

4. WDH Subdivision (G²)	
<i>Apple Creek Township</i>	
a. Zoning Change (A to RR5).....	15
<i>Staff recommendation: schedule a hearing</i> <input type="checkbox"/> schedule a hearing <input type="checkbox"/> table <input type="checkbox"/> deny	
b. Preliminary Plat	19
<i>Staff recommendation: tentative approval</i> <input type="checkbox"/> tentative approval <input type="checkbox"/> table <input type="checkbox"/> deny	
5. Setbacks in RT, CA & CG Districts adjacent to R5 & R10 Districts – Zoning Ordinance Text Amendment (Klee).....	25

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

6. North Hills 16th Addition (JT)	
a. Zoning Change (A to RT & RM).....	31
<i>Staff recommendation: approve</i> <input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny	
b. Final Plat.....	37
<i>Staff recommendation: approve</i> <input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny	
7. Lot 1, Block 4, Northstar Commercial Park 3rd Subdivision – Zoning Change (CG to Conditional MA) (Klee).....	45
<i>Hay Creek Township</i>	
<i>Staff recommendation: approve</i> <input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny	
8. County Highway 10 Right-of-way – 52nd Street to 66th Street – Annexation (Klee)	53
<i>Staff recommendation: approve</i> <input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny	

OTHER BUSINESS

- 9. Small Wind Energy System Ordinance – Update**

ADJOURNMENT

- 10. Adjourn.** The next regular meeting date is scheduled for Wednesday, November 18, 2009.

Enclosure: Minutes of the September 23, 2009 meeting
 Major Building Permits Report for September 2009
 Building Permit Activity Report for September 2009

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

BACKGROUND:		
Title: Heritage Subdivision – Detachment		
Status: Planning Commission - Consideration	Date: October 28, 2009	
Owner(s): Leo & Patricia Bitz	Engineer: None	
Reason for Request: Vacate, rezone and detach an undeveloped quarter section from the corporate boundary, to allow for continued agricultural uses and development of a single-family dwelling.		
Location: Along the north side of East Main Avenue/County Highway 10 and the west side of North 66 th Street. (SE ¼ of Section 31, T139N/R79W – Gibbs Township)		
Project Size: 152.76 acres	Number of Lots: 136 lots in 3 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped/Agricultural	Land Use: Undeveloped/Agricultural	
Zoning: RM30-Residential RT-Residential CA-Commercial	Zoning: A - Agriculture	
Uses Allowed: RM30 – Multi-family residential RT-Residential – Multi-family/offices CA-Commercial – Light commercial CG-Commercial – Heavy commercial	Uses Allowed: A – Agricultural uses	
Maximum Density Allowed: RM30 – 30 units per acre RT-Residential – 30 units per acre CA-Commercial – 30 units per acre CG-Commercial – 42 units per acre	Maximum Density Allowed: A – Agriculture 1 unit per 40 acres	
PROPERTY HISTORY:		
Zoned: 04/81	Platted: 04/81	Annexed: 04/81
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. The applicants are not the original developers of this property. They have owned the land that contains the subdivision since 1986 in addition to the two quarter sections east of 66th Street NE. Currently there are cattle grazing the property and the applicants intend on building a single-family dwelling in the northwest corner of the quarter section. 2. City and County staff are in the process of working with the applicants to ensure adequate right-of-way is preserved to help with the future beltway along 66th Street NE and East Main Avenue/County Highway 10. 3. Currently there are no services in place, no development has occurred and the owner is not interested in developing the property at this time. 		
<i>continued....</i>		

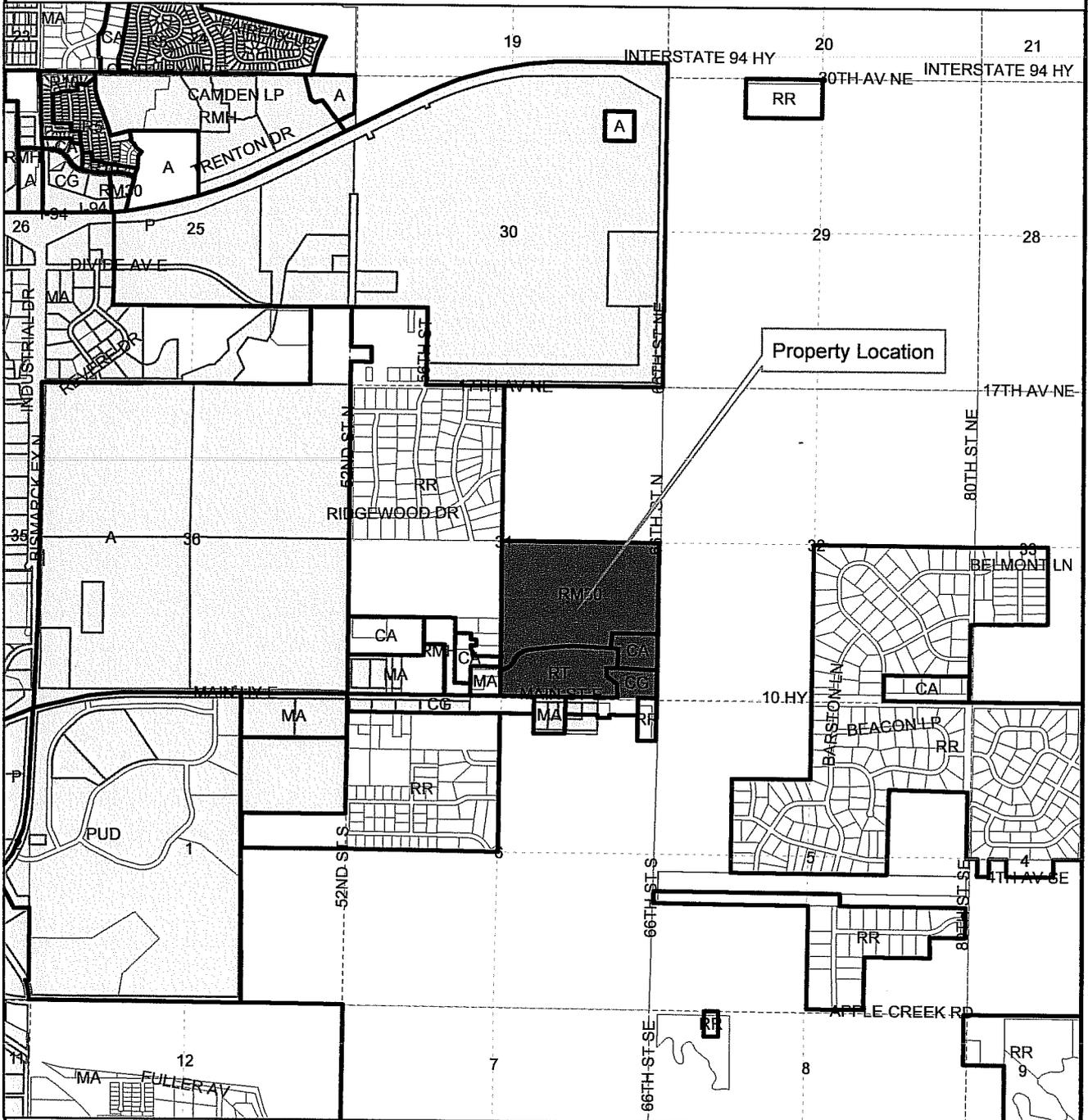
FINDINGS:

1. The City and other agencies currently do not provide public services, facilities or programs intended to serve a development.
2. The detachment would not adversely impact property in the vicinity.
3. The proposed detachment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed detachment is consistent with the master plan, other adopted plans and planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing on the detachment of Heritage Subdivision from the current corporate boundary.

Proposed Plat Vacation, Zoning Change and Detachment Lots 1-123, Block 1; Lots 1-9, Block 2 an Lots 1-4, Block 3 Heritage Subdivision



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/Created: September 3, 2009 (tdg)

Source: City of Blomark



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

BACKGROUND:		
Title: Heritage Subdivision – Zoning Change (CA, CG, RT-Residential & RM30 to A)		
Status: Planning Commission - Consideration	Date: October 28, 2009	
Owner(s): Leo & Patricia Bitz	Engineer: None	
Reason for Request: Vacate, rezone and detach an undeveloped quarter section from the corporate boundary, to allow for continued agricultural uses and development of a single-family dwelling.		
Location: Along the north side of East Main Avenue/County Highway 10 and the west side of North 66 th Street. (SE ¼ of Section 31, T139N/R79W – Gibbs Township)		
Project Size: 152.76 acres	Number of Lots: 136 lots in 3 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped/Agricultural	Land Use: Undeveloped/Agricultural	
Zoning: RM30-Residential RT-Residential CA-Commercial CG-Commercial	Zoning: A - Agriculture	
Uses Allowed: RM30 – Multi-family residential RT-Residential – Multi-family/offices CA-Commercial – Light commercial CG-Commercial – Heavy commercial	Uses Allowed: A – Agricultural uses	
Maximum Density Allowed: RM30 – 30 units per acre RT-Residential – 30 units per acre CA-Commercial – 30 units per acre CG-Commercial – 42 units per acre	Maximum Density Allowed: A – Agriculture 1 unit per 40 acres	
PROPERTY HISTORY:		
Zoned: 04/81	Platted: 04/81	Annexed: 04/81
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The applicants are not the original developers of this property. They have owned the land that contains the subdivision since 1986 in addition to the two quarter sections east of 66th Street NE. Currently there are cattle grazing the property and the applicants intend on building a single-family dwelling in the northwest corner of the quarter section. City and County staff are in the process of working with the applicants to ensure adequate right-of-way is preserved to help with the future beltway along 66th Street NE and East Main Avenue/County Highway 10. 		
<i>continued...</i>		

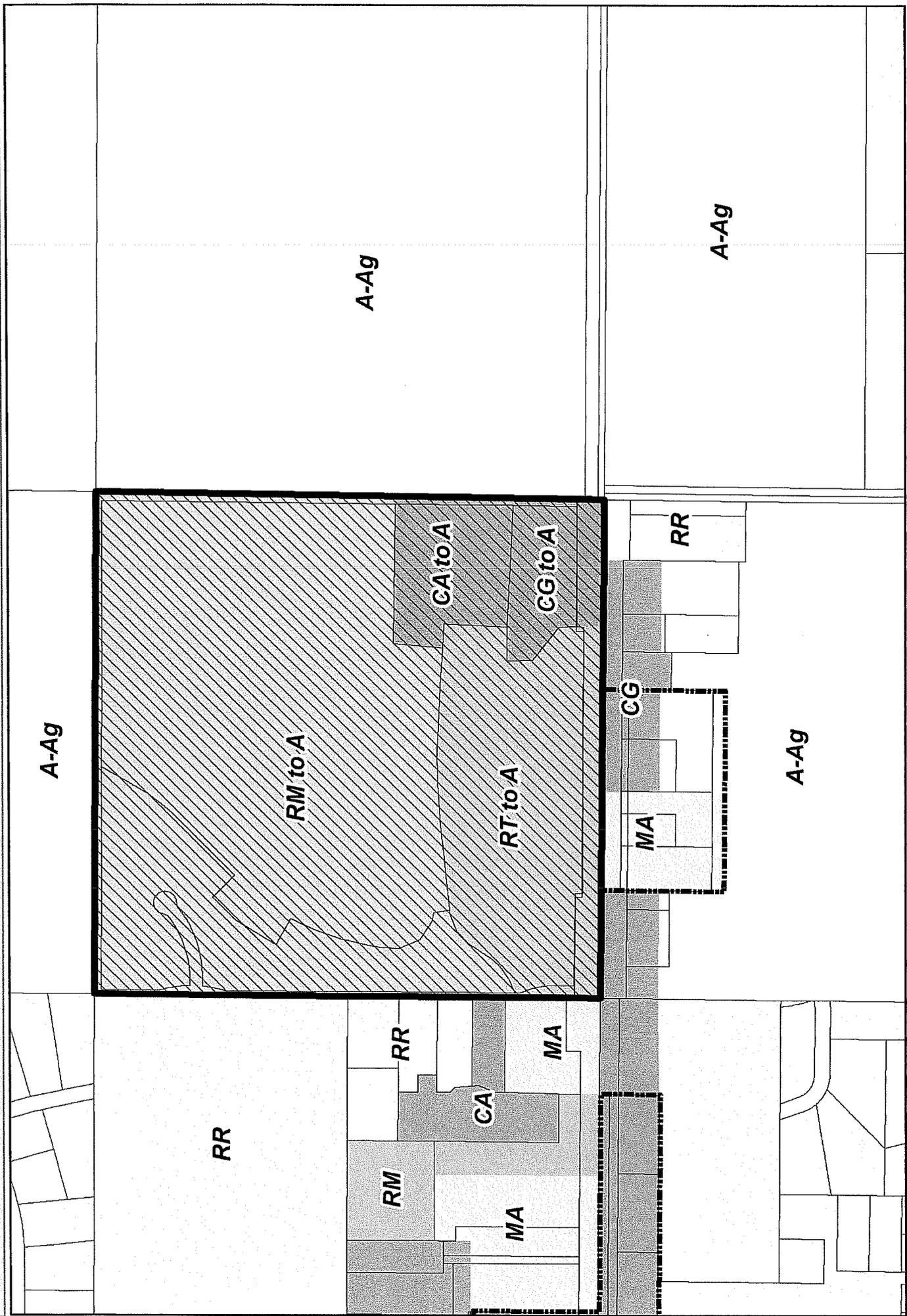
FINDINGS:

1. The proposed zoning change would be compatible with adjacent land uses; adjacent land uses include agricultural land to the west, north and east, and a mix of light industrial, commercial and rural residential uses to the west and south. In particular, the property has never been developed and is not served by municipal utilities.
2. The proposed zoning change is justified by the change in conditions since the previous zoning classification was established.
3. The City and other agencies would not be able to provide necessary public services, facilities or programs necessary to serve the subdivision under the current zoning classification.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the intent and purpose of the zoning ordinance.
6. The proposed zoning change is not completely consistent with the Bismarck Land Use Plan which identifies this area as general commercial, neighborhood commercial and urban residential. The proposed A-Agriculture zoning and use would not preclude future development as identified in the Land Use Plan when services are available.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from RM30, RT, CA and CG to A for Heritage Subdivision.

Heritage Subdivision



Legend

- Heritage Subdivision
- A
- CA
- CG
- MA
- RR
- RMH
- RT

North
 Feet
 0 250 500 1,000
 October 2009

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.

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

BACKGROUND:		
Title: Heritage Subdivision – Vacation of Plat		
Status: Planning Commission - Consideration	Date: October 28, 2009	
Owner(s): Leo & Patricia Bitz	Engineer: None	
Reason for Request: Vacate, rezone and detach an undeveloped quarter section from the corporate boundary, to allow for continued agricultural uses and development of a single-family dwelling..		
Location: Along the north side of East Main Avenue/County Highway 10 and the west side of North 66 th Street. (SE ¼ of Section 31, T139N/R79W – Gibbs Township)		
Project Size: 152.76 acres	Number of Lots: 136 lots in 3 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped/Agricultural	Land Use: Undeveloped/Agricultural	
Zoning: RM30-Residential RT-Residential CA-Commercial CG-Commercial	Zoning: A - Agriculture	
Uses Allowed: RM30 – Multi-family residential RT-Residential – Multi-family/offices CA-Commercial – Light commercial CG-Commercial – Heavy commercial	Uses Allowed: A – Agricultural uses	
Maximum Density Allowed: RM30 – 30 units per acre RT-Residential – 30 units per acre CA-Commercial – 30 units per acre CG-Commercial – 42 units per acre	Maximum Density Allowed: A – Agriculture 1 unit per 40 acres	
PROPERTY HISTORY:		
Zoned: 04/81	Platted: 04/81	Annexed: 04/81
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The applicants are not the original developers of this property. They have owned the land that contains the subdivision since 1986 in addition to the two quarter sections east of 66th Street NE. Currently there are cattle grazing the property and the applicants intend on building a single-family dwelling in the northwest corner of the quarter section. City and County staff are in the process of working with the applicants to ensure adequate right-of-way is preserved to help with the future beltway along 66th Street NE and East Main Avenue/County Highway 10. Currently there are no services in place, no development has occurred and the owner is not interested in developing the property at this time. 		
<i>continued....</i>		

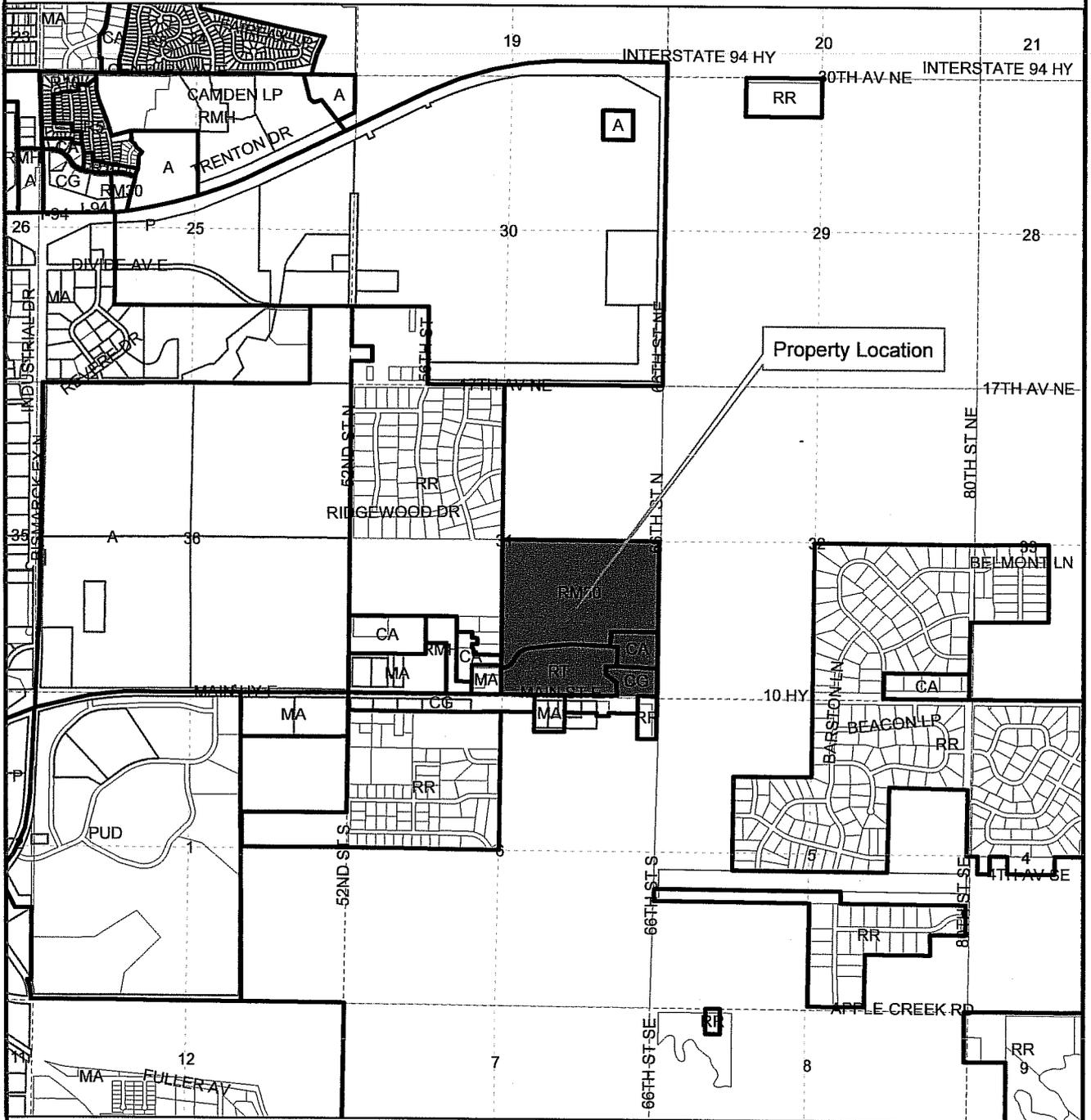
FINDINGS:

1. The City and other agencies currently do not provide public services, facilities or programs intended to serve a development allowed by annexation; however, City and County staff are in the process of working with the applicants to ensure adequate right-of-way is preserved to help with the future beltway along 66th Street NE and East Main Avenue/County Highway 10.
2. The detachment would not adversely impact property in the vicinity.
3. The proposed detachment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed detachment is consistent with the master plan, other adopted plans and planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends tentative approval of the vacation of Heritage Subdivision from the current corporate boundary.

Proposed Plat Vacation, Zoning Change and Detachment Lots 1-123, Block 1; Lots 1-9, Block 2 an Lots 1-4, Block 3 Heritage Subdivision



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: September 3, 2009 (fcp)
Source: City of Danmark



HERITAGE SUBDIVISION

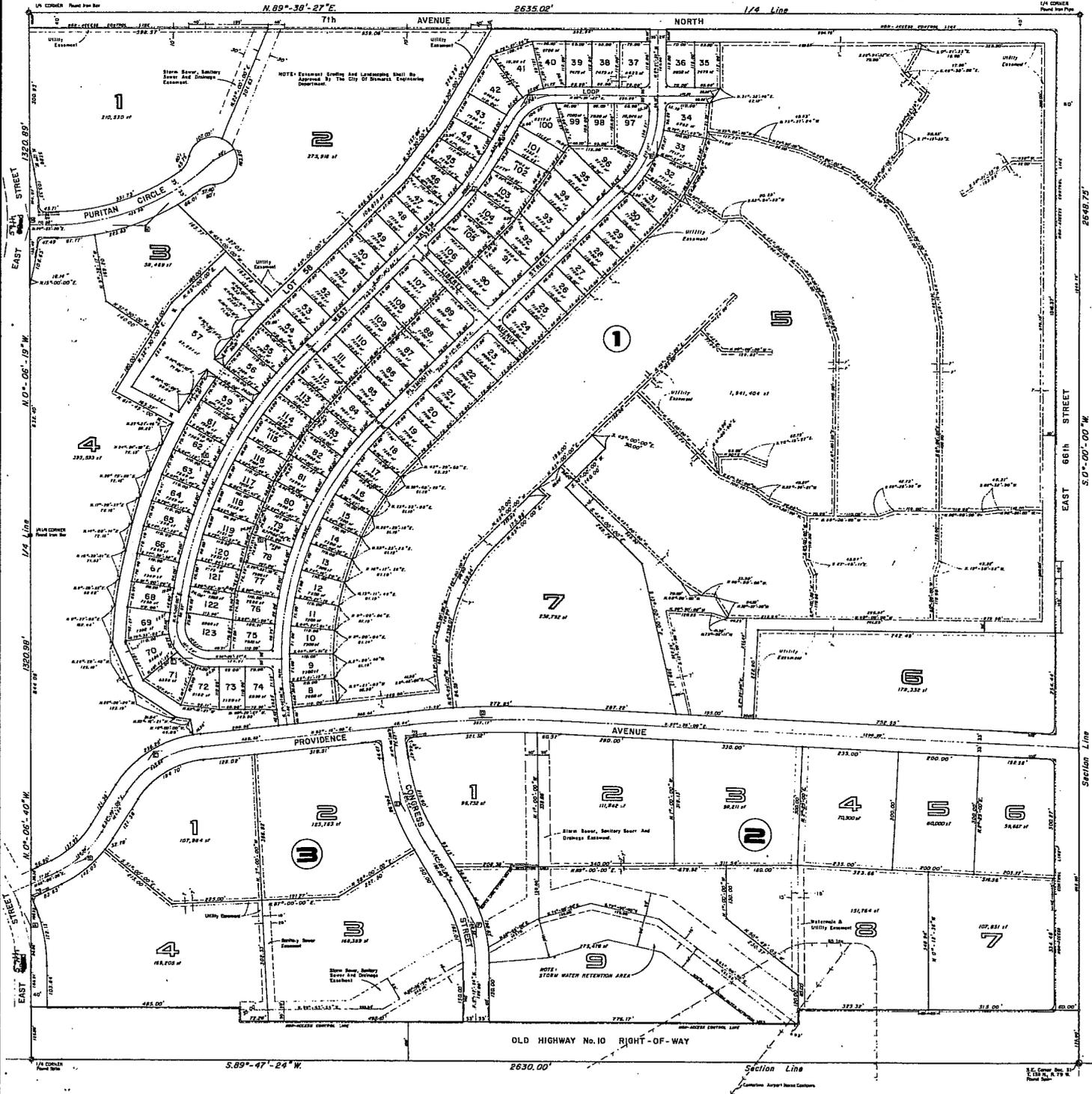
SE 1/4 SECTION 31, T.139 N., R. 79 W.

