

**BISMARCK PLANNING & ZONING COMMISSION**  
**MEETING MINUTES**  
**June 23, 2014**

The Bismarck Planning & Zoning Commission met on June 23, 2014 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Mike Donahue, Vernon Laning, Doug Lee, Mike Schwartz, Mike Seminary, Lisa Waldoch and Wayne Yeager.

Commissioner absent was Ken Selzler.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Jason Tomanek – Planner, Jenny Wollmuth – Planner, Hilary Balzum – Community Development Office Assistant, Charlie Whitman – City Attorney and Jason Hammes – Assistant City Attorney.

**INTRODUCTION OF NEW COMMISSIONER**

Chairman Yeager introduced and welcomed the new Planning and Zoning Commissioner, Mayor Mike Seminary. Commissioner Seminary said he is looking forward to his term and getting things done.

**MINUTES**

Chairman Yeager called for consideration of the minutes of the May 28, 2014 meeting.

**MOTION:** Commissioner Armstrong made a motion to approve the minutes of the May 28, 2014 meeting as received. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**CONSIDERATION**

- A. NORTH 180 FEET OF LOT 1, BLOCK 1, KILBER NORTH ADDITION – ZONING CHANGE (RM30 to RT)**
- B. LOTS 1-3, BLOCK 3, EDGEWOOD VILLAGE 7<sup>TH</sup> ADDITION – ZONING CHANGE (RM30 & P to PUD)**

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

- A. North 180 feet of Lot 1, Block 1, Kilber North Addition – Zoning Change
- B. Lots 1-3, Block 3, Edgewood Village 7<sup>th</sup> Addition – Zoning Change

Mr. Tomanek said he would like to discuss staff's concerns relating to the zoning change from the RM30-Residential zoning district to the PUD-Planned Unit Development zoning district on Lots 1-3, Block 3, Edgewood Village 7<sup>th</sup> Addition for discussion.

**MOTION:** Commissioner Lee made a motion to approve consent agenda item A, calling for a public hearing on the item as recommended by staff. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

Mr. Tomanek then went on to explain that staff has concerns on the zoning change proposals for Edgewood Village 7<sup>th</sup> Addition as submitted by the applicant and that Dave Pankow, IRET, would like to elaborate on them.

Mr. Pankow said there are six items of issue at this time and they are all resolvable.

Commissioner Laning asked if the underground garage will be two levels deep. Mr. Pankow said that it will be and that is to limit space needed for parking so that more green space can be added. He also said the elevations in that area are steep and less dirt would have to be moved with the underground parking.

**MOTION:** Commissioner Lee made a motion to approve consent agenda item B, calling for a public hearing on the item as recommended by staff. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

#### **CONTINUED PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – UNIVERSITY OF MARY SUBDIVISION**

Chairman Yeager called for the continued public hearing for the final plat and the zoning change from the A-Agriculture and RR-Residential zoning districts to the P-Public zoning district for University of Mary Subdivision. The property is located along the west side of ND Highway 1804 approximately two miles south of 48<sup>th</sup> Avenue SE (Government Lots 14, 15 & 16 of the SE 1/4 of Section 34, a replat of parts of Lots 4-7, Block 1, Rockstad Subdivision of the NW 1/4, and part of the SW 1/4 of Section 35, T138N-R80W/Lincoln Township; and part of Government Lot 1 of the NE 1/4 of Section 3, and part of Government Lot 4 and part of the NW 1/4 of Section 2, T137N-R80W/ Fort Rice Township).

Ms. Lee provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies this area as a civic or public facility.

2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a combination of agricultural uses and rural residential to the north, east and south and to the west across Apple Creek. A 300-foot landscape buffer yard is being provided along the northern edge of the proposed plat to provide a visual and distance buffer between the campus and existing rural residential properties.
3. The property is already developed as a college campus and is served by municipal water via a contract with the City, a private on-site wastewater treatment system and has direct access to ND Highway 1804; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

1. The preliminary plat received tentative approval on February 27, 2013, with the understanding that the issues relating to the lot layout and the section lines are resolved prior to the submittal of the final plat. The size of the plat has been reduced since that time, with the area south of the main roadway through the campus being removed from the plat.
2. All technical requirements for approval of a final plat have been met.
3. The storm water management plan has been approved by the City Engineer, with written concurrence from the County Engineer.
4. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for the area, which identifies ND Highway 1804 as an arterial roadway.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include a combination of agricultural uses and rural residential to the north, east and south and to the west across Apple Creek.
6. The property is already developed as a college campus and is served by municipal water via a contract with the City, a private on-site wastewater treatment system and has direct access to ND Highway 1804; therefore, the proposed plat would not place an undue burden on public services and facilities.
7. The proposed subdivision would not adversely affect property in the vicinity.

8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on these findings, staff recommends approval of the zoning change from the A-Agriculture and RR-Residential zoning districts to the P-Public zoning district and final plat of University of Mary Subdivision, with the understanding that a landscape plan for the 300-foot landscape easement will be submitted for City review and approval prior to any additional building permits being issued for the property for new buildings or structures, and that all of the lots be administratively combined as one parcel by the County Auditor's Office when the plat is recorded to eliminate property lines from bisecting existing buildings.

Commissioner Schwartz asked Ms. Lee to explain where the western edges of the property are at on the topographical map. Ms. Lee said the western edge runs along the Apple Creek and then comes back up the hill on the north and south. She said three parcels on the south end of the plat were removed due to access issues and a previous agreement made with the Benedictine Sisters.

Commissioner Seminary asked if the large slope on the west side of the property is an issue. Ms. Lee said it could potentially be developed but it is not very feasible.

Commissioner Armstrong asked if the P-Public zoning district is less restrictive than the RR-Residential zoning district. Ms. Lee explained that there would not be an issue with zoning all of it RR-Residential, but staff recommends it stay consistent with other universities and colleges.

Commissioner Lee asked if any other educational uses in Bismarck are zoned something other than P-Public.

Ms. Lee said Shiloh Christian School is zoned RT-Residential and St. Mary's High School is part R5-Residential and part RT-Residential, but the P-Public zoning district is the standard.

Commissioner Seminary said he would like to see the P-Public zoning district used consistently as it relates to the new Growth Management Plan.

Chairman Yeager opened the public hearing.

Darlene Hyder, 6700 University Drive, said she lives downhill from the University and she has expressed her concerns in the past. She said she was told the area would remain peaceful and free of apartments and that if this expansion is absolutely necessary, she is willing to negotiate with the university staff. She said she can see the apartment building and all of its lights from her front yard and she would like to maintain tranquility, but she feels she has been misled.

Mark Swenson, 6550 University Drive, said he agrees with Ms. Hyder and then submitted his comments as Exhibit A and read them to the Commissioners. He said his concerns are of the property being rezoned as P-Public when the University is a private entity as well as access issues making the property landlocked and a lack of landscaping.

Harley Swenson, 8301 Highway 1804 SE, said his problems are difficult to express as he has spent a lot of time supporting and working for the University for many years. He said bad decisions made by the Commission will haunt them and the P-Public zoning district does not belong in a residential setting. He said all projects need and deserve public input and influence, but the University would be given too much power as a private entity with P-Public zoning. He said P-Public zoning for private use is a bad idea and the Commission should not deviate from its policies or it will be an issue in the future. He then addressed access to his son's property. He stated two wrongs do not make a right and that good planning should not leave valuable property landlocked. He then said this could also be a safety issue in the event of a campus lockdown or another emergency and that he is out of suggestions and does not know where to go from here.

Tom Baier, University of Mary, said as a University they are trying to do the right thing. He said the City asked them to plat the property and request the zoning change and they did. He said Ms. Lee's findings are good and that the access to the property will not change as it was already in place with the previous plats of Rockstad Subdivision and Creekview Heights. He said the University of Mary Subdivision plat will not affect those previous plats and that he supports and agrees with staff on their recommendation.

