



## Community Development Department

# **BISMARCK PLANNING AND ZONING COMMISSION MEETING AGENDA April 22, 2020**

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Tom Baker Meeting Room                      5:00 p.m.                      City-County Office Building

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Watch live meeting coverage on Government Access Channels 2 & 602HD, listen to Radio Access 102.5 FM Radio, or stream FreeTV.org and RadioAccess.org. Agenda items can be found online at [www.bismarcknd.gov/agendacenter](http://www.bismarcknd.gov/agendacenter).

Due to ongoing public health concerns related to COVID-19, the City of Bismarck is encouraging citizens to provide their comments for public hearing items via email to [planning@bismarcknd.gov](mailto:planning@bismarcknd.gov). The comments will be sent to the Planning and Zoning Commissioners prior to the meeting and included in the minutes of the meeting. To ensure your comments are received and distributed prior to the meeting, please submit them by 12noon on the day of the meeting and reference the agenda item your comment addresses.

If you would like to appear via video or audio link for a 3-5-minute comment on a public hearing item, please provide your e-mail address and contact information to [planning@bismarcknd.gov](mailto:planning@bismarcknd.gov) at least one business day before the meeting.

The physical meeting room will be open to the public, but we certainly understand the public wishing to limit their exposure at this time, while still participating in government. Before entering the City-County Office Building, all individuals will be screened for COVID-19 symptoms or potential exposure. If unable to pass the screening protocol, they will be requested to participate in the meeting remotely, for the public's safety.

Most of the Planning and Zoning Commissioners will be attending this meeting remotely.

The number of participants attending in person, including the Planning and Zoning Commissioners, will be physically limited to a maximum of ten (10) occupants in the Tom Baker Meeting Room by way of the following:

Live simulcasting (video + audio) of the meeting on televisions in other parts of the City-County Office building.

Admitting those making presentations to the Planning and Zoning Commission into the Tom Baker Meeting Room when they are asked to present or offer public input and, when that agenda item is complete, inviting them to return to the hallway or other room to watch the remainder of the meeting while maintaining social distancing.

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### MINUTES

- 1. Consider approval of the minutes of the February 26, 2020 meeting of the Bismarck Planning & Zoning Commission. (The March 25, 2020 meeting was cancelled because of health concerns related to COVID-19.)

### CONSENT AGENDA CONSIDERATION

The following items are requests for public hearings.

- 2. **Sanford Addition (DN)** ..... 1

Zoning Change (A to CG) | ZC2020-002

Staff recommendation: schedule a hearing  schedule a hearing  continue  table  deny

Preliminary Plat | PPLT2020-001

Staff recommendation: tentative approval  tentative approval  continue  table  deny

- 3. **Northern Sky Second Addition (WH)** ..... 9

Zoning Change (CA & RT to CA & RT) | ZC2020-003

Staff recommendation: schedule a hearing  schedule a hearing  continue  table  deny

Preliminary Plat | PPLT2020-002

Staff recommendation: tentative approval  tentative approval  continue  table  deny

- 4. **First Responders Addition (JW)**  
Preliminary Plat | PPLT2020-003 ..... 16

Staff recommendation: tentative approval  tentative approval  continue  table  deny

### REGULAR AGENDA PUBLIC HEARINGS

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

- 5. **Elk Ridge Second Addition (JW)** ..... 23

- Annexation | ANNX2019-005

Staff recommendation: approve  approve  continue  table  deny

- Zoning Change (A & R5 to R5 & R10) | ZC2019-013

Staff recommendation: approve  approve  continue  table  deny

- Fringe Area Road Master Plan Amendment | FRMP2020-001

Staff recommendation: approve  approve  continue  table  deny

- Final Plat | FPLT2020-004

Staff recommendation: approve  approve  continue  table  deny

<b>6. Heritage Park Second Addition (DN)</b> .....	<b>38</b>
• Annexation   ANNX2019-003	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
• Zoning Change (A to R5, R10 & RM10)   ZC2019-010	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
• Final Plat   FPLT2020-005	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>7. Heritage Ridge Second Addition (DN)</b> .....	<b>50</b>
• Zoning Change (A to R5 and Conditional RT)   ZC2019-011	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
• Final Plat   FPLT2020-006	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>8. Edgewood Village Seventh Addition First Replat (DN)</b> .....	<b>62</b>
• Zoning Change (PUD to R10, RM30 & RT)   ZC2019-014	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
• Minor Subdivision Final Plat   MPLT2020-003	
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>9. Eugene's First Addition First Replat (JW)</b>	
Minor Subdivision Final Plat   MPLT2020-004 .....	<b>72</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>10. Carols First Addition (JW)</b>	
Minor Subdivision Final Plat   MPLT2020-006 .....	<b>80</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>11. Wachers Addition Second Replat (JW)</b>	
Minor Subdivision Final Plat   MPLT2020-005.....	<b>88</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>12. Lot 5, Block 1, Wachers Addition Second Replat (JW)</b>	
Special Use Permit (Drive-through – Chick-fil-A)   SUP2020-002.....	<b>98</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>13. Lot 4, Block 1, Wachers Addition Second Replat (JW)</b>	
Special Use Permit (Drive-through – Thrifty White)   SUP2020-003.....	<b>105</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny

- 14. **Lot 3, Block 1, Wachters Addition Second Replat (JW)**  
Special Use Permit (Drive-through – Blaze Pizza) | SUP2020-004..... 112  
*Staff recommendation: approve*       approve     continue     table     deny
  
- 15. **Sign Ordinance (DN)**  
Zoning Ordinance Text Amendment | ZOTA2019-004..... 119  
*Staff recommendation: approve*       approve     continue     table     deny
  
- 16. **Off-street Parking and Loading (JW)**  
Zoning Ordinance Text Amendment | ZOTA2019-003..... 165  
*Staff recommendation: approve*       approve     continue     table     deny

**OTHER BUSINESS**

- 17. **Resolution and Certificate of Appreciation for Tom Atkinson**
  
- 18. **North Dakota Planning Association Membership**
  
- 19. **Other**

**ADJOURNMENT**

- 20. **Adjourn.** The next regular meeting date is scheduled for **May 27, 2020.**

Enclosures:      Meeting Minutes of February 26, 2020  
                         Building Permit Activity Month to Date Report for February and March 2020  
                         Building Permit Activity Year to Date Report for February and March 2020

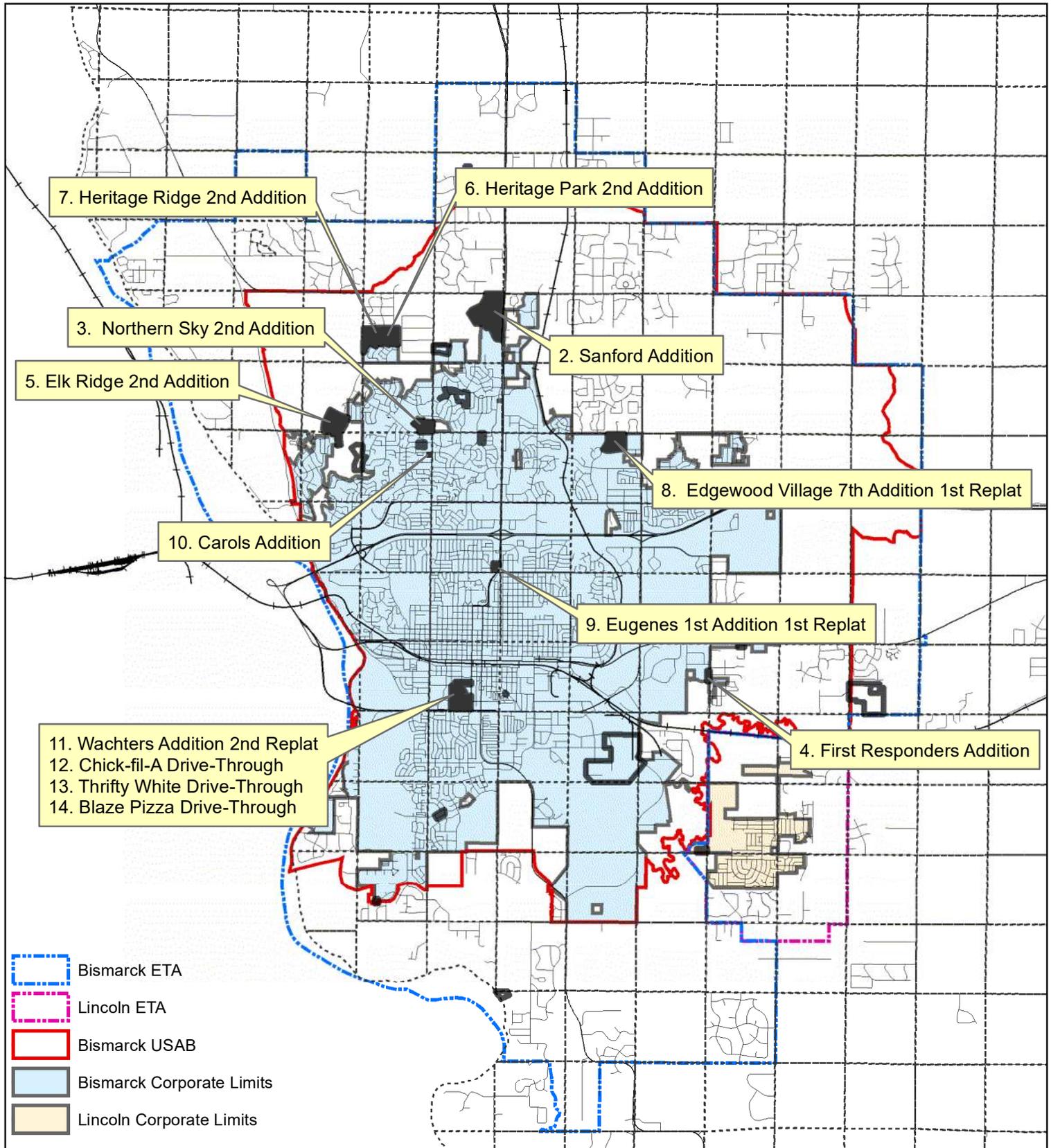
## **BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL**

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

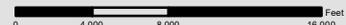
1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.

# General Location Map

## Planning & Zoning Commission Meeting - April 22, 2020



April 2020



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 herein.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

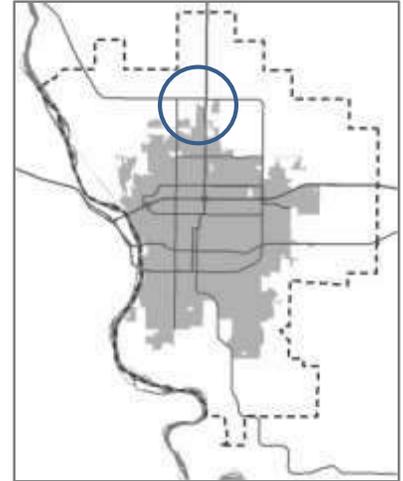
Agenda Item # 2  
 April 22, 2020

**Application for: Zoning Change**  
**Major Subdivision Preliminary Plat**

TRAKiT Project ID: ZC2020-002  
 PPLT2020-001

## Project Summary

<b>Title:</b>	Sanford Addition
<b>Status:</b>	Planning & Zoning Commission – Consideration
<b>Owner(s):</b>	Sanford Bismarck TPR, LLP Wapiti, LLP
<b>Project Contact:</b>	Lon Romsaas, PE, Swenson, Hagen & Co.
<b>Location:</b>	In the north Bismarck, in the southwest quadrant of the intersection of US Highway 83/State Street and ND Highway 1804 NE (part of the E½ of Section 9, T139N-R80W/Hay Creek Township)
<b>Project Size:</b>	118.19 acres
<b>Request:</b>	Plat and zone for future commercial development



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	5 Parcels	<b>Number of Lots:</b>	5 Lots in 4 Blocks
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Commercial Uses
<b>Designated GMP</b>	Commercial	<b>Designated GMP</b>	Commercial
<b>Future Land Use:</b>	Commercial/Mixed Use	<b>Future Land Use:</b>	Commercial/Mixed Use
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	CG – 42 units / acre

## Property History

<b>Zoned:</b>	N/A	<b>Platted:</b>	N/A	<b>Annexed:</b>	02/2015 (part)
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## Staff Analysis

Sanford Bismarck, TPR, LLP and Wapiti, LLP are requesting approval of a zoning change from the A – Agricultural zoning district to the CG – Commercial zoning district and approval of a major subdivision final plat for Sanford Addition.

Adjacent uses include undeveloped, agricultural-zoned land to the north across 71<sup>st</sup> Avenue NE/ ND Highway 1804, south, and west, and partially developed commercial and industrial land to the east, across US Highway 83/State Street.

A portion of the area within the proposed plat was annexed in 2015, but never provided with city services or developed. The applicant intends to submit a request for partial annexation with a final plat that would apply to two of the lots that would be divided by the corporate limits. The northern Lot 1, Block 1 is not proposed to be annexed at this time.

### *Conformance with Plans*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies a majority of the area proposed within the subdivision as Commercial, and a smaller area as Commercial/Mixed Use. The proposed CG – Commercial zoning district complies with the Future Land Use Plan.

The Growth Phasing Plan in the 2014 Growth Management Plan, as amended, identifies the areas outside of the city limits as a Future Area within the Urban Service Area Boundary. This area is anticipated for development in the long-term, with immediate City participation in financing or extending municipal services unlikely and limited.

The Fringe Area Roadway Master Plan identifies both a north-south and an east-west collector roadway through the area proposed for Sanford Addition. The proposed plat includes both of these collector roadways, Yukon Drive and 64<sup>th</sup> Avenue NE, with alignments reasonably close to the plan. The proposed roadway of Northstar Drive was included in an earlier version, but was intentionally removed with the adoption of the 2014 Fringe Area Road Master Plan.

### *Transportation Access*

The proposed plat includes three roadways, all proposed with an 80-foot right-of-way and 48-foot pavement area. The roadways would be built immediately upon platting, with the exception of the northern segment of Yukon Drive connecting to ND Highway 1804. Therefore, at least for the first phase of development, all access to the site would be from US Highway 83/State Street to the east. Future phases would establish connections to ND Highway 1804 to the north, and eventually with future platting Yukon Drive to the south.

All roadways are proposed to connect directly to facilities controlled by the North Dakota Department of Transportation (NDDOT), and approval for access to these state-owned roadways must be granted by the NDDOT. While discussions are underway, uncertainty remains concerning support from the NDDOT regarding all three proposed accesses proposed on this plat. Because changes or removal of any of the access points would significantly alter the proposed plat, staff recommends some indication of support for these accesses before moving forward with a final plat for Sanford Addition.

As outlined in a January 16, 2020 letter from NDDOT to the Bismarck-Mandan Metropolitan Planning Organization (MPO), several plans adopted in recent years identify a future potential grade-separated interchange at the intersection of US Highway 83/State Street and ND Highway 1804/71<sup>st</sup> Avenue, as both are arterial roadways of regional significance. The most recent Metropolitan Transportation Plan, Arrive 2045, references an interchange in this location as a long-range project, but the interchange is not included in the prioritized fiscally-constrained project list. The project is included in the Plan, in case unanticipated funding were to become available in the future.

The possibility of a future interchange in this location relates to the plat in two ways. An interchange will require more space than a standard at-grade intersection, the extent of which depends on the design. Several design alternatives have been explored by the NDDOT but no specific design has been selected to

(continued)

date. If additional right-of-way cannot be dedicated or acquired at this time, an alternative would be to restrict structures within the necessary area by easement so that the land may be obtained in the future with minimal disruption to the property. Secondly, the future installation of a grade-separate interchange would also affect spacing from the interchange of access points to both US Highway 83 and ND Highway 1804, according to access management standards used by NDDOT.

All three roadways would be extensions of existing roads of the same name, although final connections between the disconnected segments would be made at a later date. The present situation of multiple disconnected segments of roadway with the same name is not an ideal situation from an emergency management and response perspective, but it is acceptable with the understanding that the roadways will be connected in the short to medium-term future. The alternative of changing street names in the future once connections are made would likely be more disruptive.

A traffic impact study will be required to determine what, if any, improvements may be needed to public infrastructure to accommodate proposed development. The City Engineer recommends that this study be accepted by the City and NDDOT prior a public hearing being scheduled for the final plat, and that any agreed-upon recommendations of this study be included in a development agreement between the property owner and the City.

*Stormwater and Utilities*

The proposed plat includes a stormwater and drainage easement through low-lying areas, including delineated wetlands. Conditional approval of a post-construction stormwater management permit (PCSMP) will be required prior to submittal of the final plat.

This proposed subdivision is not adjacent to existing City sanitary sewer, storm sewer, or water services. A utility servicing plan has been submitted to the Engineering Department and will be reviewed with the final plat, which outlines how utilities will be extended to serve the development.

**Required Findings of Fact** (relating to land use)

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
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 the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Preliminary Plat*

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;

4. The proposed subdivision would likely generate a significant number of vehicle trips that would affect the circulation and safety of public roadways in the vicinity, and therefore a traffic impact study is required to be submitted to the City Engineer prior to submittal of the final plat;
5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
6. The proposed subdivision plat will include sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision;
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and

11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A – Agricultural zoning district to the CG – Commercial zoning district and tentative approval of the preliminary plat for Sanford Addition with the understanding that:

1. A traffic impact study is submitted to the City Engineer and reviewed and accepted by both the City Engineer and the NDDOT prior to a public hearing being scheduled for the final plat.
2. Sufficient written support from the North Dakota Department of Transportation is obtained for all proposed access points to state facilities shown on the plat prior a public hearing being scheduled for the final plat.
3. A development agreement will be required to mitigate impacts resulting from the traffic impact study, or as identified by the Planning and Zoning Commission, if any, and to determine responsibility for extension of municipal utilities and payment of capital charges.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Preliminary Plat

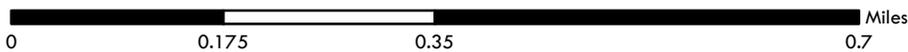
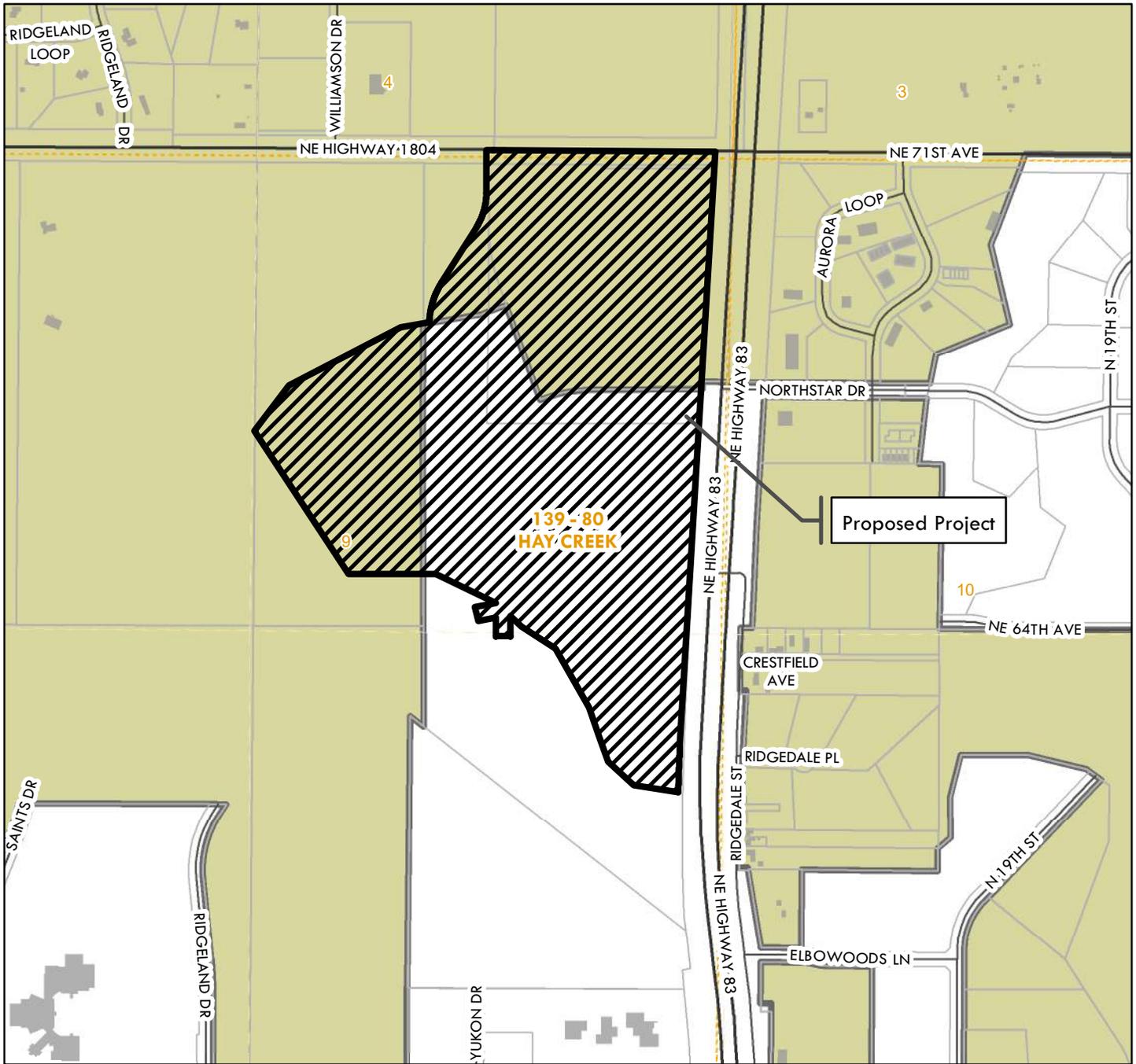
Staff report prepared by: Daniel Nairn, Planner  
 701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)



# Location Map

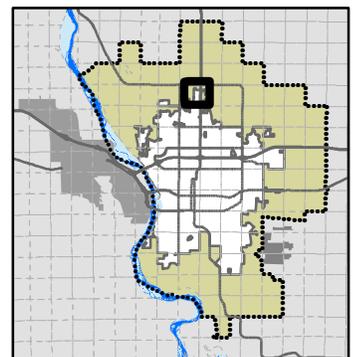
Sanford Addition

PPLT2020-001  
ZC2020-002



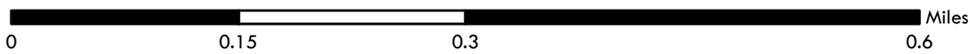
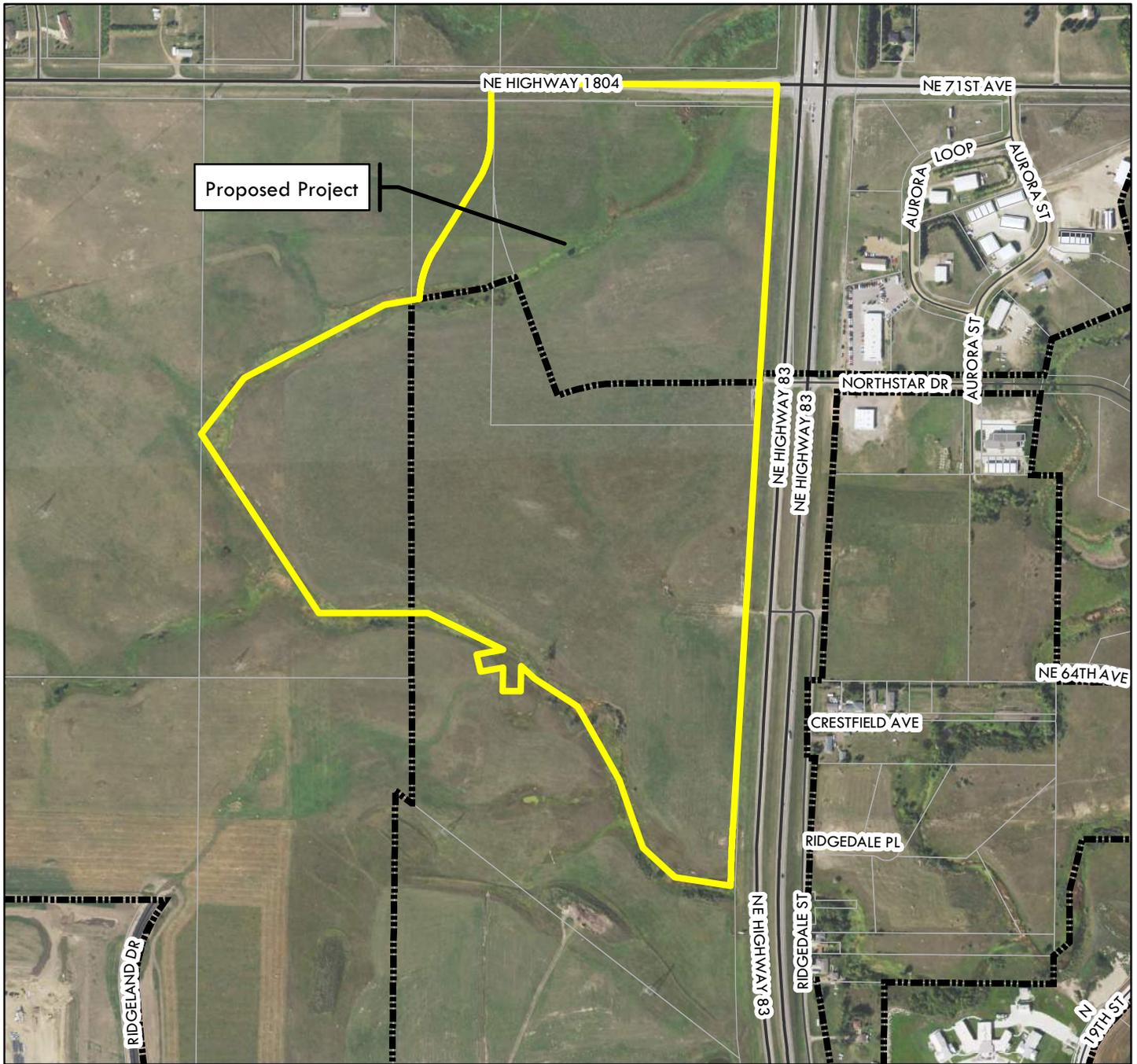
- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
March 10, 2020 (HLB)