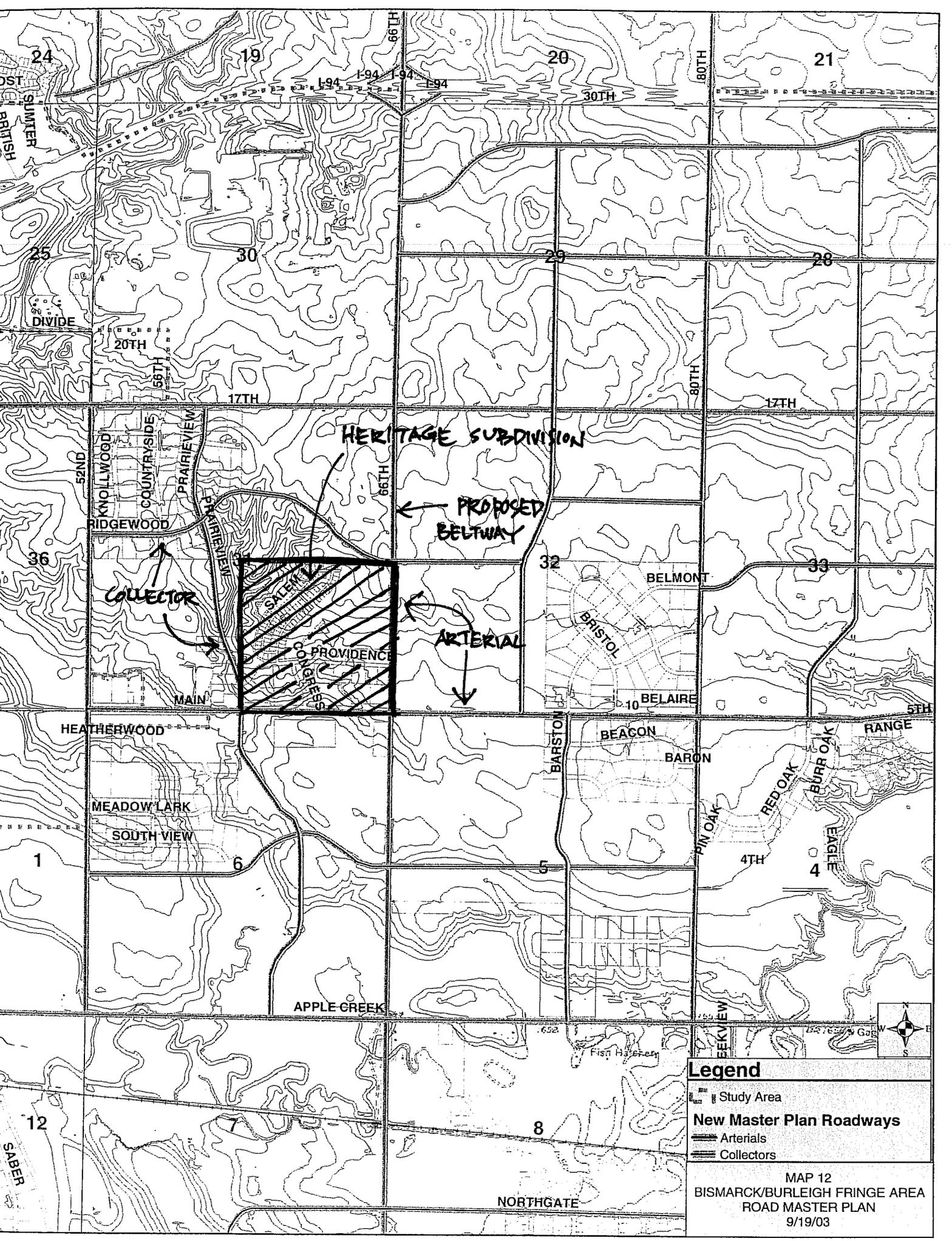
BISMARCK, NORTH DAKOTA



Centerline	Curve Data (for definition)	Dist.
A	235°-37'-37" 10°-34'-58" 88.00'	100.00'
B	335°-00'-00" 30°-47'-44" 80.39'	138.24'
C	50°-15'-00" 2°-28'-00" 119.39'	228.44'
D	9°-10'-00" 2°-28'-00" 184.00'	387.17'
E	32°-15'-00" 10°-37'-38" 117.11'	230.44'
F	32°-42'-24" 11°-37'-44" 93.35'	193.32'
G	31°-45'-00" 11°-00'-15" 396.78'	728.87'
H	45°-21'-33" 21°-42'-44" 112.00'	218.17'
I	138°-38'-37" 49°-44'-47" 88.78'	184.17'
J	15°-00'-00" 7°-30'-00" 100.00'	200.00'
K	37°-00'-00" 8°-11'-54" 180.89'	361.78'
L	148°-31'-00" 7°-37'-11" 98.37'	196.74'
M	17°-00'-00" 10°-15'-00" 131.00'	262.00'
N	45°-00'-00" 10°-18'-22" 228.89'	457.78'

Notes
 * Distance from Point Measured to be Set
 All Block Corners at Street Intersections Are Standard to A 15' Radius.
 Access Control Granted To The City of Bismarck





HERITAGE SUBDIVISION

← PROPOSED BELTWAY

↑ COLLECTOR

↑ ARTERIAL

Legend

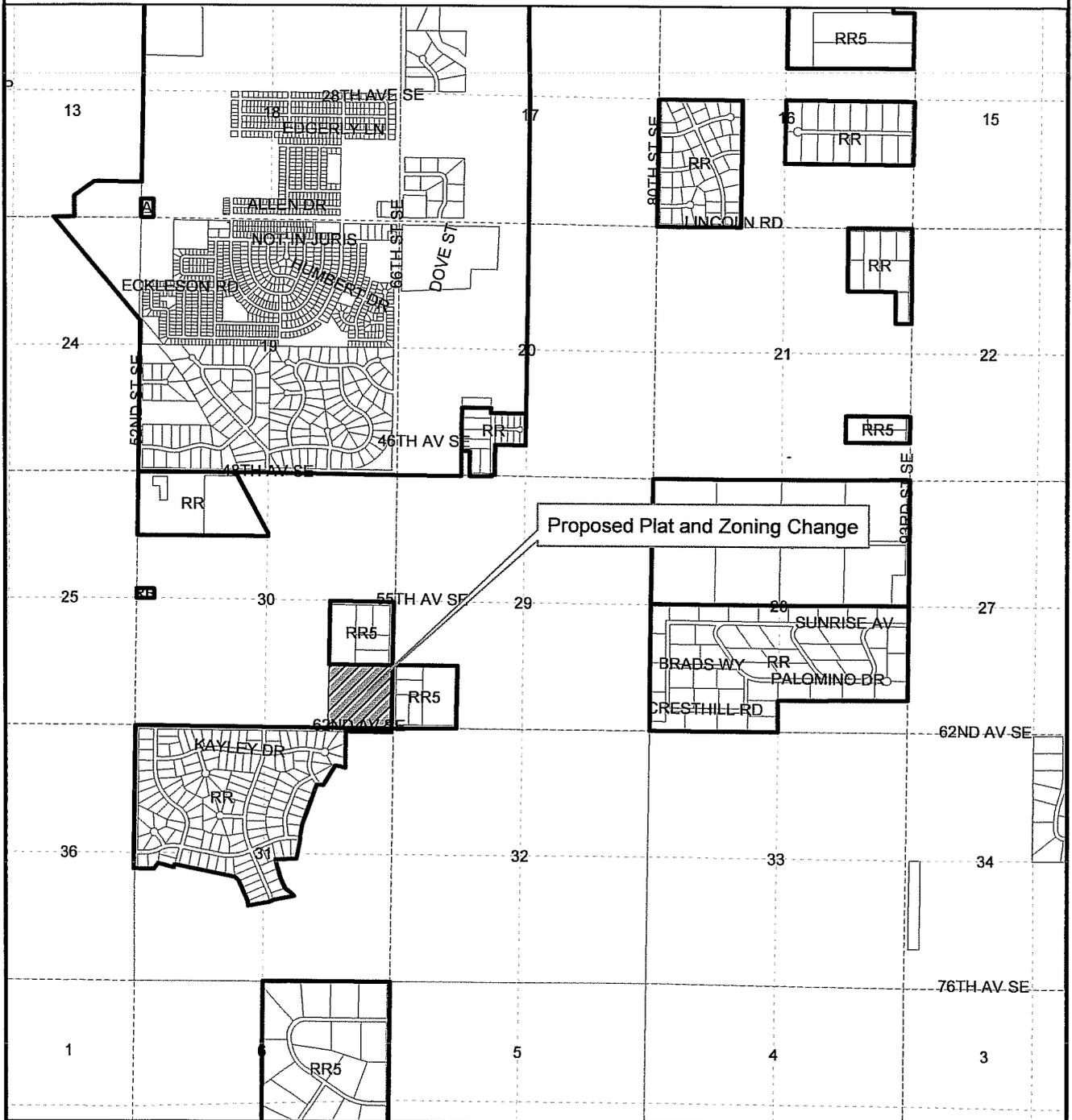
-  Study Area
- New Master Plan Roadways**
-  Arterials
-  Collectors

MAP 12
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

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

BACKGROUND:	
Title: WDH Subdivision – Zoning Change (A to RR5)	
Status: Planning Commission - Consideration	Date: October 28, 2009
Owner(s): WDH Properties LLC (Wayne D. Harvison)	Engineer: Kadrmass Lee & Jackson
Reason for Request: Plat 40 acre tract into a five-lot subdivision for rural residential development.	
Location: South of Lincoln along the west side of 66 th Street SE and along the north side of 62 nd Avenue SE (The SE¼ of the SE¼ of Section 30, T138N-R79W/Apple Creek Township)	
Project Size: 39.9 acres	Number of Lots: Five lots in one block
EXISTING CONDITIONS:	
Land Use: Agriculture	PROPOSED CONDITIONS:
Zoning: A – Agriculture	Land Use: Rural residential
Uses Allowed: Agriculture & large lot residential	Zoning: RR5 – Residential
Uses Allowed: Agriculture & large lot residential	Uses Allowed: Residential and limited agriculture
Maximum Density Allowed: 1 unit per 40 acres	Maximum Density Allowed: 1 unit per 5-acres
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include agriculturally-zoned property to the west, RR5-residential lots to the north and east. Copper Ridge Subdivision, which is zoned RR, is to the south. 2. The subdivision proposed for this property will be a large-lot rural residential subdivision, will be served by South Central Regional Water District, and will have access to 66th Street SE and 62nd Avenue SE; 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 planning practice. 6. The zoning change is in the public interest and is not solely for the benefit of a single property owner. 7. The proposed zoning change is consistent with the Bismarck Land Use Plan which identifies this area as RR5-Residential. 	
RECOMMENDATION:	
Based on the above findings, staff recommends scheduling a public hearing on the zoning change for WDH Subdivision from A–Agricultural to RR5–Residential.	

Proposed Plat and Zoning Change (A to RR5) WDH Subdivision



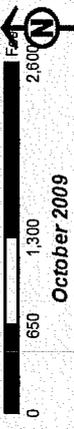
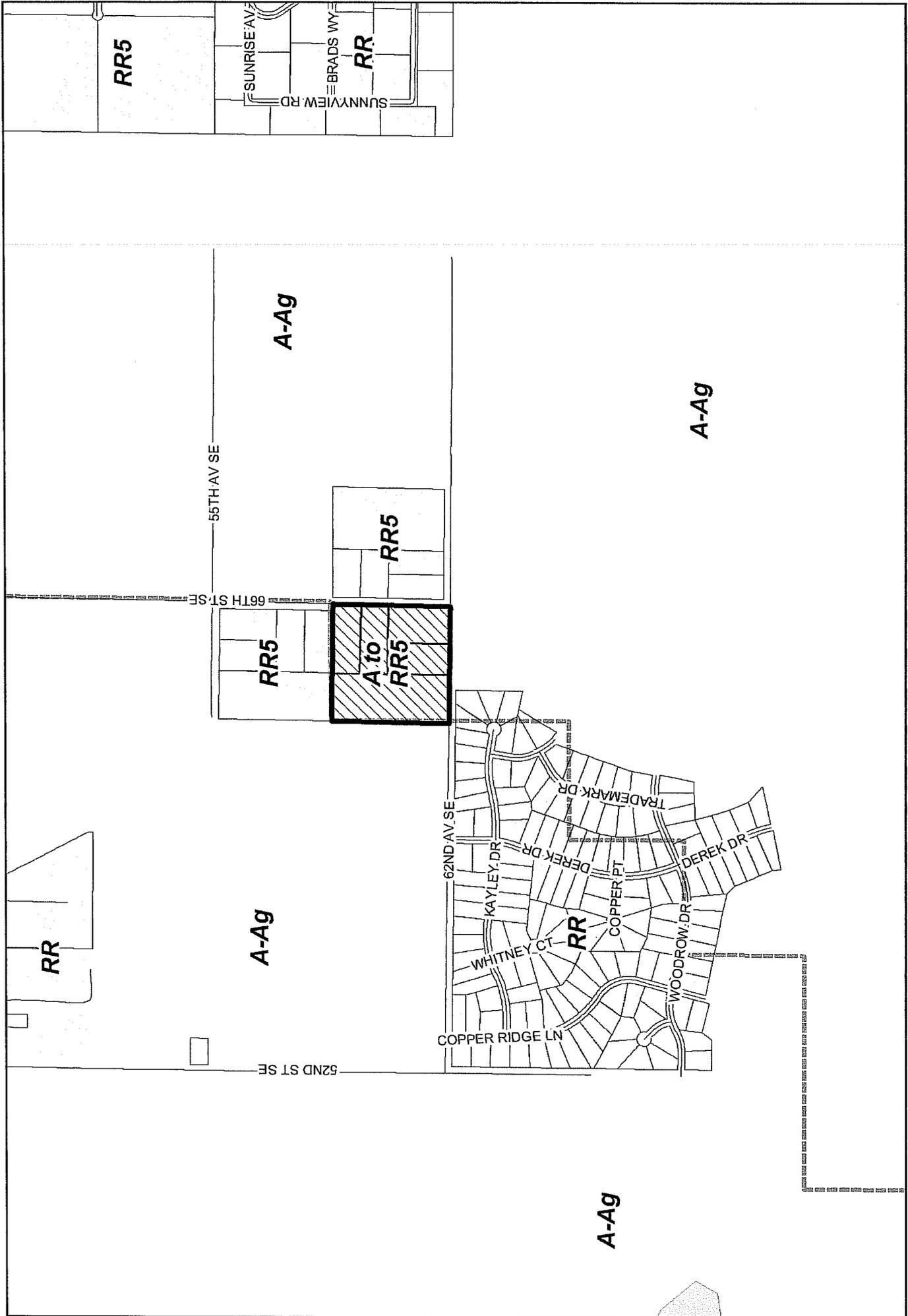
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 Feet

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Source: City of Denmark



WDH Subdivision



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.

Legend

2 Mile ETA Boundary

RR

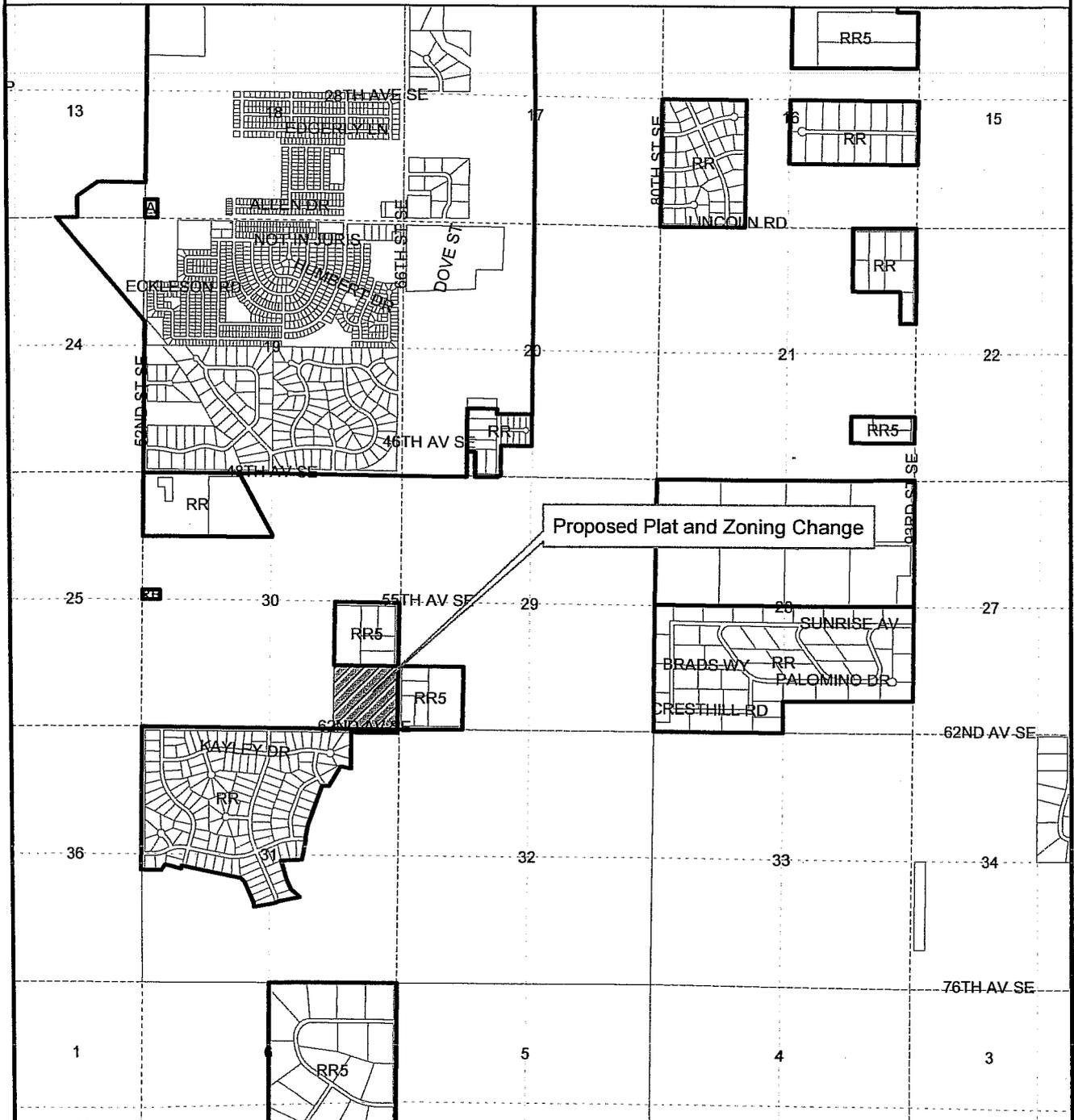
RR5

A

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

BACKGROUND:	
Title: WDH Subdivision – Preliminary Plat	
Status: Planning Commission - Consideration	Date: October 28, 2009
Owner(s): WDH Properties LLC (Wayne D. Harvison)	Engineer: Kadrmass Lee & Jackson
Reason for Request: Plat 40 acre tract into a five-lot subdivision for rural residential development.	
Location: South of Lincoln along the west side of 66 th Street SE and along the north side of 62 nd Avenue SE (The SE¼ of the SE¼ of Section 30, T138N-R79W/Apple Creek Township)	
Project Size: 39.9 acres	Number of Lots: Five lots in one block
EXISTING CONDITIONS:	
Land Use: Agriculture	PROPOSED CONDITIONS:
Zoning: A – Agriculture	Land Use: Rural residential
Uses Allowed: Agriculture & large lot residential	Zoning: RR5 – Residential
Maximum Density Allowed: 1 unit per 40 acres	Uses Allowed: Residential and limited agriculture
	Maximum Density Allowed: 1 unit per 5-acres
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
FINDINGS:	
<ol style="list-style-type: none"> All technical requirements for consideration of a preliminary plat have been met. This proposed subdivision conforms to the Fringe Area Road Master Plan, which identifies 66th Street SE as an arterial roadway and 55th Avenue SE as a collector. The lots would be served by private driveways. No interior roadways are proposed. A waiver from the ¼-mile spacing requirement for access points on arterials is also needed. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include agriculturally-zoned property to the west, RR5-residential lots to the north and east. Copper Ridge Subdivision, which is zoned RR, is to the south. The proposed subdivision is a large-lot rural residential subdivision, would be served by South Central Regional Water District, and would have access to 66th Street SE and 62nd Ave SE; therefore, the zoning change would not place an undue burden on public services. The Apple Creek Township Board of Supervisors has recommended approval of the plat. The proposed subdivision is consistent with adopted plans, policies and accepted planning practice. 	
RECOMMENDATION:	
Based on the above findings, staff recommends tentative approval of the preliminary plat for WDH Subdivision.	