There being no further comments, Chairman Yeager closed the public hearing.

Commissioner Seminary said he understands how developers have challenges with access sometimes and asked if there are issues with this plat similar to other recent access issues in the City.

Ms. Lee said most access issues in the past would have completely prohibited development of an adjacent tract and this plat does not cut off access to Mr. Swenson. She said there are grade differences in this plat from north to south, but access to the south portion of Mr. Swenson's lot from the south has never been in place and this will not change; it is a private matter between the adjacent owners.

Commissioner Schwartz said he does not feel there is much of a difference between the P-Public zoning district and the RR-Residential zoning district in this case. Ms. Lee said universities and ancillary uses are allowable in both districts, but because of the desired uses the P-Public zoning district is more appropriate in this case.

Commissioner Armstrong said if the University wanted to, they could build an amphitheater on the property because it is an allowed use per the zoning ordinance. Ms. Lee said the hope would be that the University would consider the impact an amphitheater would have, but that it is an allowable use as an ancillary use to the education use.

Commissioner Lee said the focus needs to be on consistent zoning and the City does not need to get in the middle of private issues.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the zoning change from the A-Agriculture and RR-Residential zoning district to the P-Public zoning district and final plat of University of Mary Subdivision, with the understanding that a landscape plan for the 300-foot landscape easement will be submitted for City review and approval prior to any additional building permits being issued for the property for new buildings or structures, and that all of the lots be administratively combined as one parcel by the County Auditor's Office when the plat is recorded to eliminate property lines from bisecting existing buildings. Commissioner Laning seconded the motion and it was approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion. Commissioner Armstrong opposed the motion.

#### **PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – INLAND ADDITION**

Chairman Yeager called for the public hearing on the final plat and the zoning change from the RM30-Residential zoning district to the RT-Residential zoning district for Inland Addition. The proposed plat is two lots in one block on 2.14 acres and is located in south Bismarck along the south side of Riverwood Drive west of South Washington Street (part of the NE $\frac{1}{4}$  of Section 8, T138N-R80W/Lincoln Township).

Mr. Tomanek provided an overview of the requests, including the following findings for the zoning change:

1. The proposed subdivision is outside the boundaries of the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan.
2. The proposed subdivision would generally be compatible with adjacent land uses. Adjacent land uses include multi-family residential to the south and west, West Bismarck Expressway to the north and a single-family dwelling to the east. A landscape buffer yard would be required along the east property line, adjacent to the single-family land, when Lot 2 is developed.
3. The property is already annexed; therefore the proposed subdivision would not place an undue burden on public services.
4. The proposed zoning change would not have an adverse impact on property in the vicinity.
5. The proposed zoning is consistent with the general intent and purpose of the zoning ordinance.

6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

1. All technical requirements for consideration of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision is outside the boundaries of the Fringe Area Road Master Plan.
4. The proposed subdivision would generally be compatible with adjacent land uses. Adjacent land uses include multi-family residential to the south and west, West Bismarck Expressway to the north and a single-family dwelling to the east. A landscape buffer yard would be required along the east property line, adjacent to the single-family land, when the property is developed.
5. The property is already annexed; therefore the proposed subdivision would not place an undue burden on public services.
6. The proposed subdivision would not have an adverse impact on property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.

Mr. Tomanek said based on these findings, staff recommends approval of the zoning change from the RM30-Residential zoning district to the RT-Residential zoning district and final plat of Inland Addition.

Commissioner Donahue said his only suggestion is that when access onto Riverwood Drive is decided, it should be as far west as it can be because of the sharp curve in that location.

Mr. Tomanek said he is confident the City's Traffic Engineer will keep that in mind and place the driveway appropriately.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve the zoning change from the RM30-Residential zoning district to the RT-Residential zoning district and the final plat for Inland Addition. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

## **PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – FERNWOOD SECOND SUBDIVISION**

Chairman Yeager called for the public hearing on the final plat and the zoning change from the A-Agriculture zoning district to the RR-Residential zoning district for Fernwood Second Subdivision. The proposed plat is three lots in one block on 8.51 acres and is located northwest of Bismarck, along the west side of Fernwood Drive and the south side of Burnt Creek Loop (part of the NE 1/4 of Section 14, T139N-R80W/ Hay Creek Township).

Ms. Wollmuth provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies the future use of this area as rural residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to the east, rural residential and agriculture to the south, agriculture to the west and north, and rural residential and a partially developed PUD-Planned Unit Development zoned property (Misty Waters) to the northwest.
3. The subdivision proposed for this property would be served by South Central Regional Water District and would have direct access to Fernwood Drive; therefore the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth then presented the following findings on the final plat:

1. The preliminary plat was tentatively approved on April 23, 2014.
2. All technical requirements for consideration of a final plat have been met.
3. The stormwater management plan has been approved by the City Engineer, with written concurrence from the Burleigh County Engineer.
4. The proposed subdivision is generally consistent with the Fringe Area Road Master Plan for this area, which identifies both Fernwood Drive and Burnt Creek Loop as arterial roadways.

5. The proposed subdivision would be compatible with adjacent land uses; adjacent land uses include rural residential to the east, rural residential and agriculture to the south, agriculture to the west and north, and rural residential and a partially developed PUD-Planned Unit Development zoned property (Misty Waters) to the northwest.
6. The property would be served by South Central Regional Water District and would have direct access to Fernwood Drive; therefore the proposed subdivision would not place an undue burden on public services.
7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the zoning change from the A-Agriculture zoning district to the RR-Residential zoning district and the final plat for Fernwood Second Subdivision, with the following condition:

1. The three approved access points for the proposed subdivision be placed adjacent to the existing joint access points located to the east across Fernwood Drive in Fernwood Subdivision.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the zoning change from the A-Agriculture zoning district to the RR-Residential zoning district and the final plat for Fernwood Second Subdivision, with the condition that the three approved access points for the proposed subdivision be placed adjacent to the existing joint access points located to the east across Fernwood Drive in Fernwood Subdivision. Commissioner Waldoch seconded the motion and it was approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – FINAL PLAT –  
MIDWEST BUSINESS PARK ADDITION**

Chairman Yeager called for the public hearing on the final plat for Midwest Business Park Addition. The proposed plat is 15 lots in three blocks on 79.15 acres and is located in east Bismarck, along the south side of County Highway 10 and the west side of 52<sup>nd</sup> Street (Auditor's Lots 3, 4 & 5, Section 1, T138N-R80W/Lincoln Township).

Mr. Tomanek provided an overview of the request, including the following findings:

1. The preliminary plat was tentatively approved on May 28, 2014.
2. All technical requirements for consideration of a final plat have been met.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision conforms with the Fringe Area Road Master Plan for this area, which identifies 52nd Street and County Highway 10 as the arterial roadways.
5. The entire property is currently within City limits and services would be extended in conjunction with development.; therefore the proposed subdivision would not place an undue burden on public services.
6. The subdivision would be generally compatible with adjacent land uses. Adjacent land uses include the Missouri Valley Complex to the west; undeveloped, State-owned land to the north across County Highway 10 and rural residential to the east across 52nd Street SE. The proposed plat includes a 50-foot wide landscape buffer easement along the easternmost portions of Lots 4-5, Block 1; conditions on Lots 4-5, Block 1 and setbacks were put in place to discourage outdoor storage along 52nd Street. Additionally, there is an undeveloped, 25.33-acre parcel that is zoned RR – Residential adjacent to the south. The proposed subdivision includes a 50-foot wide landscape buffer easement along the entire southern boundary of Lots 1-3, Block 3.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on these findings, staff recommends approval of the final plat for Midwest Business Park Addition.

Chairman Yeager asked if any thought has been given to possibly aligning Tandem Drive and Meadowlark Lane. Mr. Tomanek said according to the City Traffic Engineer, for sight lines to be adequate and to avoid industrial traffic inadvertently crossing 52<sup>nd</sup> Street and ending up in a residential neighborhood, those roadways were intentionally planned to be offset from each other.