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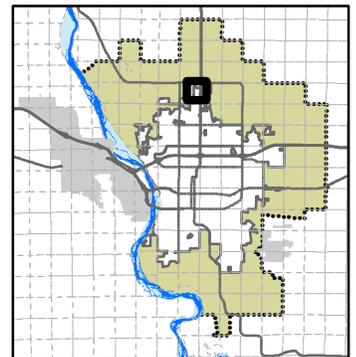


City Limits    Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
March 17, 2020

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# Zoning and Plan Reference Map

Sanford Addition

ZC2020-002  
PPLT2020-001

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

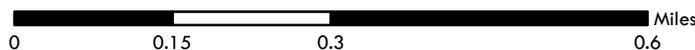
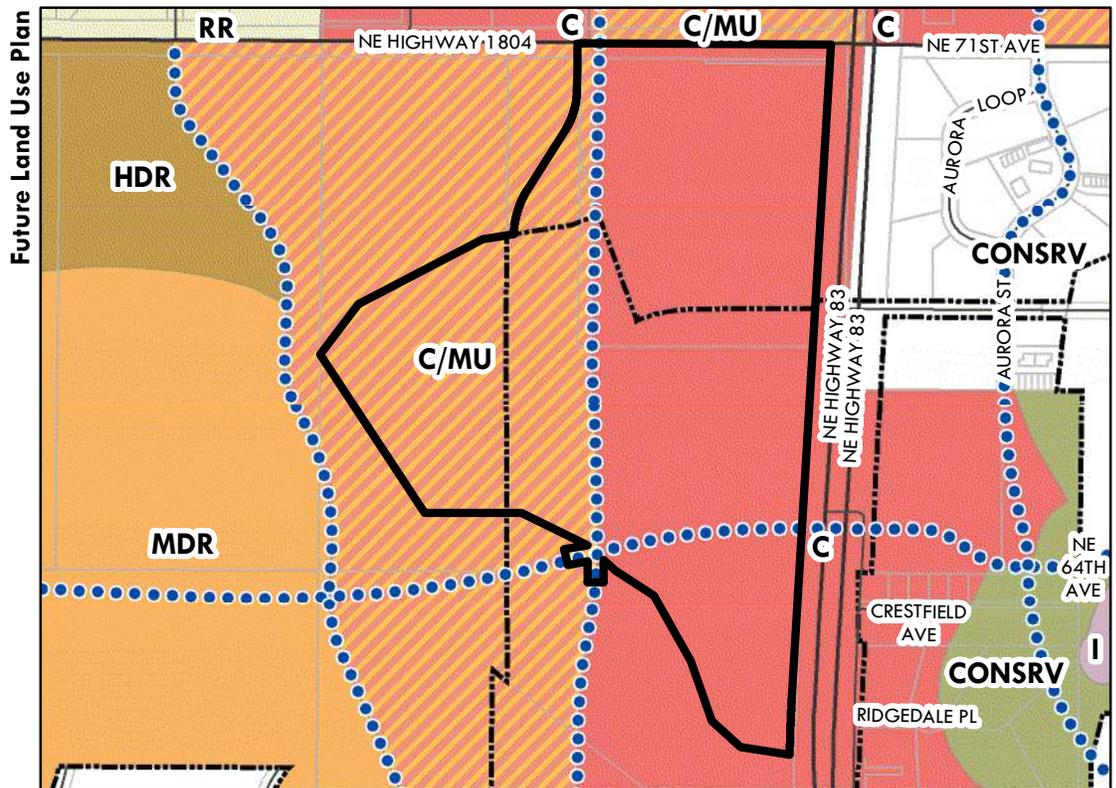
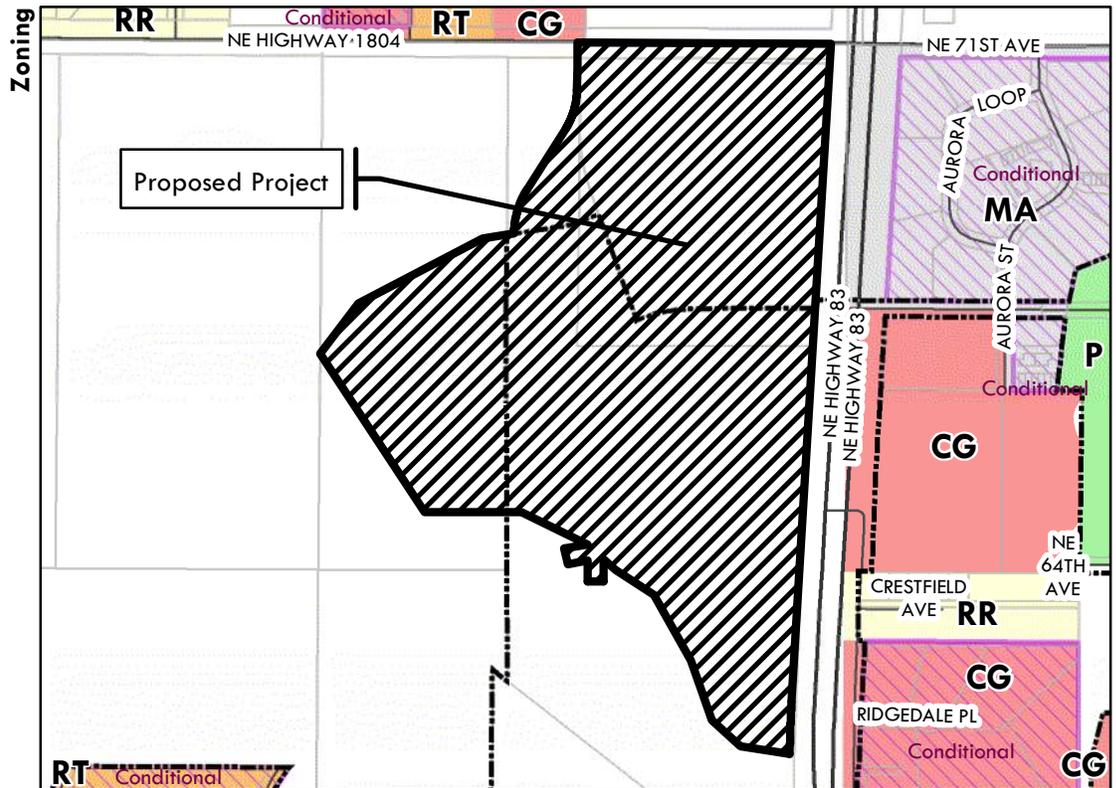
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



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City of Bismarck  
Community Development Dept.  
Planning Division  
March 17, 2020

# SANFORD ADDITION

BEING AUDITOR'S LOTS C1, C2-A, C2-B, C3, G  
AND PART OF AUDITOR'S LOT D1, D2, D3 OF THE NE 1/4  
AND PART OF THE EAST 1/2 OF  
SECTION 9, TOWNSHIP 139 NORTH, RANGE 80 WEST  
**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**



118.2 ACRES  
EXISTING ZONING: A  
PROPOSED ZONING: CG  
5 LOTS

OWNER: SANFORD BISMARCK  
ADDRESS: PO BOX 5525  
BISMARCK, ND 58506

OWNER: TPR, LLP  
ADDRESS: 1203 OAHE BEND  
BISMARCK, ND 58504

OWNER: WAPITI, LLP  
ADDRESS: 3420 GALLATIN DR  
BISMARCK, ND 58504



0 200' 400'  
SCALE - 1" = 200'

VERTICAL DATUM: NAVD 88  
MARCH 11, 2020



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

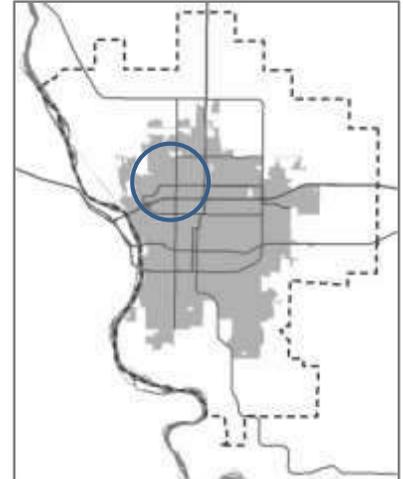
Agenda Item # 3  
 April 22, 2020

**Application for: Zoning Change**  
**Major Subdivision Preliminary Plat**

TRAKiT Project ID: ZC2020-003  
 PPLT2020-002

## Project Summary

<b>Title:</b>	Northern Sky Second Addition
<b>Status:</b>	Planning & Zoning Commission – Consideration
<b>Owner(s):</b>	Wilment Development, LLC
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co.
<b>Location:</b>	Northwest Bismarck, along the west side of North Washington Street and the north side of Ash Coulee Drive (a replat of Lot 2, Block 2, Northern Sky Addition and part of Lot 3, Block 1, Replat of Millennium Addition and part of Lot C-3 of the SE¼ of Section 17, T139N-R80W/Hay Creek Township)
<b>Project Size:</b>	23.4 acres
<b>Request:</b>	Plat, zone, and partially annex property to allow the construction of Northern Sky Drive



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	2 parcels	<b>Number of Lots:</b>	3 lots in 3 blocks
<b>Land Use:</b>	undeveloped	<b>Land Use:</b>	Residential/Office and Light Commercial
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	RT – Residential CA – Commercial	<b>Zoning:</b>	RT – Residential CA – Commercial
<b>Uses Allowed:</b>	RT – Offices and multi-family residential CA – Neighborhood commercial	<b>Uses Allowed:</b>	RT – Offices and multi-family residential CA – Neighborhood commercial
<b>Max Density Allowed:</b>	RT – 30 units / acre CA – 30 units / acre	<b>Max Density Allowed:</b>	RT – 30 units / acre CA – 30 units / acre

**Property History**

Zoned:	04/2015	Platted:	08/2012 (Northern Sky Add) 05/2003 (Millennium Add Replat)	Annexed:	N/A
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**Staff Analysis**

Wilment Properties LLC is requesting approval of a zoning change from the RT – Residential and CA – Commercial zoning districts to the RT – Residential and CA – Commercial zoning districts and approval of a major subdivision preliminary plat for Northern Sky Second Addition.

Adjacent uses include offices and a convenience store with a filling station to the north, undeveloped property to the east across North Washington Street, developing neighborhood commercial and residential uses to the south across Ash Coulee Drive, and a City-owned water tower and Horizon Middle School to the west.

The proposed plat and zoning change would allow the owner to annex and construct a portion of Northern Sky Drive within the proposed plat. The City Commission, at their regular meeting on February 25, 2020, approved a development agreement for the construction of Northern Sky Drive and the partial annexation of the proposed plat with the understanding that the developer shall file a petition for the annexation of all lots adjacent to Northern Sky Drive no later than 10 years from the executed development agreement.

The proposed zoning change will not be a substantial change compared to the current zoning but is required to ensure that each zoning district aligns with the proposed lots.

**Required Findings of Fact** (relating to land use)

*Zoning Change*

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;

3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
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 the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Preliminary Plat*

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required;

(continued)

- 5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
- 6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision
- 7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
- 8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
- 9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;

- 10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
- 11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RT – Residential and CA – Commercial zoning districts zoning district to the RT – Residential and CA – Commercial zoning districts and tentative approval of the preliminary plat of Northern Sky Second Addition.

**Attachments**

- 1. Location Map
- 2. Aerial Map
- 3. Zoning and Plan Reference Map
- 4. Preliminary Plat

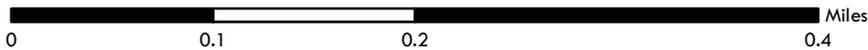
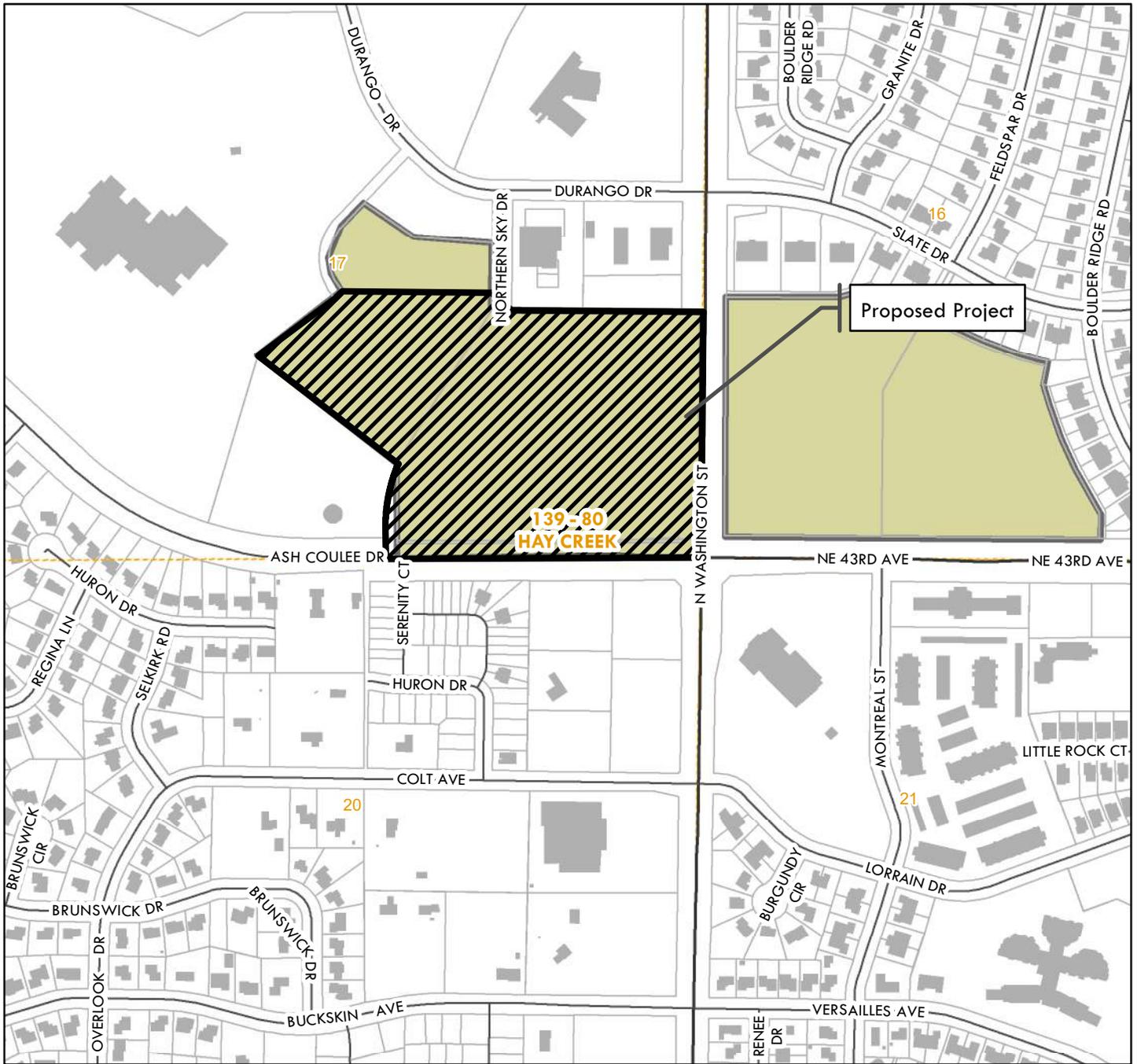
Staff report prepared by: Will Hutchings, Planner  
 701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



# Location Map

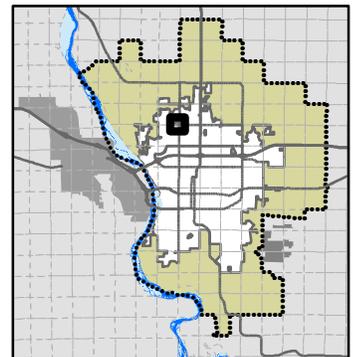
Northern Sky Second Addition  
(RT & CA to RT & CA)

PPLT2020-002  
ANNX2020-003  
ZC2020-003



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*



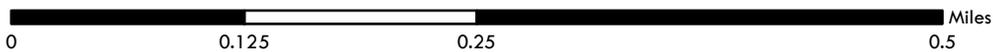
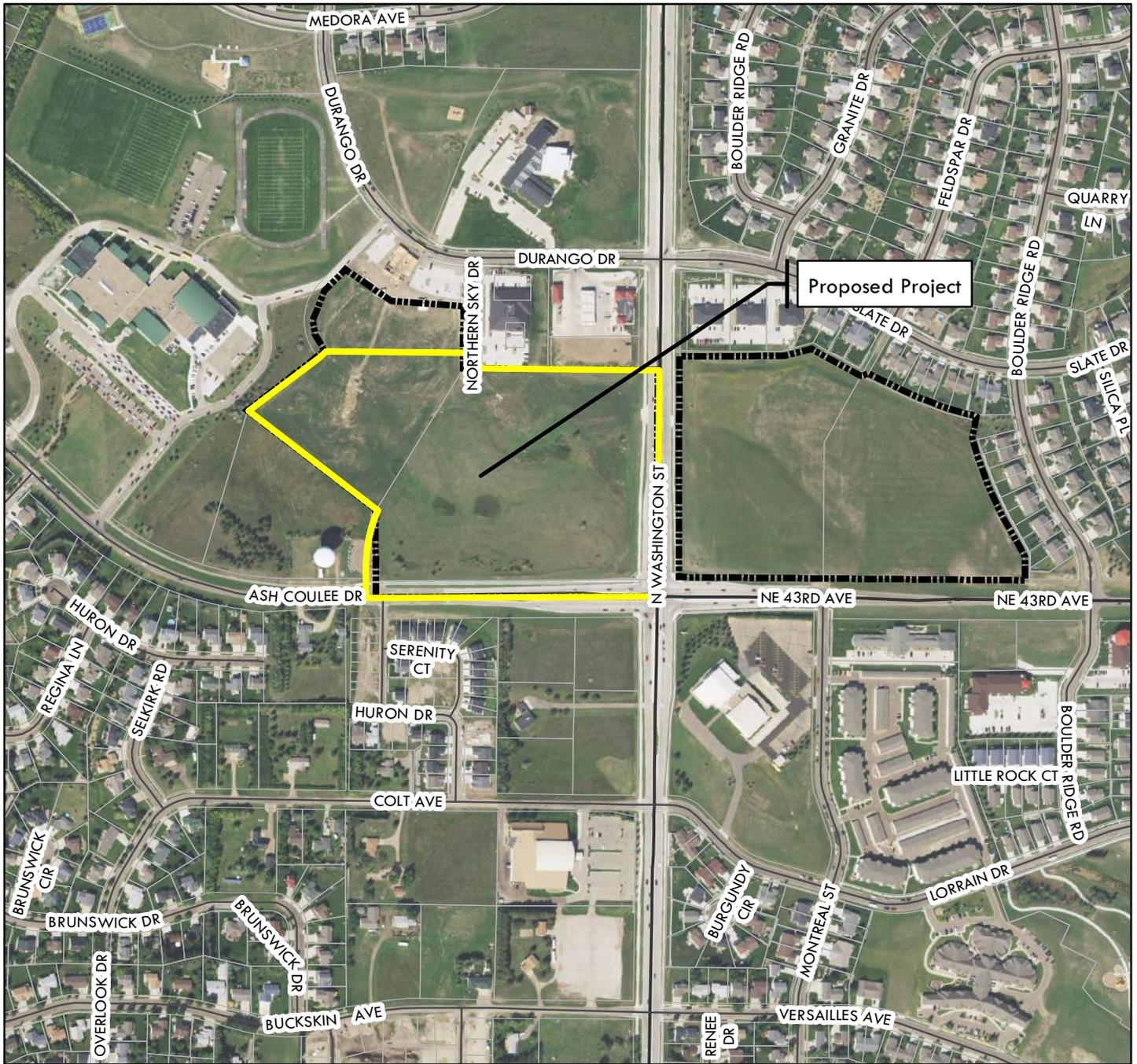
City of Bismarck  
Community Development Department  
Planning Division  
March 12, 2020 (HLB)

*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.*



**Aerial Map**  
Northern Sky Second Addition

PPLT2020-002  
ANNX2020-003  
ZC2020-003

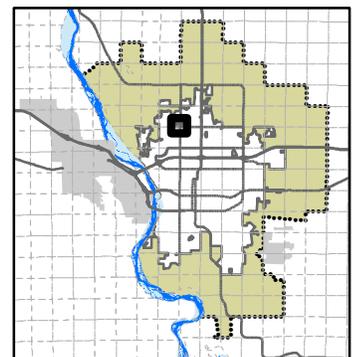


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
April 14, 2020

*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.*





# Zoning and Plan Reference Map

Northern Sky Second Addition

PPLT2020-002  
ANNX2020-003  
ZC2020-003

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

### Zoning Districts

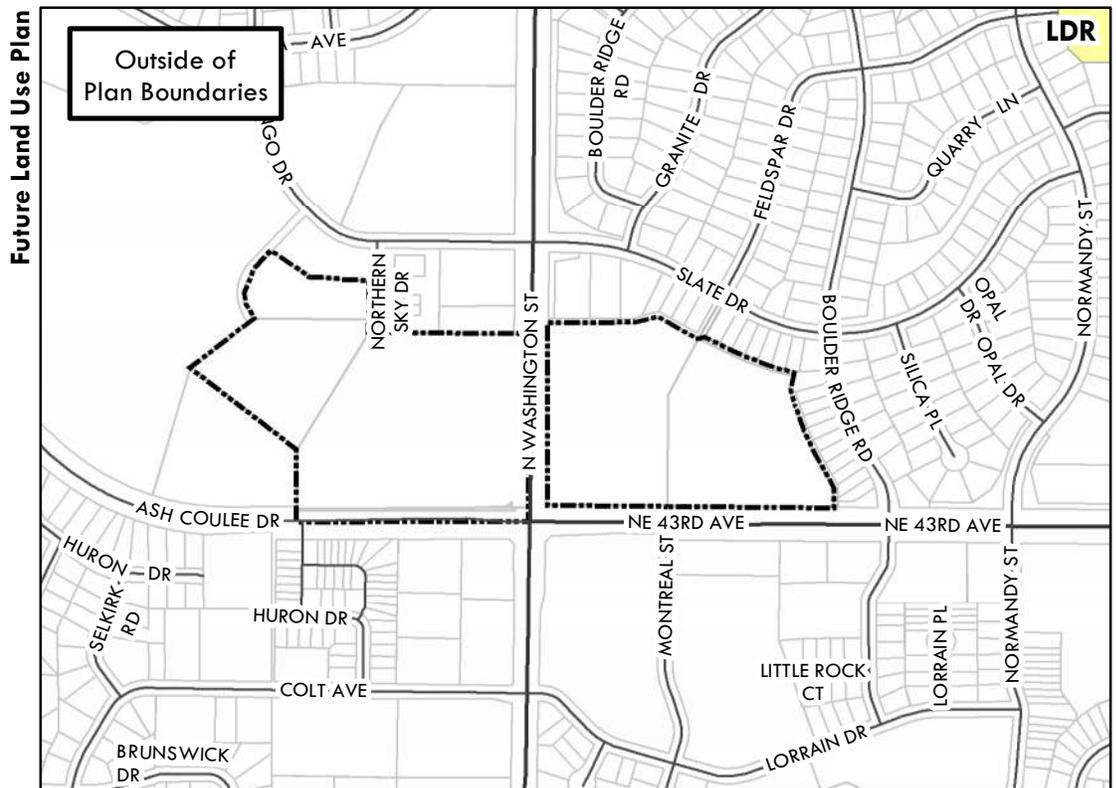
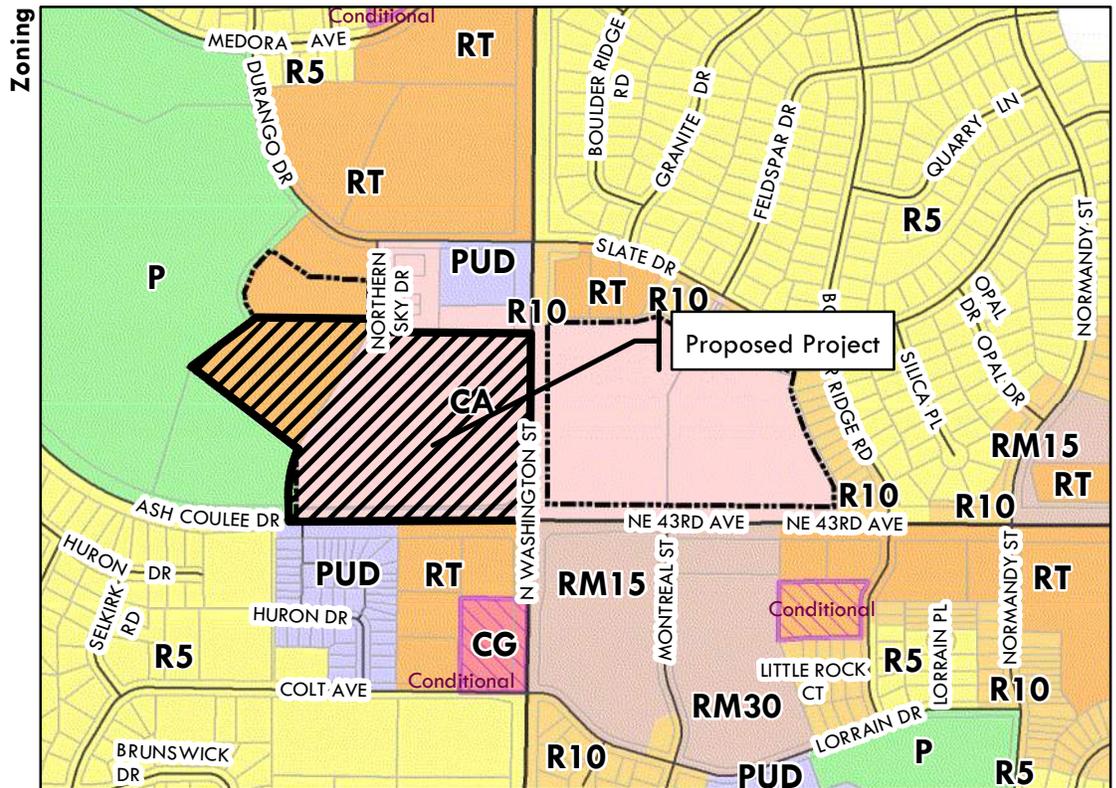
- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan



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

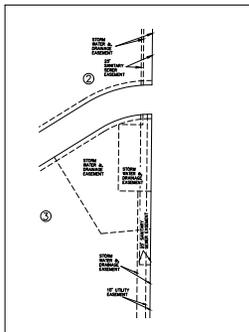
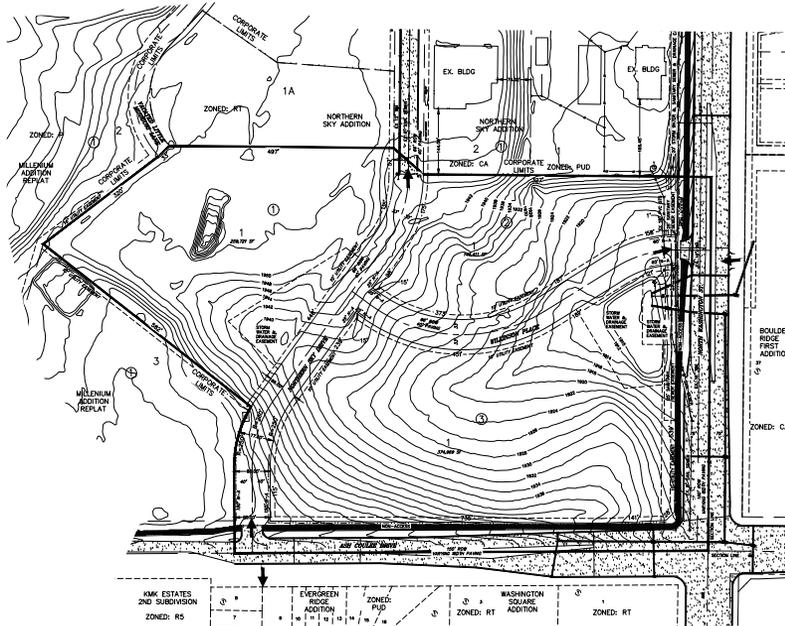


City of Bismarck  
Community Development Dept.  
Planning Division  
April 14, 2020

# NORTHERN SKY SECOND ADDITION

BEING A REPLAT OF LOT 2 BLOCK 2 NORTHERN SKY ADDITION AND PART OF LOT 3 BLOCK 1 REPLAT OF MILLENNIUM ADDITION AND PART OF AUDITOR'S LOT C-3 OF THE SE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST

**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**



EASEMENT DETAILS



LOCATION MAP

23.38 ACRES  
EXISTING ZONING: RT/CA

3 LOTS  
3 BLOCKS

OWNER: WILMENT DEVELOPMENT, LLC

ADDRESS: 3250 ROCK ISLAND PL  
STE. 4  
BISMARCK, ND 58504

OWNER: CITY OF BISMARCK

ADDRESS: P.O BOX 5503  
BISMARCK, ND 58506-5503

SURVEYOR: TERRY BALTZER #3595  
SH & CO  
909 BASIN AVE.  
BISMARCK, ND 58504



0 100' 200'  
SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

MARCH 11, 2020



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

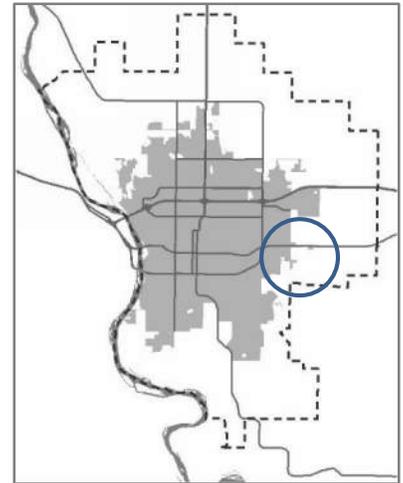
Agenda Item # 4  
 April 22, 2020

## Application for: Major Subdivision Preliminary Plat

TRAKiT Project ID: PPLT2020-003

### Project Summary

<b>Title:</b>	First Responders Addition
<b>Status:</b>	Planning & Zoning Commission – Consideration
<b>Owner(s):</b>	161 Commercial, LLC
<b>Project Contact:</b>	Harvey Schneider, PE, Toman Engineering
<b>Location:</b>	In east Bismarck, between East Main Avenue / County Highway 10 and Apple Creek Road, along the west side of 52 <sup>nd</sup> Street SE (part of Auditor’s Lot 6 of the E½, and part of Lot 7B of Auditor’s Lot 7 of the SE¼ of Section 1, T138N-R80W/City Lands)
<b>Project Size:</b>	4.65 acres
<b>Request:</b>	Plat property for future development



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	2 parcels	<b>Number of Lots:</b>	1 lot in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Industrial
<b>Designated GMP</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP</b>	Already zoned. Not in Future Land Use Plan
<b>Future Land Use:</b>		<b>Future Land Use:</b>	
<b>Zoning:</b>	Conditional MA – Industrial	<b>Zoning:</b>	Conditional MA – Industrial
<b>Uses Allowed:</b>	Conditional MA – Light industrial, general commercial, warehouses, manufacturing and shop condos with additional design and aesthetic standards	<b>Uses Allowed:</b>	Conditional MA – Light industrial, general commercial, warehouses, manufacturing and shop condos with additional design and aesthetic standards
<b>Max Density Allowed:</b>	Conditional MA – N/A	<b>Max Density Allowed:</b>	Conditional MA – N/A

**Property History**

Zoned:	07/2016 (northern portion) 03/2017 (southern portion)	Platted:	N/A	Annexed:	07/2019
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**Staff Analysis**

161 Commercial, LLC is requesting approval of a major subdivision preliminary plat for First Responders Addition. Approval of the proposed plat would allow for the future development of the one lot plat. The proposed plat is zoned Conditional MA – Industrial which allows certain light industrial uses with additional requirements for building design and a landscape buffer along the eastern edge of the plat.

The proposed plat would be accessed from the south via Midwest Drive, which would be constructed along the southern boundary of this plat in conjunction with site development. The proposed also includes a 50-foot landscape buffer along the west side of 52<sup>nd</sup> Street SE which will be installed in conjunction with development.

Adjacent uses include developing industrial property to the north and undeveloped industrial property to the west and south, and existing rural residential and developing urban residential to the east across 52<sup>nd</sup> Street SE.

**Required Findings of Fact** (relating to land use)

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
4. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision

5. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
6. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
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; and
9. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends tentative approval of the preliminary plat for First Responders Addition.

**Attachments**

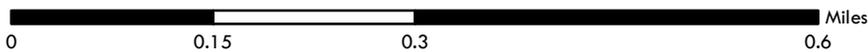
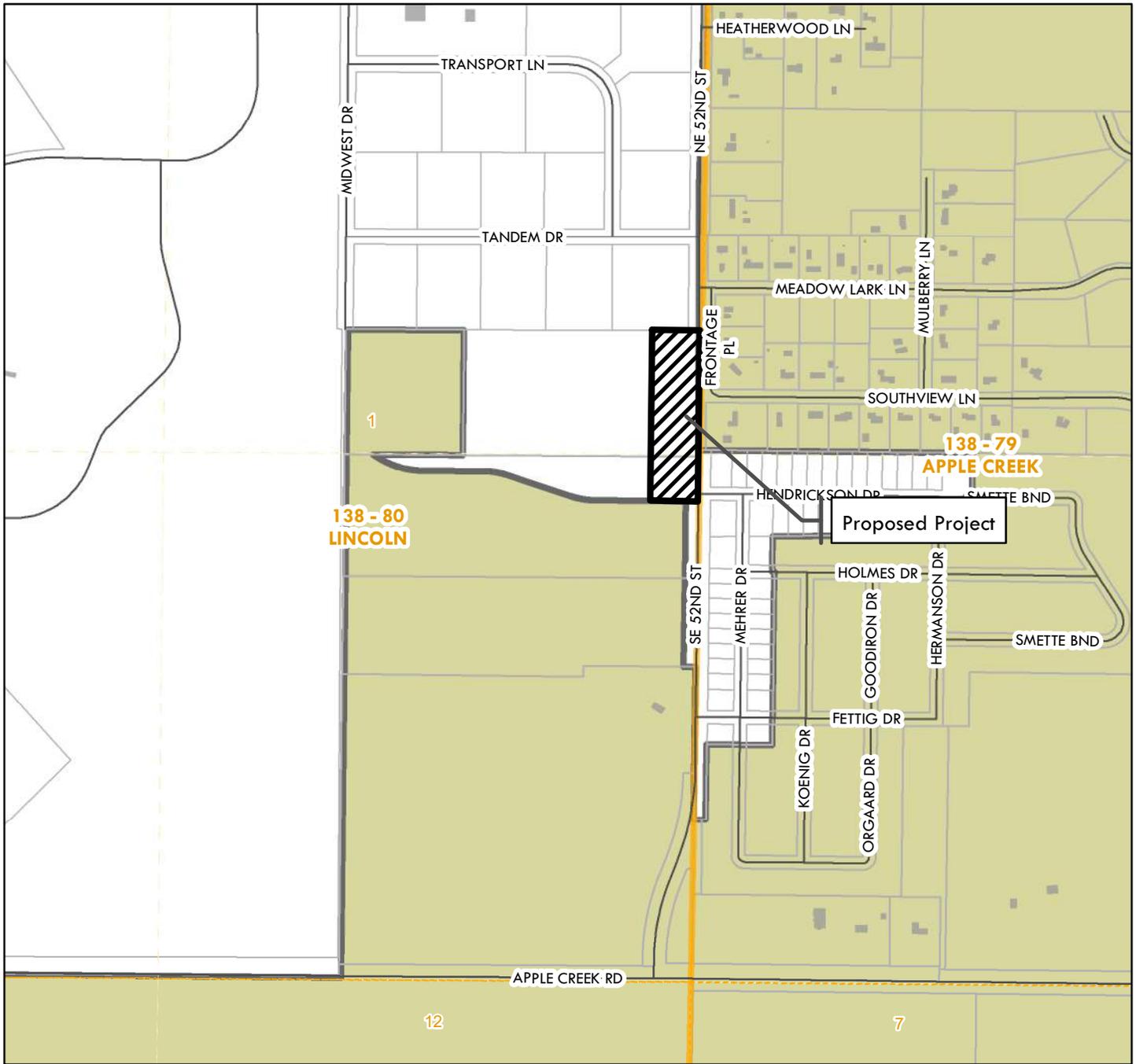
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Preliminary Plat

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*Staff report prepared by:* Jenny Wollmuth, AICP, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

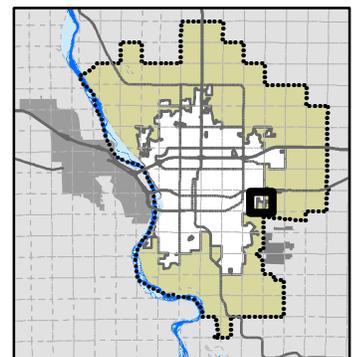


**Location Map**  
First Responders Addition



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*



City of Bismarck  
Community Development Department  
Planning Division  
March 20, 2020 (HLB)

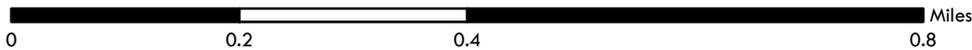
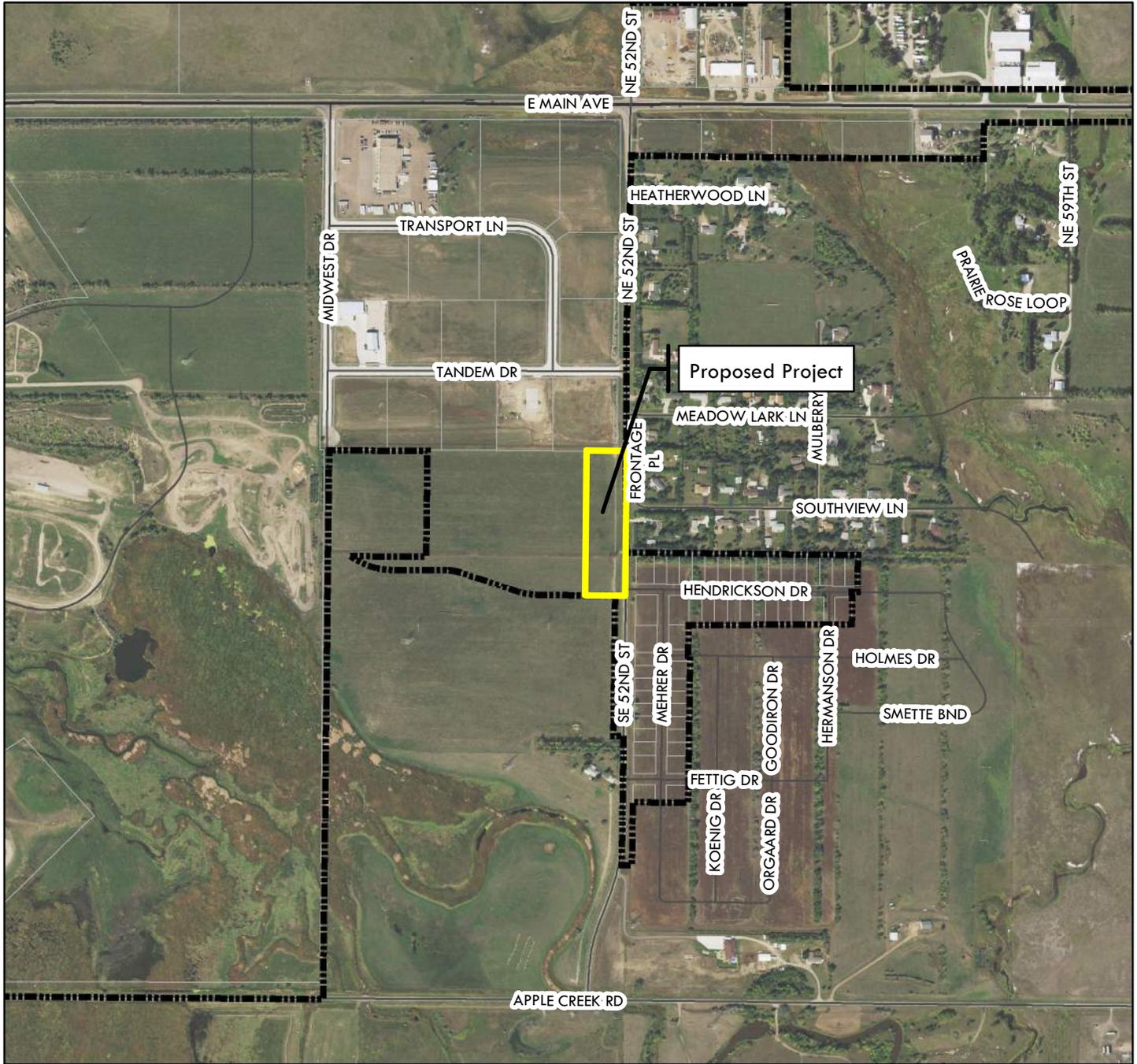
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*



# Aerial Map

PPLT2020-003

## First Responders Addition

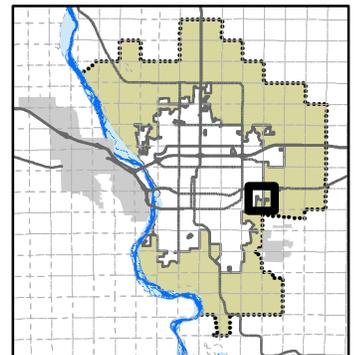


 City Limits
  Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
 Community Development Department  
 Planning Division  
 April 7, 2020

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# Zoning and Plan Reference Map

First Responders Addition

PPLT2020-003

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

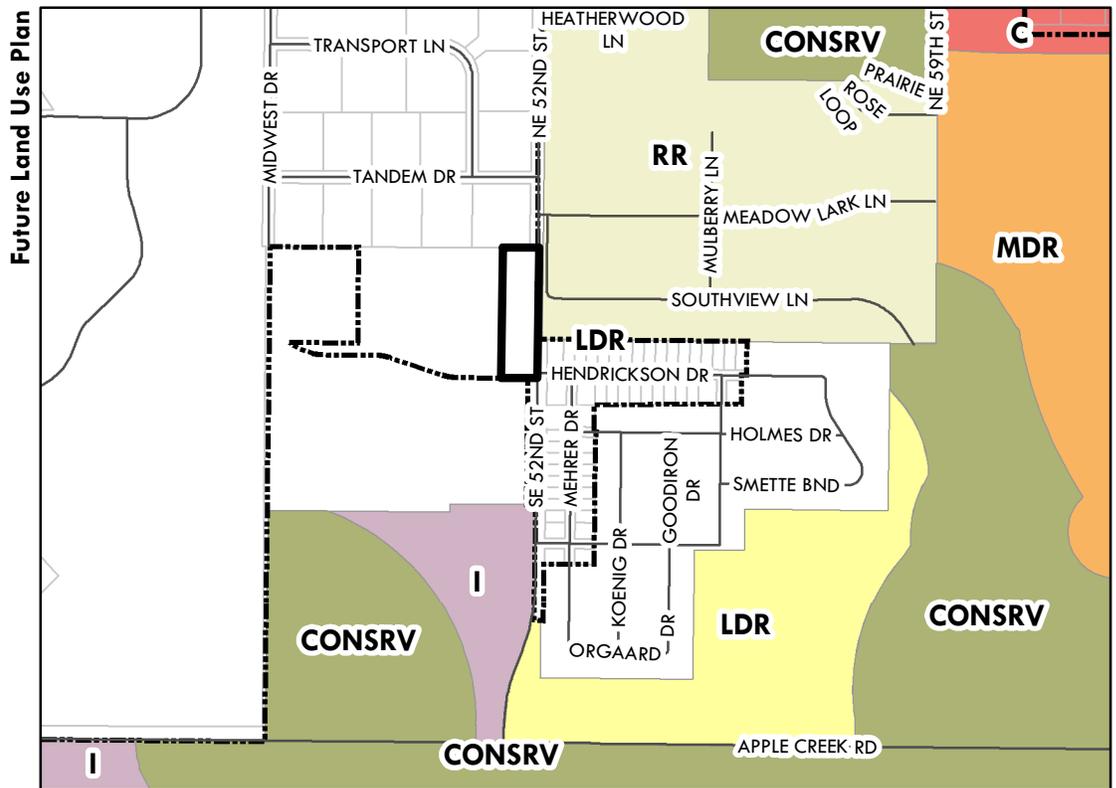
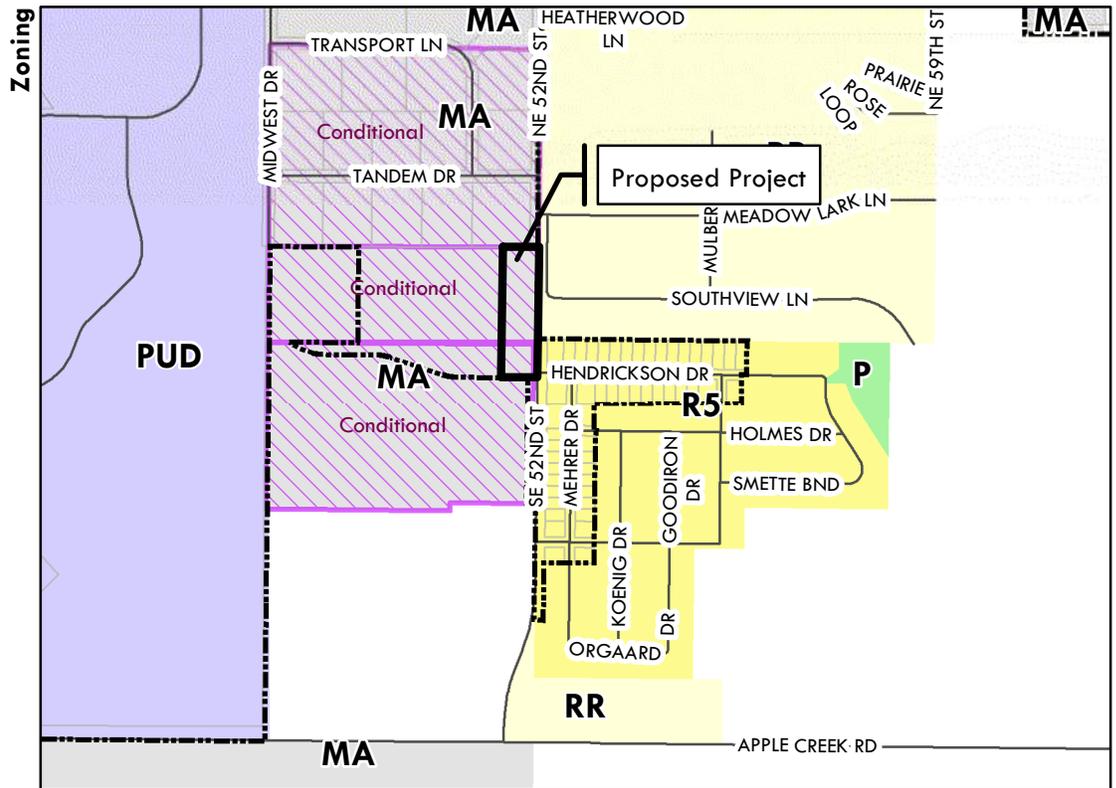
### Zoning Districts

- A** Agriculture
- RR** Rural
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve



Fringe Area Road Master Plan

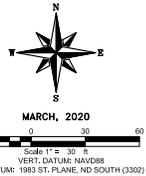
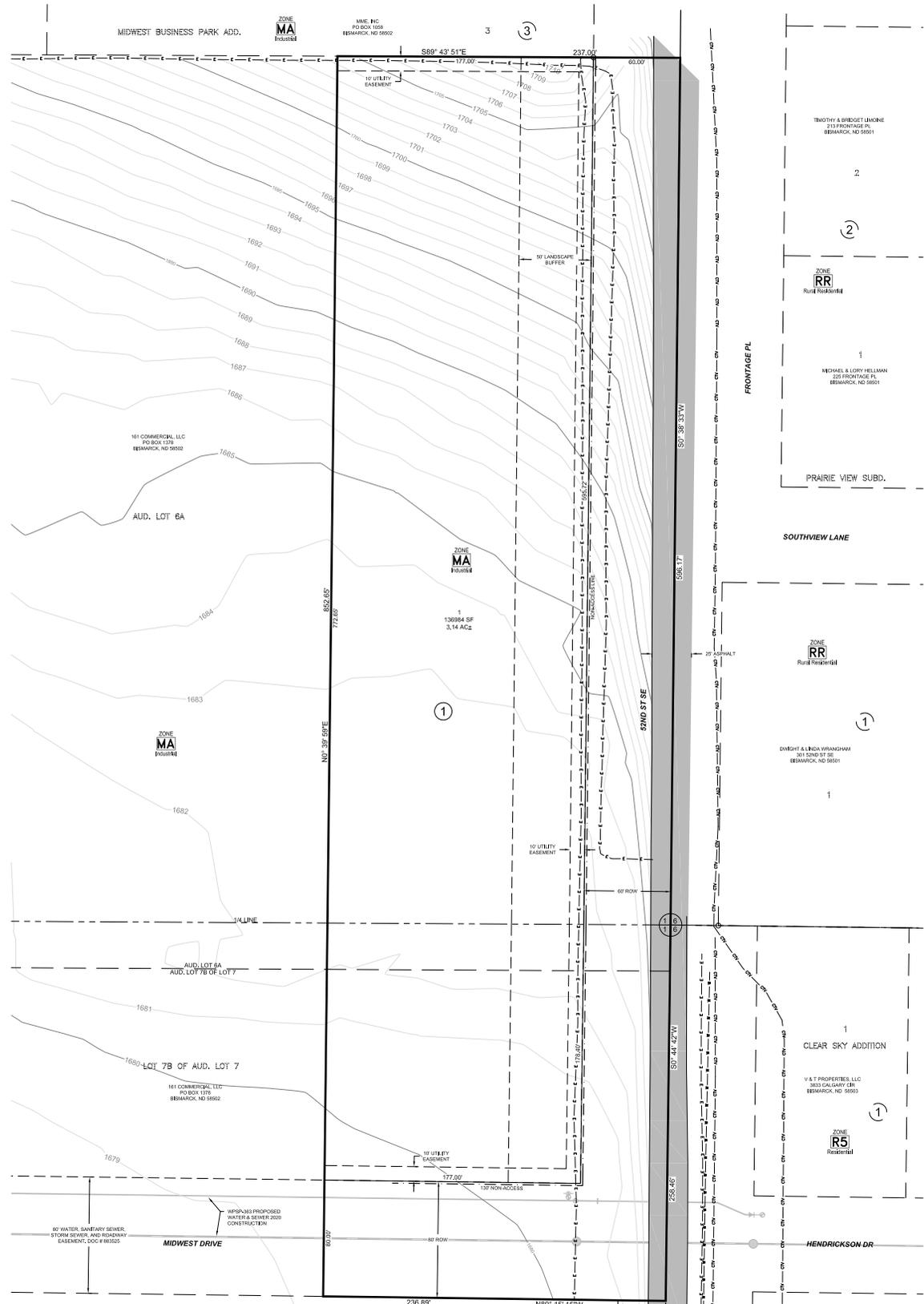


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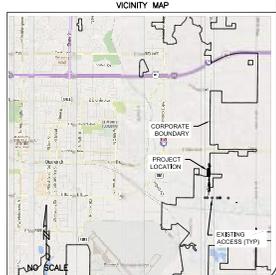
City of Bismarck  
Community Development Dept.  
Planning Division  
April 7, 2020

PRELIMINARY PLAT OF  
**FIRST RESPONDERS ADDITION**  
 TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA  
 PART OF AUDITOR'S LOT 6 OF THE E1/2 AND PART OF LOT 7B OF AUDITOR'S LOT 7 OF THE SE1/4 OF SECTION 1,  
 T138N-R80W OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



- LEGEND**
- FOUND PROPERTY CORNER
  - △ SECTION/QUARTER CORNER
  - ⊕ ELECTRIC/UTILITY BOX
  - ⊙ POWER POLE
  - FIBER OPTIC LINE
  - CABLE TV
  - UNDERGROUND ELECTRIC
  - OVERHEAD POWER
  - WATERMAIN
  - QUARTER/GOV'T LOT LINE
  - FENCE LINE
  - ASPHALT ROAD

- OWNERS:**  
 161 COMMERCIAL, LLC  
 408 E. MAIN AVE  
 BISMARCK, ND 58501
- BASIS OF BEARING:**  
 BASIS OF BEARING: EAST BOUNDARY LINE OF THE NW1/4, SECTION 1, T138N-R80W SOUTH 00° 44' 40" EAST.
- NOTES:**  
 1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.  
 2. TOTAL LOT ACREAGE: 3.14  
 TOTAL ROW ACREAGE: 1.51  
 TOTAL ACREAGE: 4.65



**TOMAN ENGINEERING**  
 501 1st Street NW, Mandan, ND 58554  
 Phone: 701-663-6483 \* Fax: 701-663-0923  
 SURVEYOR: ANDRA L. MARQUARDT, RL-S-4623

161 COMMERCIAL, LLC  
 PO BOX 1338  
 BISMARCK, ND 58502

22

FRP INVESTMENTS, LLP  
 108 E. MAIN AVE  
 BISMARCK, ND 58501

FIRST RESPONDERS ADDITION



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

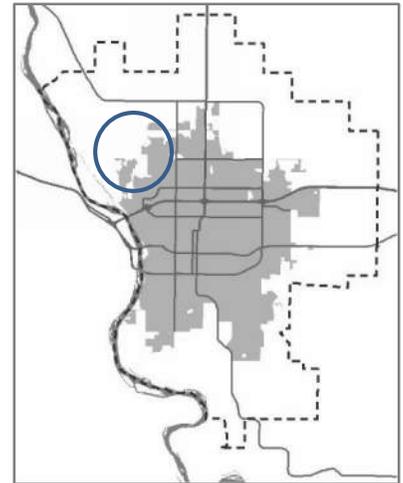
Agenda Item # 5  
 April 22, 2020

**Application for: Annexation**  
**Zoning Change**  
**Fringe Area Road Master Plan Amendment**  
**Major Subdivision Final Plat**

**TRAKiT Project ID: ANNX2019-005:**  
**ZC2019-013**  
**FRMP2020-001**  
**FPLT2020-004**

## Project Summary

<b>Title:</b>	Elk Ridge Second Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Ronald M. Knutson, RBK Ventures, LLP Boulder Ridge Development, Inc, and Bismarck North Developers
<b>Project Contact:</b>	Landon Niemiller, Swenson Hagen & Co.
<b>Location:</b>	In northwest Bismarck, between River Road and East Valley Drive, east of Promontory Point VI Addition along the west side of Tyler Parkway (a replat of Lot 11, Block 7, Lot 14, Block 10, Lot 1, Block 6, Lot 1, Block 5, Eagle Crest 6th Addition and Blocks 4 and 5, Elk Ridge Addition and part of the SE¼ of Section 18 and part of the NE¼ of Section 19, T138N-R80W/ Hay Creek Township)
<b>Project Size:</b>	58.14 acres
<b>Request:</b>	Plat, zone, and annex property for future single and two-family residential development



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	9 parcels	<b>Number of Lots:</b>	99 lots in 15 blocks
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Single and two-family residential
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Low Density Residential
<b>Zoning:</b>	A – Agriculture R5 – Residential	<b>Zoning:</b>	R5 – Residential R10 – Residential
<b>Uses Allowed:</b>	A – Agriculture R – Single family residential	<b>Uses Allowed:</b>	R5 – Residential R10 - Residential
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres R5 – 5 units / acre	<b>Max Density Allowed:</b>	R5 – 5 units / acre R10 – 10 units / acre

(continued)

**Property History**

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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**Staff Analysis**

Ronald M. Knutson, RBK Ventures, LLP, Boulder Ridge Development, Inc., and Bismarck North Developers are requesting approval of a zoning change from the A – Agriculture and R5 – Residential zoning districts to the R5 – Residential and R10 – Residential zoning districts, approval of a major subdivision final plat for Elk Ridge Second Addition, and a Fringe Area Road Master Plan Amendment to eliminate a north-south collector roadway within the proposed plat and in Sections 18 and 19, T139N-R80W/Hay Creek Township. The property is proposed to be annexed prior to development.