Proposed Plat and Zoning Change (A to RR5) WDH Subdivision



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 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/Created: September 21, 2009 (leg)

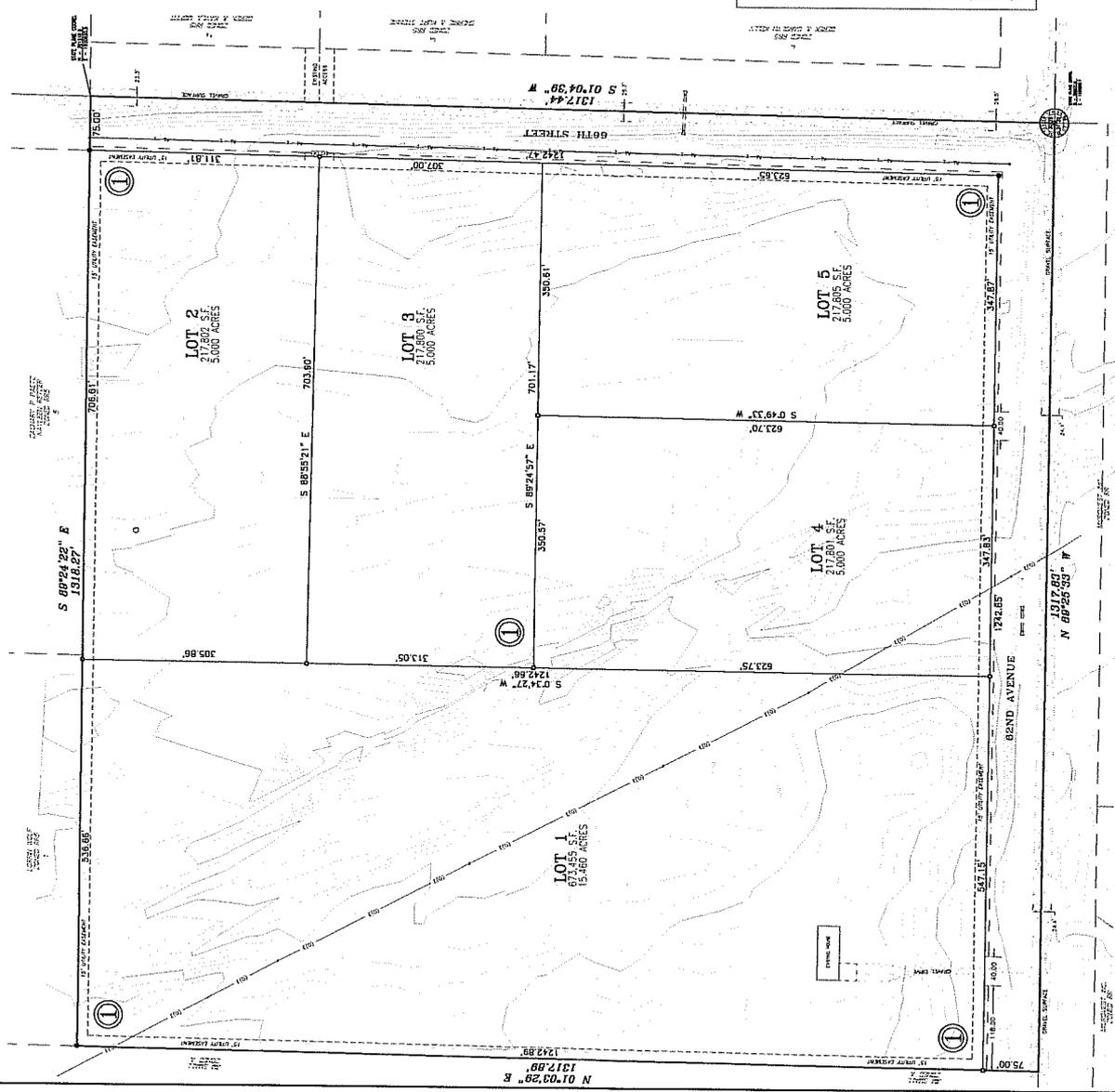
Source: City of Danvers



RECEIVED
OCT 16 2009

PRELIMINARY PLAT
WDH SUBDIVISION

THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 138
NORTH, RANGE 79 WEST, BURLEIGH COUNTY, NORTH DAKOTA



PREPARED BY:
W.H. ROBERTS & ASSOCIATES, INC.
1501 W. 11TH ST., SUITE 100
BISMARCK, ND 58102
PHONE: 338-4400

- PLAT LEGEND**
- DENOTES MONUMENT FOUND
 - DENOTES LOT CORNER
 - DENOTES EXISTING GRAVEL ROAD
 - DENOTES EASEMENT LINE
 - DENOTES OVERHEAD ELECTRIC LINES
 - DENOTES NON-ACCESS LINE
 - DENOTES GATE VALVE
 - DENOTES TELEPHONE PILESTAKE

PLAT INFORMATION

LOT AREA - 15,400 ACRES
STREET ACRES - 0.45 ACRES
TOTAL ACRES - 30.885 ACRES

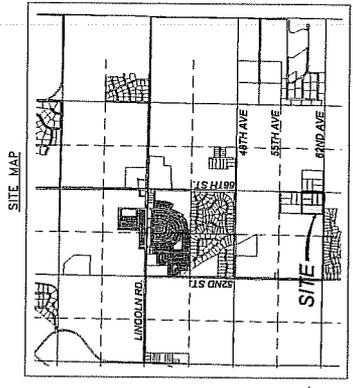
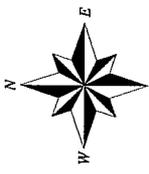
ZONING REQUEST

CURRENT ZONING - A
REQUESTED ZONING - RRS

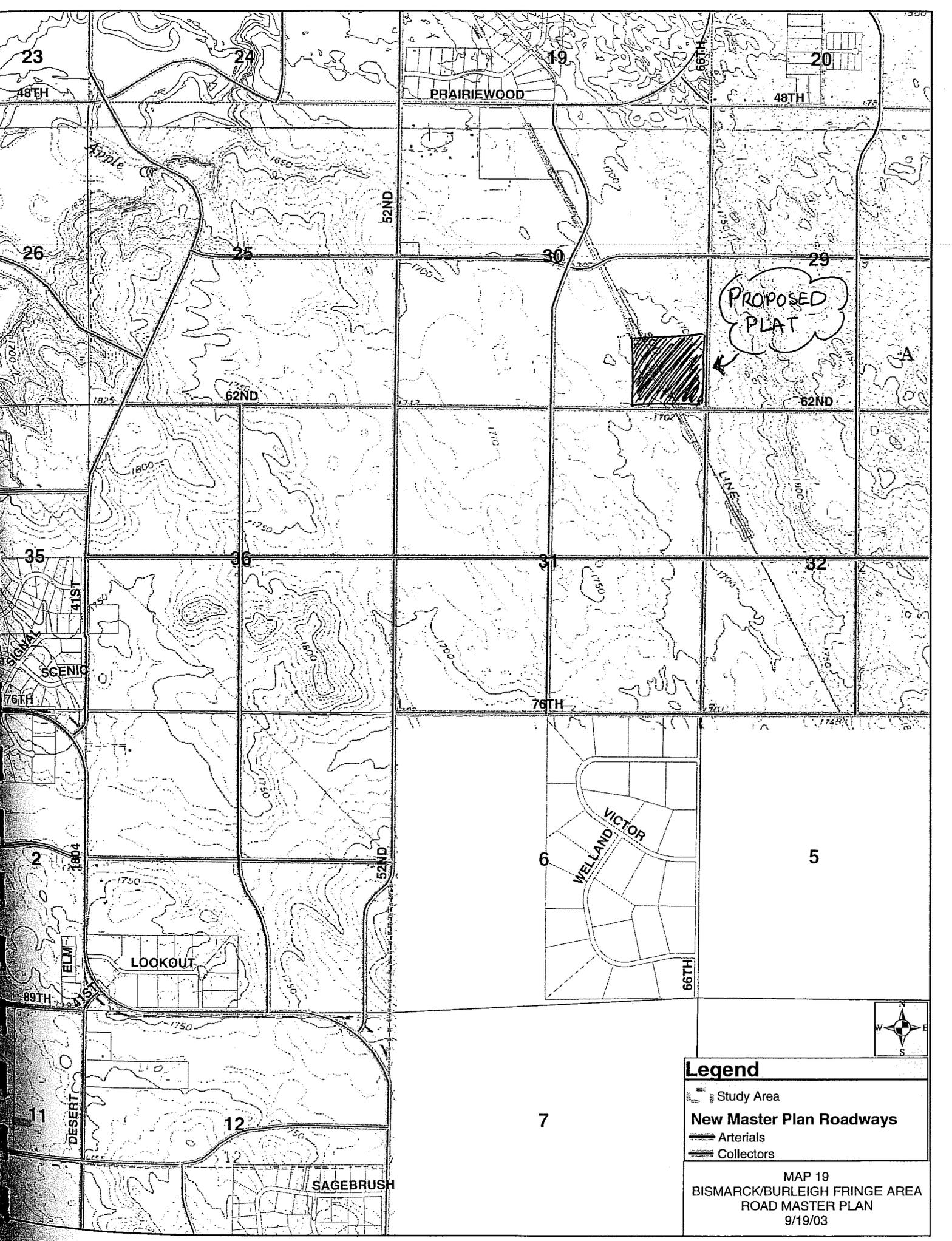
NOTE:

SOBRIETY WATER AND DRAINAGE EASEMENTS TO BE ADDED PER FINAL STORM WATER MANAGEMENT PLAN.

ADDITIONAL ACCESS POINTS NOT SHOWN HEREIN ARE LOCATED 310 FEET FROM THE WEST CORNER AND 125 FEET EAST OF THE SE CORNER.



NO. 138 N. 79 W. SEC. 30
JACKSON
BISMARCK, ND
10/16/09



Legend

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

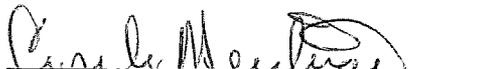
MAP 19
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF APPLE CREEK TOWNSHIP,
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE
PROPOSED PLAT OF WDH 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:


CHAIRMAN, TOWNSHIP BOARD


ATTEST: TOWNSHIP CLERK

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

CITY OF BISMARCK Ordinance No. XXXX

First Reading	
Second Reading	
Final Passage and Adoption	
Publication Date	

AN ORDINANCE TO AMEND AND ENACT SECTIONS 14-04-08, 14-04-10 and 14-04-12 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SETBACKS IN THE RT RESIDENTIAL, CA COMMERCIAL AND CG COMMERCIAL DISTRICTS.

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

Section 1. Amendment. Section 14-04-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RT Residential District is hereby amended and enacted to read as follows:

14-04-08. RT Residential District. In any RT residential district the following regulations shall apply:

* * * * *

7. Front yard. Each lot shall have a front yard not less than fifteen (15) feet in depth.

8. Side yards. A lot on which is erected a multifamily use shall have two (2) side yards, one on each side of the principal building. The sum width of the two (2) side yards shall not be less than twenty (20) per cent of the average width of the lot. In no case shall the side yard be less than ~~six (6)~~ ten (10) feet. On any lot on which the principal building is designed and used for nonresidential use, no side yards shall be required except where such lot is located adjacent to a residential district in which case that side adjoining such residential district shall comply with the side yard requirements of such residential district. Commercial buildings shall have

side yards, complying with city building code, Title 4 of the Code of Ordinances of the City of Bismarck. For buildings in excess of two stories in height, either multi-family or nonresidential, permitted on or after (date of adoption), the required side yard setback shall be increased by 10 feet for each additional story in height over two for any side yard located adjacent to an R5 or R10 zoning district.

9. Rear yards. Each lot shall have a rear yard not less than ten (10) feet in depth. Provided, however, that where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building. For buildings in excess of two stories in height, either multifamily or nonresidential, permitted on or after (date of adoption), the required rear yard setback shall be increased by 10 feet for each additional story in height over two for any rear yard located adjacent to an R5 or R10 zoning district.

10. Height limit. No principal building shall exceed fifty (50) feet in height; no accessory building shall exceed twenty-five (25) feet in height. For buildings in excess of two stories in height, either multifamily or nonresidential, permitted on or after (date of adoption), the required side and rear yard setbacks shall be increased by 10 feet for each additional story in height over two for any side or rear yard located adjacent to an R5 or R10 zoning district.

* * * * *

Section 2. Amendment. Section 14-04-10 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the CA Commercial District is hereby amended and enacted to read as follows:

14-04-10. CA Commercial District. In any CA commercial district, the following regulations shall apply:

* * * * *

6. Front yard. Each lot shall have a front yard not less than fifteen (15) feet in depth.

7. Side yard.

a. Residential use. Each lot shall have two (2) side yards, one on each side of the principal building. The sum of the widths of the two (2) side yards shall be not less than twenty (20) per cent of the average width of the lot. For buildings in excess of two stories in height permitted on or after (date of adoption), the required side yard setback shall be increased by 10 feet for each additional story in height over two for any side yard located adjacent to an R5 or R10 zoning district.

b. Commercial use. On any lot on which the principal building is designed or used for a commercial use, the side yards shall be at least ten (10) feet in width. For buildings in excess of two stories in height permitted on or after (date of adoption), the required side yard setback shall be increased by 10 feet for each additional story in height over two for any side yard located adjacent to an R5 or R10 zoning district.

8. Rear yard. Each lot shall have a rear yard not less than ten (10) feet in depth unless adjacent to a public alley. For buildings in excess of two stories in height permitted on or after (date of adoption), the required rear yard setback shall be increased by 10 feet for each additional story in height over two for any rear yard located adjacent to an R5 or R10 zoning district.

9. Height limits.

a. Commercial buildings. No building shall exceed forty (40) feet in height. No accessory building shall exceed twenty-five (25) feet in height. For buildings in excess of two stories in height, permitted on or after (date of adoption), the required side and rear yard setbacks shall be increased by 10 feet for each additional story in height over two for any side or rear yard located adjacent to an R5 or R10 zoning district.

b. Residential buildings. Height limits shall follow those in effect in RM residential zones. For buildings in excess of two stories in height, permitted on or after (date of adoption), the required side and rear yard setbacks shall be increased by 10 feet for each additional story in height over two for any side or rear yard located adjacent to an R5 or R10 zoning district.

* * * * *

Section 3. Amendment. Section 14-04-12 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the CG Commercial District is hereby amended and enacted to read as follows:

14-04-12. CG Commercial District. In any CG commercial district the following regulations shall apply:

* * * * *

6. Front yard. A fifteen (15) foot front yard shall be required of any building in a CG commercial district except that all structures located on principal arterials shall have a fifty (50) foot front yard. Buildings located on the following principal arterials shall be exempt from the fifty (50) foot front yard requirement: Main Avenue west of 26th Street; State Street between Divide Avenue and Interstate 94; and 7th and 9th Streets between Bismarck Expressway and Boulevard Avenue.

7. Side yards. No side yard shall be required of any principal nonresidential building in a CG district. Residential structures shall comply with requirements in effect for RM residential zones. For buildings in excess of two stories in height permitted on or after (date of adoption), the required side yard setback shall be increased by 10 feet for each additional story in height over two for any side yard located adjacent to an R5 or R10 zoning district.

8. Rear yard. Each lot shall have a rear yard not less than ten (10) feet in depth. Provided, however, that where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building. For buildings in excess of

two stories in height permitted on or after (date of adoption), the required rear yard setback shall be increased by 10 feet for each additional story in height over two for any rear yard located adjacent to an R5 or R10 zoning district.

9. Height limit. No building shall exceed one hundred thirty (130) feet in height. For buildings in excess of two stories in height, permitted on or after (date of adoption), the required side and rear yard setbacks shall be increased by 10 feet for each additional story in height over two for any side or rear yard located adjacent to an R5 or R10 zoning district.

* * * * *

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 PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: North Hills 16 th Addition – Zoning Change (A and Conditional-RM15 to R5, RT and Conditional-RM15)		
Status: Planning Commission – Public Hearing	Date: October 28, 2009	
Owner(s): Marlen & Beverly Coleman and Barry Coleman	Engineer: Kadrmas, Lee & Jackson	
Reason for Request: Plat and rezone property for future development.		
Location: Along the south side of 43 rd Avenue between Normandy and Dominion Streets. (A replat of Lot 5, Block 3, North Hills 15 th Addition and an unplatted portion of the west ½ of the northeast ¼ of Section 21, T139N-R80W/Hay Creek Township.)		
Project Size: 14.783 acres	Number of Lots: 4 lots in 2 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Residential and office uses	
Zoning: A- Agriculture RM15 – Residential	Zoning: R5-Residential RT-Residential RM15-Residential	
Uses Allowed: A- Agricultural uses RM15 – Multi-family residential not to exceed 4 units per lot	Uses Allowed: R5 – Single-family residential RT – Offices and multi-family residential RM15 – Multi-family residential not to exceed 4 units per lot	
Maximum Density Allowed: A – 1 unit per 40 acres RM 15 – One 4-unit structure per lot	Maximum Density Allowed: R5 – 5 units per acres RT – 30 units per acre RM15 – One 4-unit structure per lot	
PROPERTY HISTORY:		
Zoned: Part – 06/2008 (NH 15 th)	Platted: Part – 06/2008 (NH 15 th)	Annexed: 07/2007
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The master plan for this area shows the area being developed as RT-Residential directly adjacent to 43rd Avenue. The property adjacent to the north side of 43rd Avenue is already platted and zoned CG-Commercial. The proposed zoning will coincide with the current master plan and is an appropriate step down in zoning districts from north to south. The zoning would be CG north of 43rd Avenue to RT south of 43rd Avenue then RM15, R10, and finally R5 adjacent to Walter Way. North Hills 15th is directly adjacent to the proposed subdivision and was platted and zoned in 2008 with the conditions that the density for the lots zoned RM15 not exceed a 4-unit condominium. A request to zone Lot 3, Block 2 as R5-Residential was submitted. This lot is an 11,284 square foot tract that would be combined with the adjacent, R5-zoned lot to the east. The adjacent property owner has agreed to the arrangement and a letter supporting his position has been included in the packet. 		

Additional information continued...

4. A buffer yard is typically required between two parcels with differing land uses. The proposed Lot 1 in Block 1 has the potential to become the higher intensive land use; the owner has indicated that the property is being considered for an office complex. The property to the south is currently being developed as 4-unit condominiums. The proposed Lot 1, Block 1 is significantly higher in elevation than the lots directly adjacent to the south. Due to the significant grade change a buffer yard easement will not be required on the plat; however, prior to any development of Lot 1, Block 1, North Hills 16th Addition, staff will work with the consulting engineer and the developer to address the necessary screening and vegetation elements during the site plan review process.

FINDINGS:

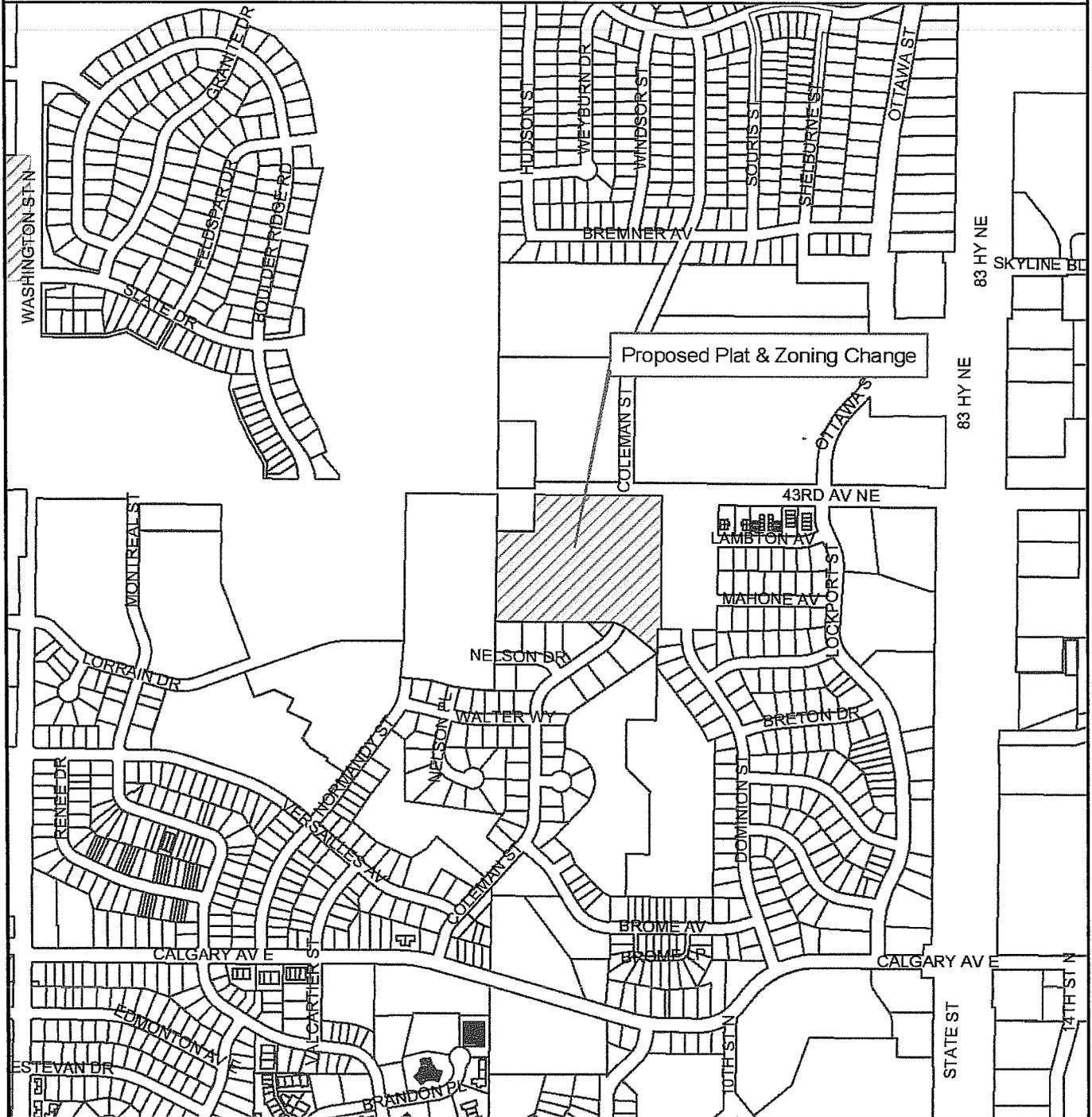
1. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include residential development to the south and east, undeveloped land to the north and west and one rural residential single-family home adjacent to the northwest corner of the subdivision. The appropriate buffer yard widths have been included on the plat as buffer yard easements on the north side of Lot 1, Block 1 and the south side of Lot 2, Block 2 to ensure appropriate buffering of higher intensity land uses where applicable. The buffer yard along the south side of Lot 1, Block 1 will be addressed during the site plan review process.
2. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established. In particular the land the land is being platted to accommodate future development of the property.
3. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the new zoning classification at the time the property is developed.
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 planning practice.
7. The area being proposed for a zoning change is not identified in the Bismarck Land Use Plan.

RECOMMENDATION:

Based on the above findings, staff recommends approval for North Hills 16th for the zoning change from A & Conditional-RM15 to RT for Lot 1, Block 1, RT for Lot 1, Block 2, Conditional RM15 for Lot 2, Block 2 and to R5 for Lot 3, Block 2 with the following condition:

1. The maximum density for each lot zoned RM15-Residential is a 4-unit condominium.

Proposed Plat and Zoning Change (A to R5, RT and RM) North Hills Sixteenth Addition



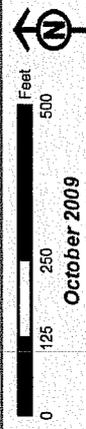
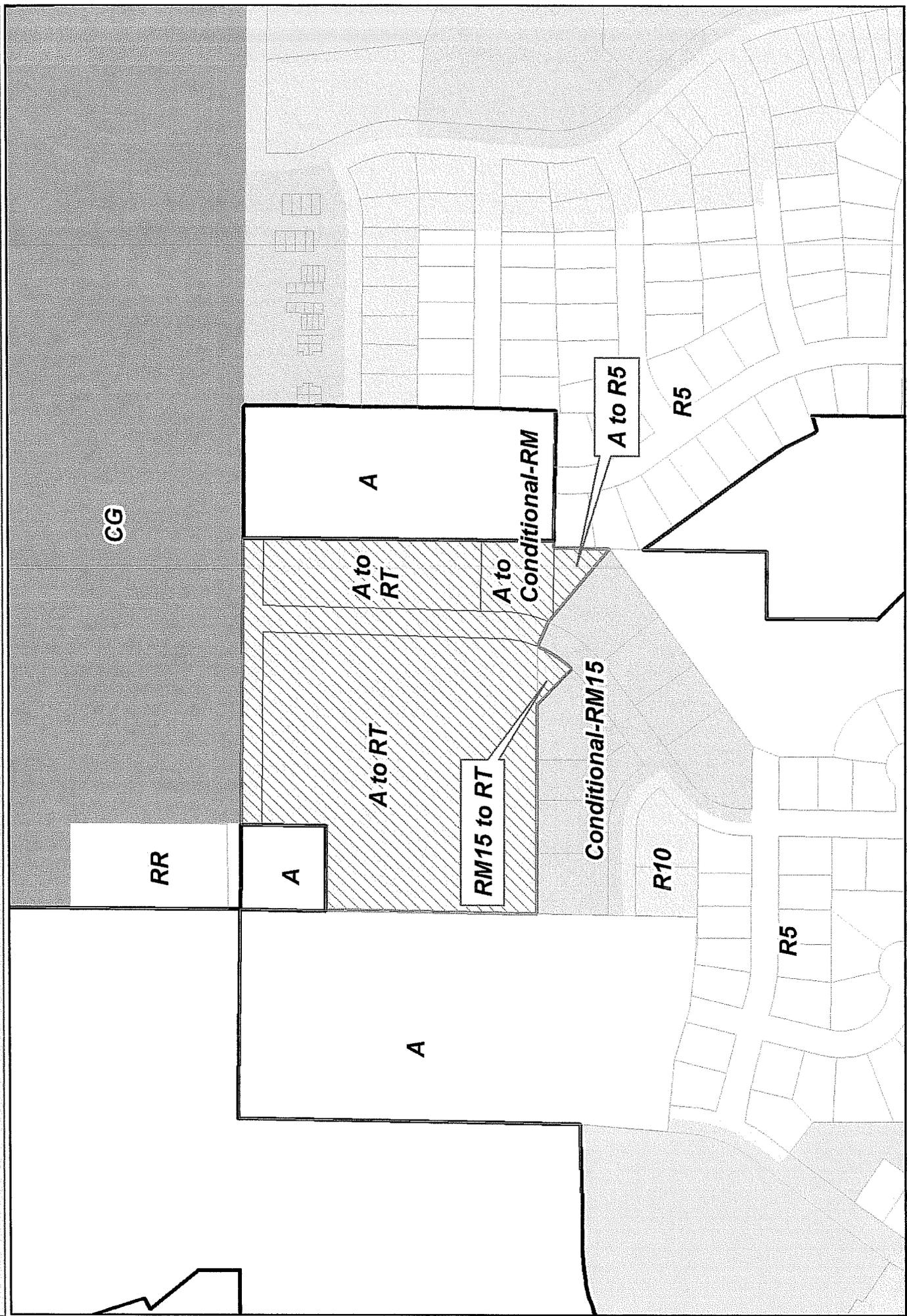
0 1,000 Feet

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 hereon. Map was Updated/Created: August 25, 2000 (6-d)

Source: City of Elizabeth



North Hills 16th Addition



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.

