee & Jackson
Reason for Request: Develop property for single-family rural residential subdivision.	
Location: North of Apple Creek Road between 80 th Street SE and 106 th Street SE (Part of the SE¼ of Section 3, T138N-R79W/Apple Creek Township).	
Project Size: 45.8 acres	Number of Lots: 22 lots in 4 blocks
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Agriculture/Undeveloped	Land Use: 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 Apple Creek Township Board of Supervisors has recommended denial of the subdivision proposed for this property (see attached resolution). 2. The proposed subdivision is within the 4-mile ETA and is subject to new joint jurisdiction legislation (HB 1554). As the proposed subdivision was presented to the City for approval prior to May 1, 2009, the City has jurisdiction. However, the governing body that would otherwise have jurisdiction (in this case, Apple Creek Township) may object to the final decision of the City and request negotiation within 30 days of the final decision of the City Commission. If the City of Bismarck and Apple Creek Township do not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Apple Creek Township, the dispute must be resolved by the Burleigh County Board of Commissioners. 	
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed zoning change would be consistent with the Land Use Plan, which identifies this area as rural residential (Bismarck-Mandan Regional Land Use Plan). 2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to the southwest and agricultural uses to the north, east, west and southeast. 	
<i>(continued)</i>	

3. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established. In particular, there has been additional rural residential development in this area within the past decade (East Valley Estates platted in 2002).
4. The subdivision proposed for this property would be served by South Central Regional Water District and would have access to Apple Creek Road; therefore, the proposed zoning change will not place an undue burden on public services or facilities.
5. The proposed zoning change would not adversely affect property in the vicinity.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. 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 for Golfview Estates from A – Agricultural to RR – Residential.

Proposed Plat & Zoning Change (A to RR) Golfview Estates



0 1,000 Feet

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/Corrected: April 20, 2009 (4/20)

Source: City of Minnetonka



RESOLUTION

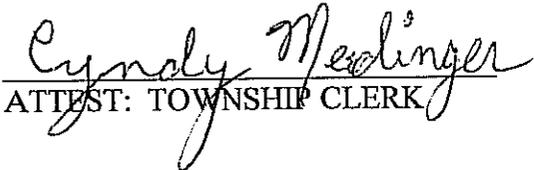
WE, THE BOARD OF TOWNSHIP SUPERVISORS OF APPLE CREEK TOWNSHIP,
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE
PROPOSED PLAT OF GOLFVIEW ESTATES AND HEREBY
RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID PLAT
BE (APPROVED) **DENIED**. (PLEASE ATTACH CONDITIONS, IF ANY, TO THE
BOARD'S ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

1. Subdivision lot size does not meet the Apple Creek Township Zoning Regulations minimum size of 5 acres. Surrounding subdivisions approved by ACT do.
2. The two access points for Jones Drive and Palmer Drive onto Apple Creek Road is not preferred by the ACT Board. The distance between the two is less than 1,000 feet. Also, Apple Creek Road is a small, two lane road with no shoulders. Routing all this subdivision traffic onto Apple Creek Road will create an unsafe condition for the traveling public. The ACT Board recommends having a north access onto 119th St.



CHAIRMAN, TOWNSHIP BOARD



ATTEST: TOWNSHIP CLERK

*PLEASE RETURN WITHIN 60 DAYS OF
DATE OF THIS LETTER BY CERTIFIED MAIL.

**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: Golfview Estates – Final Plat	
Status: Planning Commission – Public Hearing	Date: August 26, 2009
Owner(s): Apple Creek, LLP Paul & Carmen Cain	Engineer: Kadrmass Lee & Jackson
Reason for Request: Develop property for single-family rural residential subdivision.	
Location: North of Apple Creek Road between 80 th Street SE and 106 th Street SE (Part of the SE¼ of Section 3, T138N-R79W/Apple Creek Township).	
Project Size: 45.8 acres	Number of Lots: 22 lots in 4 blocks
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Agriculture/Undeveloped	Land Use: 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 Apple Creek Township Board of Supervisors has recommended denial of the proposed subdivision (see attached resolution). 2. The proposed subdivision is within the 4-mile ETA and is subject to new joint jurisdiction legislation (HB 1554). As the proposed subdivision was presented to the City for approval prior to May 1, 2009, the City has jurisdiction. However, the governing body that would otherwise have jurisdiction (in this case, Apple Creek Township) may object to the final decision of the City and request negotiation within 30 days of the final decision of the City Commission. If the City of Bismarck and Apple Creek Township do not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Apple Creek Township, the dispute must be resolved by the Burleigh County Board of Commissioners. 3. Although the proximity of the two access points on Apple Creek Road are not ideal, this configuration does meet the City's secondary access policy. The City's secondary access policy generally limits the total number of rural residential lots from the last intersecting primary roadway access to 16 lots and the length of roadways from the last intersecting primary roadway access to 1320 feet. The area master plan for the entire Golfview Estates development shows a roadway connection to 5th Avenue SE, which then connects over to 119th Street SE. This roadway connection would be required in a future phase of the project the thresholds included in the secondary access policy are exceeded. 	

(continued)

4. Preliminary vehicle count numbers taken in June 2009 for this portion of Apple Creek Road are 450 vehicles per day between 93rd Street SE and Apple Way (west of the new development) and 1267 vehicles per day between 93rd Street SE and 80th Street SE. Using a trip generation standard of 9 vehicle trips per day for single family residential development, approximately 189 additional trips would be added with the proposed development (21 additional units).

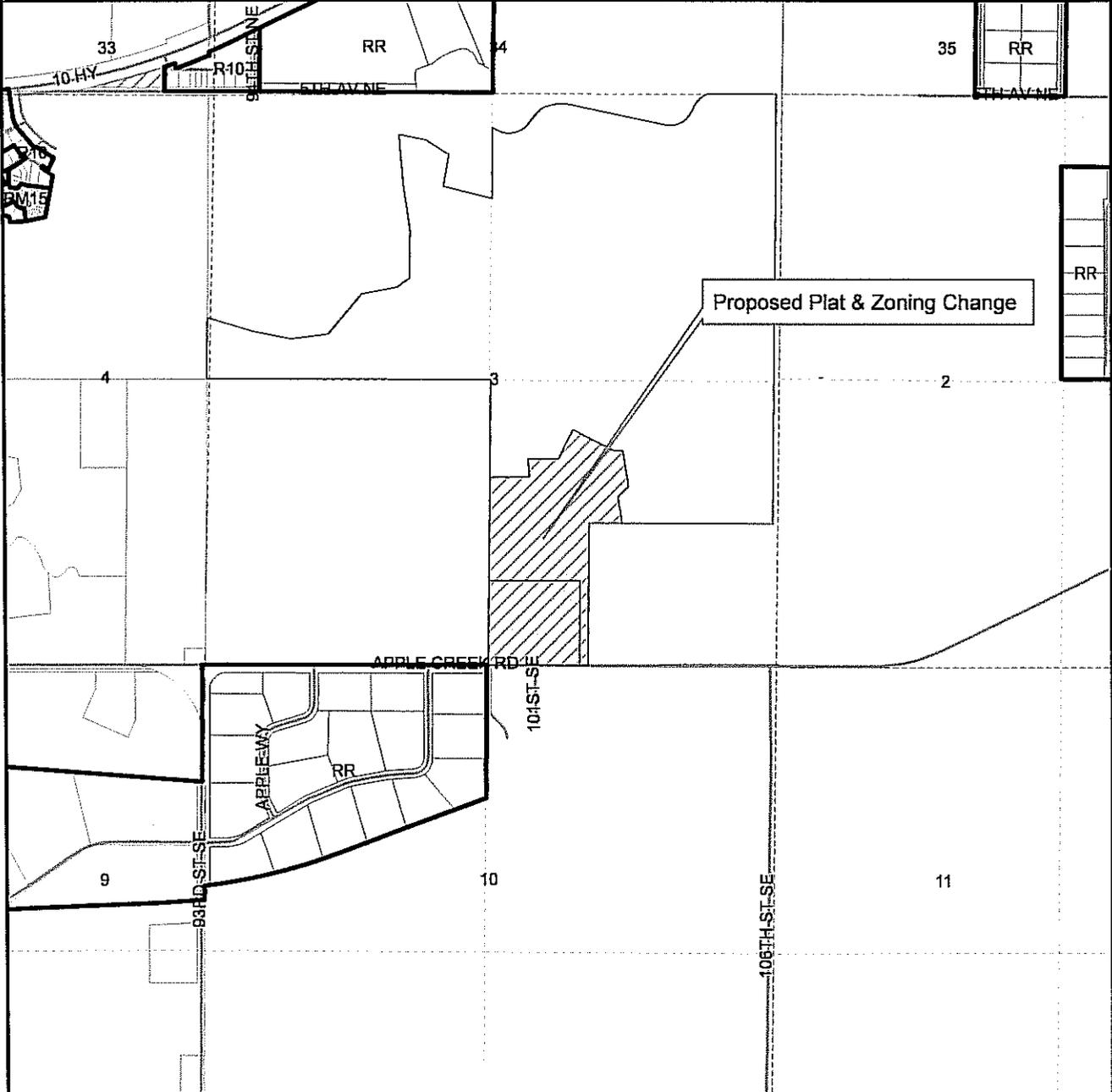
FINDINGS:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan for the proposed subdivision has been approved by the City Engineer.
3. The proposed subdivision is outside of the area covered by the Fringe Area Road Master Plan. Apple Creek Road is a section line road and is classified as an arterial. Based on the overall concept plan, it appears that Palmer Drive will function as a north-south collector in this section.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include rural residential to the southwest and agricultural uses to the north, east, west and southeast.
5. The proposed subdivision would be served by South Central Regional Water District and would have access to Apple Creek Road; therefore, the proposed subdivision would not place an undue burden on public services or facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.
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.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the final plat of Golfview Estates.