The Planning and Zoning Commission considered this request at their meeting of January 22, 2020 and called for a public hearing on the zoning change and fringe area road master plan amendment and tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 49 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include undeveloped A – Agricultural zoned property to the north, west and east; A – Agricultural and developing R5 – Residential zoned property to the northeast; and developing R5 – Residential property to the south.

*Concurrence with Plans*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the majority of the area in the proposed plat as Low Density Residential (LDR). The LDR land use designation allows for single and two-family residential uses and calls for densities in a range from 1 to 4 units per acre. The proposed plat generally conforms to the Future Land Use Plan.

The Growth Phasing Plan in the 2014 Growth Management Plan, as amended, identifies the majority of the proposed plat as Priority and a smaller area located along the western edge of the proposed plat, west of Elk Ridge Drive, as Future. The Priority area is an area where development is anticipated in the short term as municipal utilities are readily accessed, subject to available funding. Although the western edge of the proposed plat is located in the Future area, it is proposed to be served by utilities located within the Priority Area.

The 2014 Fringe Area Road Master Plan, as amended, identifies Frisco Drive as an east-west collector roadway and Tyler Parkway as a north-south arterial roadway.

The Fringe Area Road Master Plan also identifies a north-south collector roadway within area of the proposed plat, in Sections 18 and 19 of Hay Creek Township. A request to amend the Fringe Area Road Master Plan to eliminate this north-south collector classification has been made. Staff supports this request, as Ivory Lane within the plat, and the extension of Ivory Lane north to Ash Coulee Drive, will continue to provide north-south interconnectivity throughout the area, as indicated in the attached developer conceptual roadway plan.

*Neighborhood Parks and Open Space Policy*

The Bismarck Parks and Recreation District approved a Neighborhood Park Development Agreement for Elk Ridge Addition in 2018. The neighborhood park created with the agreement would also serve this plat.

**Required Findings of Fact** (relating to land use)

*Annexation*

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any

(continued)

development allowed by the annexation at the time the property is developed;

2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
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 the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Fringe Area Road Master Plan Amendment*

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the Fringe Area Road Master Plan was established or last amended;
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

*Final Plat*

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, if amended as proposed;
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP);
5. The provision of neighborhood parks has been met with the approved neighborhood park in Elk Ridge Addition;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any

*(continued)*

development allowed by the proposed subdivision at the time the property is developed;

- 8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
- 9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
- 10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
- 11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the annexation of the proposed plat less

the right-of-way for Tyler Parkway; the zoning change from the A – Agriculture and R5 – Residential zoning district to the R5 – Residential and R10 – Residential zoning districts; the fringe area road master plan amendment to eliminate a north-south collector roadway within the proposed plat and in Sections 18 and 19, T139N-R80W/Hay Creek Township; and major subdivision final plat for Elk Ridge Second Addition.

**Attachments**

- 1. Location Map
- 2. Aerial Map
- 3. Zoning and Plan Reference Map
- 4. Fringe Area Road Master Plan Amendment Narrative
- 5. Developer Conceptual Roadway Plan
- 6. Fringe Area Road Master Plan Map
- 7. Final Plat
- 8. Preliminary Plat

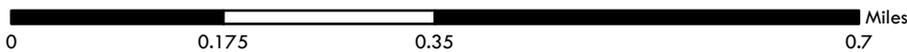
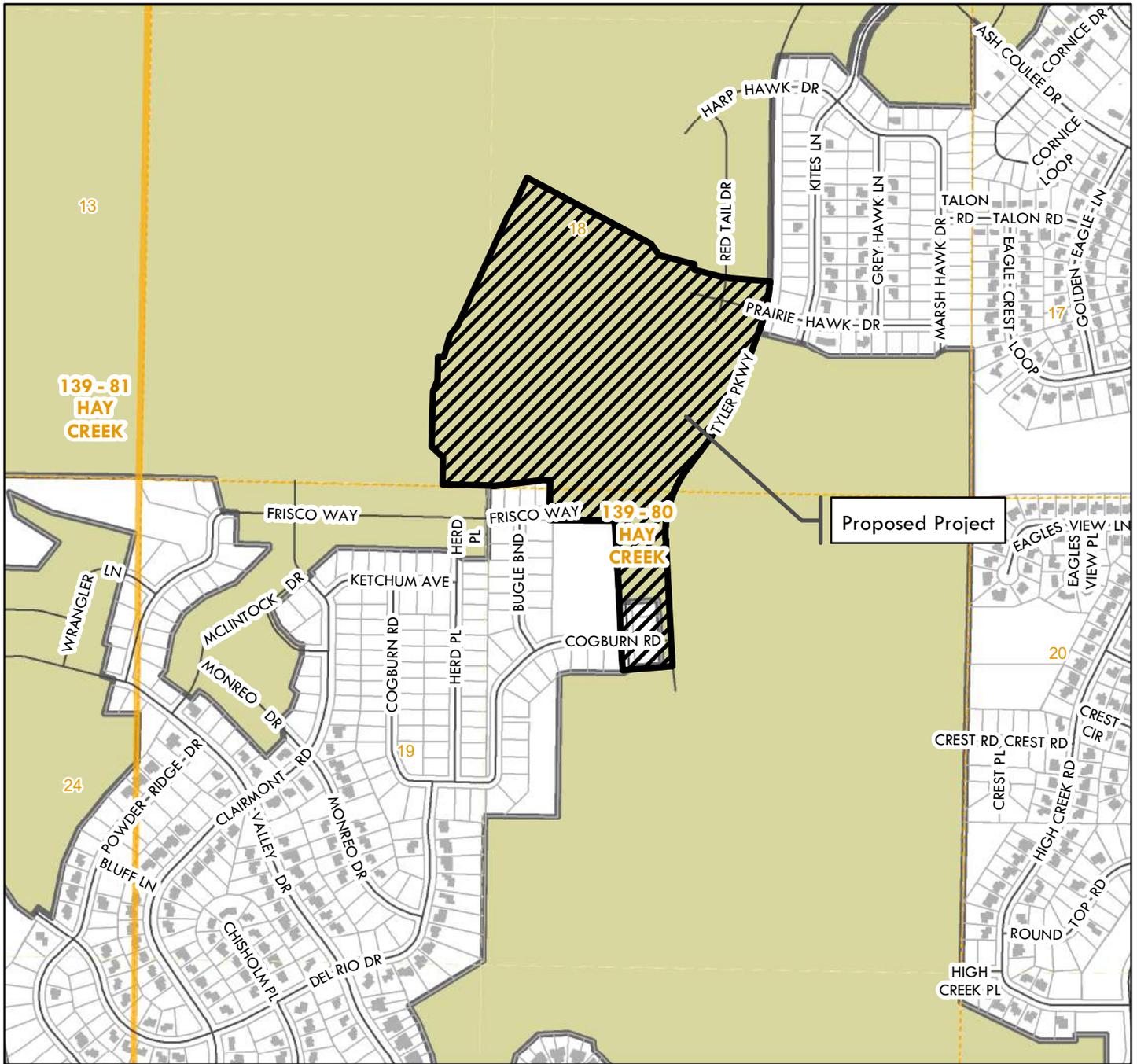
Staff report prepared by:

Jenny Wollmuth, AICP, CFM  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



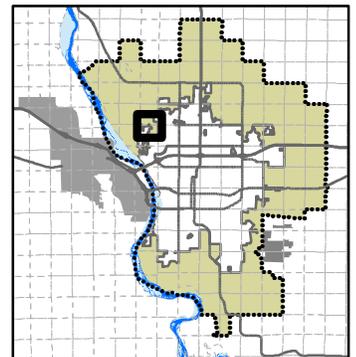
**Location Map**  
Elk Ridge Second Addition

ANNX2019-005  
ZC2019-013  
FRMP2020-001  
FPLT2020-004



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*



City of Bismarck  
Community Development Department  
Planning Division  
April 15, 2020 (HLB)

*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.*



# Aerial Map

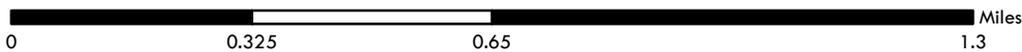
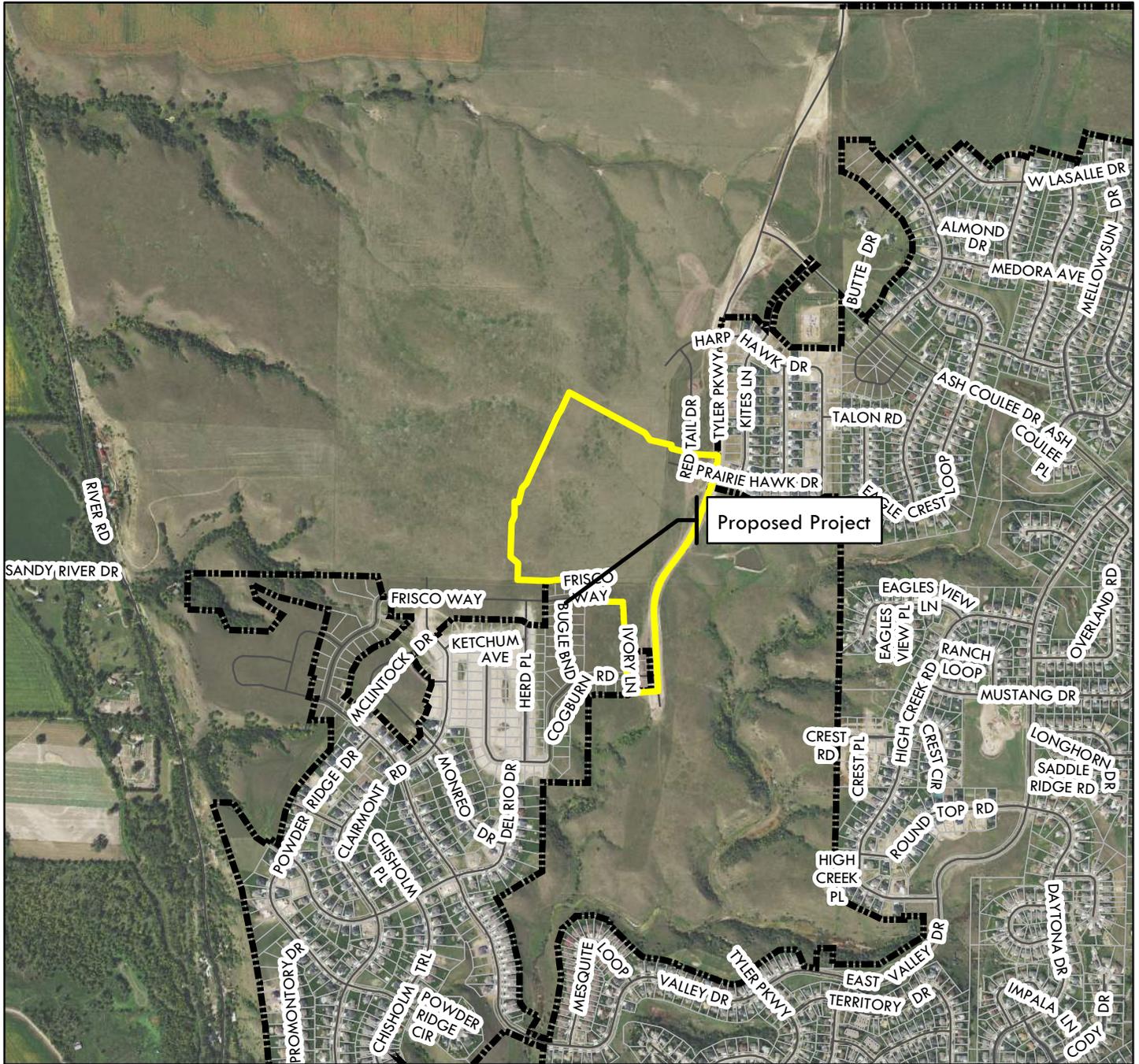
## Elk Ridge Second Addition

ANNX2019-005

ZC2019-013

FRMP2020-001

FPLT2020-004

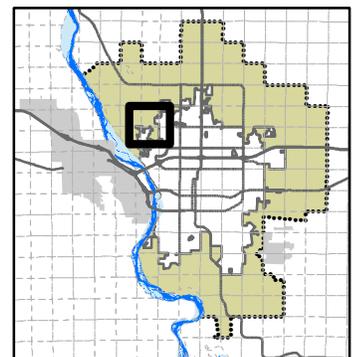


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
 Community Development Department  
 Planning Division  
 April 15, 2020

*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.*





# Zoning and Plan Reference Map

Elk Ridge Second Addition

ANNX2019-005  
ZC2019-013  
FRMP2020-001  
FPLT2020-004

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

### Zoning Districts

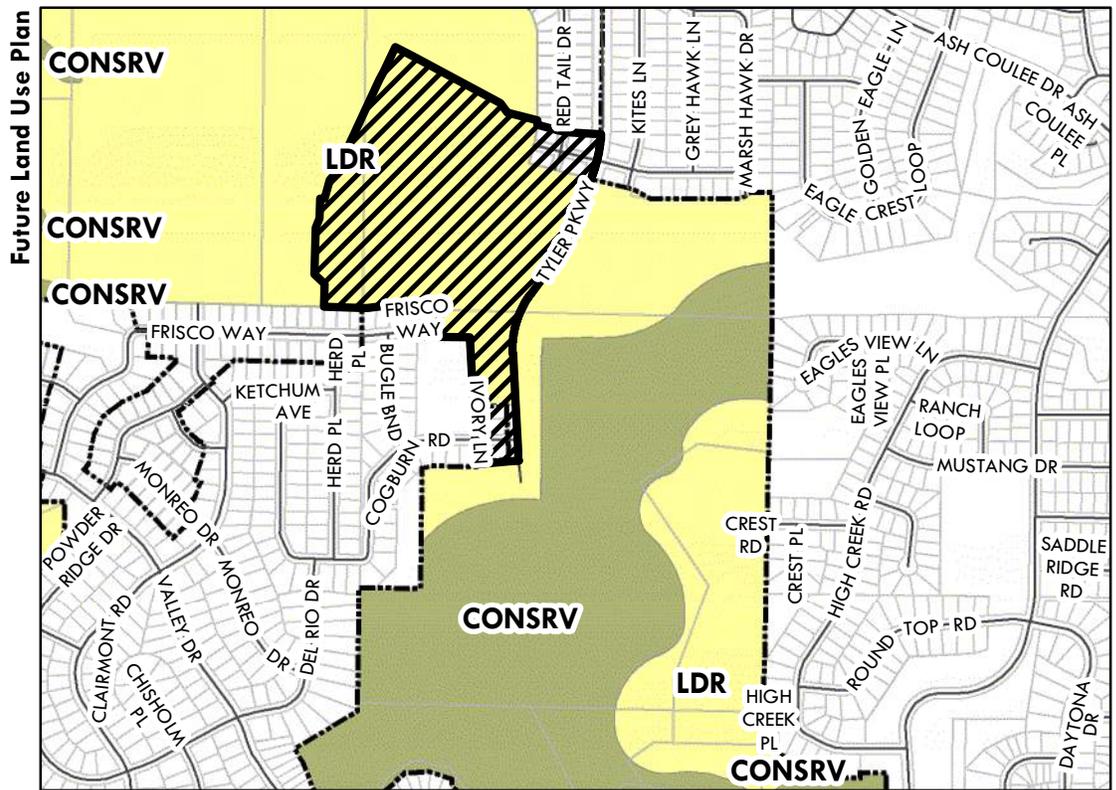
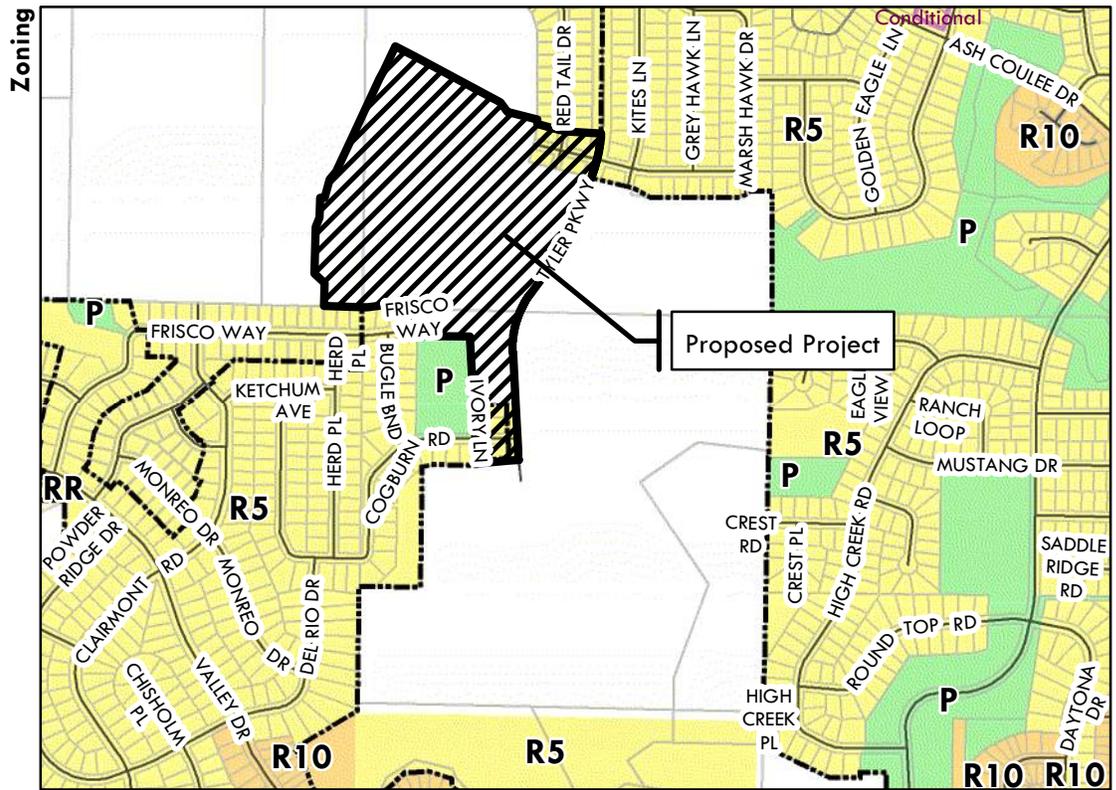
- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fring

Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan



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



City of Bismarck  
Community Development Dept.  
Planning Division  
January 16, 2020

## FARMP Amendment

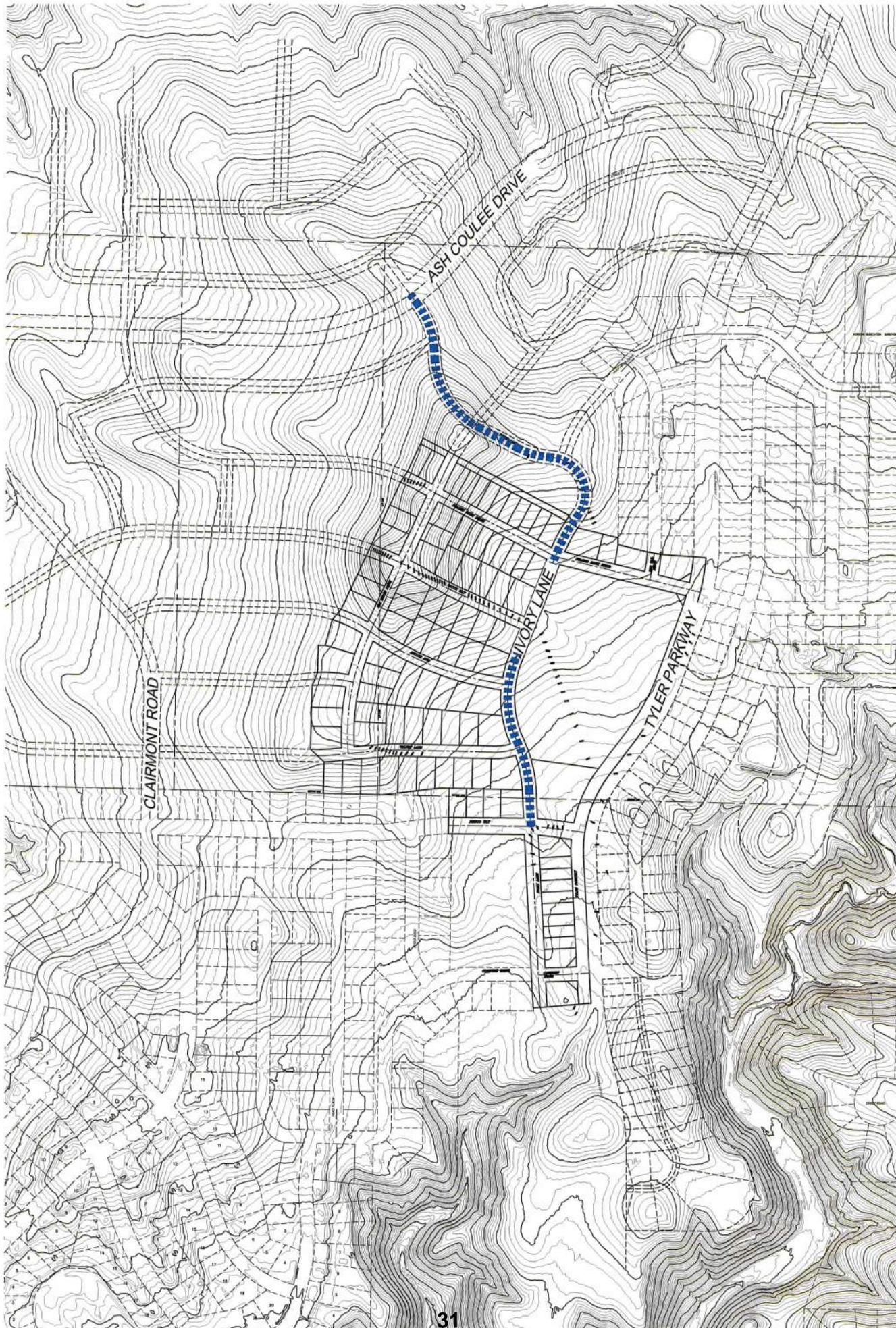
Bismarck North Developers, LLC is requesting an Amendment to the Fringe Area Road Master Plan to eliminate the Easternmost North-South collector road in Sections 18 & 19, Township 139 N., Range 80 W. of Hay Creek Township. The right-of-way, as shown on the attached exhibit, lies west of Tyler Parkway (an arterial road) and east of the extension of Clairmont Road (a collector road).

Currently, the FARMP requires a half-mile of collector road be dedicated in the southeast 1/4 of section 18-139-80, from the south line of Section 18, north to the westerly extension of Ash Coulee Drive, at which point it would become a local road. The proposed collector road is isolated to the SE 1/4, and would not significantly improve traffic flows or connectivity within the area greater than the dedication of a local road.