October 2009

RECEIVED

OCT 16 2009

October 15, 2009

Kim Lee/Jason Tomanek, City Planning Dept.

Re: North Hills 16th Addition – Upgren Lot

Dear Kim,

The revised plat of North Hills 16th Addition contains an R5 lot (Lot 3, Block 2) adjacent to the lot where I currently reside. I have been in discussions with Barry Coleman in regards to acquiring additional land to the west of my property for the purpose of constructing a detached garage.

After reviewing the plat with Damon Jorgensen from Kadmas, Lee & Jackson, I hereby agree to the following:

- I agree to the transfer of the lot into my name once the plat has been recorded.
- Once the lot has been transferred, I agree to combine it with the lot I currently own.
- I understand that this lot will not be allowed to be used for any residential purpose and will not be considered as a stand alone parcel.
- Any buffer yard requirements to which I have right to exercise by city Ordinance are hereby waived on my behalf.

If you have any further questions, please feel free to contact me at [REDACTED]

Sincerely,


Mike Upgren

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

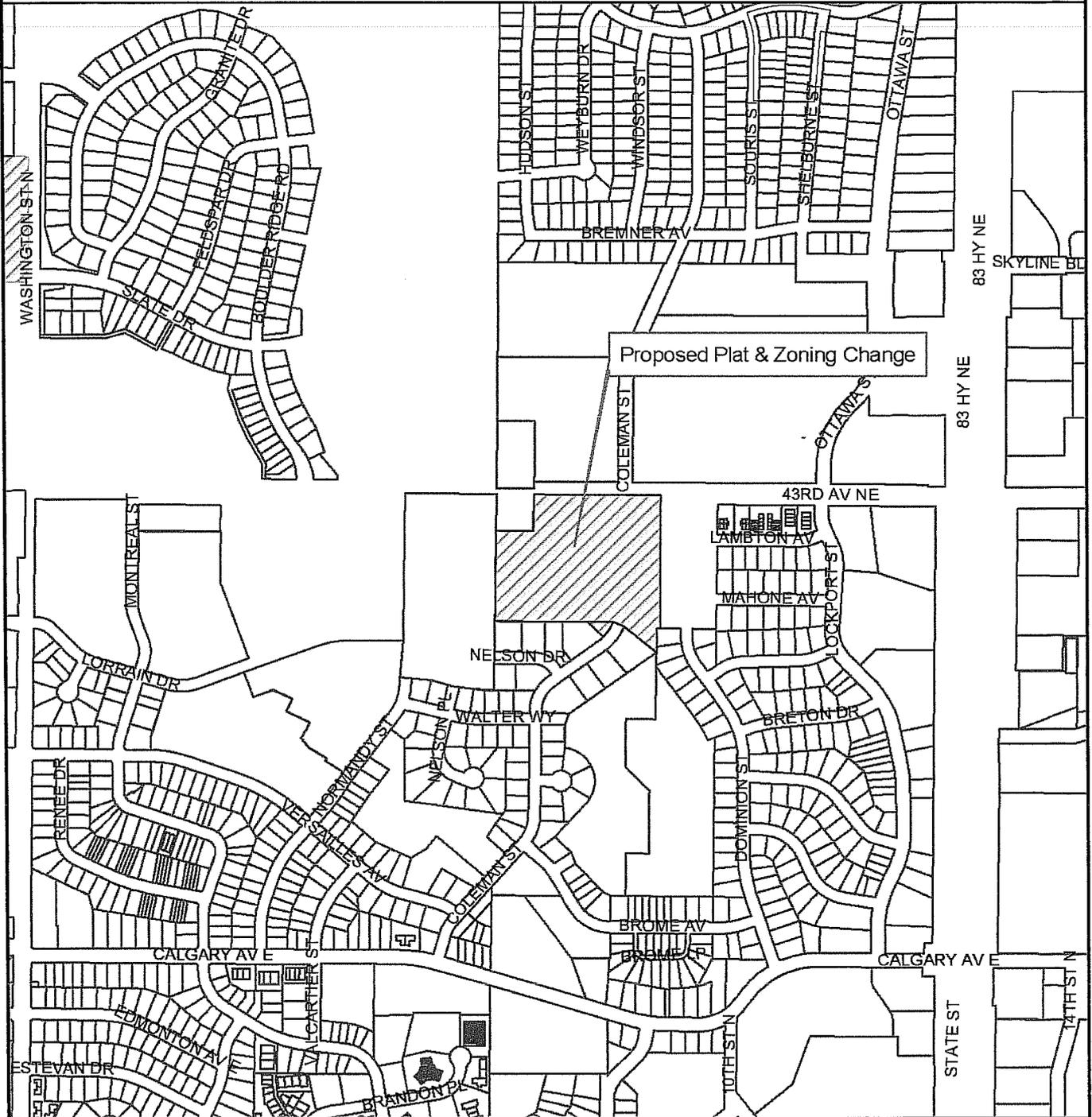
BACKGROUND:		
Title: North Hills 16 th Addition – Final Plat		
Status: Planning Commission – Public Hearing	Date: October 28, 2009	
Owner(s): Marlen & Beverly Coleman and Barry Coleman	Engineer: Kadrmaz, Lee & Jackson	
Reason for Request: Plat and zone property for future development.		
Location: Along the south side of 43 rd Avenue between Normandy and Dominion Streets. (A replat of Lot 5, Block 3, North Hills 15 th Addition and an unplatted portion of the west ½ of the northeast ¼ of Section 21, T139N-R80W/Hay Creek Township.)		
Project Size: 14.783 acres	Number of Lots: 4 lots in 2 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: A- Agriculture RM15 – Residential	Land Use: Residential and office uses	
	Zoning: R5-Residential RT- Residential RM15 – Residential	
Uses Allowed: A- Agricultural uses RM15 – One 4-unit structure per lot	Uses Allowed: R5 – Single-family residential RT – Offices and multi-family residential RM15 – One 4-unit structure per lot	
Maximum Density Allowed: A – 1 unit per 40 acres RM 15 – multi-family residential not to exceed 4 units per lot	Maximum Density Allowed: R5 – 5 units per acre RT – 30 units per acre RM15 – multi-family residential not to exceed 4 units per lot	
PROPERTY HISTORY:		
Zoned: Part – 06/2008 (NH 15 th)	Platted: Part – 06/2008 (NH 15 th)	Annexed: 07/2007
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The master plan for this area shows the area being developed as RT-Residential directly adjacent to 43rd Avenue. The property adjacent to the north side of 43rd Avenue is already platted and zoned CG-Commercial. The proposed zoning will coincide with the current master plan and is an appropriate step down in zoning districts from north to south. The zoning would be CG north of 43rd Avenue to RT south of 43rd Avenue then RM15, R10, and finally R5 adjacent to Walter Way. North Hills 15th is directly adjacent to the proposed subdivision and was platted and zoned in 2008 with the conditions that the density for the lots zoned RM15 not exceed a 4-unit condominium. 		
FINDINGS:		
<ol style="list-style-type: none"> All technical requirements for approval of the final plat have been met. 		
<i>findings continued...</i>		

2. The Fringe Area Road Master Plan for this area identifies the north-south collector as Normandy Street, which lies feet west of the proposed subdivision; therefore the proposed subdivision does not impact the Fringe Area Road Master Plan for Section 21.
3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include residential development to the south and east, undeveloped land to the north and west and one rural residential single-family home adjacent to the northwest corner of the subdivision. The appropriate buffer yard widths have been included on the plat as buffer yard easements.
4. The stormwater management plan for this subdivision has been approved by the City Engineer.
5. The City and other agencies would be able to provide necessary public services, facilities, and programs to serve the development allowed by the proposed subdivision at the time the property is developed.
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 for North Hills 16th Addition.

Proposed Plat and Zoning Change (A to R5, RT and RM) North Hills Sixteenth Addition



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 hereon. Map was Updated/Created: August 25, 2000 (6/dp)

Source: City of Edmonton



NORTH HILLS SIXTEENTH ADDITION

A REPLAT OF A LOT 5, BLOCK 3, NORTH HILLS FIFTEENTH ADDITION AND AN UNPLATTED PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA

OWNER:
MARKET COLEMAN
BURLING, NORTH DAKOTA 58211

OWNER:
MARKET COLEMAN
BURLING, NORTH DAKOTA 58211

OWNER:
MARKET COLEMAN
BURLING, NORTH DAKOTA 58211

ENGINEER:
MORRIS, LEE & JACKSON, INC.
BURLING, NORTH DAKOTA 58201
PHONE 335-1400

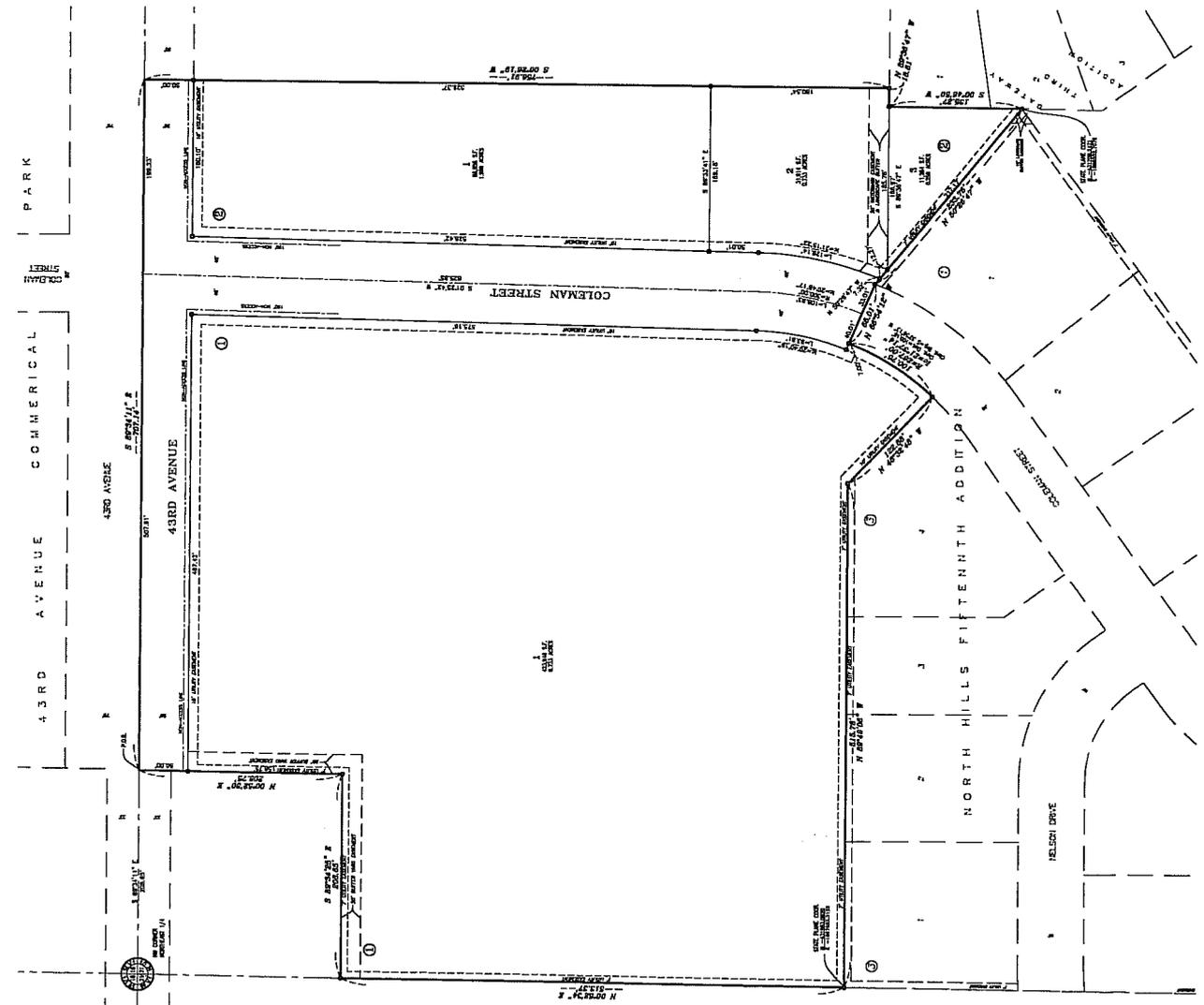
DESCRIPTION

1. REPLAT OF A LOT 5, BLOCK 3, NORTH HILLS FIFTEENTH ADDITION AND AN UNPLATTED PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 139 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA, WHICH REPRESENTS A RECONSTRUCTION OF THE ORIGINAL PLAT.

2. THE RECONSTRUCTION OF THE ORIGINAL PLAT IS NECESSARY TO CORRECT THE ERRORS AND OMISSIONS OF THE ORIGINAL PLAT AND TO BRING THE PLAT INTO CONFORMITY WITH THE ACTS OF THE LEGISLATURE.

3. THE RECONSTRUCTION OF THE ORIGINAL PLAT IS NECESSARY TO CORRECT THE ERRORS AND OMISSIONS OF THE ORIGINAL PLAT AND TO BRING THE PLAT INTO CONFORMITY WITH THE ACTS OF THE LEGISLATURE.

4. THE RECONSTRUCTION OF THE ORIGINAL PLAT IS NECESSARY TO CORRECT THE ERRORS AND OMISSIONS OF THE ORIGINAL PLAT AND TO BRING THE PLAT INTO CONFORMITY WITH THE ACTS OF THE LEGISLATURE.



SUPERVISOR'S CERTIFICATE

I, _____, SUPERVISOR OF BURLEIGH COUNTY, NORTH DAKOTA, DO HEREBY CERTIFY THAT THE ABOVE IS A CORRECT AND TRUE REPRESENTATION OF THE ORIGINAL PLAT AND THAT THE SAME IS IN ACCORDANCE WITH THE ACTS OF THE LEGISLATURE.

DATE: _____

COUNTY OF BURLEIGH

STATE OF NORTH DAKOTA

BY COMMISSIONER: _____

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BURLEIGH, NORTH DAKOTA, HAS APPROVED THE RECONSTRUCTION OF THE ORIGINAL PLAT AS SHOWN ON THE ABOVE PLAT AND HAS ORDERED THAT THE SAME BE RECORDED IN THE PUBLIC RECORDS OF BURLEIGH COUNTY, NORTH DAKOTA.

DATE: _____

CITY OF BURLEIGH

BY COMMISSIONER: _____

APPROVAL OF CITY ENGINEER

I, _____, CITY ENGINEER OF THE CITY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVE THE RECONSTRUCTION OF THE ORIGINAL PLAT AS SHOWN ON THE ABOVE PLAT.

DATE: _____

CITY OF BURLEIGH

BY CITY ENGINEER: _____

APPROVAL OF CITY PLANNING COMMISSION

THE CITY PLANNING COMMISSION OF THE CITY OF BURLEIGH, NORTH DAKOTA, HAS APPROVED THE RECONSTRUCTION OF THE ORIGINAL PLAT AS SHOWN ON THE ABOVE PLAT.

DATE: _____

CITY OF BURLEIGH

BY CITY PLANNING COMMISSIONER: _____

OWNER'S CERTIFICATE AND DEDICATION

I, _____, OWNER OF THE ABOVE DESCRIBED PROPERTY, DO HEREBY CERTIFY THAT THE ABOVE IS A CORRECT AND TRUE REPRESENTATION OF THE ORIGINAL PLAT AND THAT THE SAME IS IN ACCORDANCE WITH THE ACTS OF THE LEGISLATURE.

DATE: _____

COUNTY OF BURLEIGH

STATE OF NORTH DAKOTA

BY OWNER: _____

PLAT INFORMATION

- NUMBER OF LOTS: 4
- LOT AREA: 12,713 ACRES
- ROW AREA: 2,070 ACRES
- TOTAL AREA: 14,783 ACRES

REMARKS

LOT 7 BLOCK 3 RECONSTRUCTED

DATE: OCTOBER 2009
PLANS: _____
TOPOGRAPHIC DATUM: NAD83
BENCHMARK: F.H. 2281 ELEV. 1824.75

DATE: OCTOBER 2009
PLANS: _____
TOPOGRAPHIC DATUM: NAD83
BENCHMARK: F.H. 2281 ELEV. 1824.75

DATE: OCTOBER 2009
PLANS: _____
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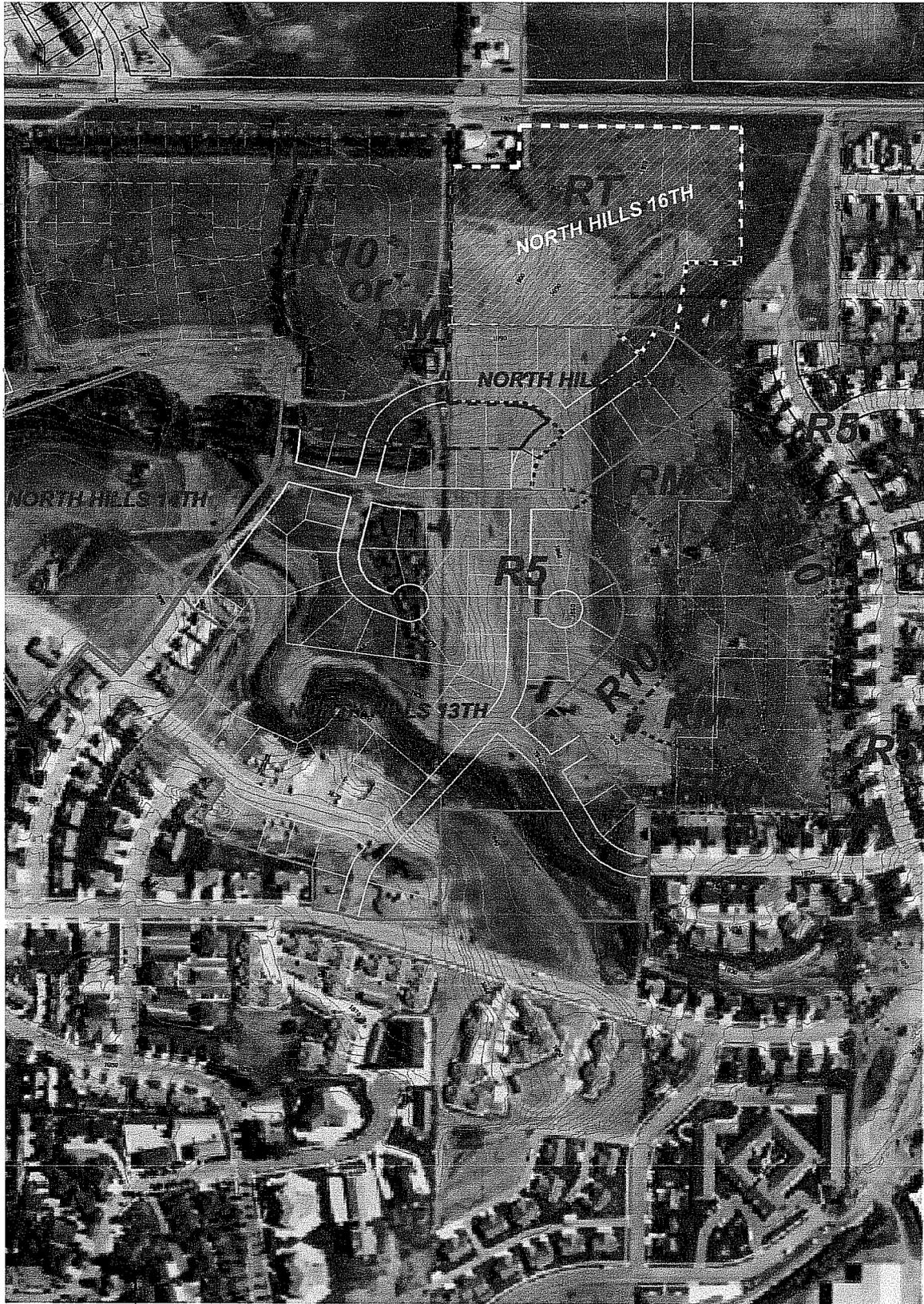
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PLANS: _____
TOPOGRAPHIC DATUM: NAD83
BENCHMARK: F.H. 2281 ELEV. 1824.75

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PLANS: _____
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BENCHMARK: F.H. 2281 ELEV. 1824.75

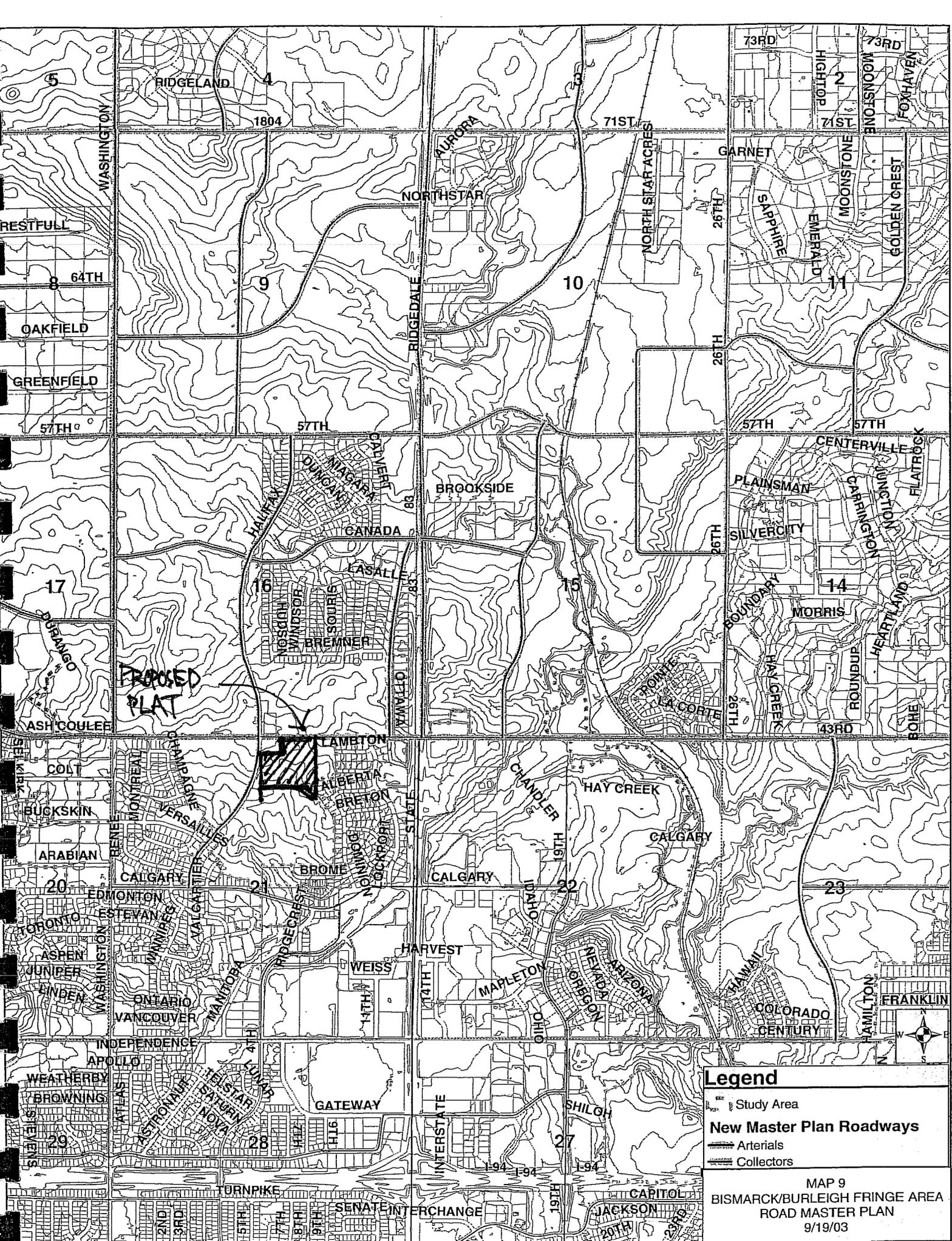
DATE: OCTOBER 2009
PLANS: _____
TOPOGRAPHIC DATUM: NAD83
BENCHMARK: F.H. 2281 ELEV. 1824.75

NORTH HILLS MASTER PLAN



• SCALE: 1" = 300'
DATE: 8/17/09

Kadmas
Lee &
Jackson
Engineers Surveyors
Planners



CROSSED PLAT

Legend

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

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

RECEIVED

OCT 15 2009

October 15, 2009

Kim Lee/Jason Tomanek, City Planning Dept.