Proposed Plat & Zoning Change (A to RR) Golfview Estates



0 1,000 Feet

DISCLAIMER: This map is for representation use only and does not represent a survey. Its liability is assumed as to the accuracy of the data delineated herein. Map was Updated/Created: April 30, 2020 (142)

Source: City of Denmark



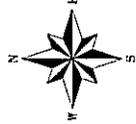
MAY 21 2009

PRELIMINARY PLAT GOLFVIEW ESTATES

AN UNIMPAVED PORTION OF THE SOUTHEAST QUARTER,
SECTION 3, TOWNSHIP 138 NORTH, RANGE 73 WEST
BURLEIGH COUNTY, NORTH DAKOTA

ENCLOSED
APPLICANT: KADRIANAS, LLC
2373 EAST ARROWHEAD
BISMARCK, ND 58102
PHONE: 701-251-7000

OWNER: KADRIANAS, LLC
2373 EAST ARROWHEAD
BISMARCK, ND 58102
PHONE: 701-251-7000



DATE: MAY 2009
TOPOGRAPHIC DATUM: NAD 83
BASIS OF BEARING - STATE PLANE

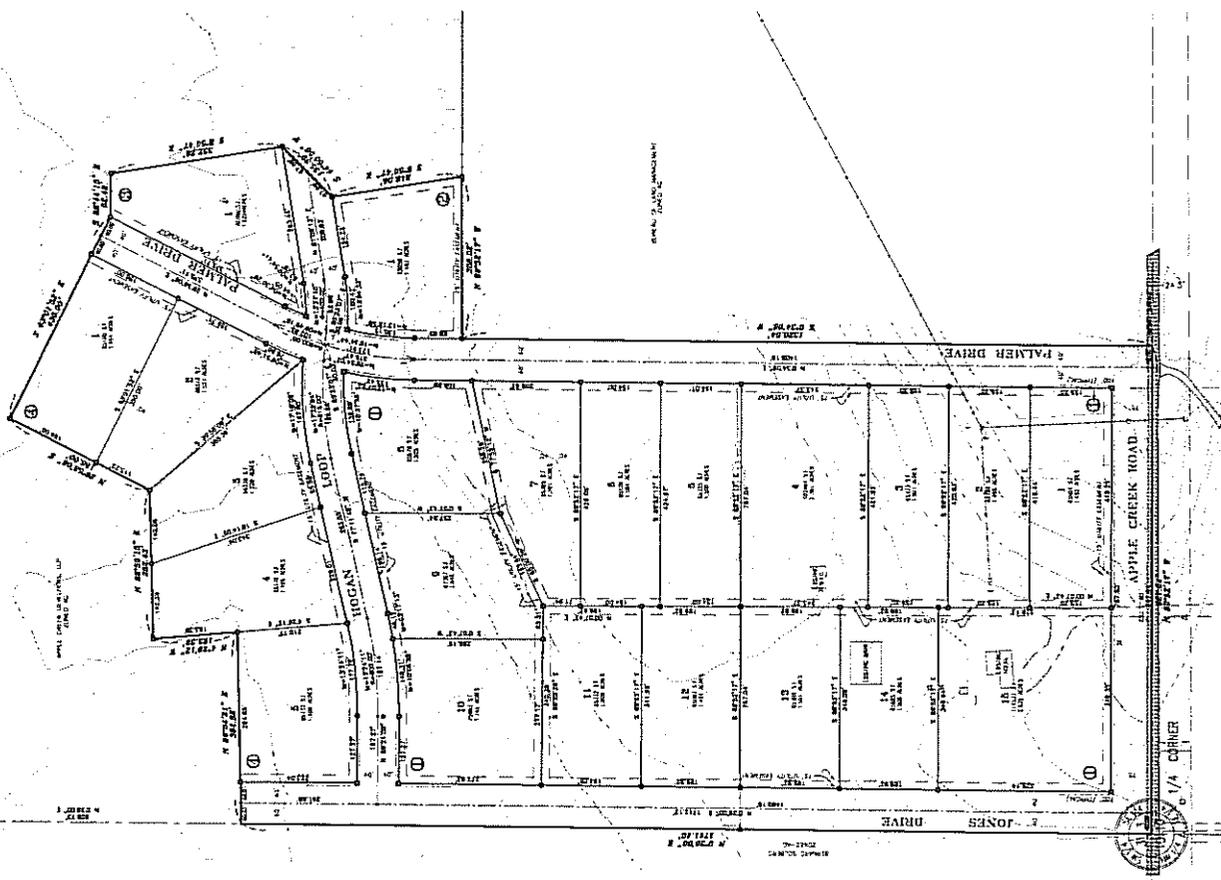
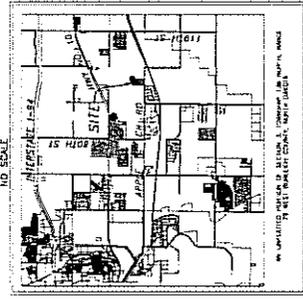
ZONING INFORMATION
CURRENT ZONING: A
DESIGNATED ZONING: RR

PLAT INFORMATION
- NUMBER OF LOTS: 22
- LOT ACREAGE: 25.856 ACRES
- 9.0 W. ACRES: 10.310 ACRES
- TOTAL ACREAGE: 45.766 ACRES

PLAT NOTES
LANDING ACCESS POINTS:
DIVER TOWN DRIVE IN THE N. DIV.
LANDING ACCESS POINT (GREEN) IS
LOCATED AT THE N. END OF
PROPOSED JONES DRIVE.