Chairman Yeager opened the public hearing.

Dwight Kinnischitzke, 101 Northeast 52<sup>nd</sup> Street, said he feels an amendment needs to be made to the plan that will keep the rights-of-way in alignment to avoid truck traffic not seeing vehicles coming and pulling out in front of them.

Donovan Voeller, 225 52<sup>nd</sup> Street NE, said he lives directly east of the proposed area and asked if it would be possible to move Tandem Drive further to the south to make it align with Meadowlark Lane. He then said he like the proposed landscape buffer that will separate the two incompatible zoning districts but he has concerns of it ending short of northern edge of the residential homes on one side, leaving those homes exposed. He said he would like it to be extended to the north as far as possible while maintaining the sight triangle and stormwater requirements. He said he would also like the landscape buffer to be installed at the same time the street is put in place to avoid confusion. He said he would also like it to include more conifers for better coverage and for plantings to be staggered to lessen the offensive nature of the industrial zoning. He then said he was told the City Forester, Jackson Bird, would agree with increasing the density of conifer trees in the buffer but would also encourage more shade trees to create a more solid buffer.

Jim Christianson, Northwest Development, said the zoning change is a non-issue and the extra buffer is not required but would be consistent with other industrial zoning districts. He then said the required planting would be done to required City standards.

There being no further comments, Chairman Yeager closed the public hearing.

Mr. Tomanek said Mr. Christianson and the applicant, Mr. Roswick, have been in contact with the County Highway Engineer regarding the ability to obtain an easement for the west half of Midwest Drive from Burleigh County. He said the easement will be provided to complete the 80 foot right-of-way to match the 40 feet shown on the plat in order to allow construction of the roadway. He then said Mr. Hokenstad and Mr. Bird can work with the developers on the diversity of the species included in the landscape buffer which help increase species diversity to help prevent total deforestation. He added that it is not a normal practice but it has been done that way in the past. He went on to explain that the current requirement would be for five shade trees, seven ornamental trees, ten large upright coniferous trees, ten small upright coniferous trees and twenty-four shrubs but that per the ordinance, flexibility is possible with modifications by the Department Head and the City Forester.

Commissioner Schwartz asked why Tandem Drive is required to be pushed all the way through the plat by the Traffic Engineer if there is already access from Midwest Drive.

Mr. Tomanek explained that secondary access is required because of the size of the plat but the developer can discuss it further with the Traffic Engineer.

Commissioner Laning asked if it is an option to extend the landscape buffer. Mr. Tomanek said the MA-Industrial zoning has been in place since 1976 and it was not part of the zoning ordinance at the time.

Commissioner Seminary asked if a condition can be put on the approval to include the landscape buffer being extended to the north and that it be in place prior to the lots being sold. Mr. Tomanek replied that the Planning and Zoning Commission can place any conditions desired on the recommendation forwarded to the Board of City Commissioners.

Commissioner Atkinson asked if 52<sup>nd</sup> Street needs to be upgraded as the lots are developed. Mr. Tomanek said there are plans to add a left turn lane to 52<sup>nd</sup> Street at the intersection with East Main Avenue but the buffer should not be affected by that. He added that the right of way is adequate enough to allow room for the buffer as well as drainage and traffic.

Commissioner Bulliner asked how the landscape buffer will survive without the developed lots and water access. Mr. Tomanek said it will be the responsibility of the owner to maintain the buffer and replace trees and shrubs as needed.

Commissioner Armstrong asked if signs could also be put in place to address truck access or having Tandem Drive be a one-way street.

Chairman Yeager said there has been issues in the past of it no longer being feasible for an owner to maintain a landscape buffer and asked what can be done in that situation. Mr. Tomanek said as long as it is cared for appropriately, all of the species should thrive and not need to be replaced or become too financially demanding.

**MOTION:** Based on the findings contained in the staff report, Commissioner Seminary made a motion to approve the final plat for Midwest Business Park Addition, with the conditions that the landscape buffer will be extended as far north as possible, completed prior to the sale of any lots; and that a discussion takes place between the developers and the City Traffic Engineer regarding the rights-of-way within the plat and the limitation of heavy truck traffic on 52<sup>nd</sup> Street. Commissioner Lee seconded the motion and it was approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT– KAMROSE CROSSING ADDITION**

Chairman Yeager called for the public hearing for a zoning change from the RM15-Residential zoning district to the PUD-Planned Unit Development zoning district and minor subdivision final plat for Kamrose Crossing Addition. The proposed plat is 78 lots in one block on 4.96 acres and is located in south Bismarck, in the northeast corner of the intersection of South Washington Street and Burleigh Avenue, along the west side of Rutland Drive.

Mr. Tomanek gave an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change is outside of the area covered by the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan.

2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing twin homes to the north and east, a storm water detention area to the west and undeveloped agricultural land to the south across Burleigh Avenue.
3. The property is annexed and services would be extended in conjunction with development; therefore, it would not place an undue burden on public services and facilities.
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 and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then gave the findings for the final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing twin homes to the north and east, a storm water detention area to the west and undeveloped agricultural land to the south across Burleigh Avenue.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on these findings, staff recommends approval of the zoning change from the RM15-Residential zoning district to the PUD-Planned Unit Development zoning district and minor subdivision final plat for Kamrose Crossing Addition.

Commissioner Armstrong asked if additional parking will be available if street parking is not available. Mr. Tomanek said there will be off-street parking throughout the property.

Commissioner Seminary said this proposal is an example of a form of land use that has become a function of economics and he is excited to see how it turns out.

Commissioner Schwartz asked who will be responsible for snow removal. Mr. Tomanek said a Home Owner's Association would have to be established and enforced as private streets are included in the proposal and they would have to obtain private contracts for snow removal and street maintenance.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the zoning change from the RM15-Residential zoning district to the PUD-Planned Unit Development zoning district and minor subdivision final plat for Kamrose Crossing Addition. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – HAY CREEK MEADOWS FIRST REPLAT**

Chairman Yeager called for the public hearing on the final plat for Hay Creek Meadows First Replat. The proposed plat is 11 lots in one block on 1.66 acres and is located in northeast Bismarck, along the north side of East Divide Avenue and east side of East Capitol Avenue (a replat of Lots 1-4, Block 4, Hay Creek Meadows Subdivision).

Ms. Wollmuth gave an overview of the request, including the following findings:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include existing single and two-family residential to the west across East Capitol Avenue and residential multi-family uses to the north and south across East Divide Avenue and undeveloped and un-annexed agriculture land to the east.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the minor subdivision final plat for Hay Creek Meadows First Replat.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the minor subdivision final plat of Hay Creek Meadows First Replat. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Lee, Schwartz, Seminary, Waldoch and Yeager votion in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT –  
BREMNER AVENUE ADDITION**

Chairman Yeager called for the public hearing on the final plat for Bremner Avenue Addition. The proposed plat is 10 lots in one block on 2.02 acres and is located in northwest Bismarck, along the south side of Bremner Avenue west of Coleman Street (a replat of Lots 6 and 7, Block 3, Hudson Street Addition and Lots 2-6, Block 16, Sonnet Heights Subdivision).

Ms. Wollmuth gave an overview of the request, including the following findings:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing two-family residential to the north and east, developing single and two-family residential to the west and an existing senior housing facility to the south.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the minor subdivision final plat for Bremner Avenue Addition.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the minor subdivision final plat of Bremner Avenue Addition. Commissioner Donahue seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Lee, Schwartz, Seminary, Waldoch and Yeager votion in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT –  
PART OF LOTS 3 AND 4, BLOCK 2, MEADOW VALLEY ADDITION**

Chairman Yeager called for the public hearing for a special use permit for a digital billboard to be located on part of Lots 3 and 4, Block 2, Meadow Valley Addition. The property is located in south Bismarck, directly south of Bismarck Expressway between South 3<sup>rd</sup> Street and 7<sup>th</sup> Street (413 E Bismarck Expressway).