Typically, the FARMP proposes arterial & collector roads to be dedicated on 1/4 lines and section lines, respectively, leaving a spacing of roughly a 1/2 mile between them. The location of Tyler Parkway (the arterial road) in this section is closer to the center of the SE 1/4 than the section line; consequently the spacing between planned collector & arterial roads is much closer than typical. This eliminates the need for a collector road within Elk Ridge Second Addition, as the area that would be served by a collector will instead use the Tyler Parkway for north-south traffic.

Connectivity will still be maintained in the area, as Ivory Lane will be routed to Ash Coulee Drive, but as a local street with a 66' ROW width, which will allow for better parking & accessibility to a possible school site planned for the subdivision.

Additionally, Clairmont Road will still act as a collector road as future phases of the development are proposed. Clairmont Road will extend north and intersect with both Ash Coulee Drive/43<sup>rd</sup> Ave and 57<sup>th</sup> Ave, before transitioning to an arterial road at 71<sup>st</sup> Ave.





# Fringe Area Road Master Plan Reference Map

FRMP2020-001

Elk Ridge Second Addition

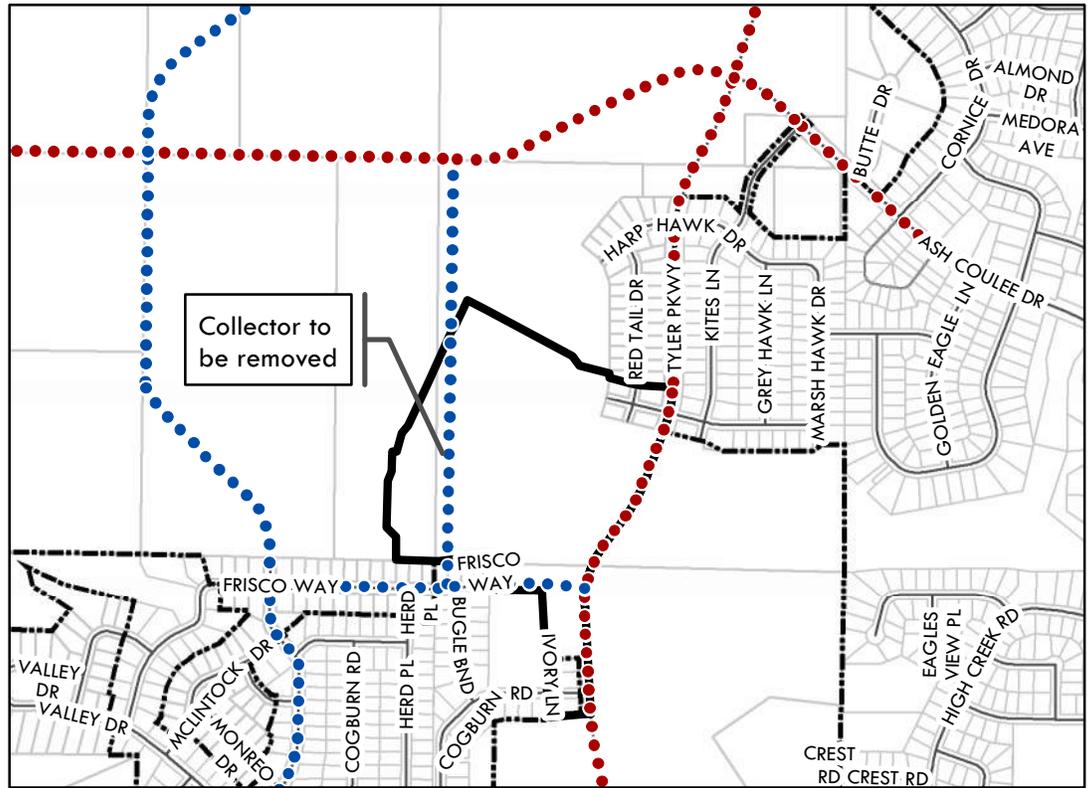
## Existing Plan

Fringe Area Road Master Plan

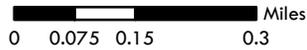
- Planned Arterial
- Planned Collector

Associated Project Area

City Limits

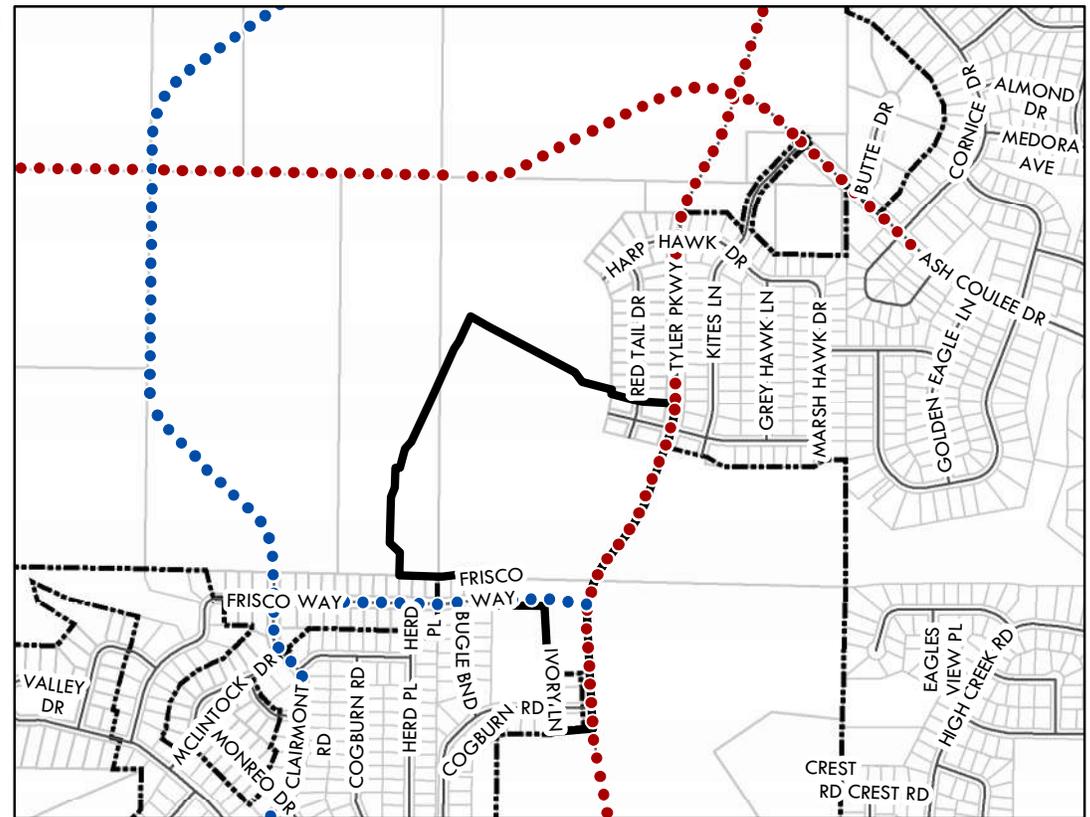


## Proposed Plan



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

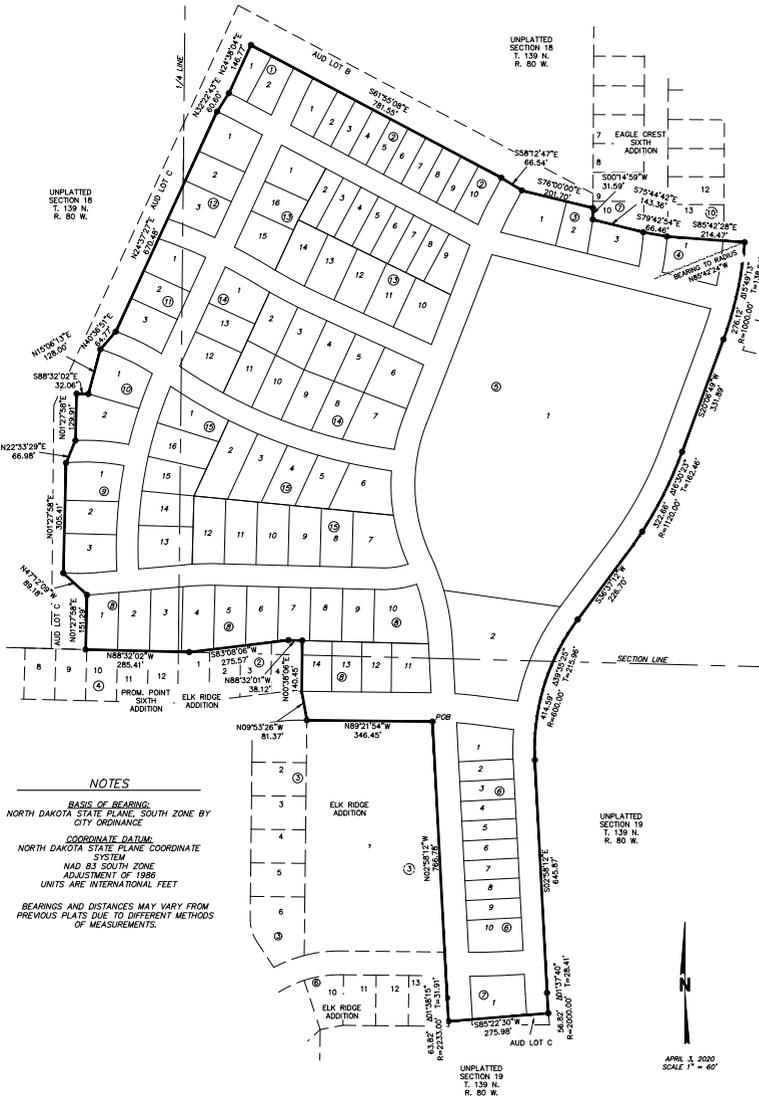
City of Bismarck  
Community Development  
Department  
Planning Division  
January 17, 2020



# ELK RIDGE SECOND ADDITION

BEING A REPLAT OF LOT 1 BLOCK 6, LOT 11 BLOCK 7, LOT 14 BLOCK 10, LOT 1 BLOCK 5, AND PART OF RED TRAIL DRIVE, PRAIRIE HAWK DRIVE, AND TYLER PARKWAY RIGHTS-OF-WAY, ALL WITHIN EAGLE CREST SIXTH ADDITION AND A REPLAT OF BLOCKS 4 & 5 AND IVORY LANE RIGHT-OF-WAY AND PARTS OF COGBURN ROAD AND TYLER PARKWAY RIGHTS-OF-WAY ALL IN ELK RIDGE ADDITION AND PART OF AUDITOR'S LOTS B & C OF THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, AND ALL OF AUDITOR'S LOT B AND PART OF AUDITOR'S LOT C OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



### DESCRIPTION

BEING A REPLAT OF LOT 1 BLOCK 6, LOT 11 BLOCK 7, LOT 14 BLOCK 10, LOT 1 BLOCK 5, AND PART OF RED TRAIL DRIVE, PRAIRIE HAWK DRIVE, AND TYLER PARKWAY RIGHTS-OF-WAY, ALL WITHIN EAGLE CREST SIXTH ADDITION AND A REPLAT OF BLOCKS 4 & 5 AND IVORY LANE RIGHT-OF-WAY AND PARTS OF COGBURN ROAD AND TYLER PARKWAY RIGHTS-OF-WAY ALL IN ELK RIDGE ADDITION AND PART OF AUDITOR'S LOTS B & C OF THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST AND PART OF AUDITOR'S LOT B AND PART OF AUDITOR'S LOT C OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST

### DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 7 BLOCK 3 ELK RIDGE ADDITION; THENCE NORTH 89 DEGREES 21 MINUTES 54 SECONDS WEST, ALONG THE BOUNDARY OF SAID ELK RIDGE ADDITION, A DISTANCE OF 346.44 FEET; THENCE NORTH 00 DEGREES 39 MINUTES 00 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 140.45 FEET; THENCE NORTH 88 DEGREES 32 MINUTES 32 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 38.12 FEET; THENCE SOUTH 87 DEGREES 08 MINUTES 08 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 275.57 FEET; THENCE NORTH 89 DEGREES 32 MINUTES 02 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, AND THE BOUNDARY OF PROMONTORY POINT SIXTH ADDITION, A DISTANCE OF 285.41 FEET; THENCE NORTH 01 DEGREE 27 MINUTES 58 SECONDS EAST, A DISTANCE OF 151.29 FEET; THENCE NORTH 47 DEGREES 12 MINUTES 09 SECONDS WEST, A DISTANCE OF 89.18 FEET; THENCE NORTH 01 DEGREE 27 MINUTES 58 SECONDS EAST, A DISTANCE OF 305.41 FEET; THENCE NORTH 22 DEGREES 31 MINUTES 29 SECONDS EAST, A DISTANCE OF 66.98 FEET; THENCE NORTH 01 DEGREE 27 MINUTES 58 SECONDS EAST, A DISTANCE OF 128.00 FEET; THENCE SOUTH 88 DEGREES 32 MINUTES 02 SECONDS EAST, A DISTANCE OF 32.06 FEET; THENCE NORTH 15 DEGREES 06 MINUTES 13 SECONDS EAST, A DISTANCE OF 128.00 FEET; THENCE NORTH 40 DEGREES 38 MINUTES 51 SECONDS EAST, A DISTANCE OF 64.77 FEET; THENCE NORTH 24 DEGREES 37 MINUTES 27 SECONDS EAST, A DISTANCE OF 670.48 FEET; THENCE NORTH 32 DEGREES 22 MINUTES 43 SECONDS EAST, A DISTANCE OF 60.00 FEET; THENCE NORTH 24 DEGREES 38 MINUTES 04 SECONDS EAST, A DISTANCE OF 146.77 FEET; THENCE SOUTH 01 DEGREES 55 MINUTES 09 SECONDS EAST, PARALLEL WITH THE NORTHEASTERLY LINE OF AUDITOR'S LOT B OF THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, A DISTANCE OF 291.55 FEET; THENCE SOUTH 48 DEGREES 12 MINUTES 47 SECONDS EAST, A DISTANCE OF 66.54 FEET; THENCE SOUTH 76 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 201.70 FEET TO THE WEST LINE OF LOT 10 BLOCK 7 EAGLE CREST SIXTH ADDITION; THENCE SOUTH 00 DEGREES 14 MINUTES 59 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 31.59 FEET; THENCE SOUTH 75 DEGREES 44 MINUTES 42 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 10 BLOCK 7 EAGLE CREST SIXTH ADDITION, A DISTANCE OF 143.36 FEET; THENCE SOUTH 79 DEGREES 42 MINUTES 34 SECONDS EAST, A DISTANCE OF 66.46 FEET TO THE SOUTH LINE OF LOT 13 BLOCK 10 EAGLE CREST SIXTH ADDITION; THENCE SOUTH 85 DEGREES 42 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH LINE AND ITS EASTERLY EXTENSION, A DISTANCE OF 214.47 FEET TO THE CENTERLINE OF TYLER PARKWAY RIGHT-OF-WAY; THENCE SOUTHWESTERLY AND TO THE RIGHT, ALONG SAID CENTERLINE, ON A 1000.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 85 DEGREES 42 MINUTES 34 SECONDS WEST, AN ARC LENGTH OF 276.12 FEET; THENCE SOUTH 20 DEGREES 06 MINUTES 49 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE AND THE BOUNDARY OF AUDITOR'S LOT B OF THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, ON A 2000.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 56.82 FEET; THENCE SOUTH 69 DEGREES 22 MINUTES 03 SECONDS WEST, A DISTANCE OF 275.25 FEET TO THE EAST LINE OF LOT 13 BLOCK 6 ELK RIDGE ADDITION; THENCE NORTHWESTERLY AND TO THE LEFT, ALONG SAID EAST LINE, ON A 2333.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 63.82 FEET; THENCE NORTH 02 DEGREES 58 MINUTES 12 SECONDS WEST, ALONG SAID EAST LINE AND THE EAST LINE OF LOT 7 BLOCK 3 ELK RIDGE ADDITION, A DISTANCE OF 766.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 58.14 ACRES, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_ 2020, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
 COUNTY OF BURLEIGH ) SS SWENSON, HAGEN & CO. P.C.  
 1029 EASTON AVENUE  
 BISMARCK, NORTH DAKOTA  
 58504

TERRY BALTZER,  
 PROFESSIONAL LAND SURVEYOR  
 N.D. REGISTRATION NO. 3595

### APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON \_\_\_\_\_ 2020, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION, IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN ATTEST  
 BEN EURETH - SECRETARY

### APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE RE-DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

ATTEST  
 KATH J. HUNKE - CITY ADMINISTRATOR

### APPROVAL OF CITY ENGINEER

I, GABRIEL J. SHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE 'ELK RIDGE SECOND ADDITION', BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SHELL  
 CITY ENGINEER

### OWNER'S CERTIFICATE & DEDICATION

I KNOW ALL MEN BY THESE PRESENTS THAT BISMARCK NORTH DEVELOPERS, LLC, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS 'ELK RIDGE SECOND ADDITION', BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE AND RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWERS, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES OR ON UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

STATE OF NORTH DAKOTA )  
 COUNTY OF BURLEIGH )

RON KNUTSON  
 BISMARCK NORTH DEVELOPERS, LLC  
 555 HIGHWAY 1804 NE  
 BISMARCK, ND 58503

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020, BEFORE ME PERSONALLY APPEARED RON KNUTSON OF BISMARCK NORTH DEVELOPERS, LLC, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
 BURLEIGH COUNTY, NORTH DAKOTA  
 MY COMMISSION EXPIRES \_\_\_\_\_

### NOTES

BASIS OF BEARING:  
 NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
 CITY ORDINANCE  
 COORDINATE DATUM:  
 NORTH DAKOTA STATE PLANE COORDINATE  
 SYSTEM  
 NAD 83 SOUTH ZONE  
 ADJUSTMENT OF 1986  
 UNITS ARE INTERNATIONAL FEET  
 BEARINGS AND DISTANCES MAY VARY FROM  
 PREVIOUS PLATS DUE TO DIFFERENT METHODS  
 OF MEASUREMENTS.

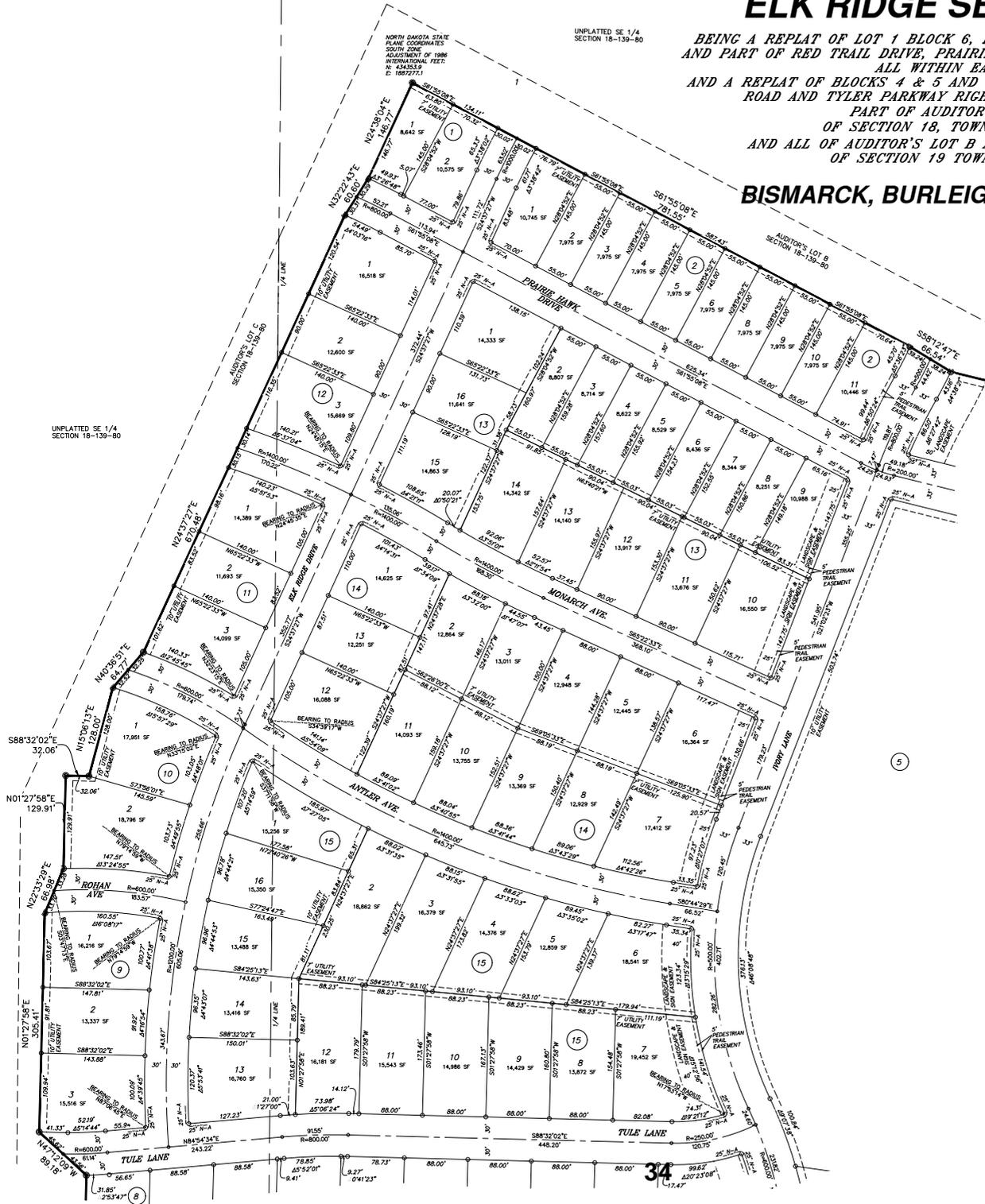
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**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**

UNPLATTED SE 1/4 SECTION 18-139-80

UNPLATTED SE 1/4 SECTION 19-139-80



## NOTES

BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
CITY ORDINANCE

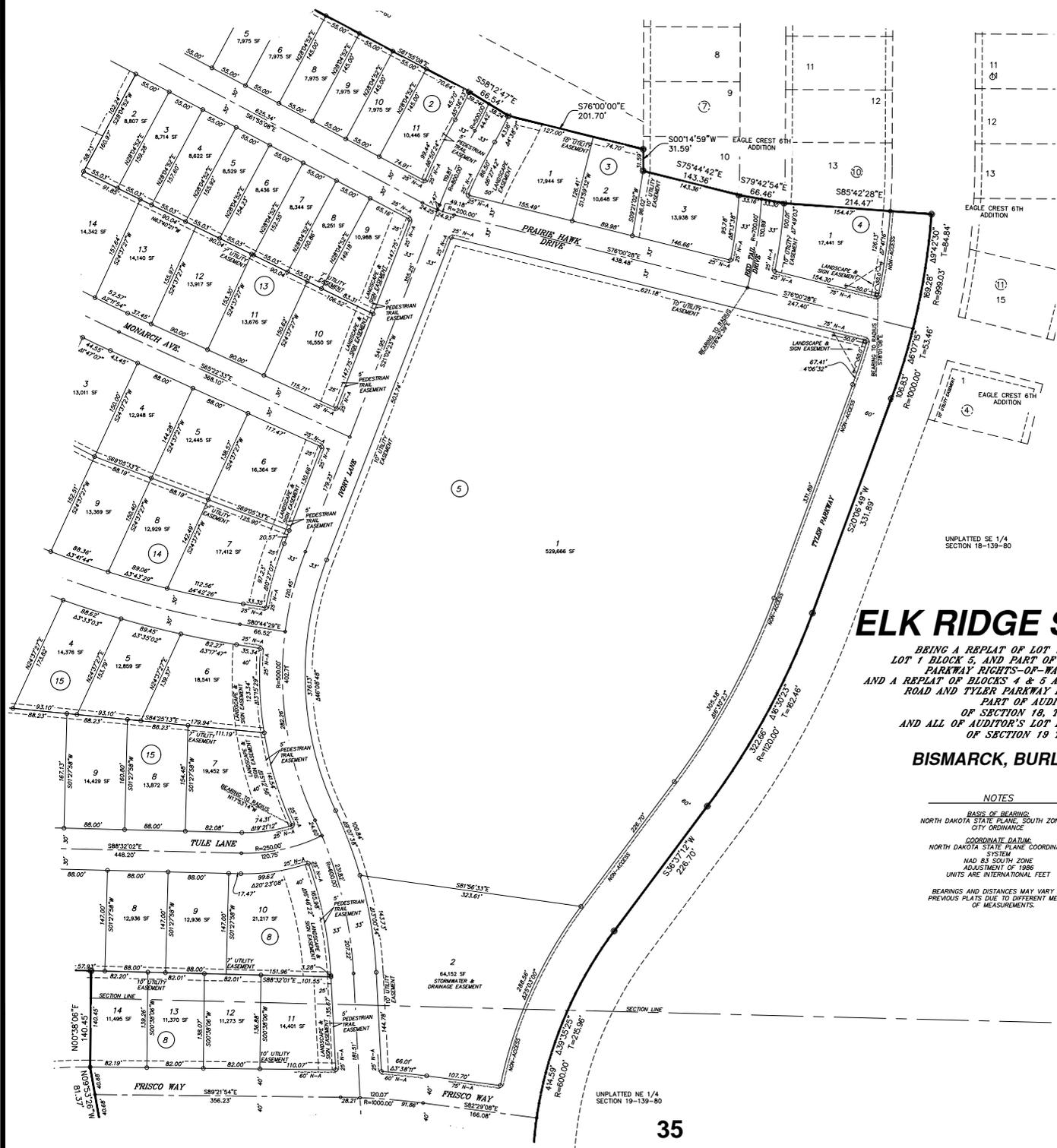
COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.