LEGEND

- 1. LOT
 - 2. LOT
 - 3. LOT
 - 4. LOT
 - 5. LOT
 - 6. LOT
 - 7. LOT
 - 8. LOT
 - 9. LOT
 - 10. LOT
 - 11. LOT
 - 12. LOT
 - 13. LOT
 - 14. LOT
 - 15. LOT
 - 16. LOT
 - 17. LOT
 - 18. LOT
 - 19. LOT
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 22. LOT



CENTER OF SECTION

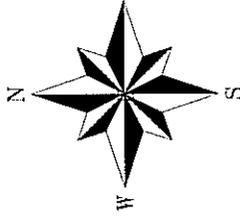


AREA MASTER PLAN GOLFVIEW ESTATES

ENGINEER:
KADRMAS, LEE & JACKSON, INC.
2537 EAST 10TH AVENUE
BIRMINGHAM, ALABAMA 35201
PHONE: 352-2420

OWNER:
JIM LADIGER
2215 W. 10TH AVENUE
BIRMINGHAM, ALABAMA 35204
PHONE: 687-1880

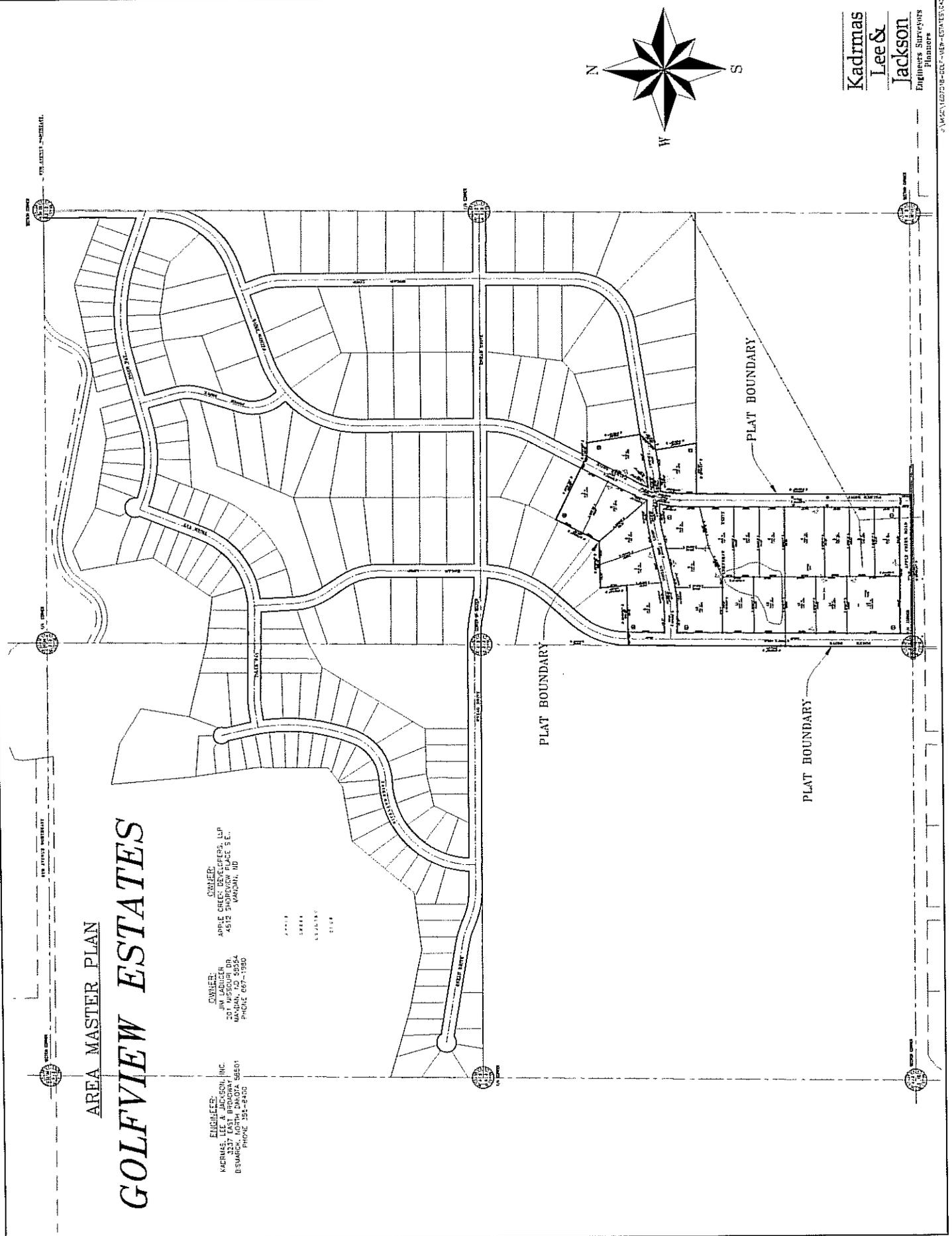
DEVELOPER:
APPLE CREEK DEVELOPERS, L.P.
4512 SPANGLER AVENUE
MADISON, ALABAMA 35703



**Kadrmass
Lee &
Jackson**
Engineers Surveyors
Planners

GOLFVIEW ESTATES

3: WKS5V1ED2D-DE-DEL-NEB-ESTATES-CAS-V18701E-1



RESOLUTION

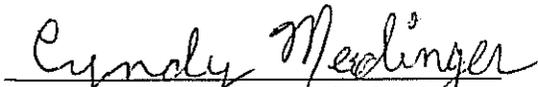
WE, THE BOARD OF TOWNSHIP SUPERVISORS OF APPLE CREEK TOWNSHIP,
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE
PROPOSED PLAT OF GOLFVIEW ESTATES AND HEREBY
RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID PLAT
BE (APPROVED) **DENIED**. (PLEASE ATTACH CONDITIONS, IF ANY, TO THE
BOARD'S ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

1. Subdivision lot size does not meet the Apple Creek Township Zoning Regulations minimum size of 5 acres. Surrounding subdivisions approved by ACT do.
2. The two access points for Jones Drive and Palmer Drive onto Apple Creek Road is not preferred by the ACT Board. The distance between the two is less than 1,000 feet. Also, Apple Creek Road is a small, two lane road with no shoulders. Routing all this subdivision traffic onto Apple Creek Road will create an unsafe condition for the traveling public. The ACT Board recommends having a north access onto 119th St.

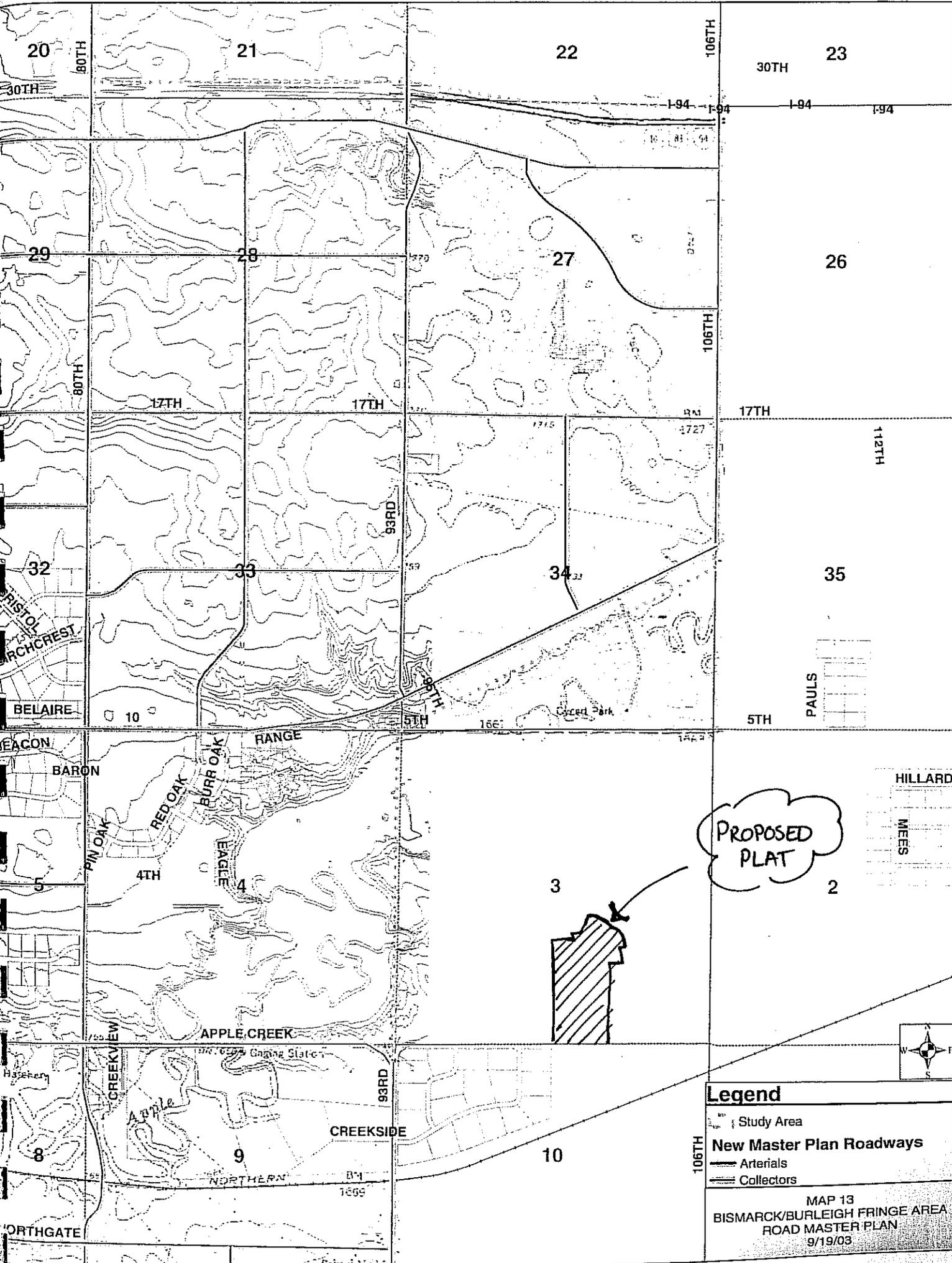


CHAIRMAN, TOWNSHIP BOARD



ATTEST: TOWNSHIP CLERK

*PLEASE RETURN WITHIN 60 DAYS OF
DATE OF THIS LETTER BY CERTIFIED MAIL.