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The proposed digital billboard meets the provisions outlined in Section 4-04-12(5). In particular, the digital billboard is oriented away from the residential property and the sign face or viewing surface of the digital billboard sign will not be visible from any of the residential property located within 300 feet of the sign.
2. The proposed special use is in harmony with the purpose and intent of the zoning ordinance and the master plan of the City of Bismarck.
3. The proposed special use would not adversely affect the public health, safety and general welfare.
4. The proposed special use would not be detrimental to the use or development of adjacent properties.
5. The proposed special use complies with the special regulations established by Section 14-03-08 of the City Code of Ordinances, and all special conditions necessary for the safety and welfare of the public.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit for a digital billboard to be located on part of Lots 3 and 4, Block 2, Meadow Valley Addition, with the following conditions:

1. Development of the site shall generally conform to the site plan submitted with the application, including the orientation of the sign faces.
2. If after construction, any portion of the digital billboard sign face is visible from the residential properties to the south, the digital billboard portion of the sign must be modified to comply with the ordinance requirement.

Commissioner Atkinson asked if neighbors would be able to voice their concerns on the billboard after it has been constructed relating to construction issues, inspections and modifications.

Commissioner Donahue asked if adjacent neighbors were notified and if anybody submitted any comments.

Ms. Wollmuth said neighbors can absolutely voice concerns on the construction of the billboard and that adjacent owners within 350 feet of the site were notified as always and the only comments that were receive are those that were distributed prior to the meeting. These comments are attached as Exhibit B.

Chairman Yeager opened the public hearing.

Mike Derby, Dakota Outdoor Advertising, distributed information on their business and explained that they have been focusing on the digital billboard network in western North Dakota recently. They want to make sure it is known that their billboards are part of the Amber Alert program and that they offer free ad space relating to public services. He said they originally wanted to make the billboard digital on two sides but they removed the east facing digital billboard because it would be visible to the neighbors. He said they invited the neighbors to a meeting where they discussed concerns and he feels all of their questions were answered, including concerns of noise. He said no noise will be emitted from the sign and will be constructed per pre-regulated engineered plans. He then said he has not seen of an instance where property values went down because of a nearby billboard. He then added that they would like to change their request to the billboard being a height of 50 feet instead of 40 so that it is visible over the U.S. Bank sign in the neighboring lot.

Ms. Wollmuth said an overall height of 50 feet is the limit per the zoning ordinance and that this should be specified in the motion.

There being no further comments, Chairman Yeager closed the public hearing.

**MOTION:** Commissioner Lee made a motion to approve the special use permit for a digital billboard to be located on part of Lots 3 and 4, Block 2, Meadow Valley Addition, with the conditions it does not exceed 50 feet in height, that development of the site shall generally conform to the site plan submitted with the application, including the orientation of the sign faces and that if after construction, any portion of the digital billboard sign face is visible from the

residential properties to the south, the digital billboard portion of the sign must be modified to comply with the ordinance requirement.

Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT –  
LOT 1, BLOCK 5, SUNRISE TOWN CENTRE ADDITION**

Chairman Yeager called for the public hearing for a special use permit for a gas station/motor vehicle fueling station and car wash/auto laundry to be located on Lot 1, Block 5, Sunrise Town Centre Addition. The property is located in northeast Bismarck, east of Centennial Road in the northwest quadrant of the intersection of Yorktown Drive and Saratoga Avenue.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The proposed special use would comply with all applicable provisions of the zoning ordinance.
2. The proposed special use permit 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, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
5. Not all public facilities and services are in place to serve this property. In particular, the eastern 40 feet of Yorktown Drive adjacent to the proposed special use along Lot 14, Block 4 Turnbow Industrial Park Subdivision has not been annexed and is not yet constructed. In order for the proposed special use to function as intended in the proposed site plan, the eastern 40 feet of Yorktown Drive must be annexed and roadway improvements must be under contract to be constructed.
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 to provide for appropriate on-site circulation of traffic; in particular, adequate vehicle stacking spaces would be provided in a manner that would not negatively impact traffic movements on Saratoga Avenue or Yorktown Drive.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit for a gas station/motor vehicle fueling station and car wash/auto laundry to be located on Lot 1, Block 5, Sunrise Town Centre Addition, with the following conditions:

1. Prior to approval of a site plan or building permit to construct the proposed special use, the eastern 40 feet of Yorktown Drive adjacent to the proposed special use permit (Lot 1, Block 5, Sunrise Town Centre Addition), must be annexed and roadway improvements must be under contract to be constructed by either a special assessment district or a three-way agreement with the developer, the roadway contractor and the City of Bismarck.
2. The site must generally conform to the site plan submitted with the application.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Commissioner Lee made a motion to approve the special use permit for a gas station/motor vehicle fueling station and car wash/auto laundry to be located on Lot 1, Block 5, Sunrise Town Centre Addition with the following conditions: 1) Prior to approval of a site plan or building permit to construct the proposed special use, the eastern 40 feet of Yorktown Drive adjacent to the proposed special use permit (Lot 1, Block 5, Sunrise Town Centre Addition), must be annexed and roadway improvements must be under contract to be constructed by either a special assessment district or a three-way agreement with the developer, the roadway contractor and the City of Bismarck; and 2) The site must generally conform to the site plan submitted with the application. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – RM & RT ZONING DISTRICTS – ROW HOUSES**

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to RM & RT Zoning Districts – Row Houses. Ms. Lee explained that the proposed amendment would clarify the requirements for row houses in the RM and RT zoning districts. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

**MOTION:** Commissioner Lee made a motion to approve the zoning ordinance text amendment relating to the RM & RT Zoning Districts – Row Houses as

recommended by staff. Commissioner Donahue seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

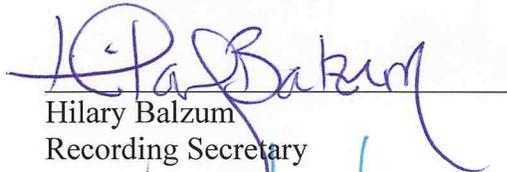
**OTHER BUSINESS**

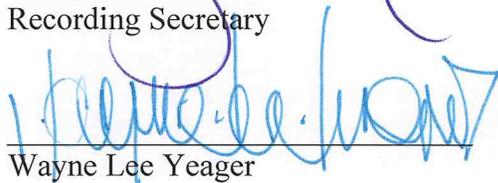
There was no other business to discuss at this time.

**ADJOURNMENT**

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:15 p.m. to meet again on July 23, 2014.

Respectfully submitted,

  
Hilary Balzum  
Recording Secretary

  
Wayne Lee Yeager  
Chairman

**Developer: University of Mary****ZONE CHANGE**

**Issue: We are strongly against the zone change that converts the existing Rockstad Subdivision which currently is zoned RR Rural Residential into P Public zoning.**

**Background:**

- The University was given permission and assistance by the City to build two apartments and to convert an existing single family home into a “private recreational center”. To allow those uses, the City made the determination that the rural residential lots within the Rockstad Subdivision purchased by the University were campus.
- The City approved the site plans, stormwater master plans, and issued building permits and construction started. The City determined that it is acceptable to build apartments and recreational centers in RR Rural Residential zoned property without first changing the zoning.

**Comments:**

- Why is it necessary to change the zoning to P Public if the City has determined that it is not necessary to have P Public zoning to build apartments and recreational centers on RR Rural Residential lots?
- We are against P Public zoning since the development standards are less strict than RR Rural Residential zoning. The building setbacks lengths are less and the height restriction allows even larger buildings (up to 50’ tall). It generally has also been the custom of the City to allow a larger variety of diverse uses in P Public zoned property; far more so than what is allowed in RR Rural Residential.
- We are also against the idea of selectively allowing private non-government entities to have P Public zoning. The University is a private entity. The facilities and property are not public and open to all of the people of the community. The University can deny access at will to anyone that enters their property. Allowing P Public zoning for this entity would set a precedence to allow P Public zoning for any non-profit private entity.
- RR zoning is the least dense and most private zoning class. People buy RR zoned property to have their “piece of heaven” with no immediate neighbors and without typical City urban structures next door.