VERTICAL BENCHMARK:



**SWENSON, HAGEN & COMPANY P.C.**  
 Surveying  
 Hydrology  
 Land Planning  
 Civil Engineering  
 Landscape & Site Design  
 Construction Management  
 900 Basin Avenue  
 Bismarck, North Dakota 58504  
 www.swensonhagen.com  
 Phone (701) 221-2900  
 Fax (701) 221-2000



# ELK RIDGE SECOND ADDITION

BEING A REPLAT OF LOT 1 BLOCK 6, LOT 11 BLOCK 7, LOT 14 BLOCK 10, LOT 1 BLOCK 5, AND PART OF RED TRAIL DRIVE, PRAIRIE HAWK DRIVE, AND TYLER PARKWAY RIGHTS-OF-WAY; ALL WITHIN EAGLE CREST SIXTH ADDITION AND A REPLAT OF BLOCKS 4 & 5 AND IVORY LANE RIGHT-OF-WAY AND PARTS OF COGBURN ROAD AND TYLER PARKWAY RIGHTS-OF-WAY ALL IN ELK RIDGE ADDITION AND PART OF AUDITOR'S LOTS B & C OF THE SE 1/4 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST, AND ALL OF AUDITOR'S LOT B AND PART OF AUDITOR'S LOT C OF THE NE 1/4 OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST

**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**

**NOTES**

BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
CITY ORDINANCE

COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

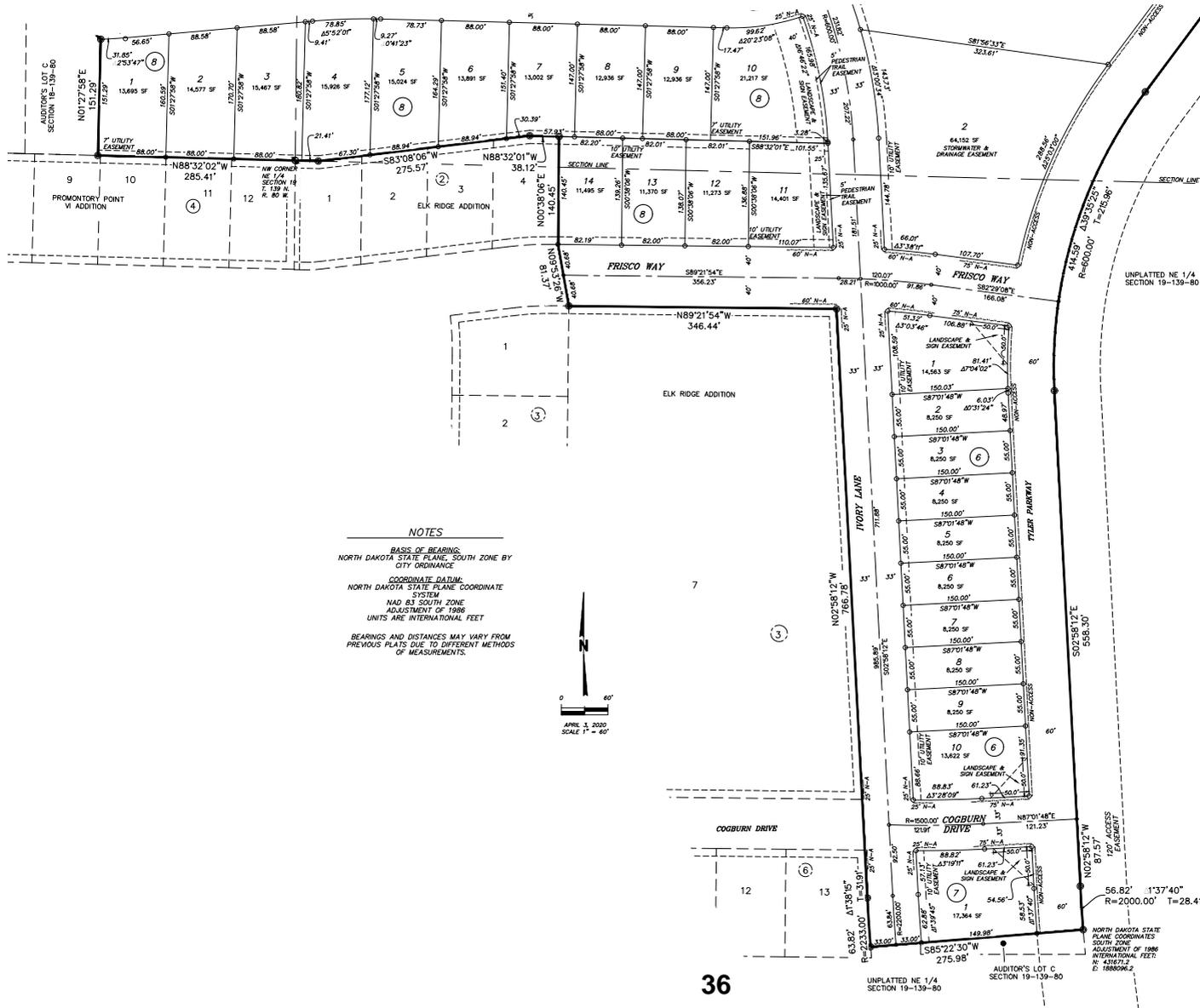
BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.



# ELK RIDGE SECOND ADDITION

BEING A REPLAT OF LOT 1 BLOCK 6, LOT 11 BLOCK 7, LOT 14 BLOCK 10, LOT 1 BLOCK 5,  
AND PART OF RED TRAIL DRIVE, PRAIRIE HAWK DRIVE, AND TYLER PARKWAY RIGHTS-OF-WAY,  
ALL WITHIN EAGLE CREST SIXTH ADDITION  
AND A REPLAT OF BLOCKS 4 & 5 AND IVORY LANE RIGHT-OF-WAY AND PARTS OF COGBURN  
ROAD AND TYLER PARKWAY RIGHTS-OF-WAY ALL IN ELK RIDGE ADDITION AND  
PART OF AUDITOR'S LOTS B & C OF THE SE 1/4  
OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 80 WEST,  
AND ALL OF AUDITOR'S LOT B AND PART OF AUDITOR'S LOT C OF THE NE 1/4  
OF SECTION 19 TOWNSHIP 139 NORTH, RANGE 80 WEST

**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**



# PRELIMINARY PLAT

## ELK RIDGE SECOND ADDITION

A REPLAT OF LOT 11 BLOCK 7, LOT 14 BLOCK 10, LOT 1  
BLOCK 6, LOT 1 BLOCK 5 EAGLE CREST 6TH ADDITION AND  
BLOCKS 4 & 5 OF ELK RIDGE ADDITION &  
PART OF THE SE 1/4 SECTION 18  
AND PART OF THE NE 1/4 OF SECTION 19 OF  
TOWNSHIP 139 NORTH, RANGE 80 WEST

**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**



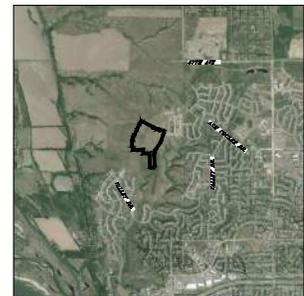
58.7 ACRES  
EXISTING ZONING: A, R5  
PROPOSED ZONING: R5, R10  
101 LOTS 15 BLOCKS

OWNER: TYLER COULEE, LLP  
BISMARCK NORTH DEVELOPERS  
RON KNUTSON  
RBK VENTURES, LLP

ADDRESS: 555 HWY 1804 NE  
BISMARCK, ND 58503

OWNER: BOULDER RIDGE DEVELOPMENT, INC.

ADDRESS: 101 SLATE DR., STE. 1  
BISMARCK, ND 58503



LOCATION MAP



0 100' 200'  
SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

JANUARY 8, 2020

**SWENSON, HAGEN & COMPANY P.C.**  
Surveying  
Hydrology  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management

809 Basin Avenue  
Bismarck, North Dakota 58504  
Phone (701) 223-2000  
Fax (701) 223-2000  
shc@swensonhagen.com



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

Agenda Item # 6

April 22, 2020

**Application for: Annexation**  
**Zoning Change**  
**Major Subdivision Final Plat**

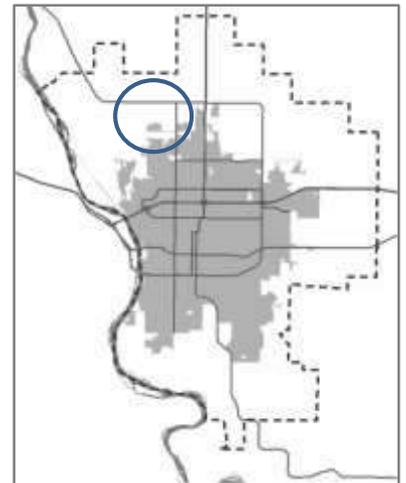
TRAKiT Project ID: ANN2019-003

ZC2019-010

FPLT2020-005

## Project Summary

<b>Title:</b>	Heritage Park Second Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Benchmark Developments, LLC
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co.
<b>Location:</b>	In northwest Bismarck, north of 57 <sup>th</sup> Avenue NW and east of 15 <sup>th</sup> Street NW (part of the SW <sup>1</sup> / <sub>4</sub> of Section 8, T139N-R80W/Hay Creek Township)
<b>Project Size:</b>	35.77 Acres
<b>Request:</b>	Plat, zone, and annex property for 104 residential lots as an extension of the existing Heritage Park Addition



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	Unplatted Tract	<b>Number of Lots:</b>	96 lots in 6 blocks
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Single-family, two-family, and multi-family residential
<b>Designated GMP Future Land Use:</b>	Low Density Residential	<b>Designated GMP Future Land Use:</b>	Low Density Residential
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	R5 – Residential R10 – Residential RM10 – Residential
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	R5 – Single-family residential R10 – Single and two-family residential RM10 – Multi-family residential
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	R5 – 5 units / acre R10 – 10 units / acre RM10 – 10 units / acre

**Property History**

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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**Staff Analysis**

Benchmark Developments, LLC is requesting approval of a major subdivision final plat, a zoning changes and annexation in northwest Bismarck. Heritage Park Second Addition would be an extension of the existing Heritage Park / Heritage Ridge master plan and is being requested in conjunction with Heritage Ridge Second Addition directly to the west. The applicant also proposes to annex the entire plat of Heritage Park Second Addition.

The proposed plat would include 95 residential lots with a mixture of housing types, ranging from four-plex multifamily homes on the east side to single-family homes on the west side.

The Planning and Zoning Commission considered this request at their meeting of December 18, 2019 and called for a public hearing on this zoning change and tentatively approved this preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 96 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include developing residential uses of a similar character to the south, rural residential uses to the east and north, and undeveloped land to the west. The land to the west is proposed for single-family residential uses.

*Concurrence with Plans*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies this entire area as Low Density Residential (LDR). Under the development block concept outlined in the plan, the uses and densities are considered for the entire block as a whole. As proposed, the plat would allow approximately three dwelling units per acre, and the entire Heritage Ridge/Heritage Park master plan would also be a similar density. This is within the intent

of the LDR designation. No non-residential uses are proposed for this subdivision.

The Fringe Area Road Master Plan (FARMP) calls for an extension of Sonora Way through this proposed plat to the north as a collector roadway. The plat would dedicate sufficient right-of-way to satisfy the plan for Sonora Way.

The FARMP also shows the northern boundary of this plat, 64<sup>th</sup> Avenue NW, as a future collector roadway, which would eventually connect all the way from 15<sup>th</sup> Street NW to North Washington Street, and terminate further to the east at North 19<sup>th</sup> Street. The proposed plat would dedicate sufficient right-of-way to construct the portion of this roadway through the plat.

*Public and Private Roadways*

The right-of-way for two collector roadways would be dedicated on this plat: 64<sup>th</sup> Avenue NW on the northern boundary, and Sonora Way creating a north-south connection.

A development agreement between the City and the applicant will be prepared and presented to the City Commission regarding responsibilities for construction of 64<sup>th</sup> Avenue NW. As of the time this writing, this draft agreement stipulates that the developer will grade this right-of-way but will not be responsible for constructing this roadway.

Right-of-way for Sonora Way would maintain 80 feet in width, consistent with collector roadway standards. With development of this plat, Sonora Way will be constructed to connect to both segments of this roadway to the north in Crested Butte Addition and to the south in Heritage Park Addition.

Community Loop would utilize 60 feet of right-of-way and 32-foot pavement width, with a transition from the 37-foot wide segment of this road in Heritage Park Addition. Collective Lane and Cornerstone Lane provide

(continued)

access to a small number of homes and would utilize the narrowest standard of 54-foot rights-of-way and 26 feet paved area, with parking limited to one side.

Two private roads would be developed on the east side of the development. These roads must meet fire apparatus access roadway standards at a minimum and would be owned and maintained by the homeowners' association for the development.

The private road in the southeast corner of the plat is proposed to be named Colony Place. The extension of this roadway to the south within Heritage Park Addition is named Colony Loop; however, the road will no longer be looping as previously anticipated which necessitates the name change. The street name for Colony Loop to the south will need to be formally changed by the City Commission in conjunction with action on this plat.

*Other Issues*

A Park Development Agreement was initially established for Heritage Park Addition including the entire master planned area. A park has been installed on the east side of Sonora Way at the southern entrance of the development. Therefore, the requirements of the Neighborhood Parks and Open Space policy have already been met for this subdivision.

Lot 10, Block 6 would be dedicated to local stormwater detention. The lot would remain privately-owned and is zoned in the same manner as the surrounding lots. It would be owned and maintained by the homeowners' association for this development.

*Utility Capital Charges*

The creation of any new lots in the City of Bismarck is subject to utility capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to establishment of the street improvement district for this subdivision.

**Required Findings of Fact** (relating to land use)

*Annexation*

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
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 the master plan, other adopted plans, policies and accepted planning practice; and
- 8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Final Plat*

- 1. All technical requirements for approval of a final plat have been met;
- 2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
- 3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
- 4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP);
- 5. The requirements of the neighborhood parks and open space policy have been met by a previous Park Development Agreement.
- 6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
- 7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
- 8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;

- 9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
- 10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
- 11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the annexation, the zoning change from the A – Agricultural zoning district to the R5 – Residential, R10 – Residential, and RM10 – Residential zoning districts and the major subdivision final plat for Heritage Park Second Addition with the following conditions:

- 1. A street name change is initiated for Colony Loop within Heritage Park Addition to remain consistent with the extension of this street within Heritage Park Second Addition in conjunction with the City Commission approval of the final plat.
- 2. A development agreement for construction of 64<sup>th</sup> Avenue NW is presented for approval by the City Commission in conjunction with final action on the final plat of Heritage Park Second Addition with the City Commission.

**Attachments**

- 1. Location Map
- 2. Aerial Map
- 3. Zoning and Plan Reference Map
- 4. Proposed Zoning Map
- 5. Final Plat
- 6. Preliminary Plat

*Staff report prepared by:* Daniel Nairn, AICP, Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

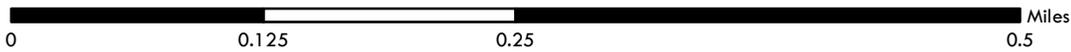
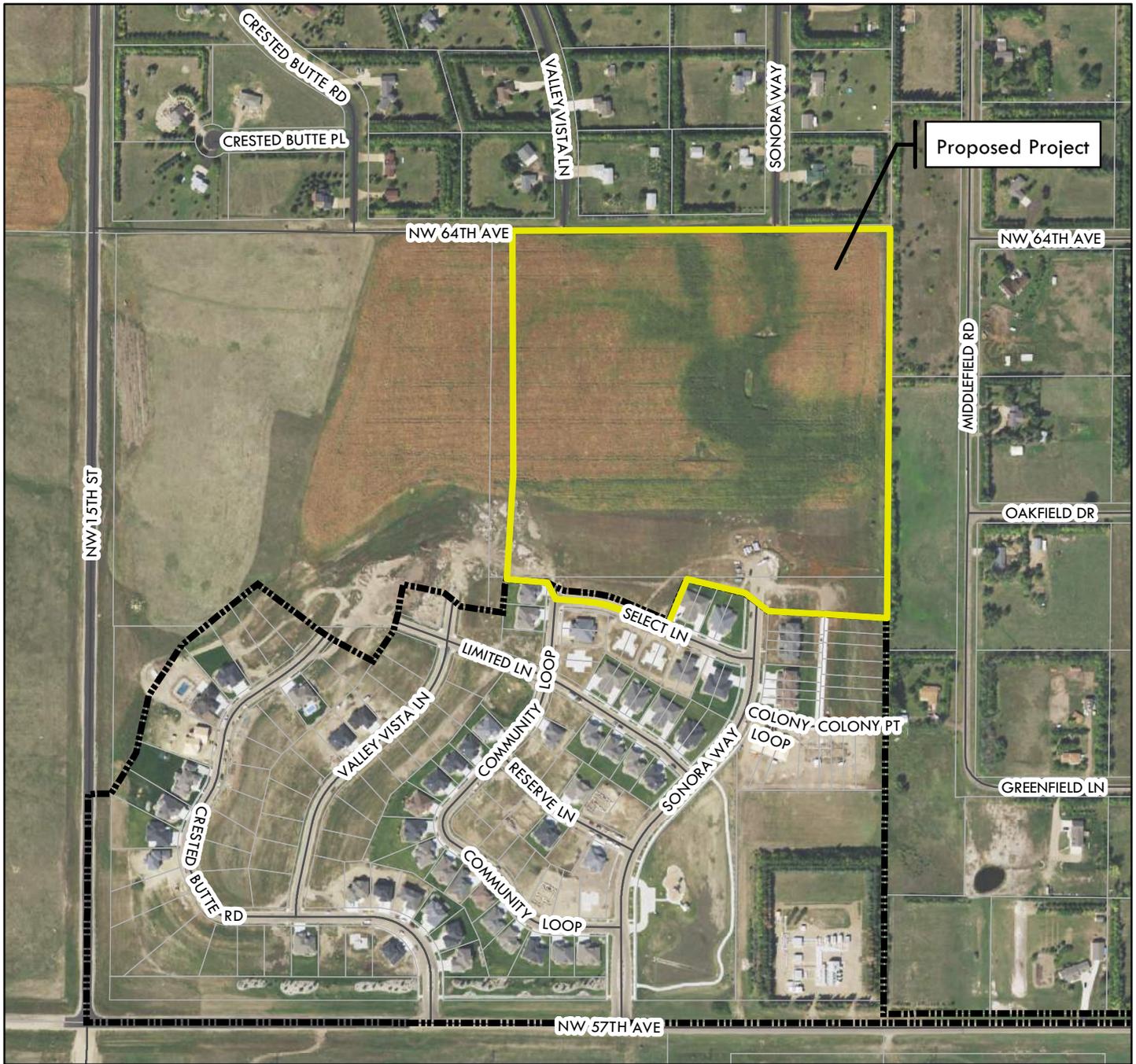




# Aerial Map

Heritage Park Second Addition

FPLT2020-005  
ZC2019-010  
ANNX2019-003

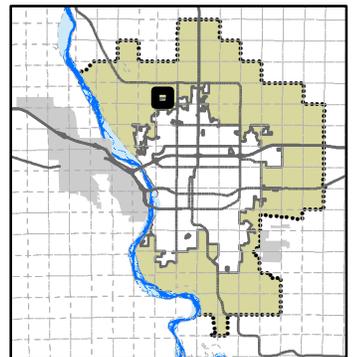


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
December 6, 2019

*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.*





# Zoning and Plan Reference Map

Heritage Park Second Addition

FPLT2020-005  
ZC2019-010  
ANNX2019-003

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

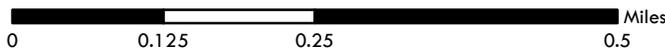
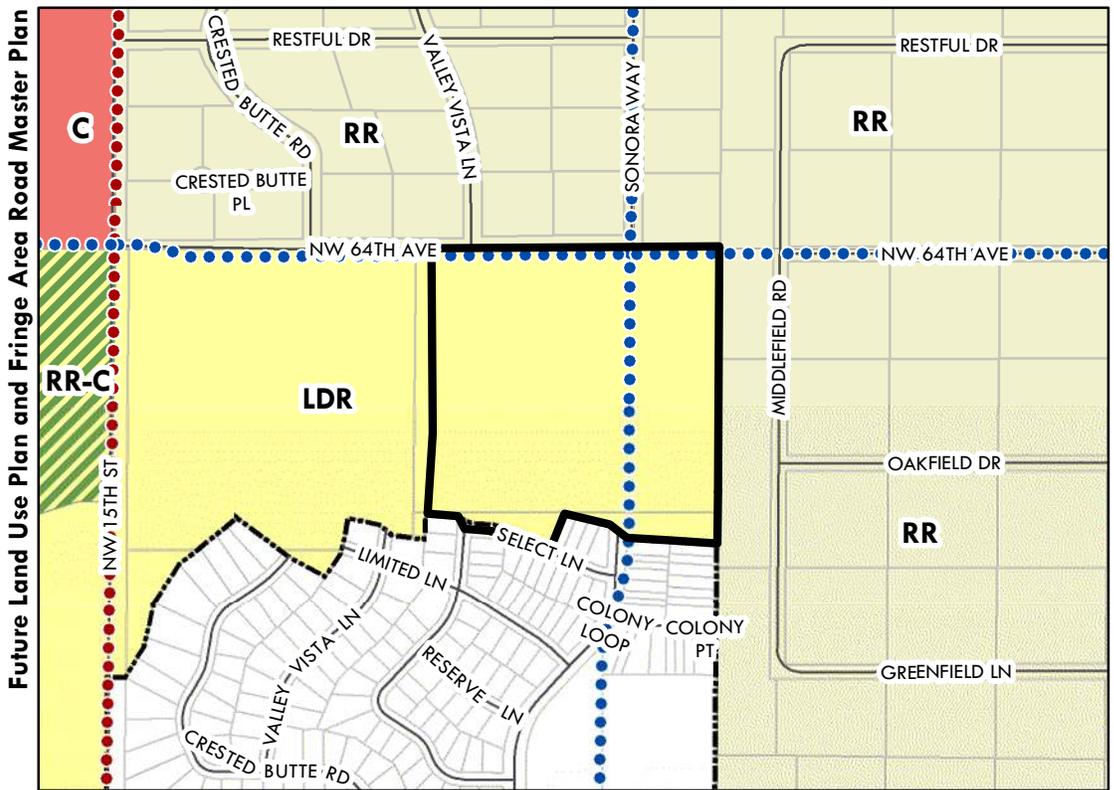
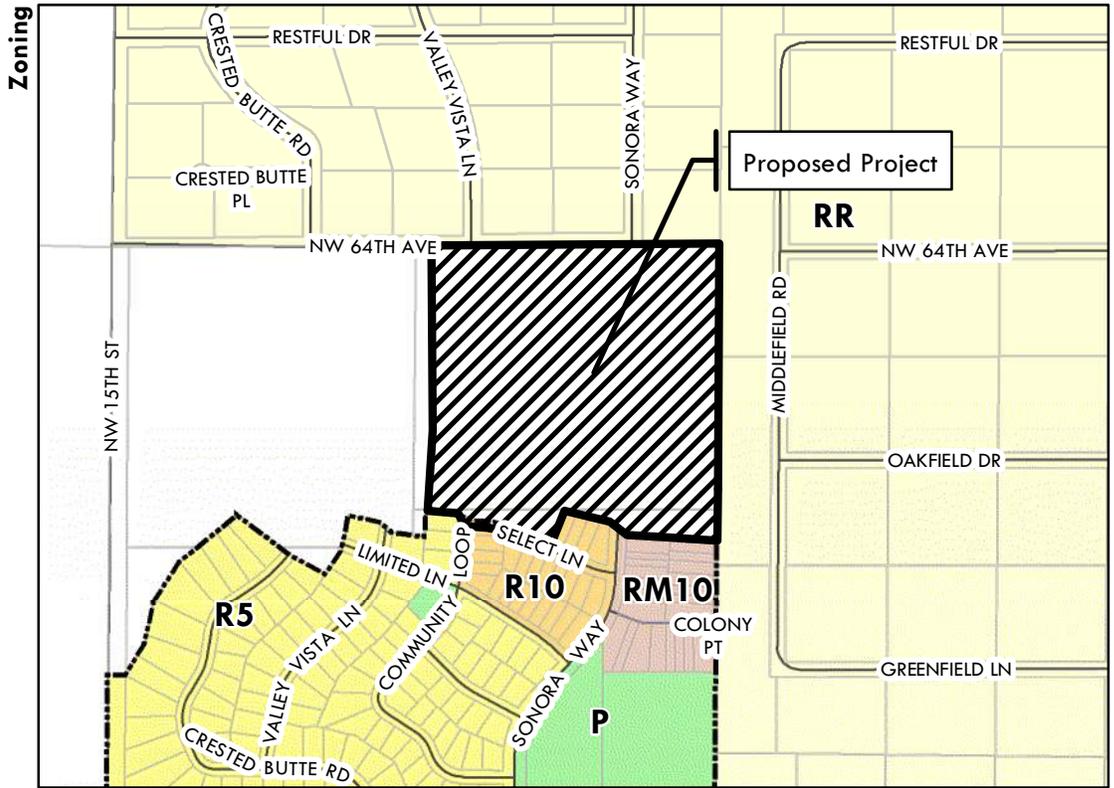
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

-  Planned Arterial
-  Planned Collector



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



City of Bismarck  
Community Development Dept.  
Planning Division  
December 6, 2019

# HERITAGE PARK SECOND ADDITION ZONING MAP

NOV 1 5 2019



**R5**  
ALL OF BLOCKS 1 & 2,  
AND LOTS 11-20 BLOCK 6  
HERITAGE PARK  
SECOND ADDITION

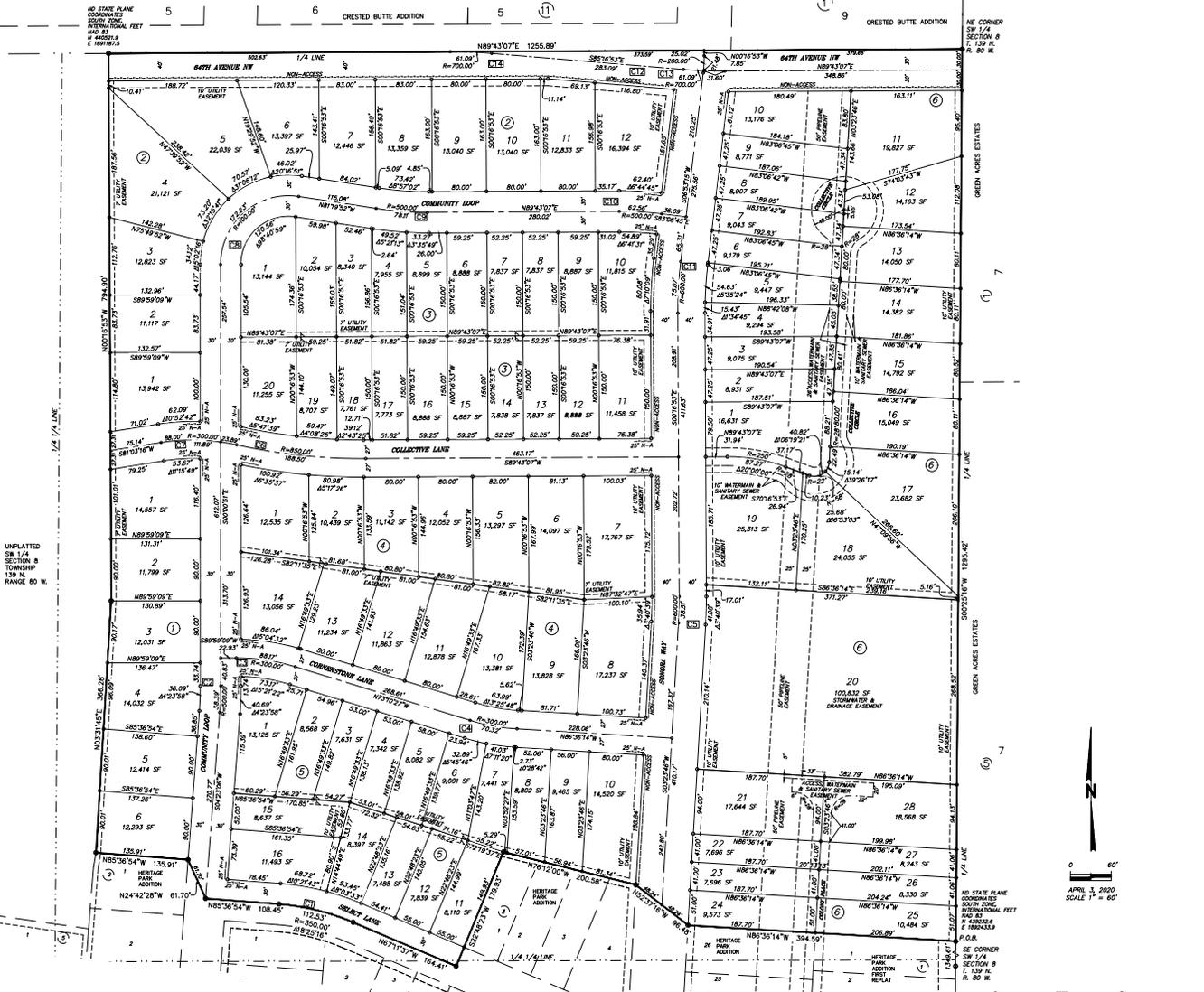
**R10**  
ALL OF BLOCK 3, 4, & 5,  
AND LOTS 1-10 BLOCK 6  
HERITAGE PARK  
SECOND ADDITION

**RM10**  
HERITAGE PARK 2ND  
ADDITION: LOTS 21-28  
BLOCK 6  
HERITAGE PARK  
SECOND ADDITION

# HERITAGE PARK SECOND ADDITION

PART OF THE SW 1/4 AND  
PART OF SELECT LANE & COMMUNITY LOOP RIGHTS-OF-WAY  
OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



UNPLATTED  
SW 1/4  
SECTION 8  
TOWNSHIP  
139 N.  
RANGE 80 W.