PROPOSED PLAT

Legend

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

MAP 13
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

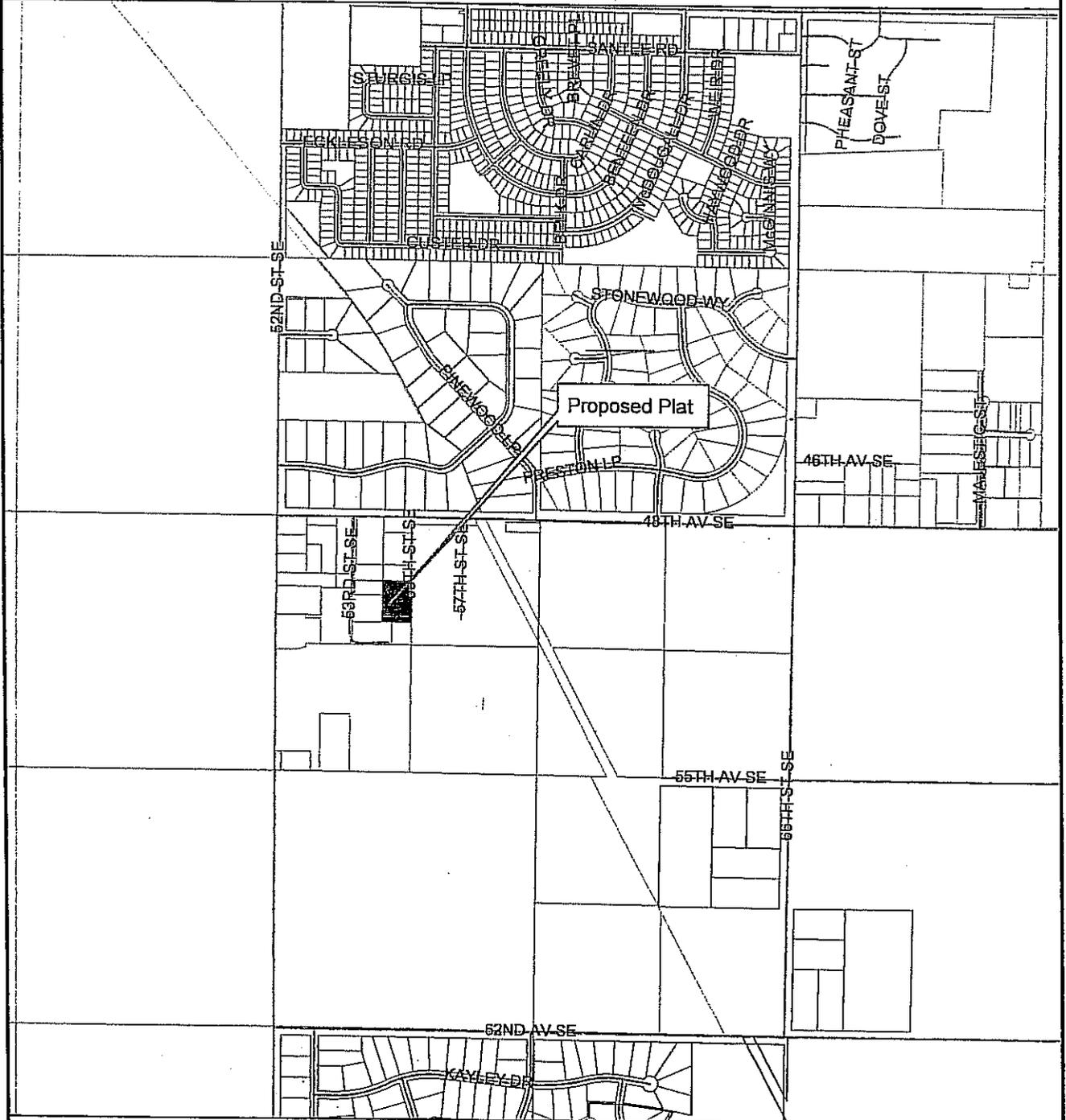
BACKGROUND:	
Title: Erickson Subdivision – Final Plat	
Status: Planning Commission – Public Hearing	Date: August 26, 2009
Owner(s): Trent Erickson & Susan Blight	Engineer: Swenson, Hagen & Company
Reason for Request: The owner (at the bank's directive) wishes to plat the property. The owner plans to sell.	
Location: South of Lincoln in Swansonville - - ¼ mile east of 52 nd St. S.E., south of 48 th Ave. S.E. (NW ¼ of Section 30, T138N/R79W Apple Creek Township)	
Project Size: 3 acres	Number of Lots: 1 lot in 1 block
EXISTING CONDITIONS:	
Land Use: Single-family dwelling	Land Use: Single-family dwelling
Zoning: RR- Rural Residential	Zoning: RR- Rural Residential
Uses Allowed: large-lot single family residential	Uses Allowed: large-lot single family residential
Maximum Density Allowed: 1 unit per 65,000 sq. ft.	Maximum Density Allowed: 1 unit per 65,000 sq. ft.
PROPERTY HISTORY:	
Zoned: ---	Platted: ---
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> 1. This parcel is developed and occupied. There is an existing house and accessory buildings. It is located in an established, large-lot, rural residential neighborhood. Very few of the lots in this area have been platted. New development is not proposed on the subject property. 2. Access to the property is provided by a private driveway shared by three residences. The driveway is maintained by the homeowners. The width of the driveway strip is 16½ feet. 3. If this were an undeveloped area and the purpose of this plat was for new construction, the developer would be expected to provide an all-weather access road, constructed to county specifications, dedicated as public right-of-way to be publicly maintained. Because the existing driveway strip is narrow at 16½ feet, and property adjoining the strip is not owned by this landowner, any widening or major improvements to the driveway access would be difficult. 4. The Board of Township Supervisors of Apple Creek Township recommends that this plat be approved. 	
FINDINGS:	
<ol style="list-style-type: none"> 1. All technical requirements for consideration of a final plat have been met. 2. The proposed subdivision is compatible with adjacent land uses. Surrounding land use includes similar large-lot residentials, most of them unplatted, but all zoned RR-Residential 3. The proposed subdivision would not adversely affect property in the vicinity. 	

4. The proposed plat is not completely consistent with all adopted plans, policies and accepted planning practice because it is not served by a publicly maintained, all-weather access road built to standard specifications. Emergency services could encounter difficulties in providing assistance in extreme weather situations.
5. Approving this plat will not create a safety risk or change conditions that have not existed for many years.
6. The Storm Water Management Plan was waived because no alterations or new construction is proposed for this property.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the final plat of Erickson Subdivision.

Proposed Plat Erickson Subdivision



0 1,000 Feet

DISCLAIMER: This map is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data obtained herein. Map was Updated/Created: June 24, 2020 (44)

Source: City of Minnetonka



RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF APPLE CREEK TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE PROPOSED PLAT OF ERICKSON SUBDIVISION AND HEREBY RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID PLAT BE (APPROVED) (DENIED). (PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S ACTION.)