Re: North Hills 16th Addition – Upgren Lot

Dear Kim,

The revised plat of North Hills 16th Addition contains an R5 lot (Lot 3, Block 2) adjacent to the lot where I currently reside. I have been in discussions with Barry Coleman in regards to acquiring additional land to the west of my property for the purpose of constructing a detached garage.

After reviewing the plat with Damon Jorgensen from Kadmas, Lee & Jackson, I hereby agree to the following:

- I agree to the transfer of the lot into my name once the plat has been recorded.
- Once the lot has been transferred, I agree to combine it with the lot I currently own.
- I understand that this lot will not be allowed to be used for any residential purpose and will not be considered as a stand alone parcel.
- Any buffer yard requirements to which I have right to exercise by city Ordinance are hereby waived on my behalf.

If you have any further questions, please feel free to contact me at [REDACTED]

Sincerely,

Michael D. Upgren
Mike Upgren

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

BACKGROUND:	
Title: Lot 1, Block 4, Northstar Commercial Park 3 rd Subdivision – Zoning Change (CG to MA)	
Status: Planning Commission – Public Hearing	Date: October 28, 2009
Owner(s): Michael Morris (owner) Matt Geiger (applicant)	Engineer: N/A
Reason for Request: Rezone property to allow development of property as a light industrial use.	
Location: Along the south side of Northstar Drive east of Aurora Street.	
Project Size: 2.0 acres	Number of Lots: 1 lot in 1 block
EXISTING CONDITIONS:	
Land Use: Undeveloped	PROPOSED CONDITIONS:
Zoning: CG – Commercial	Land Use: Light industrial use (storage units)
Uses Allowed: General commercial uses	Zoning: MA – Industrial
Maximum Density Allowed: 42 units/acre	Uses Allowed: Light industrial uses
	Maximum Density Allowed: N/A
PROPERTY HISTORY:	
Zoned: 08/79	Platted: 08/79
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The portion of this subdivision north of Northstar Drive was rezoned to Conditional MA in January 2005 (Ordinance 5392). The future land use component of the US Highway 83 Corridor Transportation Study (March 2006) identifies the future land use in this area as Open Space. The property immediately to the north across Northstar Drive is classified as Mixed Use and the property immediately to the west across Aurora Street is classified as Commercial. The Mixed Use 3 category allows a mix of office and industrial uses. Extending the Mixed Use classification to this property would be considered a minor amendment and could be made administratively without a formal amendment to the Land Use Plan. As this is an existing platted lot, it seems reasonable to allow development on this property consistent with other properties within the same subdivision. The roadways adjacent to the property (Northstar Drive and Aurora Street) are not improved; therefore, the roadways will need to be improved to minimum County standards prior to development of the site as required by the County Engineer. 	
FINDINGS:	
<ol style="list-style-type: none"> The proposed zoning change would be consistent with the Land Use Plan, as amended administratively, which would identify this area as Mixed Use (US Highway 83 Corridor Transportation Study). 	

(continued)

2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include light industrial uses to the north, a commercial use to the west, undeveloped CG-zoned property to the south, and agricultural uses to the east.
3. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established. In particular, that portion of this subdivision immediately to the north across Northstar Drive was rezoned to Conditional MA – Industrial zoning in 2005.
5. The property would be served by South Central Regional Water District and would have access to US Highway 83 and 71st Avenue NE via interior roadways; therefore, the proposed zoning change will not place an undue burden on public services or facilities.
6. The proposed zoning change would not adversely affect property in the vicinity.
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. 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 CG – Commercial to Conditional MA – Industrial for Lot 1, Block 4, Northstar Commercial Park 3rd Subdivision, as outlined in the attached 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 CG – Commercial zoning district and included in the Conditional MA – Industrial zoning district:

Lot 1, Block 4, Northstar Commercial 3rd Subdivision.

This conditional MA zoning district is subject to the following standards:

1. *Uses Permitted.* The following uses are permitted:
 - a. ~~Hotel-motel.~~
 - b. Retail group A.
 - c. Retail group B.
 - d. Service group A.
 - e. Service group B.
 - f. Wholesale group.
 - g. ~~Truck terminal.~~
 - h. Railroad or bus passenger station.
 - i. ~~Railroad freight station.~~
 - j. Industrial group A, limited to 1) storage buildings and warehouses and 2) the following uses when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or security fence, not less than six feet in height:
 - i. Building materials sales yard, including the sale of rock, sand and gravel.

- ii. Contractors' equipment storage yard.
- iii. Pipe storage yard, including sales.
- iv. Feed or fuel storage yard, including sales.
- v. Public utility service yard.
- vi. Sale, rental or storage of oil and gas well drilling equipment.
- k. Radio or television transmitting station.
- l. Commercial recreation group.
- m. Office-bank group.

The following uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Temporary Christmas tree sales.
- b. Temporary religious meetings.
- c. Temporary circus/fair/carnival.
- d. Temporary farm and garden produce sales.
- e. ~~Temporary fireworks sales.~~
- f. Seasonal nursery and bedding stock sales.
- g. ~~Solid waste disposal facility.~~
- h. ~~Airport.~~
- i. ~~Recreational vehicle park.~~
- j. Filling station.
- k. Drive-in retail or service establishment.
- l. ~~Motor vehicle parts salvage yard.~~
- m. Small animal veterinary clinic.
- n. Animal hospital or kennel.
- o. Golf driving range.
- p. ~~Junkyard.~~
- q. Retail liquor sales.
- r. ~~Racetracks.~~

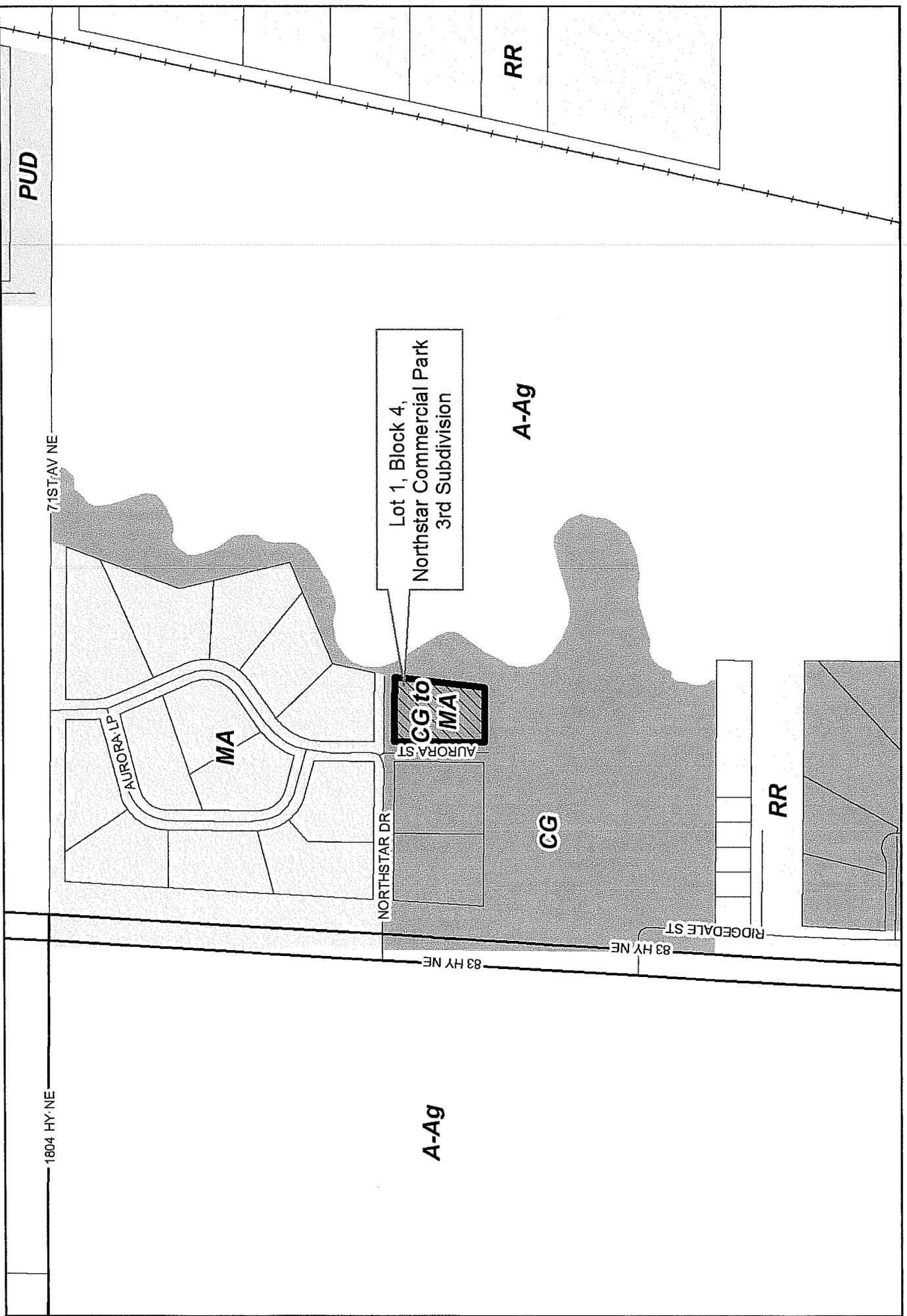
Other special uses identified in Section 14-03-08 but not included in this list shall be prohibited.

- 2. *Development standards.* Development standards shall be as outlined in Section 14-04-14, MA – Industrial District, of the City Code of Ordinances.

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.

Lot 1, Block 4, Northstar Commercial Park 3rd Subdivision - Current Zoning

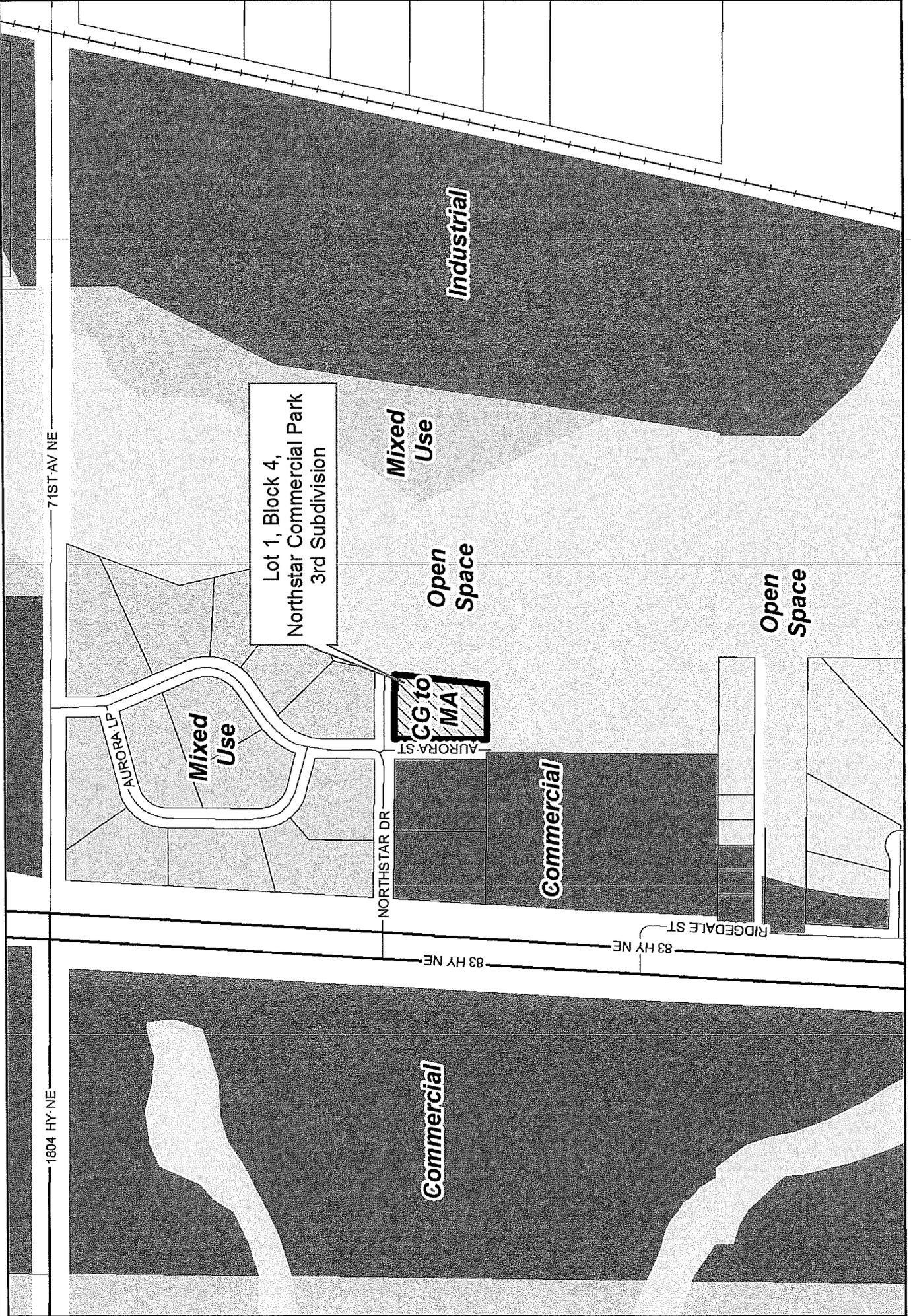


Legend

- A
- CG
- MA
- RR
- PUD

0 125 250 500 Feet
October 2009

Lot 1, Block 4, Northstar Commercial Park 3rd Subdivision - Future Land Use



1804 HY NE

71ST AV NE

AURORA LP

Mixed Use

Lot 1, Block 4,
Northstar Commercial Park
3rd Subdivision

NORTHSTAR DR

CG to
MA

AURORA ST

Mixed Use

Open Space

Commercial

Industrial

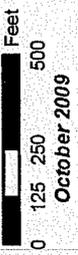
Commercial

Open Space

RIDGEDALE ST

83 HY NE

83 HY NE



RESIDENTIAL

MIXED USE

OPEN SPACE

INDUSTRIAL

COMMERCIAL

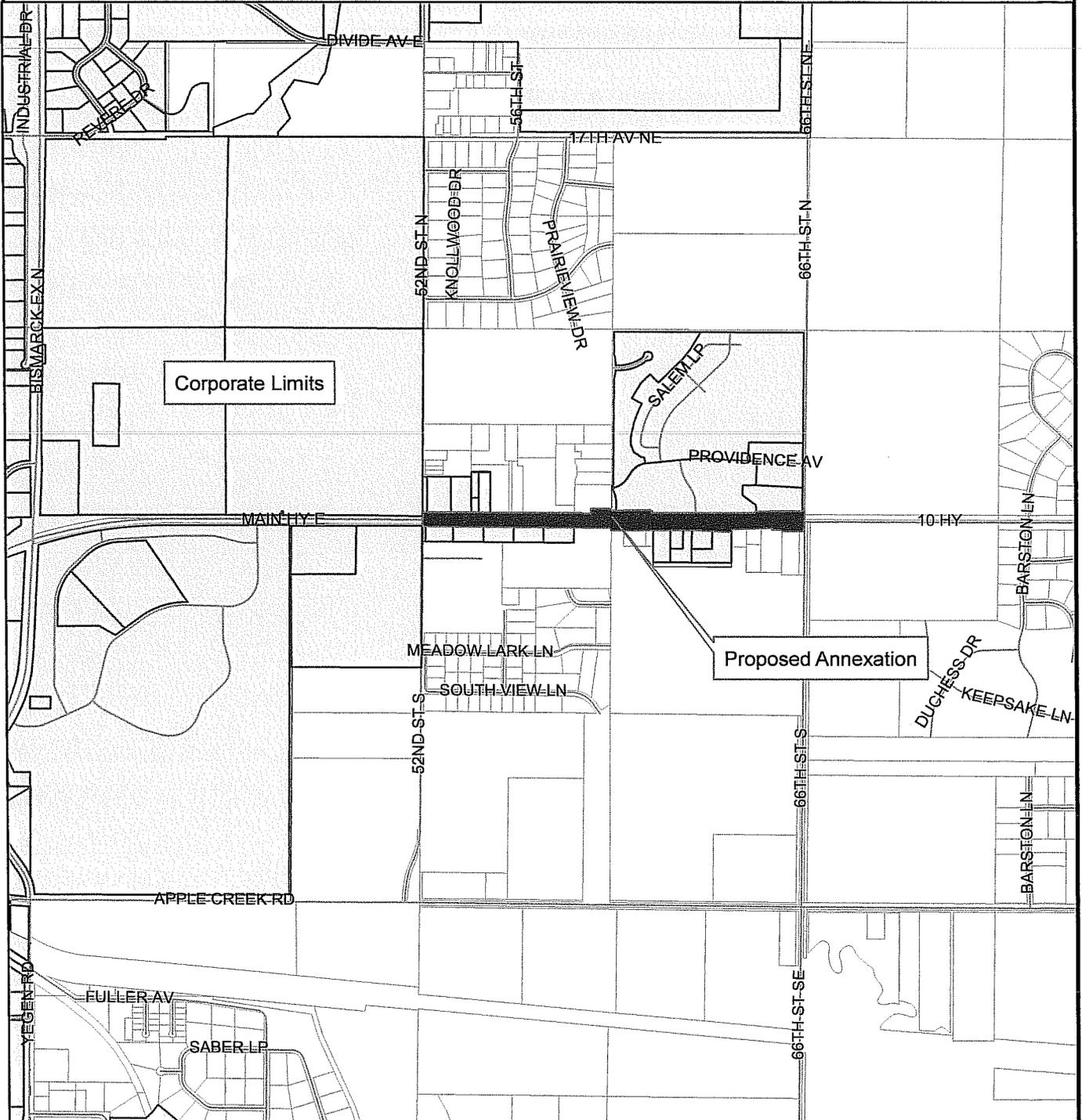
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**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: County Highway 10 Right-of-Way – 52 nd Street to 66 th Street – Annexation		
Status: Planning Commission – Final Consideration	Date: October 28, 2009	
Owner(s): Burleigh County	Engineer: N/A	
Reason for Request: Annex right-of-way to connect previously annexed parcels and make them contiguous.		
Location: East of Bismarck between 52 nd Street and 66 th Street, along the southern boundary of Section 31, T139N-R79W/Gibbs Township and the northern boundary of Section 6, T138N-R79W/Apple Creek Township.		
Project Size: 27.34 acres, more or less (entire right-of-way)	Number of Lots: N/A	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Public right-of-way	Land Use: Public right-of-way	
Zoning: N/A	Zoning: N/A	
Uses Allowed: N/A	Uses Allowed: N/A	
Maximum Density Allowed: N/A	Maximum Density Allowed: N/A	
PROPERTY HISTORY:		
Zoned: ----	Platted: ----	Annexed: ----
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> Over the years, portions of the County Highway 10 right-of-way have been annexed in conjunction with the annexation of adjacent parcels. It also appears that portions of the County Highway 10 right-of-way have been removed from the corporate limits when adjacent tracts were detached. This annexation of this segment of right-of-way will connect all of the previously annexed parcels and make them contiguous. 		
FINDINGS:		
<ol style="list-style-type: none"> The proposed annexation will not adversely affect property in the vicinity. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice. 		
RECOMMENDATION:		
Based on the above findings, staff recommends approval of the annexation of the County Highway 10 right-of-way from the centerline of 52 nd Street to the centerline of 66 th Street in Section 31, T139N-R79W/Gibbs Township and Section 6, T138N-R79W/Apple Creek Township.		

Proposed Annexation

County Highway 10 Right-of-Way - 52nd Street to 66th Street (Section 31, Gibbs Township and Section 6, Apple Creek Township)



0 1,000 Feet

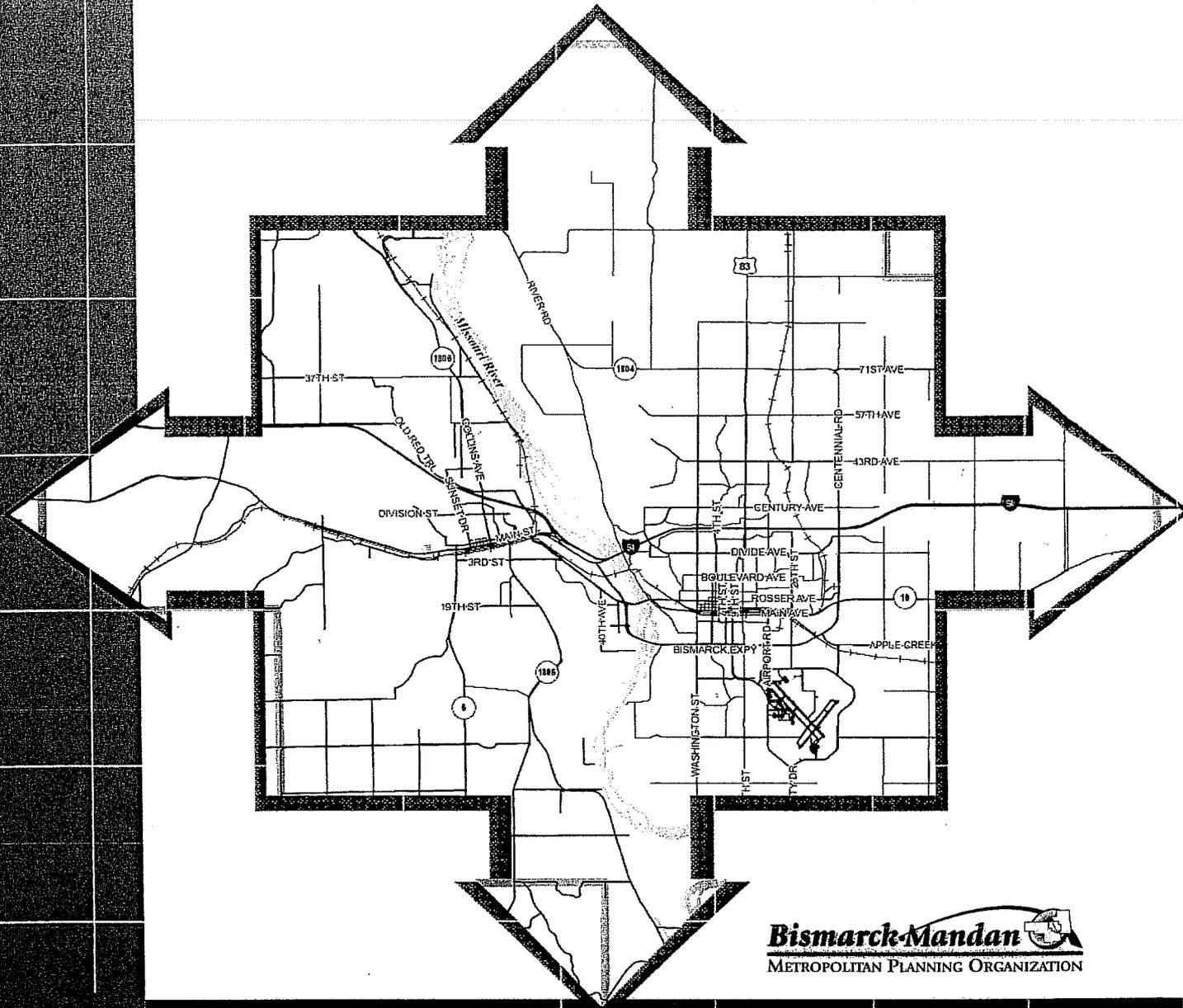
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein. Map was Updated/Created: October 19, 2009 (dec)

Source: City of Danmark





Bismarck-Mandan
Long Range Transportation Plan - 2035



Bismarck-Mandan
METROPOLITAN PLANNING ORGANIZATION

URS

**Bismarck-Mandan Metropolitan Planning
Organization**

October 19, 2009



HoustonEngineering Inc.