# HERITAGE PARK SECOND ADDITION

PART OF THE SW 1/4 OF AND  
PART OF SELECT LANE & COMMUNITY LOOP RIGHTS-OF-WAY  
SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

PART OF THE SOUTHWEST 1/4 AND PART OF SELECT LANE & COMMUNITY LOOP RIGHTS-OF-WAY OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1, BLOCK 1, HERITAGE PARK ADDITION (FIRST RE-PLAT), THENCE NORTH 86 DEGREES 36 MINUTES 14 SECONDS WEST, ALONG THE BOUNDARY OF SAID HERITAGE PARK ADDITION (FIRST RE-PLAT) AND THE BOUNDARY OF HERITAGE PARK ADDITION, A DISTANCE OF 384.59 FEET; THENCE NORTH 59 DEGREES 17 MINUTES 16 SECONDS WEST, CONTINUING ALONG THE BOUNDARY OF HERITAGE PARK ADDITION, A DISTANCE OF 46.48 FEET; THENCE NORTH 76 DEGREES 12 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 200.58 FEET; THENCE SOUTH 23 DEGREES 48 MINUTES 23 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 164.41 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID RIGHT-OF-WAY, THENCE NORTH 67 DEGREES 11 MINUTES 37 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 104.45 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 300.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 112.53 FEET; THENCE NORTH 80 DEGREES 35 MINUTES 54 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 104.45 FEET; THENCE NORTH 24 DEGREES 42 MINUTES 28 SECONDS WEST, A DISTANCE OF 61.70 FEET TO THE NORTH LINE OF LOT 1, BLOCK 3, HERITAGE PARK ADDITION; THENCE NORTH 85 DEGREES 35 MINUTES 54 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 120.91 FEET; THENCE NORTH 03 DEGREES 31 MINUTES 45 SECONDS EAST, A DISTANCE OF 346.29 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 43 SECONDS EAST, A DISTANCE OF 74.86 FEET TO THE SOUTH LINE OF UNDEVELOPED BUTTE ADDITION; THENCE NORTH 85 DEGREES 43 MINUTES 07 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 1285.89 FEET TO THE WEST LINE OF GREEN ACRES ESTATES; THENCE SOUTH 00 DEGREES 25 MINUTES 16 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 1295.42 FEET TO THE POINT OF BEGINNING.

CONTAINING 35.77 ACRES, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, HEREBY CERTIFY I AM A LICENSED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, THAT THIS SURVEY WAS MADE BY ME OR UNDER MY DIRECTION, AND THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS, AND MARKS SET, TOGETHER WITH THOSE FOUND, ARE OF THE CHARACTER AND OCCUPY THE FOOTINGS SHOWN THEREON, AND ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

STATE OF NORTH DAKOTA )  
SWENSON, HAGEN & CO. P.C. )  
909 BASIN AVENUE )  
COUNTY OF BURLEIGH ) BISMARCK, NORTH DAKOTA  
58503

TERRY BALTZER  
REGISTERED LAND SURVEYOR  
N.D. REGISTRATION NO. 3395

## DESCRIPTION APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_, 2020, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF, ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL A. SCHWARTZ - CHAIRMAN ATTEST  
BEN EIRETH - SECRETARY

## APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT OF THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS ACCEPTED THE REDIVISION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

ATTEST  
KATH A. HANKE - CITY ADMINISTRATOR

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SONELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "HERITAGE PARK SECOND ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SONELL  
CITY ENGINEER

## NOTES

BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
CITY ORDINANCE

COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.

## VERTICAL BENCHMARKS:

HYDRANT #3652  
SONORA WAY 151 NORTH OF SELECT LANE  
ELEV: 1922.35 (NGVD 29)

## AREA DATA

1036 1,922,008 S.F. (54.08 ACRES)  
158501 1,000,000 S.F. (22.96 ACRES)  
TOTAL 1,926,992 S.F. (55.07 ACRES)

## OWNER'S CERTIFICATE & DEDICATION

WE, HERITAGE DEVELOPMENT, INC., BEING ALL THE OWNERS OF THE LANDS PLATTED HEREON, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF THIS PLAT TITLED "HERITAGE PARK SECOND ADDITION" AND DEDICATE AND REDELEGATE ALL RIGHTS OF WAY TO THE CITY OF BISMARCK AS SHOWN ON THIS PLAT FOR PUBLIC USE, AND CONSENT TO ANY ACCESS CONTROL TO THE PROPERTY AS SHOWN.

WE ALSO DEDICATE ALL EASEMENTS AS SHOWN ON THIS PLAT AS "UTILITY EASEMENTS" TO RUN WITH THE LAND FOR PUBLIC AND PRIVATE UTILITIES OR SERVICES ON, ALONG, OR UNDER THOSE CERTAIN STRIPS OF LAND.

WE ALSO DEDICATE ALL EASEMENTS AS SHOWN ON THIS PLAT AS "ACCESS EASEMENTS" TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS, AND LICENSEES, AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR EMERGENCY SERVICES AND ANY OTHER GOVERNMENTAL USE OR USES PROVIDED THAT MAINTENANCE AND CLEARANCE OF THE EASEMENT IS THE RESPONSIBILITY OF THE LAND OWNING PARTIES AND THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO PUNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF THE PROPERTY IN THE SUBDIVISION.

WE ALSO DEDICATE TO THE CITY OF BISMARCK, FOR PUBLIC USE, ALL EASEMENTS AS SHOWN ON THIS PLAT AS "STORMWATER & DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSES OF ALLOWING THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER AND/OR OVER THOSE AREAS INCLUDING THE CONSTRUCTION AND MAINTENANCE OF STORMWATER FACILITIES TOGETHER WITH THE NECESSARY APPURTENANCES.

WE FURTHER GRANT ANY OTHER EASEMENTS OR SERVITUDES AS SHOWN AND THOSE THAT ARE RECORDED, BUT NOT SHOWN.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

CHAD MOLDEHAUER  
HERITAGE DEVELOPMENT, INC.  
PO BOX 7188  
BISMARCK, ND 58507

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED CHAD MOLDEHAUER OF HERITAGE DEVELOPMENT, INC., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE, AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

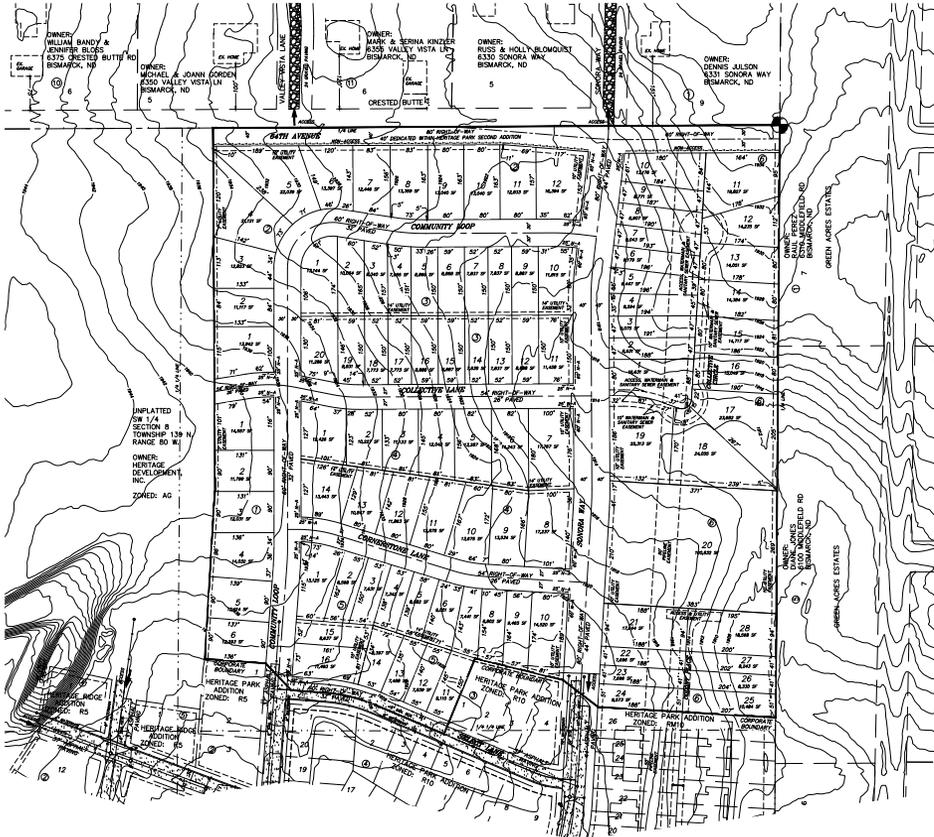
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

Curve #	Length	Radius	Delta	Tangent
C1	112.53'	350.00'	18°25'16"	56.75'
C2	38.39'	300.00'	42°3'58"	19.21'
C3	88.17'	300.00'	16°50'25"	44.41'
C4	70.32'	300.00'	13°29'48"	35.32'
C5	38.51'	600.00'	3°40'39"	19.26'
C6	188.50'	850.00'	12°42'22"	94.64'
C7	111.89'	300.00'	21°22'13"	56.60'
C8	172.23'	100.00'	98°40'59"	116.43'
C9	78.11'	500.00'	8°5'02"	39.13'
C10	62.56'	500.00'	7°10'09"	31.32'
C11	75.07'	600.00'	7°10'09"	37.59'
C12	25.02'	200.00'	7°10'09"	12.53'
C13	61.09'	700.00'	5°00'00"	30.56'
C14	61.09'	700.00'	5°00'00"	30.56'

# HERITAGE PARK SECOND ADDITION

PART OF THE NE 1/4 OF THE SW 1/4 OF  
SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST  
BISMARCK, NORTH DAKOTA

## PRELIMINARY PLAT



LOCATION MAP

35.8 ACRES  
EXISTING ZONING: A  
PROPOSED ZONING: R5, R10, RM10  
96 LOTS

OWNER: HERITAGE DEVELOPMENT, INC.  
ADDRESS: PO BOX 7188  
BISMARCK, ND 58507



0 100' 200'  
SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

OCTOBER 13, 2019



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 7

April 22, 2020

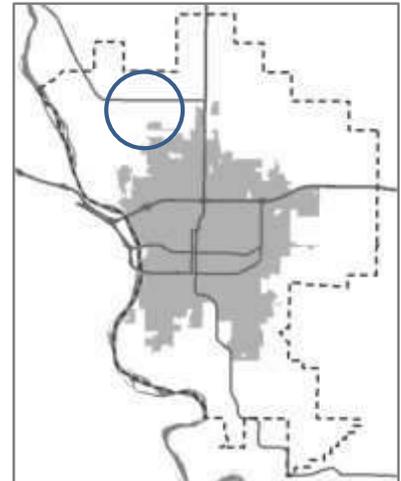
**Application for: Zoning Change**  
**Major Subdivision Final Plat**

TRAKiT Project ID: ZC2019-011

FPLT2020-006

## Project Summary

<b>Title:</b>	Heritage Ridge Second Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Benchmark Developments, LLC
<b>Project Contact:</b>	Landon Niemiller, Swenson, Hagen & Co.
<b>Location:</b>	In northwest Bismarck, north of 57 <sup>th</sup> Avenue NW and east of 15 <sup>th</sup> Street NW (part of the SW <sup>1</sup> / <sub>4</sub> of Section 8, T139N-R80W/Hay Creek Township)
<b>Project Size:</b>	43.75 Acres
<b>Request:</b>	Plat and zone property for 59 single-family residential lots and two office or multifamily residential lots for future development, as an extension of the existing Heritage Ridge Addition



## Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	Unplatted Tract	<b>Number of Lots:</b>	56 lots in 5 blocks
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Single-family and multi-family residential and offices
<b>Designated GMP Future Land Use:</b>	Low Density Residential	<b>Designated GMP Future Land Use:</b>	Low Density Residential
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	R5 – Residential Conditional RT – Residential
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	R5 – Single-family residential Conditional RT – Offices and multi-family residential
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	R5 – 5 units / acre Conditional RT – 10 units/acre

## Property History

<b>Zoned:</b>	N/A	<b>Platted:</b>	N/A	<b>Annexed:</b>	N/A
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### Staff Analysis

Benchmark Developments, LLC is requesting approval of a major subdivision final plat and zoning change from the A – Agricultural zoning district to the R5 – Residential and Conditional RT – Residential zoning districts in northwest Bismarck. Heritage Ridge Second Addition would be an extension of the existing Heritage Park / Heritage Ridge master plan and is being requested in conjunction with Heritage Park Second Addition directly to the east.

Annexation of this subdivision is not proposed at this time. Given the proposed plat and zoning reflect an urban subdivision, annexation will be required prior to any development.

The proposed plat would include 56 single-family residential lots, along with two office or multifamily lots, which would be accessed directly from 15<sup>th</sup> Street NE and 64<sup>th</sup> Avenue NW. Lots to the south along 15<sup>th</sup> Street NW would be unbuildable due to topography. The Conditional RT – Residential zoning district would mirror a standard RT – Residential district in every way, except the density of any multifamily residential construction would be limited to 10 units per acre.

The Planning and Zoning Commission considered this request at their meeting of December 18, 2019 and called for a public hearing on this zoning change and tentatively approved this preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 96 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include developing residential uses of a similar character to the south, rural residential uses to the north, and undeveloped land to the east and west. The land to the east is proposed for single-family and two-family residential uses.

#### *Concurrence with Plans*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies this entire area as Low Density Residential (LDR). Under the development block concept outlined in the Plan, the uses

and densities are considered for the entire block as a whole. As proposed, this plat would allow approximately 4.25 units per acre, assuming the Conditional RT – Residential zoning district is developed at the maximum allowable 10 units per acre. If the two Conditional RT – Residential lots are developed as office uses, the density would be much lower. This is within the range anticipated by the LDR designation.

The Fringe Area Road Master Plan (FARMP) shows the northern boundary of this plat, 64<sup>th</sup> Avenue NW, as a future collector roadway, which would eventually connect all the way from 15<sup>th</sup> Street NW to North 19<sup>th</sup> Street. The proposed plat would dedicate sufficient right-of-way to construct this roadway in the future, if additional right-of-way is obtained to the east.

#### *Roadways*

A development agreement between the City and the applicant will be prepared and presented to the City Commission regarding responsibilities for construction of 64<sup>th</sup> Avenue. As of the time of this writing, this draft agreement stipulates that the developer will grade this right-of-way but will not be responsible for constructing this roadway.

The primary streets of Crested Butte Road and Heritage Ridge Road are proposed to utilize a right-of-way of 60 feet. The previous phases of these streets were constructed with 37' of pavement width, but the ordinance now requires 32'-wide roadways. During construction of the roadway the City Engineer has authority to ensure adequate transitions are made between streets of different widths.

Heritage Ridge Road is a north-south roadway that does not extend all the way to 64<sup>th</sup> Avenue NW. When this roadway was first dedicated in Heritage Ridge Addition under the name Valley Vista Lane, it was the intent to connect, with a slight offset, this roadway to Valley Vista Lane in Crested Butte Addition to the north. Now that these roads will no longer connect, the name of the street in Heritage Ridge Addition should be changed by action of the City Commission to Heritage Ridge Road. Staff would initiate this change to coincide with the public hearing of the plat with the City Commission.

(continued)

*Other Issues*

The Park Development Agreement initially established for Heritage Park Addition included the entire master planned area. A park has been installed on the east side of Sonora Way at the southern entrance of the development. Therefore, the requirements of the Neighborhood Parks and Open Space policy have already been met for this subdivision.

A fifteen-foot landscape buffer was proposed along the northern boundary of the plat, along the south side of 64<sup>th</sup> Avenue NW with the preliminary plat. This has been removed in the final plat. A landscape buffer in this location is not required by ordinance.

Lot 16, Block 1 does not contain any legal access, and is therefore, on its own, not a buildable lot. The applicant intends to combine this lot with the adjacent Lot 5, Block 1, Heritage Ridge Addition. The lot combination cannot take effect until Heritage Ridge Second Addition is annexed into the City of Bismarck.

*Utility Capital Charges*

The creation of any new lots in the City of Bismarck is subject to utility capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to annexation or establishment of the street improvement district for this subdivision, whichever is initiated last.

**Required Findings of Fact** (relating to land use)

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
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 the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Final Plat*

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP);
5. The requirements of the neighborhood parks and open space policy have been met by a previous Park Development Agreement.
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;

- 8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
- 9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
- 10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
- 11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the R5 – Residential and Conditional RT – Residential zoning districts and the major subdivision final plat for Heritage Park Second Addition, with the following conditions:

- 1. A street name change is initiated for Valley Vista Lane within Heritage Ridge Addition to Heritage Ridge Road to match the extension of this roadway within Heritage Ridge 2<sup>nd</sup> Addition.
- 2. A development agreement for construction of 64<sup>th</sup> Avenue NW is provided in conjunction with a public hearing for the final plat of Heritage Park Second Addition with the City Commission.

**Attachments**

- 1. Location Map
- 2. Aerial Map
- 3. Zoning and Plan Reference Map
- 4. Proposed Zoning Map
- 5. Final Plat
- 6. Preliminary Plat

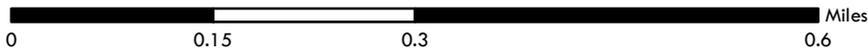
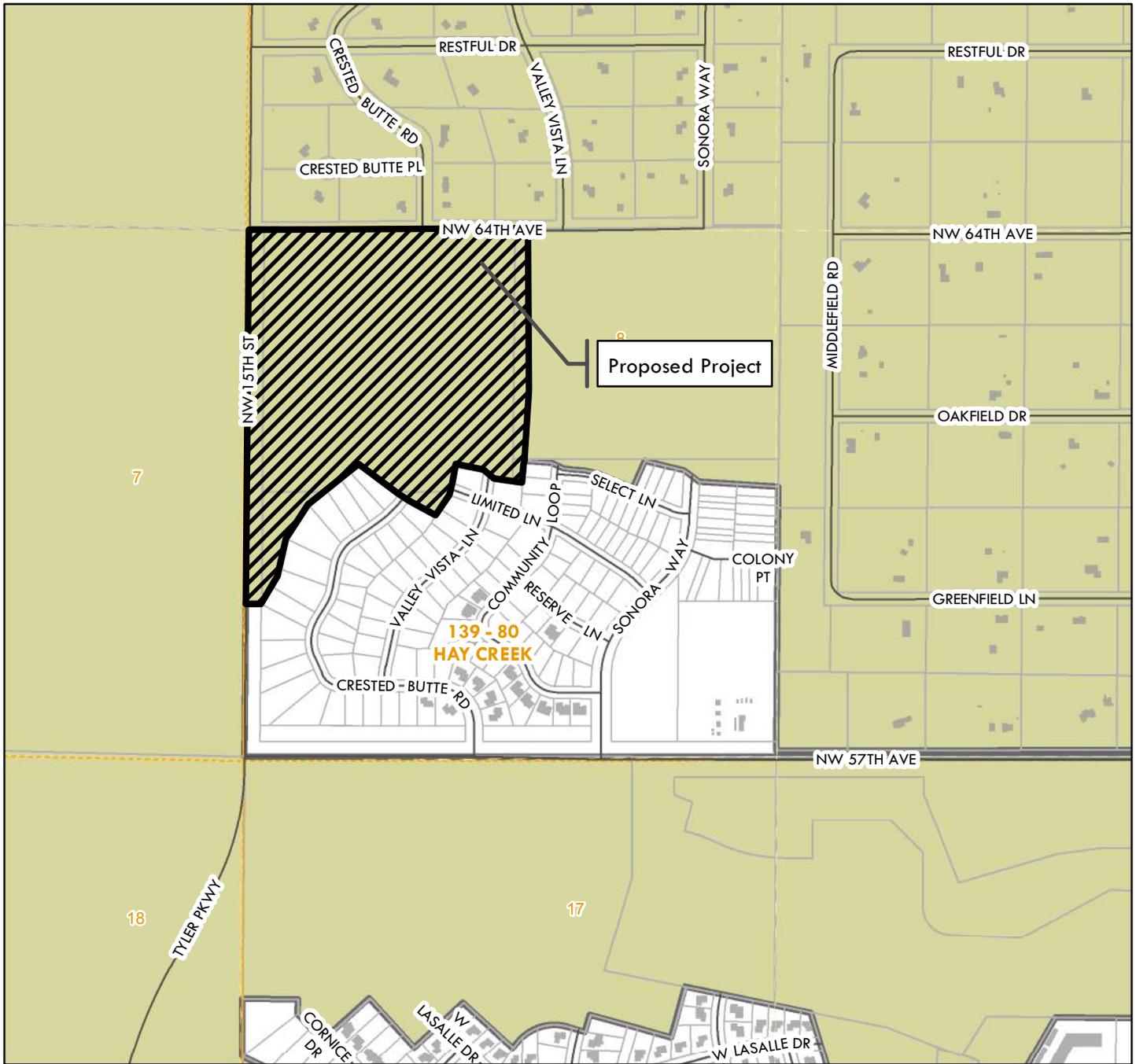
Staff report prepared by: Daniel Nairn, AICP, Planner  
 701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)



# Location Map

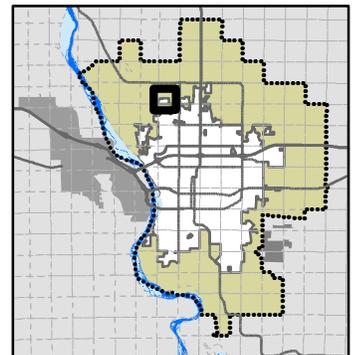
Heritage Ridge Second Addition

ZC2019-011  
FPLT2020-006



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*



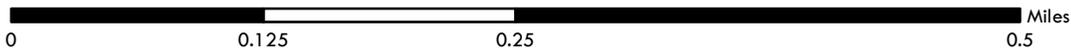
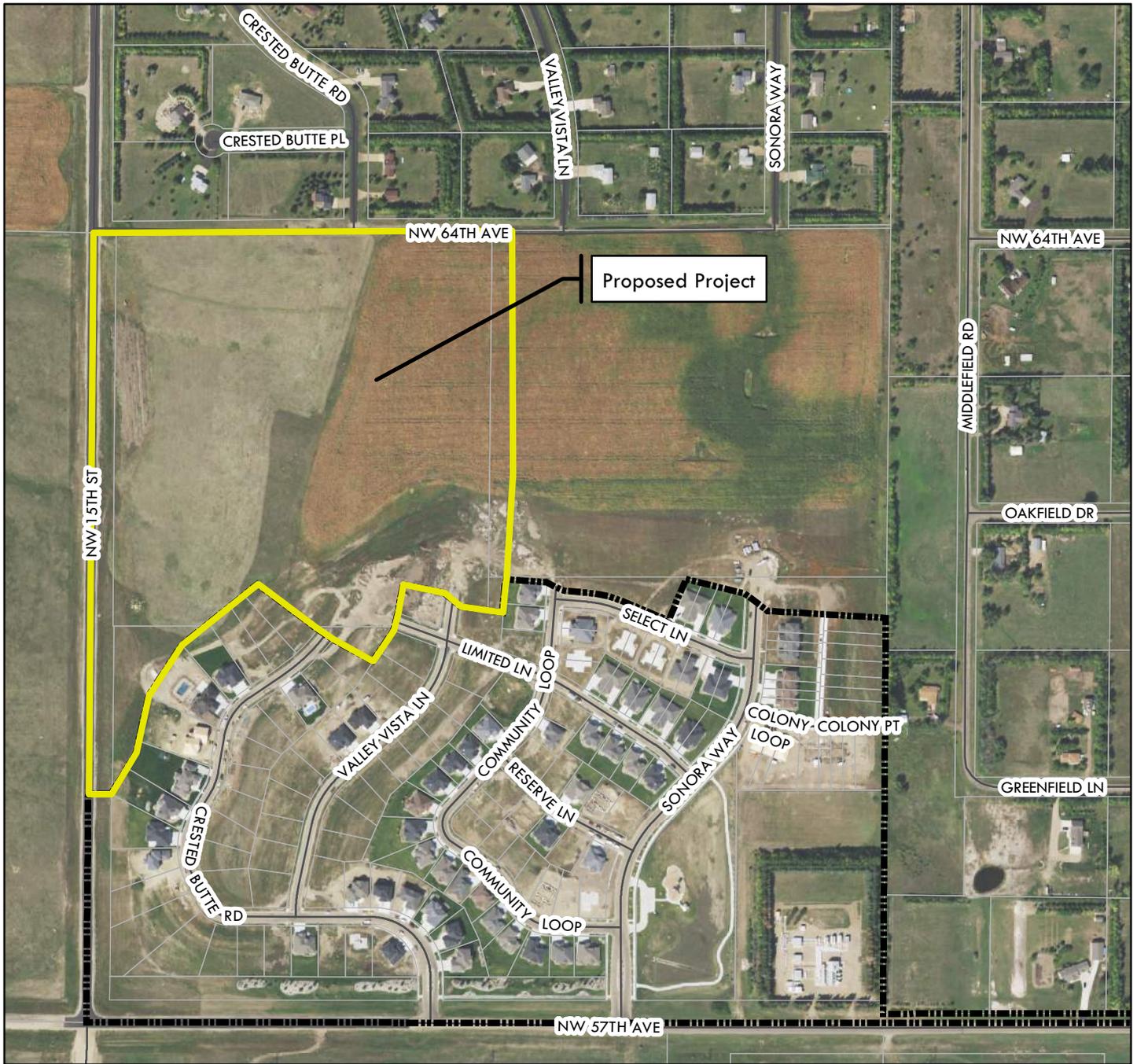
City of Bismarck  
Community Development Department  
Planning Division  
November 18, 2019 (HLB)