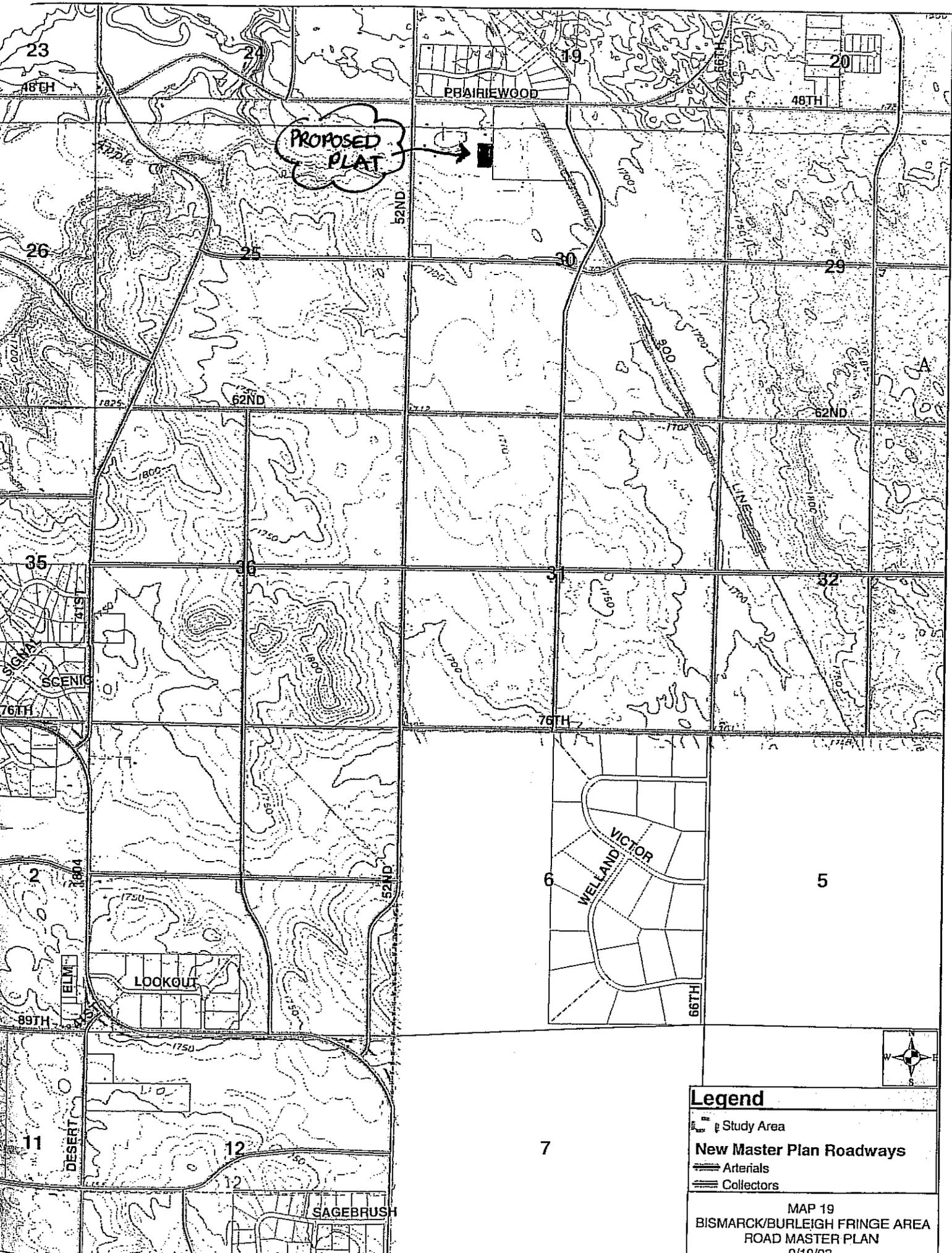
IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

Four horizontal lines for listing reasons for denial.

Kenneth J. Selke
CHAIRMAN, TOWNSHIP BOARD

Cynthia Meehan
ATTEST: TOWNSHIP CLERK

*PLEASE RETURN WITHIN 60 DAYS OF DATE OF THIS LETTER BY CERTIFIED MAIL.



Legend

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

MAP 19
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 0/10/02

**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: Lots 2-6, Block 1, Pearce Estates – Zoning Change (A & RR to PUD)	
Status: Planning Commission – Public Hearing	Date: August 26, 2009
Owner(s): Lolette Pearce/D. T. “Dave” Pearce	Engineer: N/A
Reason for Request: Rezone property to allow expanded use of property for seasonal commercial recreation uses (Papa’s Pumpkin Patch and Papa’s Polar Patch) as a Planned Unit Development. Other than these seasonal events, the property will continue to be used for rural residential and agricultural uses.	
Location: Along the east side of Fernwood Drive between Sandy River Road and Burnt Creek Loop (5001 Fernwood Drive).	
Project Size: 39.5 acres	Number of Lots: 5 lots in 1 block
EXISTING CONDITIONS:	
Land Use: Rural residential and agriculture	PROPOSED CONDITIONS:
Zoning: A – Agricultural RR – Residential	Land Use: Rural residential, agriculture and seasonal commercial recreation uses
Uses Allowed: A – agricultural uses, including the temporary sale of produce RR – rural residential	Zoning: PUD – Planned Unit Development
Uses Allowed: A – agricultural uses, including the temporary sale of produce RR – rural residential	Uses Allowed: Uses specified in PUD
Maximum Density Allowed: A – 1 unit per 40 acres RR – 1 unit per 1.5 acres/65,000 sf (lot size)	Maximum Density Allowed: Density specified in PUD
PROPERTY HISTORY:	
Zoned: 09/00(Lots 2&3 from A to RR)	Platted: 09/00
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> Section 14-04-18 of the Bismarck Code of Ordinances (Zoning) indicates that the intent of the City’s Planned Unit Development district is “to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space.” A copy of this section is attached. This property was historically used for agricultural production and the seasonal sale of garden produce; however, the use of the property has evolved to a more intensive seasonal commercial recreation use over time. Papa’s Pumpkin Patch has been open to the public since 1989. This event occurs from mid-September to late-October each year, with approximately 50,000 visitors during the fall season. Papa’s Polar Patch was started in 2007-2008 and runs during school vacation times (Holiday vacation break, Martin Luther King Jr. Day weekend, President’s Day weekend and Spring break weekend – weather permitting), with approximately 2500 visitors during the winter season. Other than these seasonal events, the property is used for agricultural and residential purposes, with two private residences occupying the property. 	

(continued)

3. Commercial recreational uses are only allowed in the CG – Commercial, CR – Commercial and MA – Industrial zoning districts. None of these zoning districts would be appropriate in this location because of the intensity of the other permitted uses within those districts; therefore, the PUD is being proposed to address the existing seasonal commercial recreational uses.
4. The proposed PUD would allow the continued use of the property for seasonal commercial recreation uses in addition to the agricultural and residential uses. Copies of the written statement, site plan and proposed building elevations are attached.

FINDINGS:

1. Because of the seasonal nature of the commercial recreation uses, the proposed zoning change would be consistent with the Land Use Plan, which identifies the long term use of the land as urban residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would not be completely compatible with all of the adjacent land uses. In particular, the seasonal commercial recreation uses are not completely compatible with the adjacent rural residential and agricultural land uses. Both the noise and traffic generated by the seasonal commercial recreational uses may have an adverse impact on adjacent properties.
3. The proposed PUD would accommodate an existing seasonal commercial recreational use that depends on the agricultural nature of the property; therefore, the natural features of the property will be preserved insomuch as possible.
4. The internal private drive system is adequately designed for the type of traffic generated, given its seasonal nature. The property is served by Fernwood Drive, which is a gravel road from a point just north of Crestwood Drive to a point just south of Burnt Creek Loop.
5. The character and nature of the proposal contains a planned and coordinated mix of land uses.
6. The use of the property is not expected to change; therefore, the proposed zoning change would not place an undue burden on public services.
7. The proposed zoning change is not completely consistent with all adopted plans, policies and accepted planning practice; however, the zoning change will address the current use of the property and establish parameters of operation of the seasonal commercial recreation use.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the zoning change from A – Agriculture and P – Public to PUD – Planned Unit Development for Lots 2-6, Block 1, Pearce Estates, as outlined in the attached draft PUD ordinance.

ORDINANCE NO.

<i>Introduced by</i>	_____
<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

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

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural and RR – Residential districts and included within the PUD – Planned Unit Development District.

Lots 2-6, Block 1, Pearce Estates.