2009 – 2035

**Long Range Transportation Plan -
Draft Executive Summary**



TRANSPORTATION PLAN OVERVIEW

The *2009-2035 Bismarck-Mandan Long Range Transportation Plan* (LRTP) provides the blueprint for the area's transportation planning process over the next 25+ years. The transportation plan update process was a collaborative effort between Bismarck, Mandan, Burleigh County, Morton County, Lincoln, the North Dakota Department of Transportation (NDDOT), Bis-Man Transit and other state / Federal agencies, where the multimodal transportation system was evaluated and a set of recommendations were made. The Transportation Plan addresses the study area displayed in Figure 1.

The 2009-2035 Bismarck-Mandan Long Range Transportation Plan is founded on the consent of the community as well as the various committees and bodies formed within the area. The LRTP was developed consistent with the Bismarck-Mandan MPO's Public Participation Plan goals of providing an early, varied and far-reaching involvement approach. Involvement elements included:

- Three rounds of **public meetings**, with one meeting on each side of the river at each round.
- A **community committee** with representatives from a diverse cross-section of citizens and stakeholders including urban and rural residents from both sides of the river, transit users, bicyclists, business interests, schools and universities, freight, emergency responders, hospitals and human service agencies.
- The **plan update website**, *bis-manplan2009.com*, was a timely source of information throughout the course of the update, providing streaming video of meeting presentations, opportunities for easy feedback to the study team, up-to-date study memoranda and reports and notices of upcoming meetings.
- **Outreach to agencies, system users and interest Groups** was employed, including mailings, e-mails and information provided to resource agencies and system user groups throughout the LRTP update.
- At all three sets of public meetings included **televised plan meetings** on the local cable television Government Channel 2.

BISMARCK-MANDAN TRANSPORTATION GOALS AND OBJECTIVES

Development of the planning goals and objectives was a critical first step in the Transportation Plan update process, as it defined the community vision for the future transportation system. The goals and objectives laid out the general course for the update of the 2035 Long Range Transportation Plan.



andan MPO planning activities.

Goal #4: *Preserve the existing and planned system.*

Objectives

- Equitably account for roadway, trail and sidewalk network maintenance in the financial element of the plan.
- Address transit service operations and maintenance in the recommended Long Range Transportation Plan.
- Identify and reserve/protect/preserve planned future transportation corridors, even if construction is many years into the future.
- Promote ideas that acceptably balance the need for land access, while recognizing the need to ensure corridor safety and mobility through access management.

Goal #5: *Address the transportation system's impact on the built, social and natural environment.*

Objectives

- Prioritize roadway system improvements based on costs versus funding availability, degree of system benefit (impact), and level of impacts to the adjacent areas.
- Promote transportation projects, plans and/or programs that encourage reducing energy consumption.
- Reduce the pressure to expand the current system and improve the performance of the existing roadway system by implementing programs that increase average vehicle occupancy rates.
- Coordinate transportation planning activities with appropriate federal, state, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.
- Engage stakeholders and the public in the decision-making stage of the transportation planning process.
- Coordinate transportation planning activities with regional land use planning activities, including the Regional Future Land Use Plan.

Goal #6

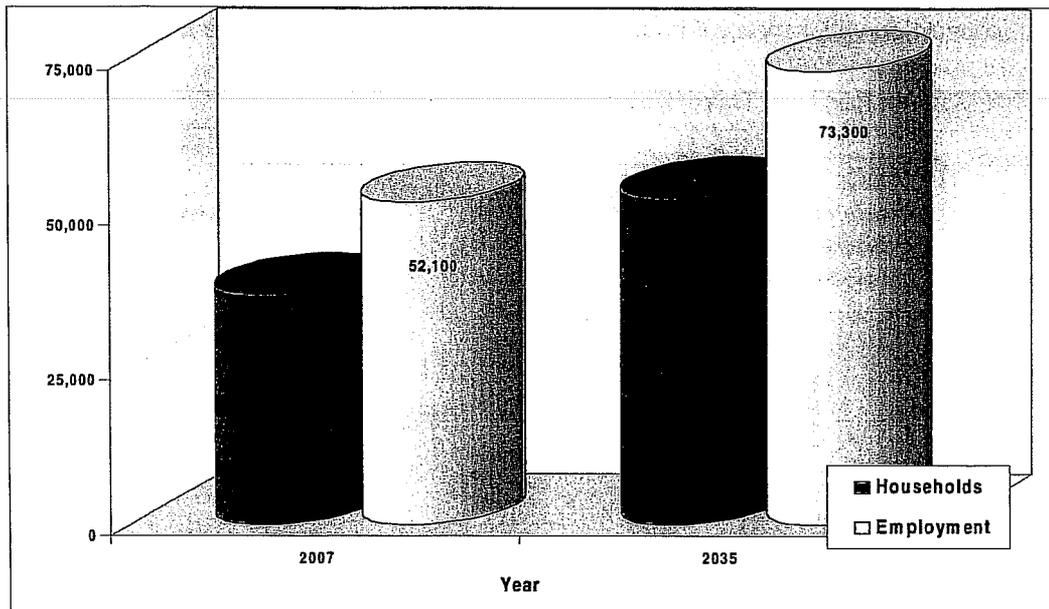
Provide a transportation system that supports and enhances the regional economy.

Objectives

- Coordinate area economic development activities with LRTP development.
- Implement transportation projects/programs that contribute to the region's quality of life, whether through improved recreational, aesthetic or cultural amenities.
- Ensure that mobility-challenged populations, such as low income, persons with disabilities or senior citizens, have travel options in the region.



MPO Study Area Housing and Employment Projections, 2007 to 2035



Source: Bismarck-Mandan MPO

2035 TRAFFIC LEVELS

The 2035 daily traffic forecasts are based on the regional travel demand model, a computer application used to evaluate the interaction between housing and employment levels and the regional roadway system. The travel model was used to estimate traffic volumes associated with the development concept employment and housing scenario.

To identify future demands on the system, and identify future deficiencies on the roadway system, the development concept growth levels / locations were evaluated in the traffic model with the Existing-plus-Committed (E+C) condition future roadway network in place, which includes only the current street and roadway system and those improvements that are included in the MPO's 2010-2013 Transportation Improvement Program (TIP). The 2035 E+C scenario traffic forecasts associated are summarized the chart below, which documents the existing and future 2035 E+C trip levels from three different perspectives:

- **Trip generation** growth, a summary of the daily number of trips that occur. Trip generation is projected to increase by approximately 42 percent, a rate similar to housing and employment growth.
- **Vehicle Miles Traveled (VMT)** growth, the summarized distance of daily travel in the Bismarck-Mandan region. VMT is projected to grow by more (60 percent) than trip generation (42 percent), which indicates that the average trip length would increase over the planning horizon. This should be expected, as the majority of new development is anticipated to occur on the fringe of existing development.
- **Vehicle Hours Traveled (VHT)** growth, a summary of the daily metropolitan travel time. VHT is projected to grow by 77 percent, greater than trip generation growth



have local support.

- The **Phase 2 Screening** included more detailed assessments for those alternatives that are maintained through the Phase 1 screening, evaluating the positive and negative aspects of the improvement concepts relative to the evaluation criteria. A prioritized listing of the remaining projects was the product of this phase, and was used as a tool to determine the final list of projects/concepts to be included in the transportation plan. The prioritized list was based on how well individual or combinations of alternatives performed compared to other alternatives when considering the criteria.

Not all of the highest scoring projects were included in the final recommendations, as the recommended plan is required to be cost constrained. The cumulative cost of the projects maintained through the second level of assessment far exceeded the anticipated available transportation funding, and the list was reduced to a level consistent with expectations for available funding. The combined final package reflected a concept that:

- Incorporated elements for the roadway, transit and non-motorized systems.
- Directly addressed many of the key transportation needs in the region.
- Was consistent with the plan goals and objectives.

FUNDING THE PLAN

The Long Range Transportation Plan update is required to include only projects and programs that are reasonably fundable. Achieving a fundable plan must also account for anticipated monies spent on maintaining the existing system. The process of determining a fundable or “financially-constrained” plan involves determining the anticipated level of surface transportation funding / revenue through 2035, while also considering the costs of implementing the recommended multimodal transportation plan.

Financial constraint of the LRTP-recommended projects must also be demonstrated in terms of “Year of Expenditure” (YOE) dollars; meaning that the project or program costs and the regional transportation budget should be extrapolated forward to account for inflation cost and funding changes expected over the period of the plan (2009-2035).

The planning horizon funding capacity for the multimodal projects was estimated based on a review of available historical expenditures on expansion projects, and based on discussions with each jurisdiction about their anticipated annual funding levels. NDDOT and FHWA reviewed and approved the funding estimates derived through this approach. For extrapolating current funding levels into the future, the provided guidance was that:

- For the first five years of the planning horizon (2009-2013), the LRTP should assume no growth in Bismarck-Mandan transportation funding.
- Beyond the first five years of the planning horizon (2014-2035), the LRTP will assume a 2% annual growth rate in revenues for the region.

Listed below are the total levels of modal funding that are projected to be available throughout the region between today and 2035:



Roadway System Improvements

The recommended roadway system improvements are illustrated in Figure 2. The total cost for all roadway improvements included in the recommended roadway improvements list is \$309,760,000. The 2014-2035 level of funding identified for the roadway system from traditional surface transportation funding sources was \$316,575,000 (in year of expenditure dollars). Thus, anticipated roadway funding and the recommended roadway costs are approximately in-line with anticipated roadway budgets.

Non-Motorized System Improvements

Two main types of non-motorized improvements are being carried forward as recommendations:

- Expansion of the existing multimodal trail system
- On-street facilities, whether:
 - Designated shared-use streets for both motor vehicles and bicyclists
 - On-street bicycle lanes

Figure 3 shows the recommended non-motorized system improvements.

Transit System Improvements

The majority of the transit system improvement alternatives focused on two primary tasks:

- Evaluating future year 2035 conditions to identify opportunities to expand transit services in the Bismarck-Mandan region
- Evaluating the level of implementation for the recommendations that came out of the 2007 *Bismarck-Mandan Transit Development Plan*.

The recommendations for route extensions between now and 2035 are described in Table 1. Recommendations from the 2007 *Transit Development Plan* were also incorporated into the LRTP recommendations.

The recommended multimodal projects are illustrated more completely at the study website at: www.bis-manplan2009.com/PrelimPlan.html.



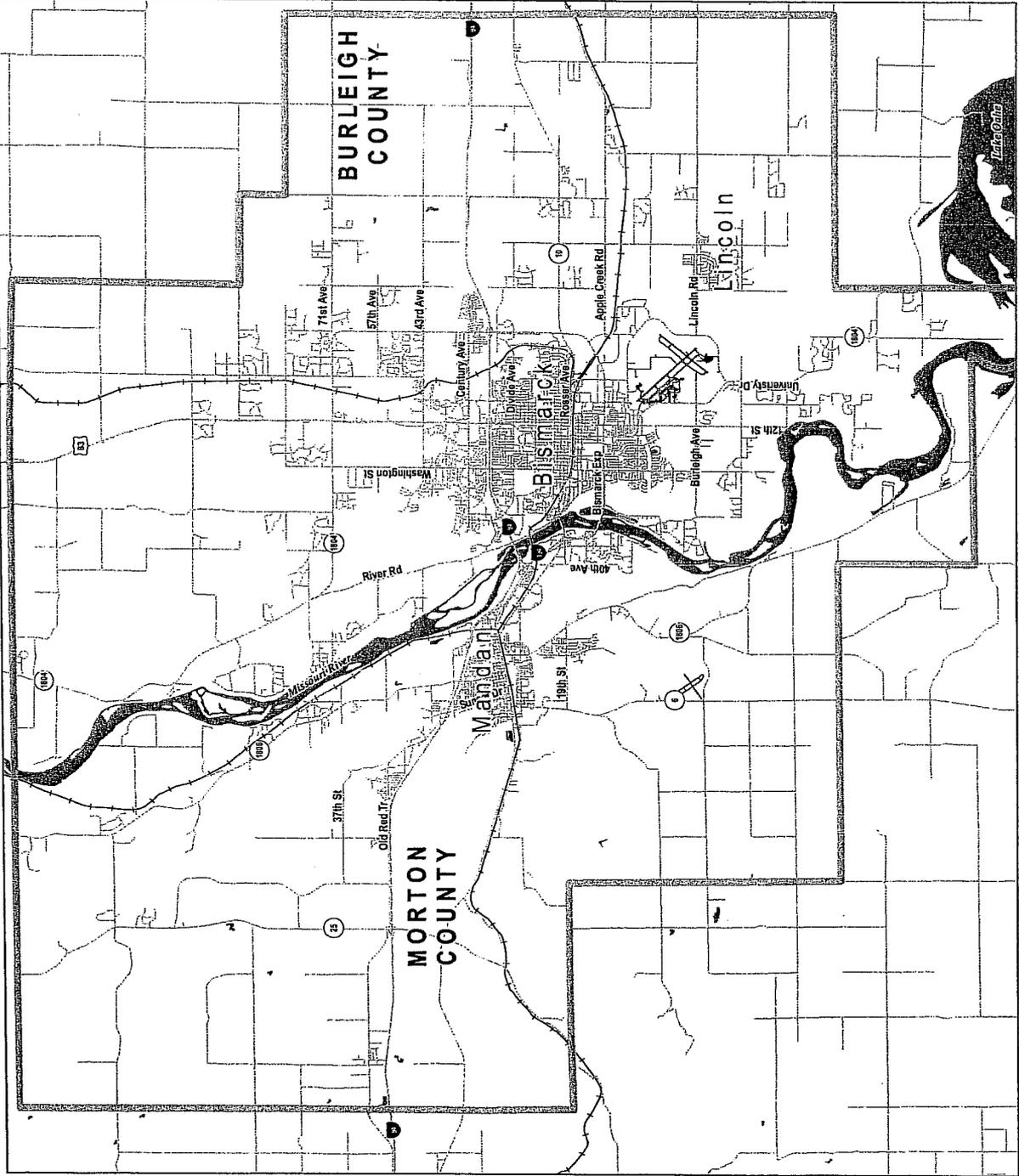
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MPO Study Area Boundary



Figure 1. 2009-2035 Bismarck-Mandan
LRTP Study Area





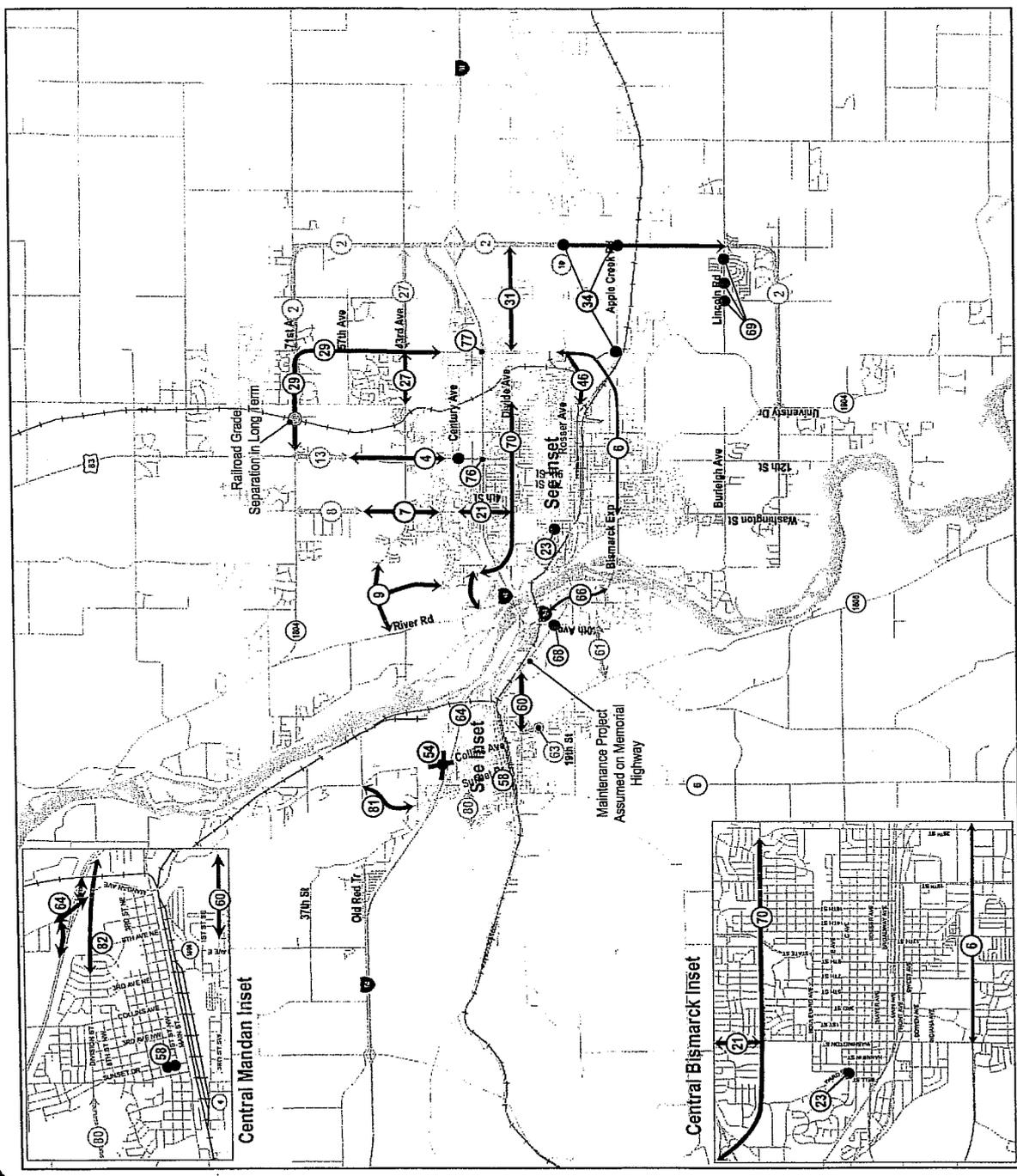
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Draft Implementation Timeframe

- Short - Term Improvement (2009-2014)
- Mid - Term Improvement (2015-2024)
- Long - Term Improvement (2025-2035)



Figure 2: Draft Roadway Implementation Phasing, 2035 Bismarck-Mandan LRTP



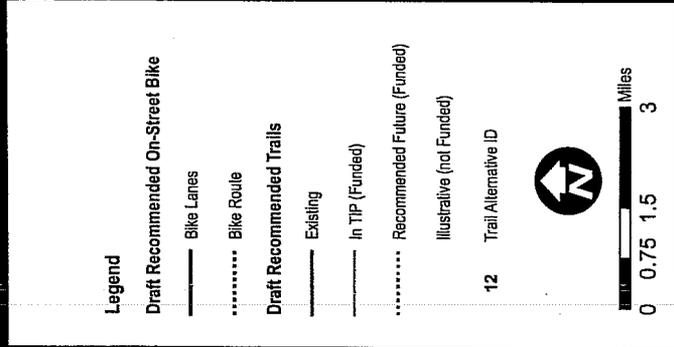
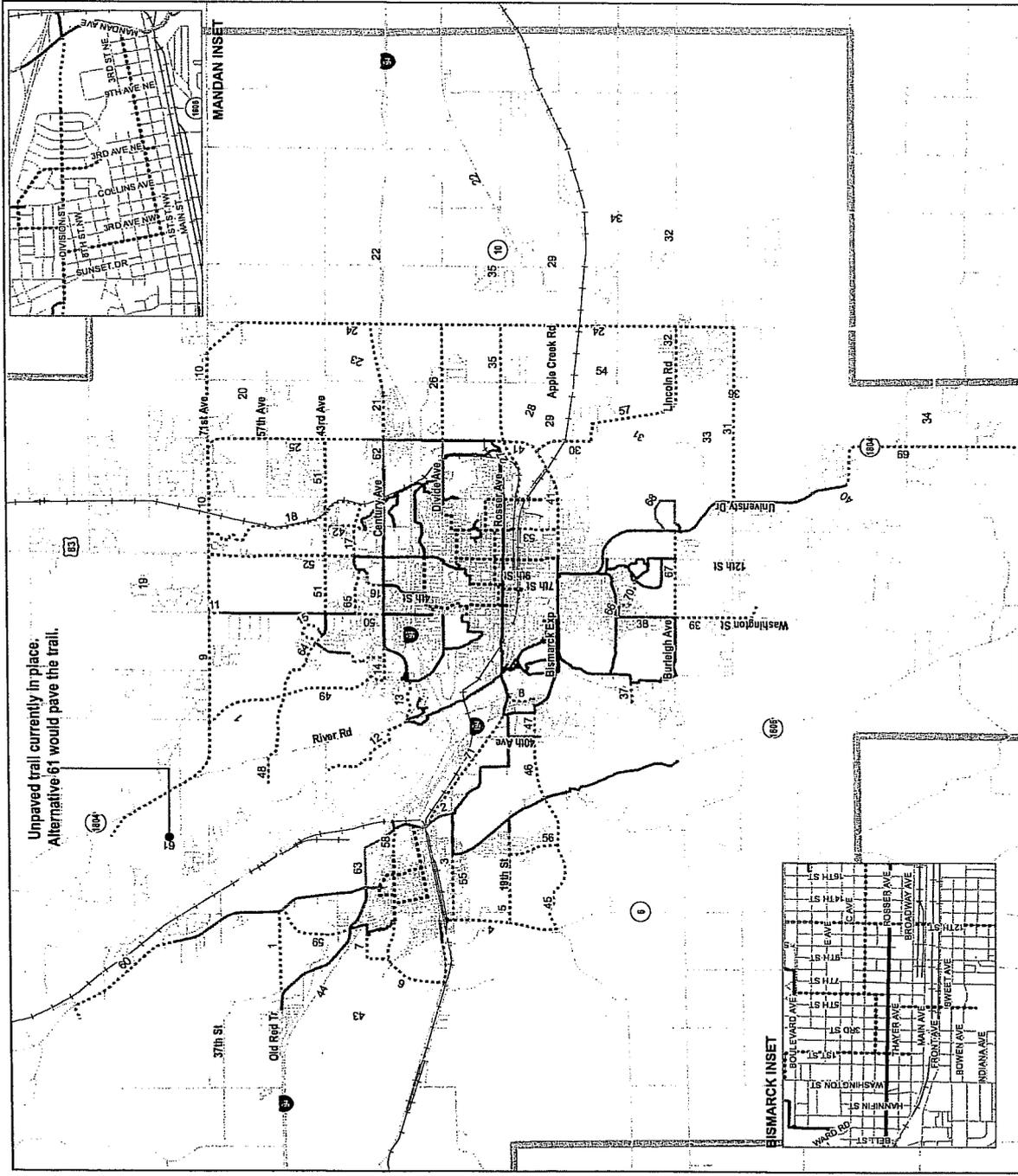


Figure 3. Draft Recommended Trail Projects and Draft On-Street Bicycle Facilities



CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
September 23, 2009

The Bismarck Planning & Zoning Commission met on September 23, 2009, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Mel Bullinger, Jo Conmy, Jack Hegedus, Curt Juhala, Elden Spier, Lisa Waldoch, Jan Wangler, and Wayne Yeager.