**Request:**

- When developers, like the University, develop high density urban infrastructure immediately adjacent to rural residential properties, they should be required to have limitations on the heights, setbacks, and uses that can occur. A PUD is appropriate in this circumstance.
- The Rockstad Subdivision lots should be platted as a separate lot. That lot should be a PUD with a base zoning of RR Rural Residential.

**FINAL PLAT**

**ISSUE: ACCESS FOR PROPERTY ON THE NORTH EDGE OF PLAT**

**Background:**

- Access (north) - The plat land-locks the north Swenson property (north end of the plat). A peninsula of developable property exists. Due to a steep valley and also due to the utilities installed (by and for the University) along the section line, the property is inaccessible except along the east-west quarter line which happens to pass through university property.
- The University initially promised to provide access on several occasions. The attorney spokesperson for the University is now stating they will not provide access. I have promised to pay all costs to extend a road to my property. Providing access to the Swenson property is simple and would cost the University nothing.
- The Swenson north property (and the University) is on the quarter line of the section. It is typical and customary for the City to require a collector street or access on quarter lines.
- The University chose to not fully extend the utility easement on their north-most line.
- The City has a policy in place that prohibits or discourages cul-de sacs. The City has in place a policy that limits the length of streets and roads without a secondary access.
- One of the City's express purposes of platting is to provide access to adjacent properties (See Why is platting required?)

**Comments:**

- The plat as presented substantially interferes with the development potential of the Swenson property. The property will become landlocked without vehicular access and utility easement extensions.

**Request:**

- The plat should have a requirement to provide an access easement for the adjacent (Swenson) property. Also, the plat should extend the utility easement to the Swenson property line.

**ISSUE: LANDSCAPING (NORTH EDGE OF PLAT)**

**Background:**

- The site plans for the University were approved by the City without a landscape plan. Subsequently, the University installed limited landscaping that was poorly maintained and is in poor condition.
- The University is required by City ordinance to provide buffering. The City landscape ordinance states *"buffer yard requirements are intended to provide separation between land uses of differing intensity. Buffer yards utilize a combination of distance and plantings to provide a dense landscaping screen to mitigate the undesirable impacts associated with incompatible uses on adjacent properties."*
- The landscaping that was provided is not dense and does not mitigate the undesirable impacts. No landscaping was provided along the Swenson property in several areas.
- The City ordinance states that *"Buffer yards shall be located along the entire length of any lot line where two land uses of differing intensity abut."* It also states that the higher intensity use is responsible for the buffer yard installation. The City ordinance states that easements may be required.
- The University has stated to me that they do not intend to install landscaping along the entire length of the lot line with the Swenson property (as required by ordinance).
- The University constructed a concrete paved public gathering space / fire pit area is located outside of the landscape buffer zone.

**Comments:**

- Placement of the public gathering space/fire pit outside of the buffer zone is contrary to the purpose of the landscape ordinance.
- A public fire pit adjacent to an area with tall grasses and trees is a danger to the Swenson property.

**Request:**

- Landscape easements need to be installed to permanently protect installed landscaping, and delineate the limits for development, the land separating the differing uses.
- The public gathering space/fire pit area needs to be removed by the University.

**ISSUE: ACCESS OF AREAS ON THE SOUTH END OF PLAT**

**Background:**

- The ***preliminary plat*** encompassed all of the property that the University considered “campus”. That plat is included in the packet.
- The south end of the University property abuts property owned by the Swenson’s Family (over 200 acres). We have requested that the University plat right of way through their property, as in customary and typical, so that orderly development of the Swenson property can occur in the future. There is no current near term plan to develop the Swenson property. The goal is to see that the property not be cut off from Highway 1804. That goal is consistent with good planning practice.
- The University had included but removed that property from their plat just before the previous Planning Commission meeting.
- The property that was removed contains the industrial utilities necessary to serve the campus such as the storm water pond, lagoon, road, and a fuel tank.
- At the last planning meeting, a city staff member stated she has been on a “crusade” to see that the University plat their campus.

**Comments:**

- Developers will sometimes selectively plat and develop their property without considering connectivity or other impacts on the neighboring property. One of the roles of the planning department and planning commissions is to ensure that platting considers the public interest of interconnectivity of adjacent properties. Right of ways are required to avoid land-locking or otherwise making access to properties difficult or more circuitous than appropriate. I have stated that the right of way would not need to have a road built in it at this time. The University would not incur any construction costs by granting a right of way.
- If the city approves this plat as presented they will be setting a poor precedence. The industrial utilities on the south end of the University property is an undeniably part of campus. The campus would not be able to function without their lagoons. And, the planning department believes it is important for the campus to be platted. With the current version of the plat, the University is asking you to approve a plat of only part of their campus - not all of it. I have been told that the reason they are selectively platting

only part of their campus is that they do not want to grant a right of way; their consultant stated they do not want public traffic through their property. However, the rights of the University should not trump the rights of the public to have appropriate and reasonable direct vehicular access. The potential hundreds of future residents to the south of the University desiring to travel north to Bismarck should not have to travel up to an additional one half mile east and an additional half mile west for each trip.

**Request:**

- The University should be required to restore the final plat to the same boundary as was presented for the preliminary plat.
- The University should grant a right of way within that updated final plat so that the public interest for reasonably direct access is achieved.



04/16/2014



C FROM CITY OF BISMARCK WEBSITE - 2014  
(RECENTLY REMOVED OR IS UNAVAILABLE)

## Why is Platting Required?

### Can you develop unplatted land in Bismarck or Burleigh County?

Building permits may be obtained for rural parcels that are 40-acres or larger in area, otherwise parcels smaller than 40-acres must be platted and appropriately zoned prior to development. Besides being a requirement of the North Dakota Century Code (11-33.2-01. & 40-50.1-01) platting is required prior to development for several reasons. If you live in an existing house on an unplatted parcel of less than 40-acres, you may qualify for a building permit without platting. Call the Planning Department at 355-1840 to find out.

### How do you know where your property lines are located?

Platting protects the current and future property owners by defining the boundaries of land ownership. Platting requires property corners to be set by surveyors. This eliminates any questions or confusion about where the property lines are located and prevents buildings from being constructed in the wrong place.

### How do you know where to position your new building on the property?

Once the property lines are defined, building setback distances can be measured. Observing proper building setbacks will prevent a structure from being deemed "nonconforming" and allow reconstruction of the building if it is ever totally or partially destroyed. Setbacks allow for future road widening and necessary separations between buildings for fire protection and other reasons. Setbacks prevent buildings from being constructed too close to street corners where they might block the view of oncoming traffic.

### How do you know where the existing utilities are and where the new ones will be located?

Platting also shows the locations of any existing or future utilities such as underground water and sewer lines, communication lines, and any other utilities. Knowing the locations of these utility easements allows property owners to plan building locations accordingly and avoid building on existing utility easements.