This PUD is subject to the following development standards:

1. *Primary Uses Permitted.* The following primary uses are permitted within this Planned Unit Development:

- a. Lots 2 and 3 shall continue to be used primarily for single family rural residential uses.
- b. Lots 4, 5 and 6 shall continue to be used primarily for agricultural purposes.

2. *Seasonal Uses Permitted.* The following seasonal uses are permitted within this Planned Unit Development:

- a. Commercial recreation uses shall be allowed on a seasonal basis primarily on Lots 4, 5 & 6, with some overflow of activities on to Lots 2 and 3. The seasonal commercial recreation uses shall be limited to Papa’s Pumpkin Patch (mid-September to late-October) and Papa’s Polar Patch (~~late December to early January, along with other 3 day periods over weekends through late February~~ school holidays including the Holiday break, Martin Luther King Jr. Day weekend, President’s Day weekend and Spring Break weekend, if weather permits). These events

may include a variety of event-themed activities, attractions and demonstrations. Concessions and sales of event-themed merchandise shall also be allowed. Mechanical rides, such as those typically found at a carnival, shall not be allowed.

- b. Lots 4, 5 & 6 may also be used on occasion for 1 to 3-day events, such as family reunions, weddings, planting events, company picnics, fund raising events, church events, and other similar special events and activities. These events are only allowed between May 1st and Labor Day, and shall not exceed 12 days per year regardless of the number of events. Events for family members are allowed and are not counted towards the 12 days per year maximum.

3. *Special Uses.* The following uses are allowed as special uses within this Planned Unit Development, subject to the provisions of Section 14-03-08 of the City Code of Ordinances:

- a. ~~Temporary Christmas tree sales.~~
- b. ~~Temporary Seasonal sales of locally grown farm and or garden produce sales.~~
- c. Seasonal sales of nursery and bedding stock ~~sales.~~

Other special uses identified in Section 14-03-08 but not included in this list shall be prohibited.

4. *Use Standards.* All uses within this planned unit development shall conform to the following requirements:

- a. There is no unusual fire, explosion or safety hazard.
- b. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point.
- c. If a public address (PA) or similar system is used to amplify sound, speakers must be directed so as to minimize the impact of the amplified sound on adjacent properties. The use of amplified sound on the site shall be limited to the hours of 9:00am to 9:00pm.

5. *Dimensional Standards.*

- a. Front Yard Setback. The minimum front yard setback is forty (40) feet along Fernwood Drive for both residential and agricultural buildings.
- b. Side Yard Setback. The minimum side yard setback is fifteen (15) feet for residential buildings and fifty (50) feet for agricultural buildings.
- c. Rear Yard Setback. The minimum rear yard setback is twenty (20) feet for both agricultural and residential buildings.

d. **Height.** The maximum building height is thirty-five (35) feet for residential buildings and forty (40) feet for agricultural buildings.

6. *Development Standards.*

a. **Accessory Buildings.** Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structures.

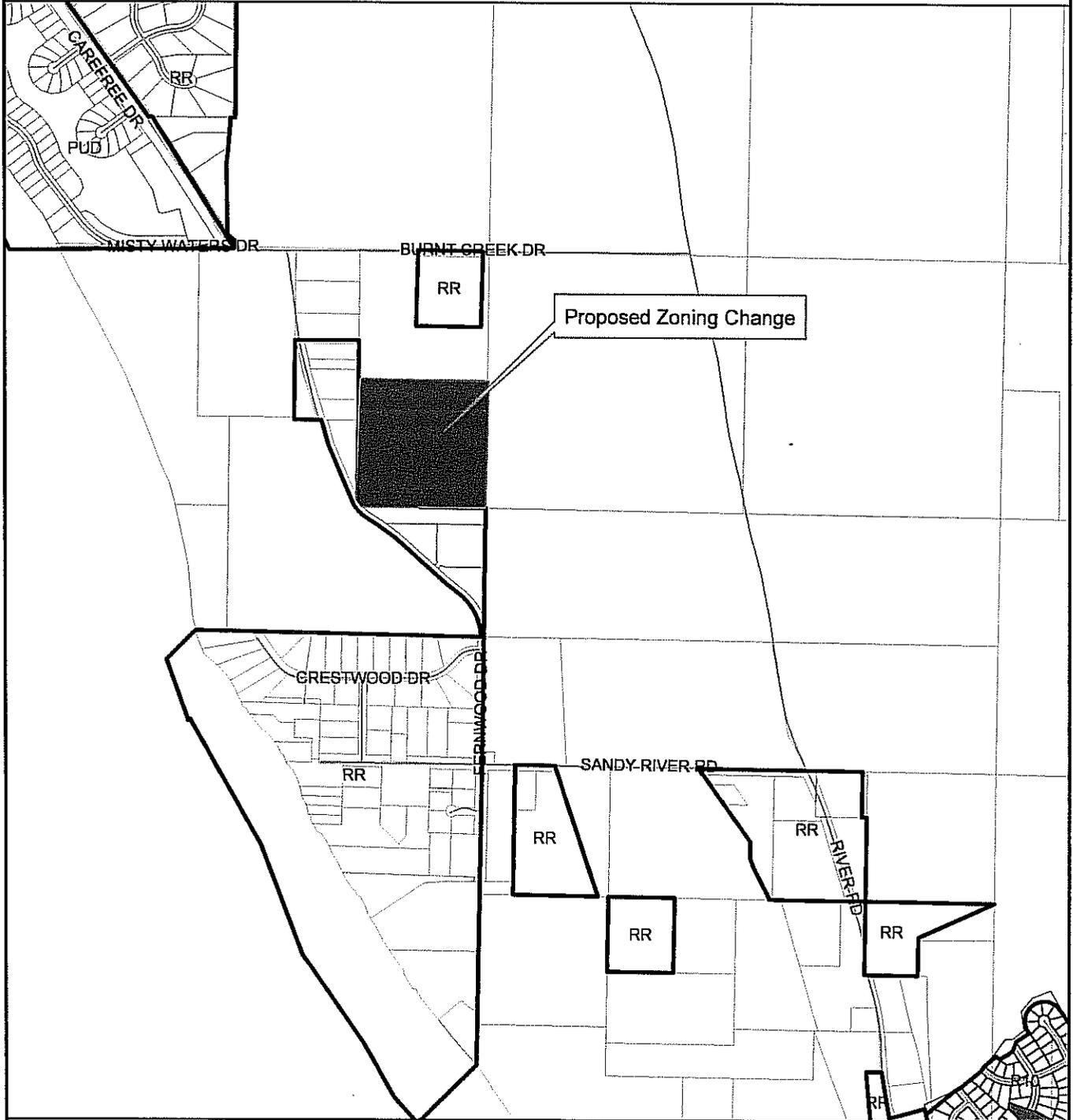
b. **Landscaping and Screening.** The existing wooded areas around the perimeter of the property shall remain in place in order to provide continued screening of the seasonal commercial uses from the adjacent rural residential uses. If trees need to be removed for any reason, replacement trees shall be provided at the rate of two replacement trees for each tree removed. No additional landscaping or buffer yards will be required.

7. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and approval by the Bismarck Planning & Zoning Commission.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