Commissioners Doug Lee and John Warford were absent.

Apple Creek Township Representative Paul Zent was present.

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

Others present were Attas & Maria Boutrous – 3420 Gallatin Loop, Bismarck, Greg Peterson – 3432 Gallatin Loop, Bismarck, Damon Jorgensen – 128 Soo Line Drive, Bismarck, Kevin Nelson – 1412 Basin Avenue, Bismarck, Greg Haug – 2301 University Drive Bldg #17, Bismarck, Kim Melin – 86 Country Club Drive, Bismarck, Zac Hedstrom – 200 Lorrain Drive #205, Bismarck, Connie Herman – 14900 Sundown Drive, Bismarck, Richard & Charlotte Hammond – 5324 Meadow Lark Lane, Bismarck, Helen Hammond – 700 52nd Street, Bismarck, Dave Patience – 909 Basin Avenue, Bismarck, John Roswick – 5015 East Main Avenue, Bismarck, Keith Larson – 3456 Gallatin Drive, Bismarck, Randy Mathern – 1729 Catherine Driver, Bismarck, Ann Andre – 2200 Far West Road, Bismarck, Jim & Cathie Volk – 3397 Gallatin Drive, Bismarck, Wade Mann – 400 East Broadway Avenue, Bismarck, Robert Heringer – 2113 Santa Barbara Street, Bismarck, Paul & Trey Zent – 5100 93rd Street Southeast, Bismarck, Don Weisz – 172 Brandon Circle, Bismarck, Mark Swenson – 6550 University Drive, Bismarck, Art Rode – 2801 East Rosser Avenue #1, Bismarck and Dwayne Walker – 1847 Harding Place, Bismarck.

MINUTES

Chairman Yeager called for consideration of the minutes of the August 26, 2009 meeting.

MOTION: Commissioner Wangler made a motion to approve the minutes of the August 26, 2009 meeting as received. Commissioner Conmy seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Conmy, Hegedus, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

**CONSIDERATIONS –
ZONING CHANGE FROM A-AGRICULTURE AND CONDITIONAL RM15-
RESIDENTIAL TO RT-RESIDENTIAL AND CONDITIONAL RM15-
RESIDENTIAL AND
PRELIMINARY PLAT – NORTH HILLS SIXTEENTH ADDITION
ZONING CHANGE FROM CG-COMMERCIAL TO CONDITIONAL MA-
INDUSTRIAL – LOT 1, BLOCK 4, NORTHSTAR COMMERCIAL PARK THIRD
SUBDIVISION**

Chairman Yeager called for consideration of the following consent agenda items:

- A zoning change from A-Agriculture and Conditional-RM15 to RT-Residential and Conditional-RM15 and preliminary plat for North Hills Sixteenth Addition. The property is three lots in two blocks on 14.783 acres located along the south side of 43rd Avenue between Normandy and Dominion Streets (replat of Lot 5, Block 3, North Hills 15th Addition and an unplatted portion of the West ½ of the Northeast ¼ of Section 21, T139N-R80W/Hay Creek Township.)
- A zoning change from CG-Commercial to Conditional MA-Industrial for Lot 1, Block 4, Northstar Commercial Park Third Subdivision. The property is one lot in one block on 2.0 acres located along the south side of Northstar Drive east of Aurora Street.

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

Commissioner Juhala arrived at the meeting.

**MAJOR PUD AMENDMENT – LOTS 1 AND 3-18, BLOCK 1, MISSOURI VALLEY
COMPLEX**

Chairman Yeager called for the public hearing for the Major PUD Amendment for Lots 1 and 3-19, Block 1, Missouri Valley Complex. The property is located on the east edge of Bismarck, south of County Highway 10/Main Avenue and east of Bismarck Expressway.

Mr. Greenquist indicated that this is a County request to amend/revise the existing PUD to add utilities as a permitted use on all lots and to allow camping in conjunction with certain activities on specific lots. Although utilities are allowed in all zoning districts, provisions for utilities were not included in the PUD ordinance. Now a cell tower is being considered for this area. To allow the cell tower, the PUD must be amended to allow utilities.

Mr. Greenquist provided an overview of the requested and listed the following findings:

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 a PUD amendment requires a majority vote of the Bismarck Planning & Zoning Commission.
2. All land uses in a PUD are specified in the PUD ordinance. If a specific type of land use is not specified, it is not allowed. To allow utilities and camping within the PUD, new language is proposed as an addition to the permitted uses for this PUD.
3. 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 west, industrial land to the southeast and south, undeveloped land to the east zoned A-Agricultural and RR-Residential, and industrial land to the northeast.
4. The property is annexed; therefore, the proposed PUD amendment would not place an undue burden on public services.
5. The proposed PUD amendment is consistent with adopted plans, policies and accepted planning practice.

Mr. Greenquist said based on the above findings, staff recommends approval of the major PUD amendment for Lots 1 and 3-19, Block 1, Missouri Valley Complex, in accordance with the PUD amendment document.

Chairman Yeager opened the public hearing for the Lots 1 and 3-19, Block 1, Missouri Valley Complex.

Richard Hammond said he would like know more information regarding the proposed cell tower, as far as the height and if there will be strobe lights on it, because the drawing shown does not show anything.

Mr. Tomanek responded by saying no formal site plan application has been received by the Community Development Department – Planning Division for a cell tower at this time. Mr. Tomanek continued by saying staff had conversations with a company earlier this year and this location was discussed with the involvement of Burleigh County. Mr. Tomanek said any applications for cell towers are subject to the site plan review process, however, that does not include a public hearing. Mr. Tomanek stated the site plan review process requires details of the plan to be submitted with the application that is handled administratively and if Mr. Hammond has questions in the future regarding the cell tower he can contact the Community Development Department – Planning Division.

Helen Hammond said she would like to know what the plans are for this property. Mr. Greenquist responded by saying Lot 13 is designated for nature and recreation and currently the

motocross track is located on Lot 12. Mr. Greenquist went on to say that the amendment to the PUD is to allow camping on Lots 14 and 18 and a cell tower, but the exact location of the cell tower has not been determined at this time.

Ms. Hammond then asked where the access road will be located and how long it will be. Ms. Lee answered by saying the access road was part of the plat that was approved in 2004 and recorded in 2006, so the access road will not be changing. Ms. Lee continued by saying the original PUD is not changing except to allow camping on specific areas and the addition of utilities on all lots.

Ms. Hammond asked if there is going to be anything done about the runoff water that goes into her creek. Ms. Lee said at the time the original plat and PUD was approved there was a storm water management plan approved. Ms. Lee commented that the amendment to the PUD is not affecting the layout of the lots or storm water management. Chairman Yeager added that the questions Ms. Hammond is asking are related to when the plat was approved and it does not relate to the PUD amendment that is currently being discussed. Chairman Yeager asked staff to answer Ms. Hammond's questions and get the information to her. Ms. Lee said staff will gather the additional information for Ms. Hammond.

John Roswick said he is one of the owners of Midwest Motor Express and MME, Inc. and he would like to offer temporary access to the property and construction site if a cell tower is going to be built, rather than another curb cut being put in. Mr. Roswick went on to say they would like to visit with Burleigh County about extending 50th Street all the way through. It currently ends at the motocross track.

Mark Swenson said he has a few thoughts on the development and how it impacts the cell tower. Mr. Swenson continued by saying he is all for development of this region, but an issue he has is that his property is zoned residential and the proposed amendments do not fit residential. Mr. Swenson commented that he will never be able to develop his property into anything useful with a motocross track next to it, adding the cell tower is a trend to industrial nature that is not compatible with the zoning of the adjacent land. Mr. Swenson added that he would like to work with Burleigh County to get the property adjacent to the fairgrounds zoned industrial and still be able to have residential along the section line road, adding that he is willing to work with Burleigh County to find a compromise that works the best for all parties. Mr. Swenson concluded by saying he would like to see the motion tabled in order to give him an opportunity to work with Burleigh County and the City Planning & Zoning Commission to come up with a layout that addresses his concerns.

Commissioner Wangler said that a land use plan was prepared several years ago for this area and it was found that the highest and best use for this land was residential because it abuts single family residential, however, it was discussed that if there were some type of transitional zoning between the residential and the fairgrounds there would need to be access from the north. Commissioner Wangler went on to say that if there was some type of transitional zoning that would work with residential other than commercial, then there would be more cooperation from the area.

Mr. Swenson said he would be willing to work with Burleigh County and the adjacent property owners to get the road moved like Mr. Roswick suggested he does not think that residential is the best fit for the area because of the motocross track. Mr. Swenson added that industrial zoning would better fit this area with the appropriate landscape buffers between the two zoning districts.

Commissioner Hegedus expressed that at the time the land use plan was prepared the owners of Midwest Motor Express at that time and Mark Swenson's father were going to put a plan together that included a buffer yard and residential along the road, however, nothing was ever presented. Mr. Swenson said he has a storage garage business and that is what he would like to see as a buffer zone between the two zoning districts. Within the City of Bismarck, in order to build storage garages, the zoning must be industrial so that is why he would like to see industrial zoning in this area. Commissioner Wangler commented that no matter whom storage garages are rented to, people do have a tendency to use them as workshops for fixing vehicles or motorcycles and that is a concern. Mr. Swenson said he understands that concern, but on the other hand knows that people do like to have storage a garage close to their residence.

Chairman Yeager closed the public hearing for Lots 1 and 3-19, Block 1, Missouri Valley Complex.

MOTION: Based on the findings contained in the staff report, Commissioner Hegedus made a motion to approve the Major PUD Amendment for Lots 1 and 3-19, Block 1, Missouri Valley Complex, as outlined in the PUD amendment document. Commissioner Wangler seconded the motion with Commissioners Bullinger, Conmy, Hegedus, Juhala, Spier, Wangler and Yeager voting in favor of the motion and Commissioner Waldoch voting against. The motion passed 7-1.

**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURE TO RR-
RESIDENTIAL AND FINAL PLAT– BISMARCK AIRPORT ADDITION**

Chairman Yeager called for the public hearing for the zoning change from A-Agriculture, P-Public, MA-Industrial and MB-Industrial to P-Public and MA-Industrial, final plat and annexation of Bismarck Airport Addition, a 2197.7 acre development with 100 lots in 20 blocks. The property is located along the east side of Highway 1804/University Drive (all of Sections 14 & 23 and parts of Sections 10, 11, 12, 13, 15, 22 and 24, T138N-R80W/Lincoln Township).

Ms. Lee provided an overview of the requests and listed the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan.
2. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established. In particular, the Airport has identified specific lots around the perimeter of the property for non-aeronautical development.

3. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses are light industrial uses to the north, agricultural uses to the east and south, and a combination of institutional, residential, commercial and industrial uses to the west.
4. The subdivision proposed for the property is already annexed and served by municipal utilities; therefore, the proposed zoning change would 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.
7. The proposed zoning change is consistent with all adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for the area, which identifies all of the existing roadways surrounding the Airport as arterials (Highway 1804/University Drive, Airway Avenue, Yegen Road, and Airport Road south of Airway Avenue).
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses are light industrial uses to the north, agricultural uses to the east and south, and a combination of institutional, residential, commercial and industrial uses to the west.
5. The proposed subdivision is already annexed and served by municipal services; therefore, the proposed subdivision would not place an undue burden on public services and 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 all adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following findings for the annexation:

1. The proposed annexation will not adversely affect property in the vicinity of the annexation.
2. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
3. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change from A – Agricultural, P – Public, MA – Industrial and MB – Industrial to MA – Industrial on Lot 4, Block 1; Lot 1, Block 2, Lots 1 & 3, Block 7, Lot 1, Block 8, Lot 1, Block 10, Lot 1, Block 12, Lot 1, Block 15, Lots 1 & 3, Block 17, and Lots 2, 3 & 4, Block 18, and to P – Public for the remainder of the Bismarck Airport Addition plat; approval of the final plat for Bismarck Airport Addition and granting waivers from the following subdivision requirements/standards: 1) maximum block length; 2) use of cul-de-sacs; and 3) use of private roads; and approval of the annexation of that portion of Bismarck Airport Addition not previously annexed (Lots 52-58, Block 1; Lot 2, Block 14; and Lot 1, Block 16).

Chairman Yeager opened the public hearing for the Bismarck Airport Addition.

No public comment was received.

Chairman Yeager closed the public hearing for the Bismarck Airport Addition.

MOTION: Based on the findings contained in the staff reports, Commissioner Hegedus made a motion to approve the zoning change from A – Agricultural, P – Public, MA – Industrial and MB – Industrial to MA – Industrial on Lot 4, Block 1; Lot 1, Block 2, Lots 1 & 3, Block 7, Lot 1, Block 8, Lot 1, Block 10, Lot 1, Block 12, Lot 1, Block 15, Lots 1 & 3, Block 17, and Lots 2, 3 & 4, Block 18, and to P – Public for the remainder of the Bismarck Airport Addition plat; approve of the final plat for Bismarck Airport Addition and granting waivers from the following subdivision requirements/standards: 1) maximum block length; 2) use of cul-de-sacs; and 3) use of private roads; and approve the annexation of that portion of Bismarck Airport Addition not previously annexed (Lots 52-58, Block 1; Lot 2, Block 14; and Lot 1, Block 16). Commissioner Spier seconded the motion and it was unanimously approved with Commissioners Bullinger, Conmy, Hegedus, Juhala, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURE TO RR-RESIDENTIAL AND R5-RESIDENTIAL AND FINAL PLAT – BURLEIGH AVENUE SUBDIVISION

Chairman Yeager called for the public hearing for the zoning change from A-Agriculture to RR-Residential and R5-Residential and final plat of Burleigh Avenue Subdivision, a 3.01 acre development with two lots in one block. The property is located along the south side of Burleigh between Washington and Downing Streets (Lot C & Part of Lot B and Part of the NE ¼ of the NE ¼ of Section 20 T138N/R80W – Lincoln Township).

Mr. Tomanek provided an overview of the requests and listed the following findings for the zoning change:

1. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include partially developed R5 and R10 zoned property to the west, single-family dwellings to the north and A-Agriculture zoned property to the east and south.
2. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the proposed subdivision. Currently Lot 2, Block 1 is annexed to the City of Bismarck and is connected to City services, Lot 1, Block 1 is outside City limits and operates with a septic system and a personal well for water.
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 this land development code.
5. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
6. The Future Land Use Plan identifies this area for urban residential

Mr. Tomanek then listed the following findings for the final plat:

1. All technical requirements for consideration of a final plat have been met.
2. The proposed subdivision does not impact the Fringe Area Road Master Plan for this section. Downing Street is the north-south collector and Glenwood Drive is the east-west collector.
3. As this property is developed and no activity is proposed at this time, the storm water management plan requirement will be waived. If the plat is revised to add additional lots for development, a storm water management plan will need to be submitted and approved prior to plat approval.

4. The proposed subdivision would be compatible with adjacent land uses; adjacent land uses include partially developed R5 and R10 zoned property to the west, single-family dwellings to the north and A-Agriculture zoned property to the east and south.
5. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the proposed subdivision. Currently Lot 2, Block 1 is annexed to the City of Bismarck and is connected to City services, Lot 1, Block 1 is outside City limits and operates with a septic system and a personal well for water.
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 this land development code.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and general planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change from A – Agricultural to RR-Residential and R5-Residential and final plat of Burleigh Avenue Subdivision.

Chairman Yeager opened the public hearing for the Burleigh Avenue Subdivision.

No public comment was received.

Chairman Yeager closed the public hearing for the Burleigh Avenue Subdivision.

MOTION: Based on the findings contained in the staff reports, Commissioner Hegedus made a motion to approve the zoning change from A-Agriculture to RR-Residential and R5-Residential and final plat of Burleigh Avenue Subdivision. Commissioner Wangler seconded the motion and it was unanimously approved with Commissioners Bullinger, Conmy, Hegedus, Juhala, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR LOT 12 AND PART OF VACATED THAYER AVENUE, BLOCK 4, EASTDALE ADDITION

Chairman Yeager called for the public hearing for special use permit to allow a daycare facility for Lot 12 and East 10 feet of Vacated Thayer Avenue to the West Lot Line, Block 4, Eastdale Addition (300 North 31st Street). The property is located along the east side of 31st Street North between Broadway and Rosser Avenues. (Lot 12 and part of the vacated Thayer Avenue right-of-way, Block 4, Eastdale Addition).

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

1. The proposed special use complies with all applicable provision of the zoning ordinance and is consistent with the general intent and purpose of this land development code.
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. The use would not cause a negative cumulative 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.

Mr. Tomanek also provided the following additional information:

1. The applicants have been working with the Building Official to satisfy all the requirements necessary to meet the guidelines set forth to establish and operate a day-care facility, in particular the appropriate accommodations have been met to allow for adequate outdoor play space for the children.
2. Section 14-03-08(4)(r) of the City Code of Ordinances outlines the requirements for a day care center. A copy of this section of the City Code is attached.

Mr. Tomanek said that based on the above findings, staff recommends approval of the Special Use Permit to allow the operation of a day care facility on Lot 12 and part of the vacated Thayer Avenue right-of-way, Block 4, Eastdale Addition.

Commissioner Wangler asked what adequate measures have been taken to minimize the traffic congestion in the public streets and provide for appropriate on-site circulation of traffic. Mr. Tomanek responded by saying the necessary off street parking requirements have been met, the traffic flow through the site will be self contained and will not have a negative impact on ingress and egress in the neighborhood.

Chairman Yeager asked if Mr. Ziegler has reviewed the proposed site plan. Mr. Tomanek answered by saying that Mr. Ziegler did review the site plan in conjunction with the special use permit application and worked very closely with the applicants on a number of issues to satisfy parking requirements, outdoor play area requirements, building code and fire code policies.

Commissioner Bullinger inquired if the play space located in the front of the space is required to be fenced. Mr. Tomanek responded by saying yes, it is a state requirement that the area must be fenced.

Chairman Yeager opened the public hearing for the Eastdale Addition special use permit.

Connie Herman said she is one of the owners of Stepping Stones Children's Academy and the fence in question has already been installed.

Commissioner Hegedus asked how the fenced play area will be accessed. Ms. Herman said the front door is located within the fenced area.

Chairman Yeager closed the public hearing for Eastdale Addition special use permit.

MOTION: Based on the findings contained in the staff report, Commissioner Conmy made a motion to approve the special use permit for a daycare facility on Lot 12 and East 10 feet of Vacated Thayer Avenue to the West Lot Line, Block 4, Eastdale Addition (300 North 31st Street). Commissioner Wangler seconded the motion and it was unanimously approved with Commissioners Bullinger, Conmy, Hegedus, Juhala, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR LOT 1, BLOCK 3, FOX ISLAND SECOND SUBDIVISION

Chairman Yeager called for the public hearing for special use permit to move a house previously occupied at another location to Lot 1, Block 3, Fox Island Second Subdivision (3475 Gallatin Loop). The property is located on the south side of Gallatin Loop and the west of Fontenelle Drive.

Mr. Greenquist distributed written comments received on this request.

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

1. The house proposed for relocation has been inspected by the Bismarck Building Inspection Division. The occupancy permit will be issued when the items on the attached letter are completed.
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. Adequate public facilities and services are in place.

5. The house to be moved and proposed use of the property will be compatible with adjacent land uses and existing zoning.
6. The proposed special use complies with all applicable provision of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
7. The request is compatible with adopted plans, policies and accepted planning practice.

Mr. Greenquist also provided the following additional information:

1. The placement of a moved house is allowed as a special use in the RR zoning district, provided specific conditions are met. The proposed moved house meets all five provisions outlined in Section 14-03-08(4)(s) of the City Code of Ordinances (Zoning). A copy of this section of the City Code is attached.
2. The house is being moved less than ¼-mile from its current location in the same neighborhood.
3. The house is being moved off this lot to allow the applicants to build a new house there. They would live in the moved house, down the street, until the new house is finished.
4. Although the City does not enforce covenants, some questions have been raised by neighbors on whether the covenants allow only new construction in this subdivision and whether the covenants would allow a house to be moved in. There is also a question on whether the covenants have expired.

Mr. Greenquist said that based on the above findings staff recommends approval of the Special Use Permit to allow a move of a house previously occupied at another location to Lot 1, Block 3, Fox Island Second Subdivision (3475 Gallatin Loop).

Chairman Yeager opened the public hearing for the Fox Island Second Subdivision special use permit.

Don Weisz said that he owns the lot next to where the house is proposed to move to. Mr. Weisz stated that when he purchase the lots he received a copy of the covenants for the subdivision and Item No. 7 of the covenants states that only new construction is allowed on the lots. Mr. Weisz concluded by saying if this special use permit is approved, there could be a precedent set that cannot reversed and he is against this house move.

Mr. Whitman stated that covenants are an agreement among property owners of a common subdivision. As such the City does not have any ability or authority to enforce covenants because the City is not party to that agreement, nor does the City have any authority in the North Dakota Century Code that allows the City to interpret them. Mr. Whitman said that covenants are a judicial matter and for any persons within the subdivision that feel the covenants may be violated, the matter would have to be taken to District Court to be settled.

Ann Andre said that this house move was brought up two years ago by Mr. Boutrous and was shut down at that time because it was not allowed by the covenants and because there are a lot of property owners that do not agree with the move of this house. Ms. Andre went on to say that it is unfortunate that Mr. Boutrous cannot do what he would like to do because of the way the covenants are written, but there are things she would like to do but is not allowed to because of the covenants. Ms. Andre commented that the people that live there bought into this subdivision because of the covenants and there are people that this would directly affect that never got the letter that this meeting was being held. Ms. Andre added that if something like this is going to be done, then everyone in the area should be notified and people are shocked because they thought this was taken care of two years ago. Ms. Andre asked why Mr. Boutrous can't move his house into the proposed Whispering Bay development since he is involved in the development. Ms. Andre said she is confused where the protection comes in as a property owner and if this is approved are there any covenants in town that are protected.

Commissioner Wangler said the issue for the City Planning & Zoning Commission is that they do not have the authority to enforce covenants. Commissioner Wangler added that the City Planning & Zoning Commission does understand the issues brought before them, however, it does not have any bearing on the decision that needs to be made and issues with covenants will have to be addressed with district court.

Ms. Andre inquired if anyone can come to the City Planning & Zoning Commission with anything. Commissioner Wangler responded by saying if the application meets the City's zoning requirements and building codes, it is a yes or no decision. Ms. Andre asked why there are covenants then. Commissioner Wangler answered by saying covenants are between the landowners within the subdivision and has nothing to do with the City Planning & Zoning Commission.