### How will you get hooked up to water and sewer lines?

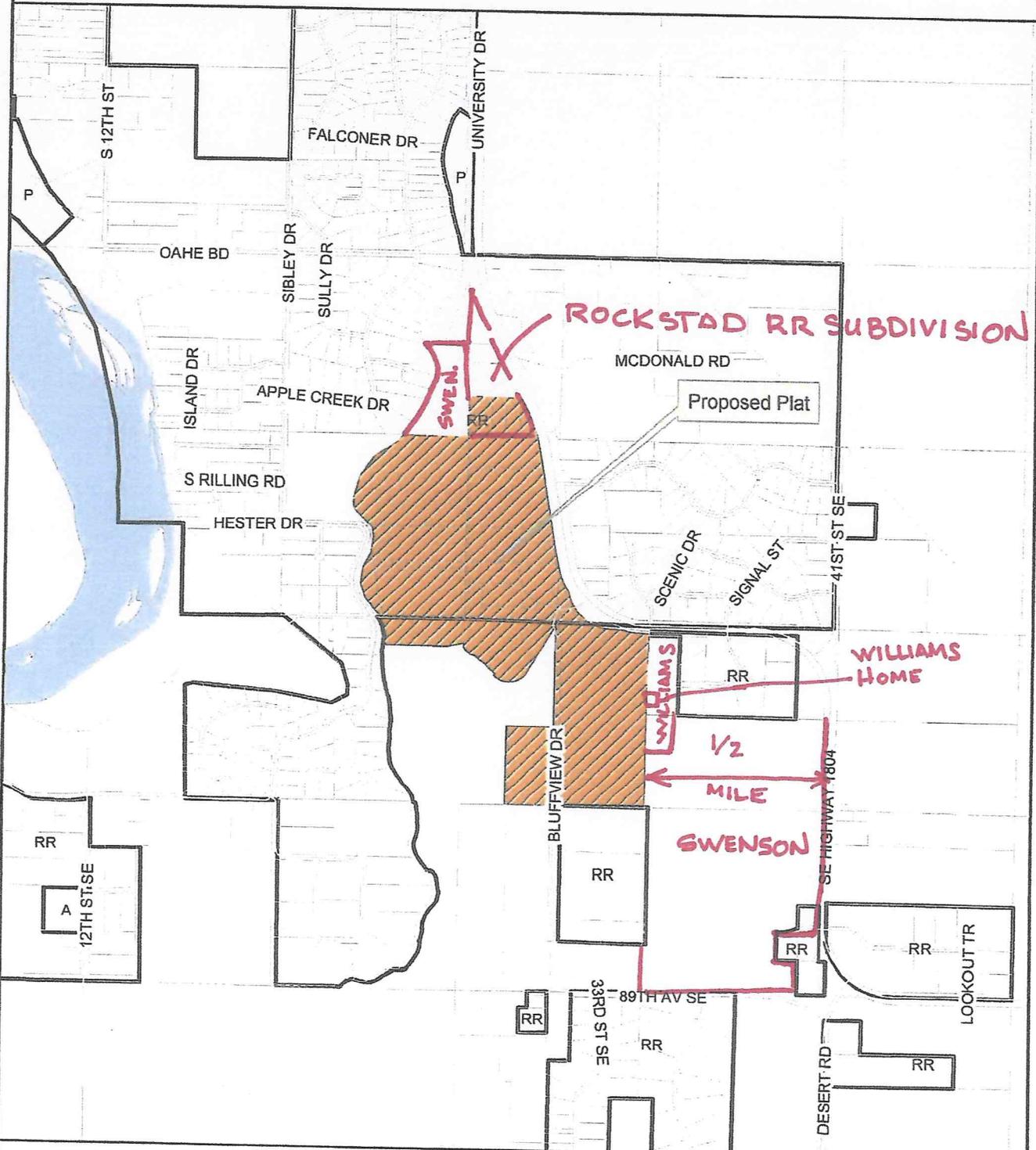
For areas close to the city, a utility servicing plan is also required as part of the platting process. This plan looks at where the existing water and sewer lines are located and shows how extensions can be made to connect to those lines. A plat will create new easements for new utilities that are needed.

→ **Will your new development create any flooding or discharge water onto your neighbors land?** Another aspect of platting includes a review of the storm water runoff. When land is developed, absorbent soils and vegetation are replaced with paving and rooftops. Because those surfaces repel water, more runoff is created. The required Storm Water Management Plan will determine how the increased water volumes will be handled. A plat will then designate any new easements needed for channeling storm water flows.

### → How will your new development affect traffic flows and traffic safety?

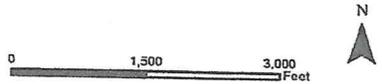
As part of the platting process, traffic operations are considered. Access points to the property and any interior roadways are reviewed with this in mind. Proper placement of roads and access points will result in safe and efficient traffic flow, allow for access by emergency vehicles such as fire, police, and ambulance, and provide connections to neighboring property. When a plat is approved by the local government, they will also accept dedication of streets. This means that a street or road and the right-of-way area is converted from private to public ownership and that road or street will then receive snow removal, maintenance, and upkeep by the local government.

# Proposed Plat & Zoning Change (A & RR to P) University of Mary 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 hereon.  
Map was Updated/Created: January 30, 2013 (hib)

Source: City of Bismarck



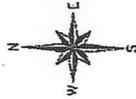
# UNIVERSITY OF MARY SUBDIVISION

GOVERNMENT LOTS 14, 15 & 16 OF THE SE 1/4 OF SECTION 34 AND PARTS OF LOTS 4, 5, 6 AND 7 OF ROCKSTAD SUBDIVISION OF THE NW 1/4 OF SECTION 35, T. 138 N., R. 80 W., AND PART OF GOVERNMENT LOT 1 OF THE NE 1/4 OF SECTION 3, AND PARTS OF GOVERNMENT LOTS 3 & 4 AND THE S 1/2 OF THE NW 1/4 OF SECTION 2, T. 137 N., R. 80 W.,

BISMARCK, BURLEIGH COUNTY NORTH DAKOTA

LOTS 4, 5, 6, 7  
ROCKSTAD  
SUBDIVISION

SWENSON  
CREEKVIEW  
HEIGHTS

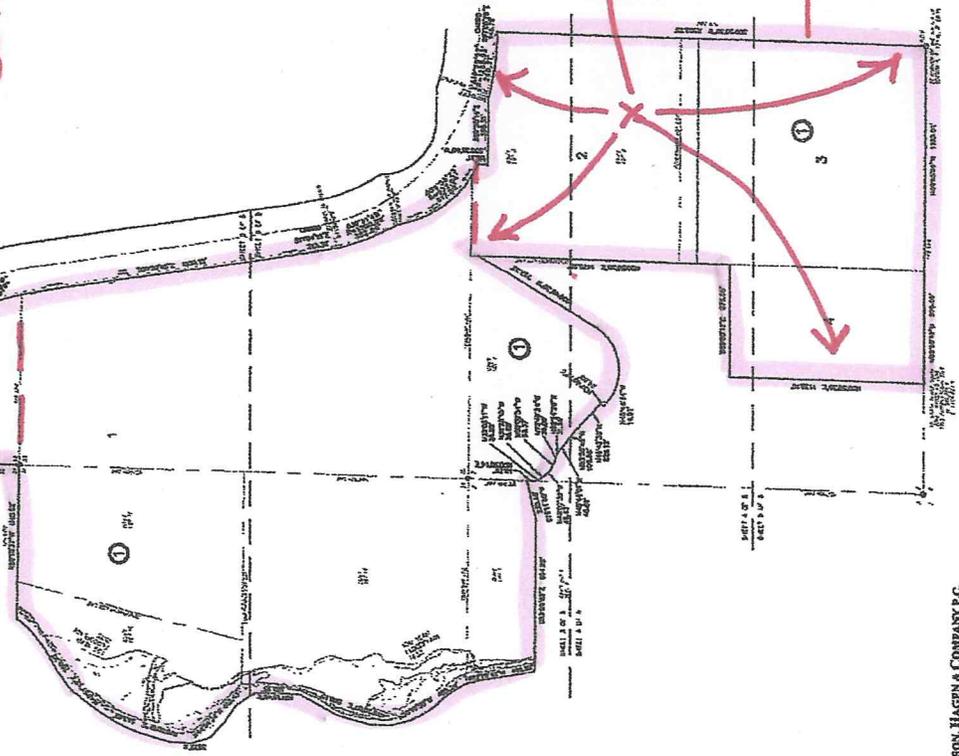


SCALE 1" = 300'  
DECEMBER 20, 2013

NOTES:  
1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.  
2. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.  
3. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.  
4. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.  
5. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.