Proposed Zoning Change (A & RR to PUD) Lots 2-6, Block 1, Pearce Estates



0 1,000
Feet

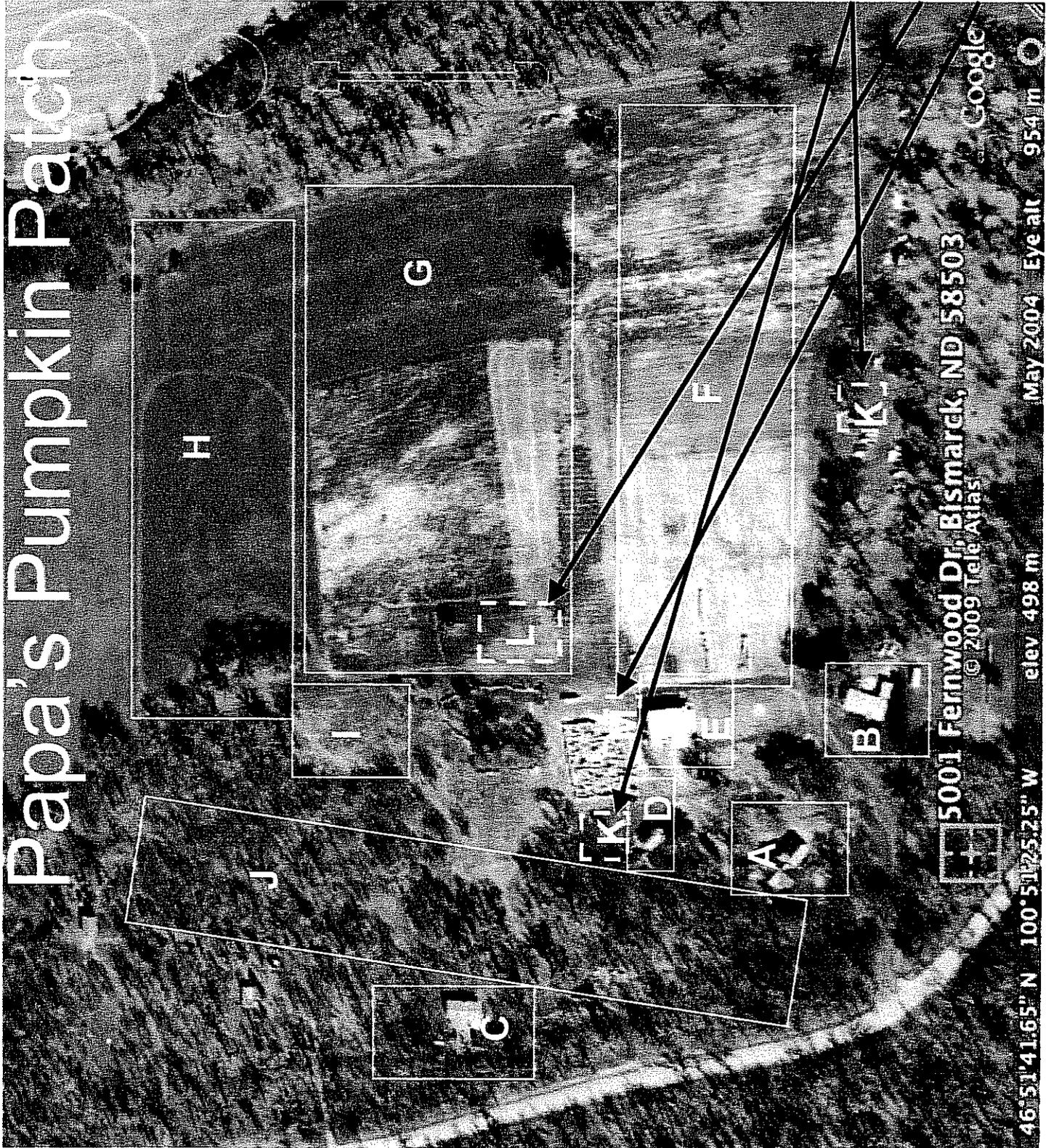
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data depicted herein. Map was Updated/Created: July 18, 2009 (hbc)

Source: City of Blackrock



JUN 17 2009

Papa's Pumpkin Patch



Legend

- A. Residence - Lorette (Suzie) Pearce (Mother)
- B. Residence - Dave & Colleen Pearce (Son & Daughter-in-law)
- C. Residence - Cory & Tracy Finneman (Son-in-law & Daughter)
- D. Horse/Hay Barn
- E. Quonset (Replacing structure lost to fire)
- F. Hay/Parking Lot
- G. Crop land (small grains, corn, grass hay)
- H. Hay land
- I. Cropland (pumpkins, sedan grass)
- J. Horse pasture
- K. Potential Shop/Storage
- L. Potential Public Pavilion/Shelter
- M. Potential Restrooms & Concessions

5001 Fernwood Dr. Bismarck, ND 58503

© 2009 Tele Atlas

Google

46°51'41.65" N 100°51'25.25" W

elev 498 m

May 2004 Eye alt 954 m



RECEIVED

NOV 17 2019



OFFICE: NA
 JOB NO.: K108-PUMPKIN

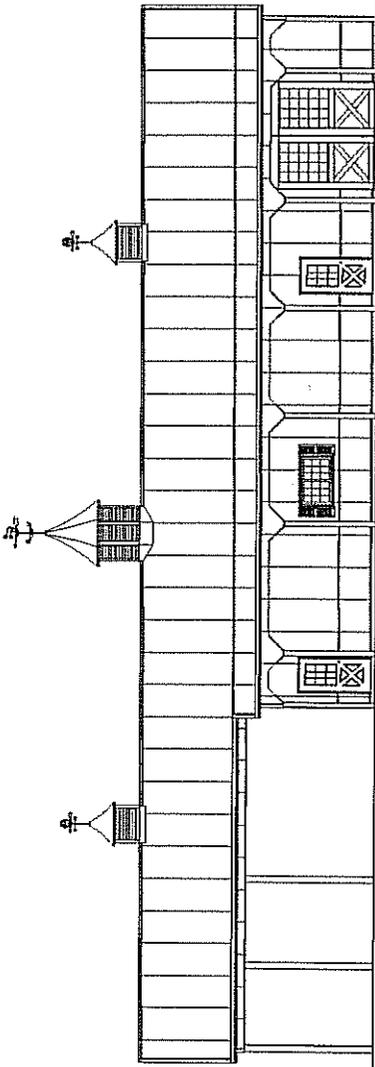
PAPA'S PUMPKIN PATCH
 BSMAROK, N.D.

MORTON BUILDINGS, INC.
 P.O. BOX 379 MORNING, IL 61550-0379 309-253-7174

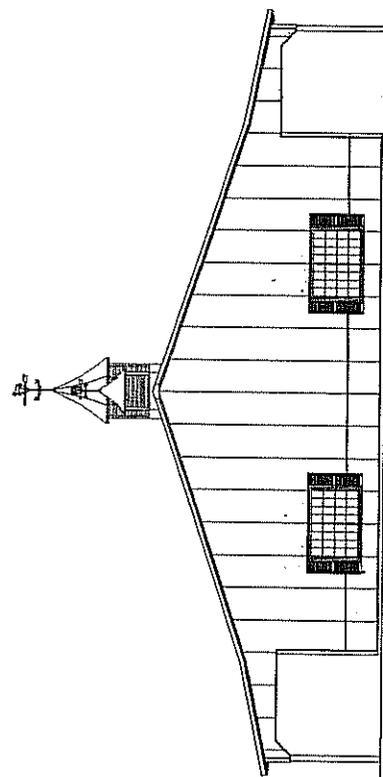
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 JUN 17 2009

SCALE AS NOTED
 SHEET NO.
 S2 of S3

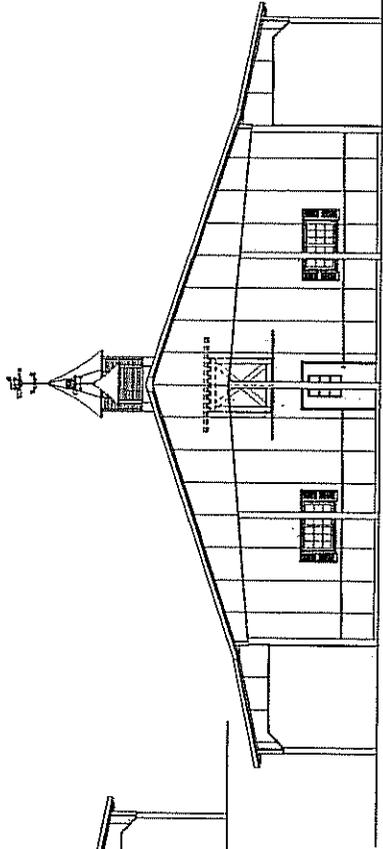


EAST ELEVATION

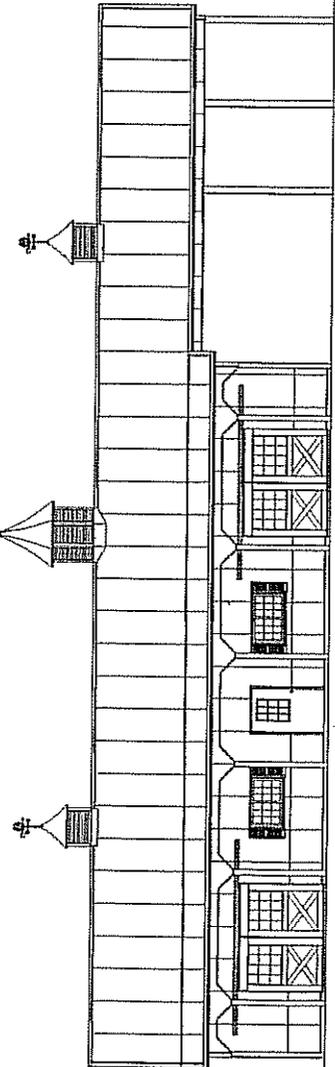


Windows should be above the waynecoat? Don't you think?

NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

SCALE: 1" = 4' 1/2" = 8'

PRELIMINARY DRAWING FOR OWNER'S APPROVAL

- DRAWING APPROVED AS SUBMITTED
- DRAWING APPROVED PENDING CHANGES NOTED
- REVISE DRAWING WITH NOTED CHANGES AND RESUBMIT

OWNERS SIGNATURE _____ DATE _____
 THIS DRAWING IS BEING PROVIDED SOLELY TO ASSIST THE OWNER IN THE PROPER LAYOUT OF A NEW MORTON BUILDING AND IS NOT INTENDED TO BE USED FOR CONSTRUCTION PURPOSES. ANY OTHER USE OF THIS DRAWING WITHOUT WRITTEN AUTHORIZATION BY MORTON BUILDINGS, INC. IS PROHIBITED.



MORTON BUILDINGS, INC.

Written Statement (Revised)

1) Statement of Present Ownership

All land involved is currently owned by the Pearce Family; L.H. Pearce (Suzie)((as mother); DT and Colleen Pearce (son and daughter-in-law); Tracy and Cory Finneman (daughter and son-in-law)

Lots 2,3,4,5+6; Block 01; Pearce Estates receive mail at 5001 Fernwood Drive, Bismarck, ND 58503. (39.5 acres in total)

Lots 2+3 are (3 acres) zoned residential and occupied by homes (Suzie, David and Colleen) Lots 4,5+6 are zoned Agricultural , and are (3 acres) occupied by a Barn, and Quonset, (9 acres) occupied by pasture/woodlands, and (20 acres) occupied by farmland, and hay land.

2) Explanation of the objectives

The "mission" of Papa's Pumpkin Patch is **Family, Education and Fun**. What started as an intense agricultural production of greenhouse tomatoes and garden produce has transformed to a community tradition in the country to **Celebrate the Season**[®]. There are two main seasons: Pumpkin Patch (mid-September – mid-October) and Polar Patch (Christmas vacation – New Years', President's Day vacation and Martin Luther King Holiday).

Upwards of 50,000 friends and families visit Papa's Pumpkin Patch each Fall in search of the perfect pumpkin or frivolous play in the hay. 2500 have celebrated the winter season at Papa's.

Our objective is to provide a safe, mostly natural, pleasant, and affordable environment for "children of all ages."

Papa's (while remaining a private family dwelling and farm) has become partner with many local organizations. More than 300 volunteers representing 30+ community organizations help paint, decorate, load and unload , direct parking, entertain, run concessions, sell pumpkins—as a "Friend-raising / Fund-raising" activity.

Train rides, hay rides, sleigh rides, sled rides, foot races, face painting, bale slides, bale castles, trebuchets, pumpkin launching, corn mazes, obstacle courses, scare crow making, snow man sculptures, pumpkin carving—all these activities and more are possible at Papa's.

The Pumpkin Patch as an area "attraction / destination" is increasing. As a family, we are pleased to play host to a community of friends and volunteers by decorating and opening our yard so others may enjoy an "artful" setting amidst the beauty of the Missouri River Bottoms.

Additional "seasons" will emerge. A "spring planting" event, A summer barbeque, a one day here and a one day there— This 40 acre farmstead could be a "Papa's Community Gardens / Sleepy Hollow NW." It could be a privately maintained / publically orientated green space. It may offer respite while on north bound bike ride, or a beginning and ending point to a foot race.....a gathering field for kite flyers, an amphitheatre for The Shade Tree Players.....Papa's Gardens, a gathering point for a family reunion.

It will still be our home. It may not be a wealthy estate, but a beautiful setting among the Missouri River Bottoms. We'll be a part of a rural neighborhood. We'll continue to enjoy privacy and quiet time and space.

Bismarck will grow to the north. Adjoining corn fields will become private residences. It is appropriate for Pearce Estates, Block 01, Lots 2,3,4,5 & 6 be zoned as a "planned unit development."

14-04-18. Planned Unit Developments. It is the intent of this section to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space.

1. Site plan, written statement and architectural drawings. The application must be accompanied by a site plan, a written statement and architectural drawings:

a. Site plan. A complete site plan of the proposed planned unit prepared at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the planned unit. The site plan must contain, insofar as applicable, the following minimum information.

1) The existing topographic character of the land;

2) Existing and proposed land uses;

3) The location of all existing and proposed buildings, structures and improvements;

4) The maximum height of all buildings;

5) The density and type of dwelling;

6) The internal traffic and circulation systems, off-street parking areas, and major points of access to public rights-of-way;

7) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas;

8) Proposed interior buffer areas between uses;

9) Acreage of PUD;

10) Utility service plan showing existing utilities in place and all existing and proposed easements;

- 11) Landscape plan; and
- 12) Surrounding land uses, zoning and ownership.

b. Written statement. The written statement to be submitted with the planned unit application must contain the following information:

- 1) A statement of the present ownership and a legal description of all the land included in the planned unit;

- 2) An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches or elevations as may be required to described the objectives; and

- 3) A copy of all proposed condominium agreements for common areas.

c. Architectural drawings - the following architectural drawings shall be submitted in sufficient detail to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door and window openings:

- 1) Elevations of the front and one side of a typical structure.

- 2) A perspective of a typical structure, unless waived by the planning department.

2. Review and approval.

a. All planned units shall be considered by the planning commission in the same manner as a zoning change. The planning commission may grant the proposed planned unit in whole or in part, with or without modifications and conditions, or deny it.

b. All approved site plans for planned units, including modifications or conditions shall be endorsed by the planning commission and filed with the director of inspections. The zoning district map shall indicate

that a planned unit has been approved for the area included in the site plan.

3. Standards. The planning commission must be satisfied that the site plan for the planned unit has met each of the following criteria:

- a. Proposal conforms to the comprehensive plan.
- b. Buffer areas between noncompatible land uses may be required by the planning commission.
- c. Preservation of natural features including trees and drainage areas should be accomplished.
- d. The internal street circulation system must be designed for the type of traffic generated. Private internal streets may be permitted if they conform to this ordinance and are constructed in a manner agreeable to the city engineer.
- e. The character and nature of the proposal contains a planned and coordinated land use or mix of land uses which are compatible and harmonious with adjacent land areas.

4. Changes.

a. Minor changes in the location, setting, or character of buildings and structures may be authorized by the director of inspections.

b. All other changes in the planned unit shall be initiated in the following manner:

1) Application for Planned Development Amendment.

a) The application shall be completed and filed by all owners of the property proposed to be changed, or his/their designated agent.

b) The application shall be submitted by the specified application deadline and on the proper form and shall not be accepted by the City Planner unless and, until all of the

application requirements of this section have been fulfilled.

2) Consideration by Planning Commission.
The planning commission secretary, upon the satisfactory fulfillment of the amendment application and requirements contained herein, shall schedule the requested amendment for a regular or special meeting of the planning commission, but in no event later than sixty (60) calendar days following the filing and acceptance of the application. The planning commission may approve and call for a public hearing on the request, deny the request or table the request for additional study.

3) Public Hearing by Planning Commission.
Following preliminary approval of an amendment application, the City Planner shall set a time and place for a public hearing thereon. Notice of the time and place of holding such public hearing shall be published in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the hearing. Not less than ten (10) days prior to the date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the planned unit development amendment. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Planning Commission may approve, approve subject to certain stated conditions being met, deny or table the application for further consideration and study, or, because of the nature of the proposed change, make a recommendation and send to the Board of City Commissioners for final action.

(Ord. 4364, 05-07-91; Ord. 4876, 11-25-97; Ord. 4946, 10-27-98; Ord. 5218, 11-26-02; Ord. 5343, 06-22-04; Ord. 5351, 08-24-04)