Dwayne Walker said he owns property in Fox Island Second Subdivision and is opposed to having anything moved into the subdivision, adding he was under the impression that only new homes would be built on these lots because it is a unique area.

Wade Mann said he is appearing on behalf of Brian and Karen Bjella, who are currently out of the country, however, they did want to appear at the public hearing to voice their opposition of the proposed special use permit. Mr. Mann stated that he appreciates the City Attorney's and the City Planning & Zoning Commission's stance on the covenants, understands the argument, however, disagrees with it, because he said the City Planning & Zoning Commission does have an impact on this decision because it does affect the zoning ordinance. Mr. Mann went on to say that a special use permit to move an existing structure does require that the structure is compatible with the surrounding neighborhood. The fact that there are covenants in place, that expressly prohibit exactly what Mr. Boutrous is trying to do, is strong evidence that demonstrates that it is not compatible. Mr. Mann continued by saying that nothing has changed from two years ago when this was first attempted and at a minimum this request violates the zoning ordinance and the covenants and should be denied. Mr. Mann concluded by saying the request should be tabled to further discuss and this is the best thing to do at this time.

Randy Mathern said he owns three lots in the development and he opposes the house move because when he purchased the lots he understood that houses could not be moved into the subdivision because it would be against the covenants.

Greg Peterson said he currently owns the lot where the house would be moved to, lives in the area and owns two lots adjacent to the lots where the house would be moved to. Mr. Peterson added that he supports the special use permit because he does not think it is against the spirit of the covenants because the house already exists in the neighborhood and is being moved from one lot to another.

Attas Boutrous said he is the applicant for the special use permit and has met all the City requirements for the house move. Mr. Boutrous stated that he thinks there is not a covenants issue within the Fox Island development because the covenants are expired. Mr. Boutrous went on to say the house is currently in the neighborhood, it fulfills all the covenants, and he merely wants to move it down the road. Mr. Boutrous continued by saying he started this process two years ago and decided to drop the project for other reasons and now he would like to build a larger house for his family on the lot where the house is currently located. Mr. Boutrous stated that he would not be investing money into building a new house and wanting to move his current house if he thought it would hurt the development. Mr. Boutrous said when the project started two years ago only two landowners opposed the house move does not think it has changed that much.

Commissioner Conmy asked if Mr. Boutrous will be building a house on the lot where the house is being moved from. Mr. Boutrous said the plan is to move the house to the new location and live in it while a new house is being built on his lot.

Commissioner Juhala asked Mr. Boutrous to address the current status of the covenants. Mr. Boutrous responded by saying the covenants expired in July 2009.

Commissioner Bullinger asked the approximate age of the structure he would like to move. Mr. Boutrous said it is approximately seven to eight years old and is a very nice home, however is too small for his family.

Keith Larson said he is the developer and would like to answer any questions that the City Planning & Zoning Commission may have and that the covenants are current and have been extended for ten years. Mr. Larson continued by saying two years ago he approached the residents of Fox Island regarding the house move and at that time there were four landowners who opposed the house move even though it was to a different lot, but still within the development.

Commissioner Hegedus asked when the covenants were extended. Mr. Larson responded by saying they were extended in early September 2009.

Commissioner Bullinger asked Mr. Larson, as a developer, if his recollection of when the house was built is the same as Mr. Boutrous. Mr. Larson said it might have been a few years earlier.

Chairman Yeager closed the public hearing for the Fox Island Second Subdivision special use permit.

Commissioner Bullinger asked staff what the notification process is for this type of application. Mr. Greenquist said that letters were sent to property owners located within 1320 feet of the proposed house move, however, the only the property owners located within 350 feet must be notified.

MOTION: Based on the findings contained in the staff report, Commissioner Hegedus made a motion to approve the special use permit to move a house previously occupied at another location to Lot 1, Block 3, Fox Island Second Subdivision. Commissioner Wangler seconded the motion with Commissioners Bullinger, Conmy, Hegedus, Juhala, Wangler and Yeager voting in favor of the motion and Commissioner Spier voting against. Commissioner Waldoch abstained from voting. The motion passed 6-1.

PUBLIC HEARING – SPECIAL USE PERMIT FOR PART OF THE NW¼ OF SECTION 35, T139N-R79W/GIBBS TOWNSHIP

Chairman Yeager called for the public hearing for special use permit to move a house previously occupied at another location to part of NW¼ of Section 35, T139N-R79W/Gibbs Township (1500 NE 112th Street). The property is located on the west side of 112th Street NE, north of County Highway 10.

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

1. The house proposed for relocation has been inspected by the Bismarck Building Inspection Division. The occupancy permit will be issued when the items on the attached letter are completed.
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. Adequate public facilities and services are in place.
5. The house to be moved and proposed use of the property will be compatible with adjacent land uses and existing zoning.
6. The proposed special use complies with all applicable provision of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
7. The request is compatible with adopted plans, policies and accepted planning practice.

Mr. Greenquist also provided the following additional information:

1. The placement of a moved house is allowed as a special use in the RR zoning district, provided specific conditions are met. The proposed moved house meets all five provisions outlined in Section 14-03-08(4)(s) of the City Code of Ordinances (Zoning). A copy of this section of the City Code is attached.
2. Although this property is less than 40-acres and is unplatted, the house proposed to be moved to the property will replace an existing house. The applicant has indicated two existing houses will actually be removed. Platting is not required when an existing house is being replaced.

Mr. Greenquist said that based on the above findings, staff recommends approval of the Special Use Permit to move a house previously occupied at another location onto part of the NW¼ of Section 35, T139N-R79W/Gibbs Township (property located at 1500 112th Street NE).

Chairman Yeager opened the public hearing for the Gibbs Township special use permit.

No public comment was received.

Chairman Yeager closed the public hearing for Gibbs Township special use permit.

MOTION: Based on the findings contained in the staff report, Commissioner Wangler made a motion to approve the special use permit to move a house previously occupied at another location onto part of NW¼ of Section 35, T139N-R79W/Gibbs Township (1500 NE 112th Street). Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Bullinger, Conmy, Hegedus, Juhala, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

OTHER BUSINESS

GOLFVIEW ESTATES

Ms. Lee stated at the August 26, 2009 City Planning & Zoning Commission meeting, the public hearing for Golfview Estates was held. Ms. Lee went on to say that there was discussion with Apple Creek Township where they indicated that the Township is opposed to the proposed subdivision and zoning change. Ms. Lee continued by saying that the motion was made because of the desire of the Township to move it forward and there was some confusion because Mr. Zent voted against the motion. Ms. Lee said that when the item reached the Board of City Commissioners they decided that since there was confusion, they voted to send the item back to the City Planning & Zoning Commission for further discussion and clarification. Ms. Lee commented that it is her understanding that the Township met with the applicant and the applicant's consulting engineer to discuss ways to modify the plat that the Township could support.

Mr. Zent stated that there have been good meetings with the landowners, the developers and the consulting engineer, however, an agreement has not been reached yet that will satisfy everyone's needs. Mr. Zent continued by saying that some of the issues have been resolved regarding the lot size and the approaches, but the Township is still discussing the proposed subdivision.

Mr. Jorgensen said there have been some good meetings with Apple Creek Township and they are in a position where the acre and a half lot size does seem to be an adequate solution as this phase of development. Mr. Jorgensen went on to say one of the main concerns at the meetings were the approaches into the proposed subdivision from Apple Creek Road. These have been discussed with the County Engineer and the approaches do meet the minimum requirements, however, the Township feels the location of the approaches are not an option at this point and would like see different access points. Mr. Jorgensen stated that it was the general consensus of the Township to reduce the number of approaches from two to one to address the site distance issue. Mr. Jorgensen commented that the subdivision was revised to remove the westerly most access and one lot. Mr. Jorgensen continued by saying that there needs to be further discussion with City and County staff, the developers, and Apple Creek Township about the secondary access policy related to joint jurisdiction. Mr. Jorgensen concluded by saying he would like the opportunity to meet with the County Engineer to discuss the two access points from Apple Creek Road with the input of the Township and City staff, and bring it back to the October 28, 2009 City Planning & Zoning Commission meeting.

Commissioner Bullinger asked if the revised plat will necessitate a change in the storm water management plan. Mr. Jorgensen responded by saying the storm water management plan will have to be revised.

Commissioner Wangler asked if the lots sizes have changed. Mr. Jorgensen answered by saying no, the lot size is based on an acre and a half but there are several lots that are two and a half acres.

Commissioner Wangler asked if the lot sizes are still a source of contention with Apple Creek Township because they wanted five acre lots. Mr. Zent said no, not as long as it is still under the jurisdiction of the City, the Township does not oppose the lot sizes. Mr. Zent concluded by saying if Apple Creek Township does acquire jurisdiction, then those items would have to be voted on.

Commissioner Hegedus asked if Apple Creek Township has any subdivisions that are less than five acres lots. Mr. Zent said there are, but the City approved those.

MOTION: Commissioner Hegedus made a motion to refer the plat back to the consulting engineer for revisions and public hearing and brought back to the City Planning & Zoning Commission for a public hearing. Commissioner Juhala seconded the motion and with Commissioners Armstrong, Conmy, Hegedus, Juhala, Spier, Waldoch, Wangler, Yeager and Zent voting in favor of the motion and Commissioner Bullinger voting against. The motion passed 9-1.

ERICKSON SUBDIVISION

Ms. Lee said that at the August 26, 2009 City Planning & Zoning Commission meeting the motion to approve the final plat for Erickson Subdivision included a condition that a private drive sign needed to be installed. Ms. Lee went on to say that County Engineer wants to develop a standard for private drive signs before installing this sign on the pole. Ms. Lee concluded by saying that the standards for private drive signs will be prepared and the Board of City Commissioners did approve the final plat for Erickson Subdivision on September 22, 2009.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:31 p.m. to meet again on October 28, 2009.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman

**Major Permit Activity
September 2009**

Non-deeded Owner: Mid Dakota Clinic
Address: 401 North 9th Street
Cost: \$1,332,235.00
Description: Interior alteration

Non-deeded Owner: Modern Family Dentistry
Address: 714 South 2nd Street
Cost: \$702,190.00
Description: Interior remodel of the main level and 2nd floor to convert office building into dental office

Non-deeded Owner: Church of the Cross
Address: 1004 East Highland Acre Road
Cost: \$583,300.00
Description: Addition to and interior remodel of sanctuary

Non-deeded Owner: Michael Baumgarnter Construction
Address: 1418 Industrial Drive
Cost: \$585,000.00
Description: Single story building to be used as shop condos

Non-deeded Owner: Interstate Tesoro
Address: 1304 Interchange Avenue
Cost: \$360,000.00
Description: Single story addition to existing building

Non-deeded Owner: St. Alexius Medical Center
Address: 1120 East Main Avenue
Cost: \$361,049.00
Description: Main level alteration to include demo walls, ceiling and floor to construction new work space

DATE SELECTION 9/2009

Permit Type	***** City *****				***** ETA *****				***** County *****			
	9/2009 Permits	Valuation	9/2008 Permits	Valuation	9/2009 Permits	Valuation	9/2008 Permits	Valuation	9/2009 Permits	Valuation	9/2008 Permits	Valuation
SINGLE FAMILY DETACHED	22	3,547,318.00	21	3,530,010.00	8	1,115,684.00	12	2,514,999.00	3	449,488.00	3	599,555.00
SINGLE FAMILY ATTACHED	0	.00	28	4,020,007.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	0	.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	0	.00	2	3,855,133.00	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	0	.00	1	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	6	.00	1	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	1	.00	0	.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	0	.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	1	565,000.00	2	1,100,408.00	1	345,323.00	0	.00	0	.00	0	.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	1	18,683,719.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	0	.00	1	1,106,008.00	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)	0	.00	1	2,145,700.00	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	1	2,640.00	4	506,788.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	1	18,420.00	0	.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	4	74,094.00	4	55,747.00	1	44,576.00	2	182,532.00	0	.00	0	.00
RESIDENTIAL GARAGES	11	111,200.00	12	130,664.00	10	161,000.00	14	336,880.00	1	46,080.00	1	96,000.00
PATIOS AND COVERS	10	40,140.00	8	26,777.00	3	12,825.00	0	.00	1	18,000.00	0	.00
SWIMMING POOLS AND SPAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	13	34,130.00	10	55,645.00	2	1,200.00	2	4,600.00	0	.00	0	.00
HOME OCCUPATIONS	0	.00	1	40.00	0	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	13	18,150.00	13	29,688.00	1	2,688.00	0	.00	0	.00	0	.00
BASEMENT FINISH	8	35,479.00	9	55,075.00	3	15,037.00	3	16,804.00	0	.00	1	6,080.00
INDUSTRIAL BUILDINGS	0	.00	1	16,700.00	0	.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	3	648,900.00	4	108,911.00	1	33,000.00	0	.00	0	.00	0	.00

DATE SELECTION 9/2009

Permit Type	***** City *****		***** ETA *****		***** County *****			
	9/2009 Permits	Valuation	9/2008 Permits	Valuation	9/2009 Permits	Valuation	9/2008 Permits	Valuation
OFFICE & PROFESSIONAL BLD	7	2,578,040.00	5	2,949,985.00	0	.00	0	.00
OTHER	3	633,300.00	1	5,500.00	0	.00	0	.00
ALTER PUBLIC	0	.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	4	.00	0	.00	0	.00
OTHER	0	.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
MISC. TEMPORARY STRUCTURE	1	.00	5	.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	0	.00	0	.00	0	.00	0	.00
NEW SIGN PERMIT	6	32,836.00	10	87,470.00	0	.00	0	.00
SIGN ALTERATION	0	.00	0	.00	0	.00	0	.00
Permit Type Total	111	8,359,647.00	149	38,469,975.00	30	1,731,333.00	33	3,055,815.00
							5	513,568.00
							5	701,635.00

DATE SELECTION 9/2009

Permit Type	***** City *****		***** ETA *****		***** County *****	
	Permits 9/2009	Permits 9/2008	Permits 9/2009	Permits 9/2008	Permits 9/2009	Permits 9/2008
Plumbing	63	48	16	15	1	2
Electrical	112	74	0	0	0	0
Mechanical	109	102	27	24	2	2
Drain Field	0	0	19	14	1	0
Hood Suppression	0	0	0	0	0	0
SprinklerStandpipe	4	0	0	0	0	0
Alarm Detection	1	0	0	0	0	0
Total	289	224	62	53	4	4

DATE SELECTION 9/2009

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 9/2009	Units 9/2008	Units 9/2009	Units 9/2008	Units 9/2009	Units 9/2008
SINGLE FAMILY DETACHED	22	21	8	12	3	3
SINGLE FAMILY ATTACHED	0	28	0	0	0	0
FIVE & MORE FAMILY	0	60	0	0	0	0
MOBILE HOME WITHOUT EXTRA	2	0	0	0	0	0
MOBILE HOME WITH EXTRAS	1	0	0	0	0	0
HOSPITALS & INSTITUTIONAL	0	192	0	0	0	0
ROOM ADDITIONS	1	0	0	0	0	0
RESIDENTIAL GARAGES	2	0	1	2	0	0
PATIOS AND COVERS	1	1	0	0	0	0
OTHER	1	1	0	0	0	0
STORAGE SHEDS	4	1	0	0	0	0
BASEMENT FINISH	1	1	1	0	0	0
Total	35	305	10	14	3	3

PERMIT LOCATION	PERMIT NUMBER	PROPERTY ADDRESS	DATE SELECTION	OWNERS NAME CONTRACTOR	VALUATION
CITY OF BISMARCK	2009-0001183	401 N 9TH	09/2009	MID DAKOTA CLINIC	1,332,235.00
CITY OF BISMARCK	2009-0001189	714 S 2ND	ST	PROFESSIONAL CONTRACTORS INC MODERN FAMILY DENTISTRY	702,190.00
CITY OF BISMARCK	2009-0001203	1004 E HIGHLAND ACRE RD	ST	NORTHWEST CONTRACTING INC CHURCH OF THE CROSS	583,300.00
CITY OF BISMARCK	2009-0001207	1418 INDUSTRIAL	DR	GURHOLT CONSTRUCTION MICHAEL BAUMGARTNER CONSTRUCT	585,000.00
CITY OF BISMARCK	2009-0001232	1304 INTERCHANGE	AV	MICHAEL BAUMGARTNER CONSTRUCT INTERSTATE TESORO	360,000.00
CITY OF BISMARCK	2009-0001274	1120 E MAIN	AV	CAPITAL CITY CONSTRUCTION INC ST ALEXIUS MEDICAL CENTER	361,049.00
				SELF/OWNER ST ALEXIUS	

DATE SELECTION 9/2009

Permit Type	***** City *****		***** ETA *****		***** County *****							
	9/2009 Permits	Valuation	9/2008 Permits	9/2009 Valuation	9/2008 Permits	9/2009 Valuation						
SINGLE FAMILY DETACHED	124	21,584,034.00	155	26,917,558.00	58	10,678,518.00	90	20,020,147.00	8	1,447,128.00	11	2,561,593.00
SINGLE FAMILY ATTACHED	18	2,768,747.00	60	9,471,843.00	0	.00	2	372,825.00	0	.00	0	.00
TWO UNIT	0	.00	1	293,000.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	11	3,413,935.00	6	3,375,500.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	3	4,008,000.00	13	14,067,904.00	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	0	.00	1	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	23	.00	19	.00	0	.00	1	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	3	2,700.00	5	360.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	4	7,175.00	3	3,900.00	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	1	11,520.00	0	.00	0	.00
GROUP QUARTERS	2	327,693.00	1	134,715.00	0	.00	0	.00	0	.00	0	.00
STRUCTURE OTHER THAN BLDG	3	14,571,030.00	0	.00	0	.00	0	.00	0	.00	0	.00
AMUSEMENT & RECREATION	1	2,896,625.00	0	.00	0	.00	0	.00	0	.00	0	.00
CHURCHES AND RELIGIOUS	0	.00	1	1,500.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	7	1,695,300.00	11	8,432,868.00	14	2,034,900.00	2	224,010.00	1	210,867.00	1	334,731.00
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	2	18,648,860.00	1	18,683,719.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	0	.00	5	3,137,994.00	0	.00	0	.00	0	.00	0	.00
SCHOOLS AND EDUCATIONAL	2	10,323,743.00	0	.00	1	44,075.00	0	.00	0	.00	0	.00
COMM (RETAIL SALES)	1	13,606.00	6	7,200,904.00	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	7	447,941.00	22	2,857,160.00	2	155,000.00	2	216,000.00	0	.00	0	.00
PUBLIC BUILDING	14	14,721,805.00	7	1,198,179.00	1	753,000.00	0	.00	1	22,786.00	0	.00
ROOM ADDITIONS	20	745,760.00	33	1,135,591.00	15	536,776.00	8	592,323.00	2	12,064.00	1	26,909.00
RESIDENTIAL GARAGES	68	986,343.00	77	675,618.00	76	1,360,498.00	90	1,655,400.00	9	177,600.00	9	521,408.00
PATIOS AND COVERS	106	572,827.00	121	399,833.00	17	65,710.00	31	182,344.00	2	18,960.00	1	3,600.00
SWIMMING POOLS AND SPAS	0	.00	2	43,720.00	0	.00	0	.00	0	.00	0	.00
OTHER	147	1,015,015.00	149	1,031,692.00	15	323,694.00	34	563,780.00	1	1,000.00	0	.00
HOME OCCUPATIONS	2	.00	4	40.00	2	.00	1	40.00	0	.00	0	.00
STORAGE SHEDS	68	125,353.00	83	159,299.00	5	10,063.00	11	25,830.00	0	.00	1	56,000.00
BASEMENT FINISH	110	588,968.00	126	611,668.00	49	303,449.00	54	281,293.00	1	4,940.00	5	28,409.00
INDUSTRIAL BUILDINGS	13	760,455.00	19	2,970,062.00	0	.00	3	351,330.00	0	.00	0	.00
COMMERCIAL BUILDINGS	30	2,368,423.00	24	3,191,467.00	2	336,000.00	0	.00	0	.00	0	.00

DATE SELECTION 9/2009

Permit Type	***** City *****		***** ETA *****		***** County *****							
	9/2009	9/2008	9/2009	9/2008	9/2009	9/2008						
	Permits	Valuation	Permits	Valuation	Permits	Valuation						
OFFICE & PROFESSIONAL BLD	56	8,405,976.00	54	12,949,131.00	1	625,402.00	0	.00	0	.00	0	.00
OTHER	15	2,929,293.00	10	962,073.00	0	.00	0	.00	0	.00	0	.00
ALTER PUBLIC	7	363,886.00	10	1,851,570.00	0	.00	0	.00	0	.00	0	.00
APTS TO CONDO	0	.00	1	36,600.00	0	.00	0	.00	0	.00	0	.00
TO/FROM RESIDENTIAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
RESIDENTIAL	9	.00	13	.00	0	.00	3	.00	0	.00	0	.00
OTHER	8	.00	3	.00	1	.00	0	.00	0	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
FIREWORKS SALES	1	.00	1	.00	9	.00	7	.00	0	.00	0	.00
NURSERY STOCK SALES	3	.00	4	.00	0	.00	0	.00	0	.00	0	.00
MISC. TEMPORARY STRUCTURE	15	.00	13	.00	3	.00	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	5	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOVE INTO PERMIT LOCATION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOVE WITHIN PMT LOCATION	2	.00	1	.00	0	.00	0	.00	0	.00	0	.00
NEW SIGN PERMIT	44	651,154.00	51	624,054.00	0	.00	0	.00	0	.00	0	.00
SIGN ALTERATION	5	110,885.00	2	3,070.00	0	.00	0	.00	0	.00	0	.00
	959	115,055,532.00	1118	122,422,592.00	271	17,227,085.00	340	24,496,842.00	25	1,895,345.00	29	3,532,650.00

DATE SELECTION 9/2009

Permit Type	***** City *****		***** ETA *****		***** County *****	
	9/2009 Permits	9/2008 Permits	9/2009 Permits	9/2008 Permits	9/2009 Permits	9/2008 Permits
Plumbing	335	388	77	130	8	14
Electrical	738	838	0	0	0	0
Mechanical	708	762	149	216	10	16
Drain Field	0	0	19	14	1	0
Hood Suppression	0	0	0	0	0	0
SprinklerStandpipe	4	0	0	0	0	0
Alarm Detection	1	0	0	0	0	0
Total	1818	1988	286	447	26	43

DATE SELECTION 9/2009

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 9/2009	Units 9/2008	Units 9/2009	Units 9/2008	Units 9/2009	Units 9/2008
SINGLE FAMILY DETACHED	124	155	56	90	8	11
SINGLE FAMILY ATTACHED	18	60	0	2	0	0
TWO UNIT	0	2	0	0	0	0
THREE & FOUR FAMILY	26	24	0	0	0	0
FIVE & MORE FAMILY	80	217	0	0	0	0
MOBILE HOME WITHOUT EXTRA	3	7	0	0	0	0
MOBILE HOME WITH EXTRAS	1	2	0	0	0	0
MOBILE HOME MISCELLANEOUS	1	0	0	0	0	0
GROUP QUARTERS	4	0	0	0	0	0
HOSPITALS & INSTITUTIONAL	294	192	0	0	0	0
ROOM ADDITIONS	6	9	3	2	0	1
RESIDENTIAL GARAGES	10	2	3	2	1	0
PATIOS AND COVERS	22	19	2	3	0	0
OTHER	18	36	1	6	1	0
HOME OCCUPATIONS	1	0	0	0	0	0
STORAGE SHEDS	10	3	0	0	0	0
BASEMENT FINISH	11	38	3	17	0	0
COMMERCIAL BUILDINGS	1	0	23	0	0	0
ALTER PUBLIC	7	0	0	0	0	0
RESIDENTIAL	1	5	0	1	0	0
FIREWORKS SALES	0	0	1	0	0	0
Total	638	771	92	123	10	12