RECENTLY REMOVED  
PART OF PLAT

SWENSON



THE STATE OF NORTH DAKOTA, COUNTY OF BURLEIGH, BEING THE COUNTY IN WHICH THE PROPERTY DESCRIBED IS LOCATED, I, THE COUNTY CLERK, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD AS THE SAME APPEARS IN THE PUBLIC RECORDS OF SAID COUNTY.

SWENSON'S CONVEYANCE  
I, SWENSON, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

RECEIVED AT THE OFFICE OF THE COUNTY CLERK OF BURLEIGH COUNTY, NORTH DAKOTA, THIS 20th DAY OF DECEMBER, 2013.

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS  
I, [Name], County Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.

APPROVED BY THE BOARD OF CITY COMMISSIONERS  
I, [Name], City Commissioner, do hereby certify that the foregoing is a true and correct copy of the original record as the same appears in the public records of said county.



**Counting Units.** For the purpose of this policy, the number of multi-family units anticipated for an RM lot shall be the maximum number of units allowed for that lot under the proposed zoning. The thresholds specified refer to the number of units between a primary and secondary access, not the number of units from any access road to an interior point in the subdivision or development.

**Spacing of Roadways.** When a secondary roadway access is required, the separation distance between the primary access roadway and a secondary access roadway should be equal to or exceed one-half of the overall diagonal dimension of the subdivision or development being served, measured in a straight line between the accesses. For example, if the measured diagonal distance from the southeast corner of the subdivision to the northwest corner of the subdivision is 2000 feet, the separation distance between the primary roadway and a secondary roadway should be 1000 feet or more.

## **CONSIDERATION FACTORS -- RESIDENTIAL DEVELOPMENTS**

**The following factors shall be considered when determining the need for a secondary access roadway for both urban and rural one- and two-family residential developments:**

- The total number of residential lots being proposed from the last intersecting primary roadway access. Generally, this number should not exceed 30 lots for urban developments and 16 lots for rural developments. (R10 lots platted at R5 densities will be counted as two lots)
- The total number of residential lots in previously platted adjacent subdivision between the proposed subdivision and the last intersecting primary roadway access. Generally, the number of residential lots being proposed combined with this number should not exceed 30 lots for urban developments and 16 lots for rural developments. (R10 lots platted at R5 densities will be counted as two lots)
- **The length of roadways being proposed from the last intersecting primary roadway access. Generally, the distance should not exceed 1320 feet for both urban and rural developments.**
- The length of roadways within previously platted adjacent subdivisions between the proposed subdivision and the last intersecting primary roadway access. Generally, the length of roadways being proposed combined with this distance should not exceed 1320 feet for both urban and rural developments.

**The following factors shall be considered when determining the need for a secondary access roadway for both urban and rural multi-family residential:**

- The total number of dwelling units being proposed from the last intersecting primary roadway access. Generally, this number should not exceed 100 dwelling units for urban developments and 50 units for rural developments (based on maximum allowable density and lot size). In urban areas, this number may be increased to 200 dwelling units provided all buildings are equipped with approved automatic sprinkler systems.
- The total number of dwelling units allowed or developed between the proposed development and the last intersecting primary roadway access. Generally, the number of dwelling units being proposed combined with this number should not exceed 100 dwelling units for urban developments and 50 units for rural developments (based on maximum allowable density and lot size). In urban areas, this number may be increased to 200 dwelling units provided all buildings are equipped with approved automatic sprinkler systems.
- **The length of roadways being proposed from the last intersecting primary roadway access. Generally, this distance should not exceed 1320 feet for both urban and rural developments.**
- The length of roadways within previously platted adjacent subdivisions between the proposed subdivision and the last intersecting primary roadway access. Generally, the length of roadways being proposed combined with this distance should not exceed 1320 feet for both urban and rural developments.

## **CONSIDERATION FACTORS – COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL DEVELOPMENTS**

**The following factors shall be considered when determining the need for a secondary access roadway for commercially-zoned, industrially-zoned and institutional developments in any zoning district:**

- The total square footage of proposed building(s) from the last intersecting primary roadway access. Generally, this number should not exceed 62,000 square feet. In urban areas, this number may be increased to 124,000 square feet provided all buildings are equipped with approved automatic sprinkler systems.
- The total square footage of building(s) allowed or developed between the proposed development and the last intersecting primary roadway access. Generally, the square footage of proposed buildings(s) combined with this number should not exceed 62,000 square feet. In urban areas, this number may be increased to 124,000 square feet provided all buildings are equipped with approved automatic sprinkler systems.
- The length of roadways being proposed from the last intersecting primary roadway access. Generally, this distance should not exceed 1320 feet for both urban and rural developments.
- The length of roadways within previously platted adjacent subdivisions between the proposed subdivision and the last intersecting primary roadway access. Generally, the length of roadways being proposed combined with this distance should not exceed 1320 feet for both urban and rural developments.
- The height of the proposed building(s) and site design. Each individual commercial, industrial and institutional building exceeding three stories or 30 feet in height shall have at least three means of emergency vehicle access on site (alternative ways to get to the building).

## **OTHER CONSIDERATION FACTORS – ALL DEVELOPMENTS**

**The following factors shall be considered when determining the need for a secondary access roadway for all developments:**

- The anticipated timing of future phases of development, provided said future phases provide for any required secondary roadway access.
- The phasing of development and proposed future phases. Generally, it is expected that development will be phased to provide a required secondary access as soon as feasible.
- The specific location of the subdivision or development.
- The topography of the site and adjacent areas needed for a secondary roadway access.
- The ease of making roadway connections in the future.
- The potential for flooding of the primary roadway access.
- The potential for blocking of the primary roadway access (fallen trees, snow drift, etc).
- The ability to provide a secondary roadway access on property in common ownership. If a secondary roadway access is required to cross property not under common ownership, it shall be the applicant's responsibility to obtain the required access easement for the secondary access.

**The following factors shall be considered when determining whether or not a secondary access roadway needs to be built to urban or rural standards, and whether or not said roadway needs to be paved:**

- The specific location of the subdivision or development.
- The topography of the site and adjacent areas needed for a secondary roadway access.
- Whether the secondary roadway access will be temporary or permanent.
- The anticipated average daily traffic (ADT), based on nine (9) trips per dwelling unit per day for residential uses and the ITE Trip Generation Manual for other uses.
- The anticipated timing and phasing of future development.

JUN 25 2014 Exhibit B.

*Paape Chiropractic*  
CLINIC

W.G. PAAPE, D.C.

6-23-2014

Bismarck Planning & Zoning Commission  
221 N 5th St  
Bismarck, ND 58504-6500

RE: Proposed Digital Billboard  
Bismarck Expressway

To whom it may concern:

I am a property owner at 433 E Bismarck Expressway which is located approximately 150 feet east from the proposed sign.

Mark Berg of City of Bismarck told me that Bismarck Expressway has as of the 2012 traffic count showing 23,955 cars per day average pass this location daily. He also said that you would increase that number by 5-10% more per year in the average increase to get a current car count. The city does the count every 3 years.

Based on those numbers I feel that the sign will become a potential traffic safety issue of people looking at the huge sign that is some 40 feet in the air plus 600 sq feet of surface sign. With this blinking and changing sign on a regular basis this could become a big traffic distraction. This sign could result in a increased number of auto accidents that some could become fatal considering the speed limit is now 40 mph.

My second concern is with such sign it will lead to a decreased property value of Mr. Mertz land which will continue to lower adjacent properties in land value also in future sales.

I hope that you take this information for your consideration in your decision.

Sincerely yours,

*William G. Paape*  
William G. Paape



# Bismarck

## Community Development Department

June 13, 2014

Dear Property Owner:

Please be advised that the Bismarck Planning & Zoning Commission will be conducting a public hearing on Wednesday, June 25, 2014, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Building, 221 North 5<sup>th</sup> Street, Bismarck, North Dakota, which may be of interest to you.

North Cape Properties and Dakota Outdoor Advertising, LLC is requesting approval of a special use permit to allow a digital billboard to be located less than 300 feet from a residentially zoned property. The property is located in south Bismarck, directly south of Bismarck Expressway between South 3rd Street and South 7th Street and is described as Lot 3 less the West 1.00 foot and the West 16.00 feet of Lot 4, Block 2, Meadow Valley Addition.

A map showing the locations involved in the request and the proposed site plans are enclosed for your information.

At the hearing, the Bismarck Planning & Zoning Commission will provide an opportunity for all interested persons to be heard with respect to this item. Interested persons may also submit written comments regarding this request prior to the meeting to the Community Development Department ~ Planning Division, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701-222-6450, or e-mail - [cobplan@bismarcknd.gov](mailto:cobplan@bismarcknd.gov).

The agenda packet for the meeting, which will include a staff report for this request, will be posted online at [www.bismarcknd.org](http://www.bismarcknd.org), under Agenda, Minutes/City Planning and Zoning Commission by the end of the day on Friday, June 20th. The meeting will also be aired live on Government Access – Channel 2 and can be viewed on-line at [freetv.org](http://freetv.org) under Government Access/Bismarck Planning and Zoning Commission.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 355-1845.

Bismarck Community Development Department – Planning Division

JW/hlb

Enc: Location Map  
Site Plan

221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • [www.bismarck.org](http://www.bismarck.org)



# DAKOTA

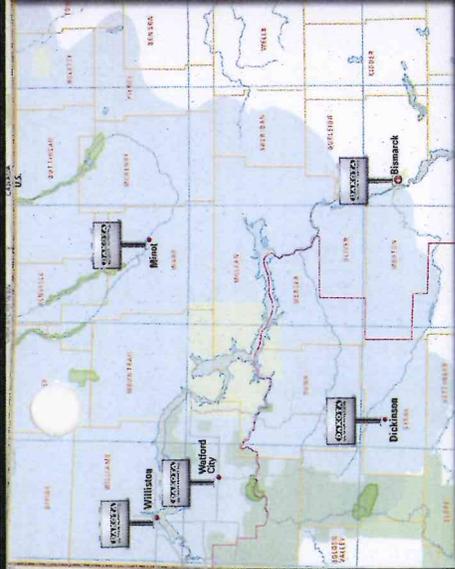
## OUTDOOR ADVERTISING

Make your statement and leave  
an impression with strong visual,  
changeable digital media

# DAKOTA

## OUTDOOR ADVERTISING

Alice Meier: 701-590-0992  
[www.dakota-outdoor.com](http://www.dakota-outdoor.com)



\*Available markets

### CONTACT US

**Mike Derby, General Manager:**

[mike.derby@dakota-outdoor.com](mailto:mike.derby@dakota-outdoor.com)

**701-690-5007**

**Alice Meier, Sales Manager:**

[alice.meier@dakota-outdoor.com](mailto:alice.meier@dakota-outdoor.com)

**701-590-0992**

**Rich Evans, Lease Manager:**

[rich.evans@dakota-outdoor.com](mailto:rich.evans@dakota-outdoor.com)

**605-877-1479**



## AKKEN FACTS

The Bakken and the associated Three Forks covers 14,700 square miles, making it the largest continuous crude oil accumulation in the U.S. The play covers North Dakota and Montana as well as parts of Canada.

The Bakken oil boom dwarfs previous oil production expansions in Montana and North Dakota; drilling is expected to continue at strong levels for at least the next 20 to 30 years. Economic performance in the Bakken since 2009 has been unprecedented.

- Employment levels are up about 50 percent in the Bakken.
- The unemployment rate in the Bakken is about 2 percent; with new jobs opening up every day.
- Average weekly wages are up around 25 percent in the Bakken since 2009.
- New business establishments have grown by nearly a third in the Bakken.
- Construction activity—including commercial and residential has grown substantially

The number of people migrating to North Dakota during a recent period was more than three times the number of births or deaths, new census figures show.

With an unemployment rate of just one percent, homes and new businesses are being built daily as more workers arrive seeking steady work. Williston is braced to expand from just 10,000 residents to an estimated 90,000 within 15 years. Nearly \$350 million in building permits were issued in 2013. Williston, on everything from businesses, to apartment buildings, to single family homes.

# DAKOTA

## OUTDOOR ADVERTISING

## WHY CHOOSE DIGITAL OUTDOOR ADVERTISING

Digital Billboards are computer-controlled electronic displays capable of taking your advertising to new heights. Digital is perfect for the advertiser who wants to change their message as many times as they want during a campaign.

Digital Billboards are located around the Bakken to deliver your message to the hard to reach oil and energy service sector worker and their family.

Because of flexibility, Dakota Digital Billboard Network is the perfect network for promoting special events, sales and breaking news.

You can target consumers near the point of sale, and put messages exactly where, when, and how audiences want to consume them.

Create compelling advertising messages that cannot be ignored, blocked, or skipped.

*Outdoor advertising has a lower cost per thousand than any other type of advertising. Outdoor ads cost 80% less than television commercials, 60% less than newspaper ads, and 50% less than radio ads.*

Three fourths of Americans rely on billboards to find places while they are traveling.

Outdoor advertising has a larger audience than any other type of advertising. People are driving further and further every day and people spend more time in their vehicle than they do to read the paper and watch the news.

- At our location on Highway 85 south of Williston, a traffic count was conducted in October 2011. In one 24-hour period, there were 29,000 vehicles through the intersection — with 60% of the traffic being semi-trailer trucks.
- Each well requires about 2,000 truck trips in its first year of operation. On the highway running through the area, traffic has gone from 1,400 cars a day to 14,000, and it's currently being expanded from two to six lanes.



Informational Links:  
[www.daktronics.com](http://www.daktronics.com) • [www.dakota.gov/road-map/traffic](http://www.dakota.gov/road-map/traffic)  
[www.0aaa.org](http://www.0aaa.org)

## LOGISTICS

- Design and content uploading are included in our rates.
  - 8 second ads, with a maximum of 6 advertisers and category exclusivity.
  - 4 week flights, with minimum of 6 flights.
- The screen of a Dakota Outdoor Advertising Digital Billboard is equipped with Daktronics LED technology that produces a high resolution, dynamic picture.

**Dakota Outdoor Advertising is proud to provide the largest digital format in North Dakota which is 14' x 48'!**

Contact us for pricing, locations, markets and availability.  
**COMPANY BACKGROUND**

Dakota Outdoor Advertising is a digital and static outdoor advertising company operating primarily in Western North Dakota.

Our goals revolve around the quality of the products we offer, the high level of integrity that we operate our business and exceeding customer expectations. We understand how important it is to our existing and future customers that their displays be of the highest quality possible.

## OWNER

Mike Derby is a second generation billboard guy. Mike's father, John, brought the family into Rapid City, South Dakota in 1965, in order to manage Valie Outdoor Advertising. John purchased the company in 1974, changing the name to Derby Outdoor Advertising.

Mike grew up in the business, and literally learned the business from the ground up. As a bill poster, hole digger and construction worker, Mike learned the value of providing the best presentation possible.

After graduating from the University of South Dakota, Mike moved to Phoenix, Arizona to manage Gary Outdoor Advertising. This led to the purchase of Gary Outdoor in Tucson.

Mike sold to Outdoor Systems in 1987 and moved back to Rapid City to manage Derby Outdoor Advertising. Lamar Advertising then purchased Derby Outdoor Advertising in 1998 and Mike stayed on to become VP and General Manager. Then Mike left the company in 2003 to pursue a career as a commercial real estate broker.

Mike launched Dakota Outdoor Advertising in 2012 and is in the process of creating the Dakota Digital Billboard Network.

Alice Meier: **701-590-0992**  
 Mike Derby: **701-690-5007**

# DAKOTA-OUTDOOR.COM