*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.*



**Aerial Map**  
Heritage Ridge Second Addition

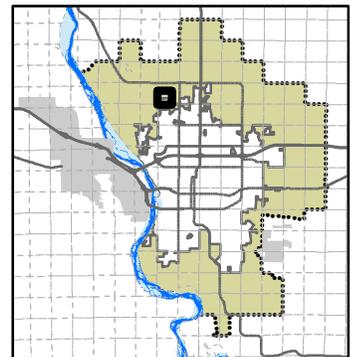
FPLT2020-006  
ZC2019-011



City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
December 6, 2019



*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 herein.*



# Zoning and Plan Reference Map

Heritage Ridge Second Addition

FPLT2020-006  
ZC2019-011

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

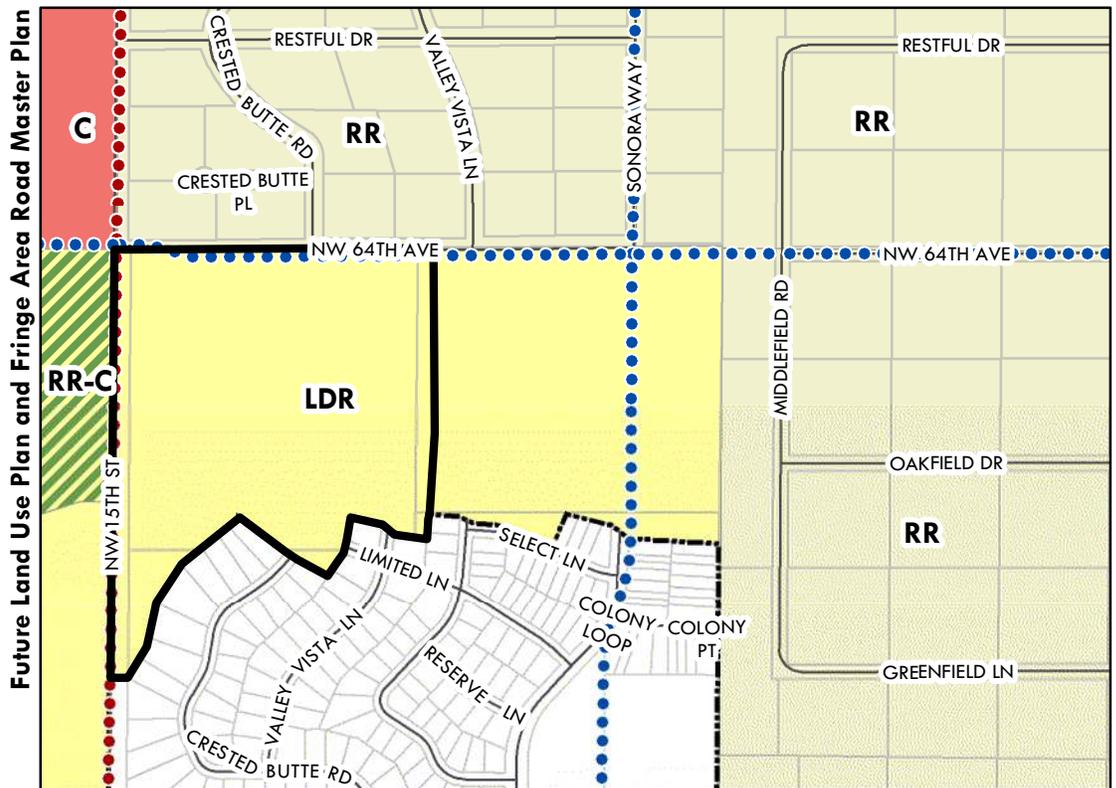
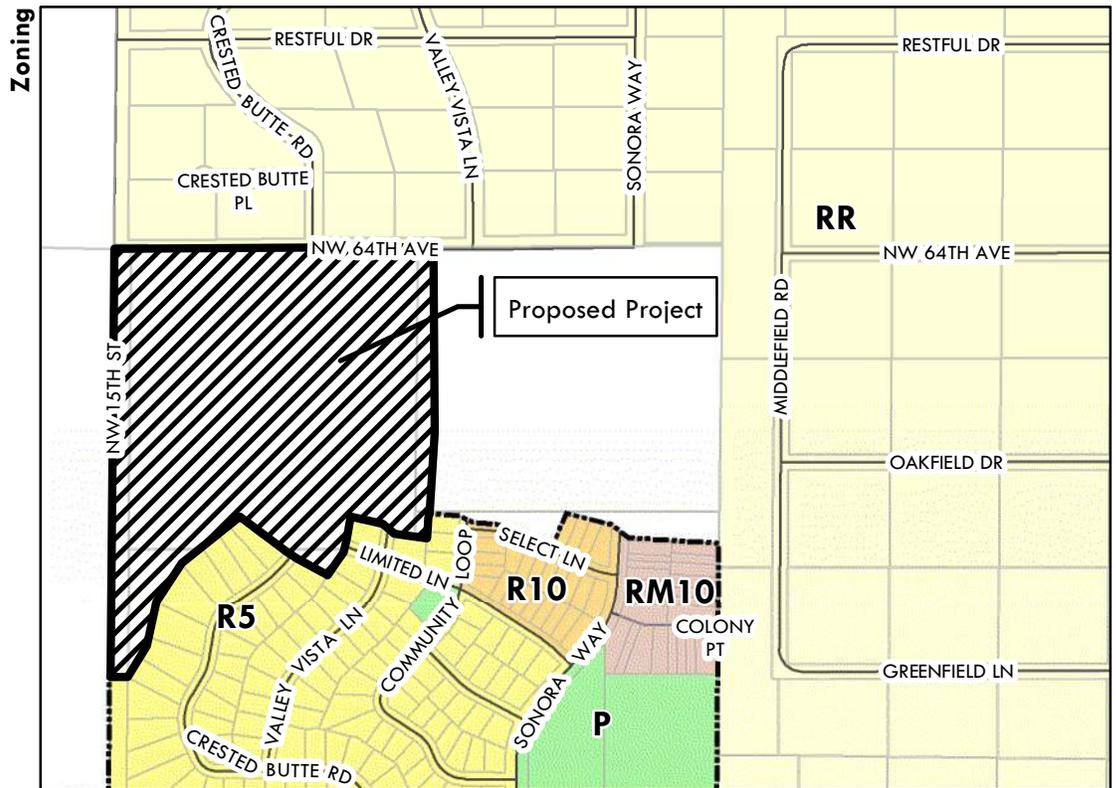
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



City Limits

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



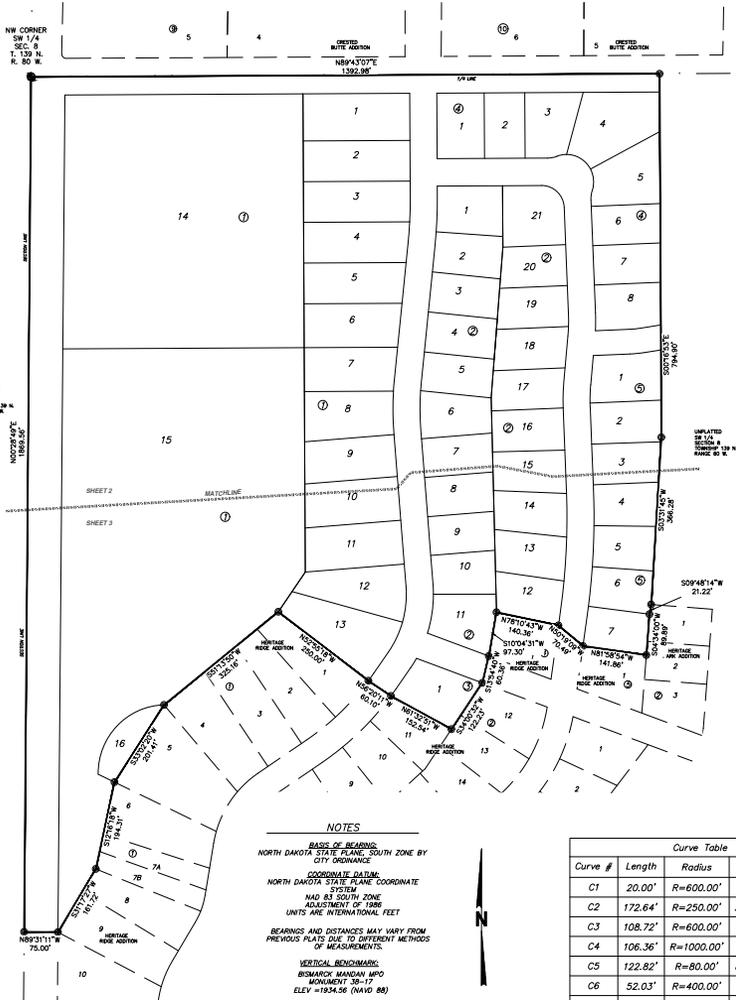
City of Bismarck  
Community Development Dept.  
Planning Division  
December 6, 2019



# HERITAGE RIDGE SECOND ADDITION

PART OF THE SW 1/4 OF  
SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



Curve Table				
Curve #	Length	Radius	Delta	Tangent
C1	20.00'	R=600.00'	1°54'36"	10.00'
C2	172.64'	R=250.00'	39°34'02"	89.92'
C3	108.72'	R=600.00'	10°22'56"	54.51'
C4	106.36'	R=1000.00'	6°05'38"	53.23'
C5	122.82'	R=80.00'	87°57'51"	77.21'
C6	52.03'	R=400.00'	7°27'12"	26.05'
C7	28.92'	R=250.00'	6°37'42"	14.48'
C8	52.03'	R=400.00'	7°27'12"	26.05'
C9	270.59'	R=1500.00'	10°20'08"	135.66'

### DESCRIPTION

PART THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 5 HERITAGE RIDGE ADDITION, THENCE NORTH 50 DEGREES 18 MINUTES 00 SECONDS WEST, ALONG THE BOUNDARY OF THE SAID ADDITION, A DISTANCE OF 140.36 FEET; THENCE SOUTH 10 DEGREES 40 MINUTES 31 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 140.36 FEET; THENCE SOUTH 10 DEGREES 40 MINUTES 31 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 60.34 FEET; THENCE SOUTH 14 DEGREES 00 MINUTES 32 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 150.34 FEET; THENCE NORTH 81 DEGREES 33 MINUTES 51 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 150.34 FEET; THENCE NORTH 52 DEGREES 55 MINUTES 18 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 350.00 FEET; THENCE SOUTH 55 DEGREES 55 MINUTES 50 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 325.16 FEET; THENCE SOUTH 15 DEGREES 00 MINUTES 30 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 194.31 FEET; THENCE SOUTH 13 DEGREES 17 MINUTES 27 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 194.31 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 31 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 74.00 FEET TO THE WEST LINE OF THE SW 1/4 OF SAID SECTION; THENCE NORTH 89 DEGREES 40 SECONDS WEST, 18 MINUTES 49 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 1869.56 FEET TO THE NORTH LINE OF THE SW 1/4 OF SAID SECTION; THENCE NORTH 89 DEGREES 43 MINUTES 43 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1392.98 FEET; TO THE POINT OF BEGINNING.

CONTAINING 1,800,380 SQUARE FEET, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT I HAVE PLATED THIS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_ 2020. THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT; THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH ) SS  
SWENSON, HAGEN & CO. P.C.  
909 BASH AVE. S.E.  
BISMARCK, NORTH DAKOTA 58504

TERRY BALTZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 3595

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020, BEFORE ME PERSONALLY APPEARED MATHEW M. STERN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
BY COMMISSION EXPIRES \_\_\_\_\_

### APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION, IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN ATTEST  
BEN ENRETH - SECRETARY

### APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE RE-DEDICATION OF ALL STREETS SHOWN HEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN ADDITION TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

ATTEST  
KEITH J. HUNCK - CITY ADMINISTRATOR

### APPROVAL OF CITY ENGINEER

I, GABRIEL V. SCHILL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "HERITAGE RIDGE SECOND ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL V. SCHILL  
CITY ENGINEER

### OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT HERITAGE DEVELOPMENT, INC., BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "HERITAGE RIDGE SECOND ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND HAS SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, COLLECTORS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )  
CHAD MOLDENHAUER  
HERITAGE DEVELOPMENT, INC.  
103 BUSH AVE. S.E.  
BISMARCK, ND 58507

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020, BEFORE ME PERSONALLY APPEARED CHAD MOLDENHAUER OF HERITAGE DEVELOPMENT, INC., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

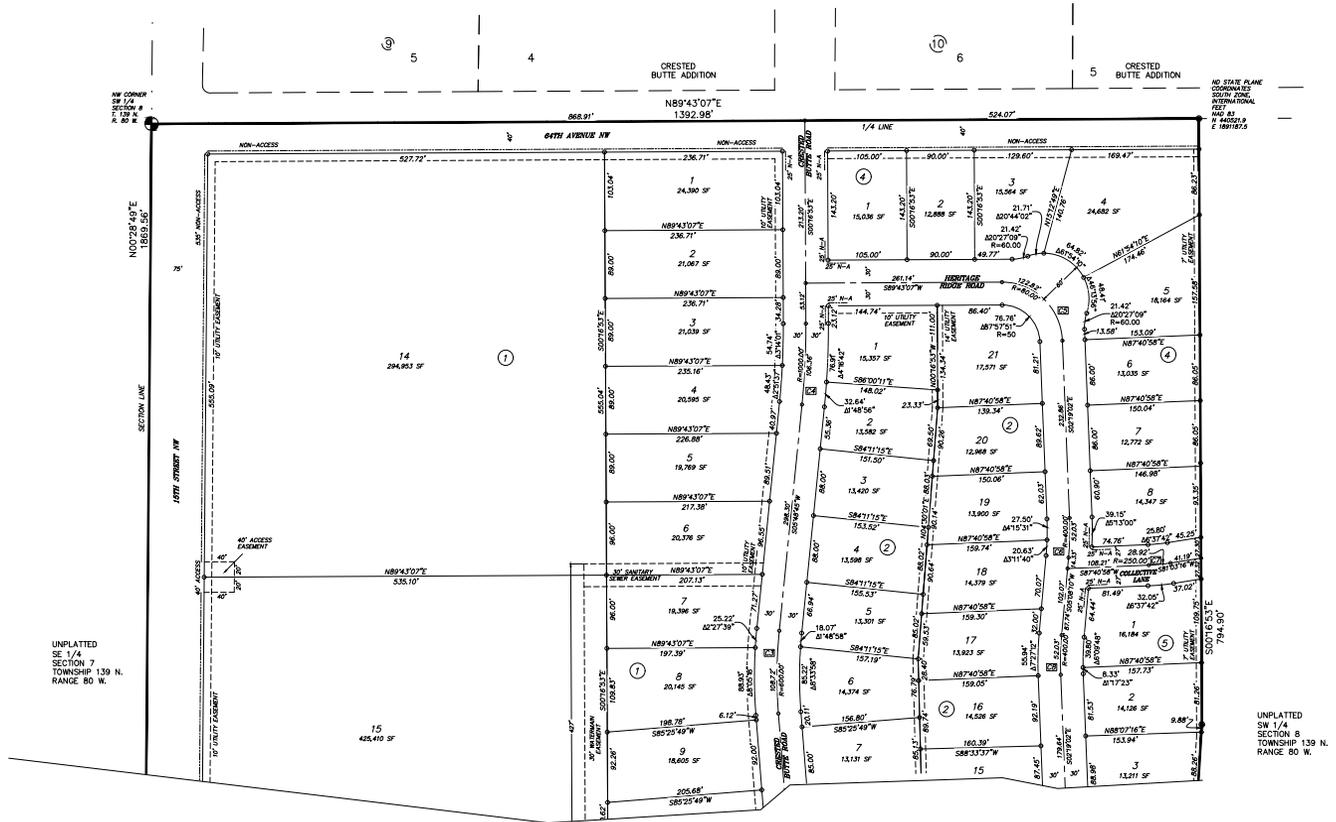
NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
BY COMMISSION EXPIRES \_\_\_\_\_



# HERITAGE RIDGE SECOND ADDITION

PART OF THE SW 1/4 OF  
SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



UNPLATED  
SE 1/4  
SECTION 7  
TOWNSHIP 139 N.  
RANGE 80 W.

UNPLATED  
SW 1/4  
SECTION 8  
TOWNSHIP 139 N.  
RANGE 80 W.

### NOTES

**BASES OF BEARING:**  
NORTH DAKOTA STATE PLANE SOUTH ZONE BY  
CITY ORDINANCE  
**COORDINATE PLATING:**  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1988  
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.

**VERTICAL BENCHMARK:**  
BISMARCK MANDAN MPO  
MONUMENT 38-17  
ELEV = 1234.56 (NAVD 88)

### AREA DATA

ACRES 145.428 SF 15,820,000  
TOTALS 365.88 SF 3,971,428



0' 60'

APR. 1, 2020

SCALE 1" = 60'

○ MONUMENT TO BE SET

● MONUMENT IN PLACE



**SWENSON, HAGEN & COMPANY P.C.**

300 Basin Avenue  
Bismarck, North Dakota, 58104  
Shawn@swensonhagen.com  
Phone (701) 221-2000  
Fax (701) 221-2000  
Land Acquisition  
Civil Engineering  
Construction Management

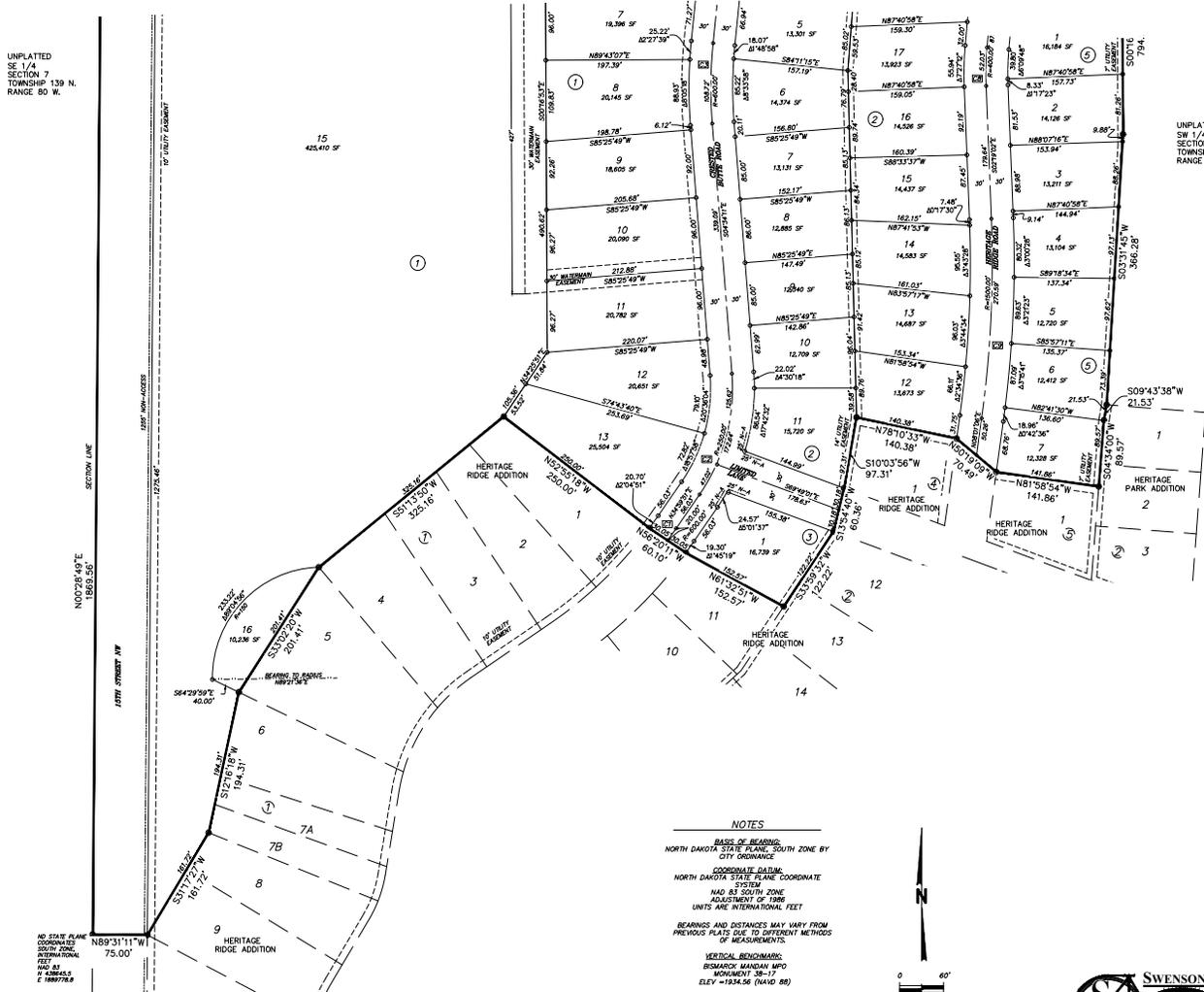
# HERITAGE RIDGE SECOND ADDITION

PART OF THE SW 1/4 OF  
SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

UNPLATTED  
SE 1/4  
SECTION 7  
TOWNSHIP 139 N.  
RANGE 80 W.

UNPLATTED  
SW 1/4  
SECTION 8  
TOWNSHIP 139 N.  
RANGE 80 W.

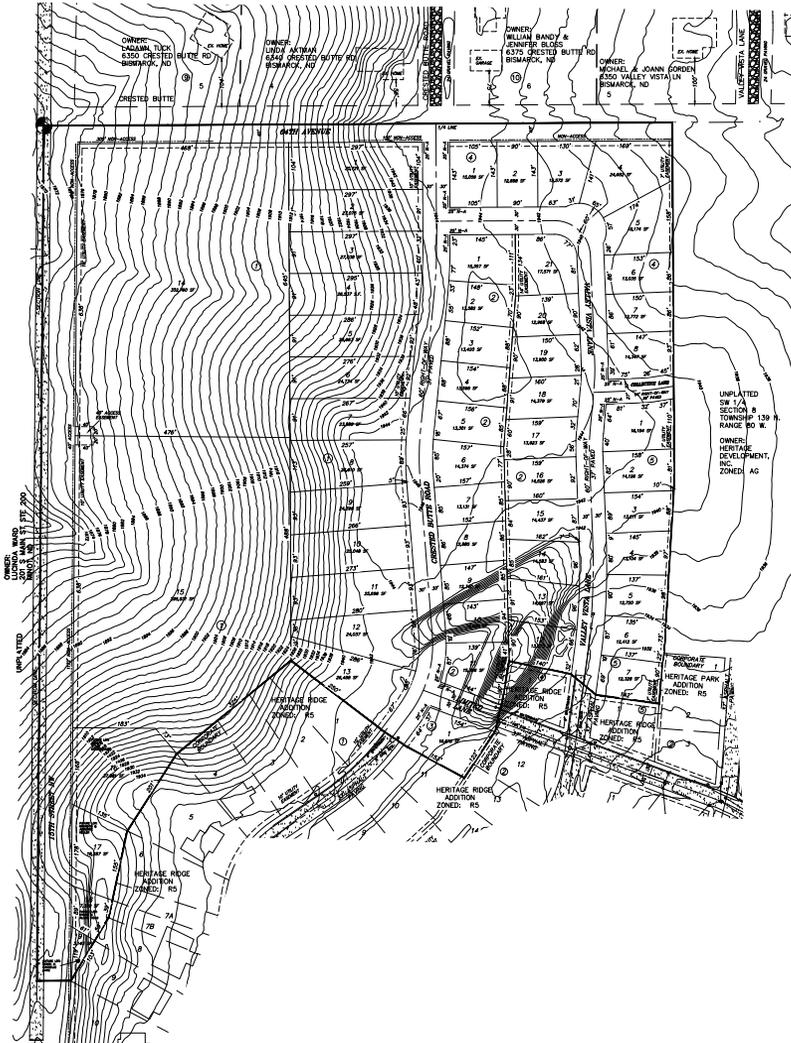


# HERITAGE RIDGE SECOND ADDITION

PART OF THE SW 1/4 OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, NORTH DAKOTA

# PRELIMINARY PLAT



LOCATION MAP

43.7 ACRES  
 EXISTING ZONING: A  
 PROPOSED ZONING: RS, RT  
 57 LOTS

OWNER: HERITAGE DEVELOPMENT, INC.  
 ADDRESS: PO BOX 7188  
 BISMARCK, ND 58507



0 100' 200'  
 SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

OCTOBER 30, 2019



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

Agenda Item # 8

April 21, 2020

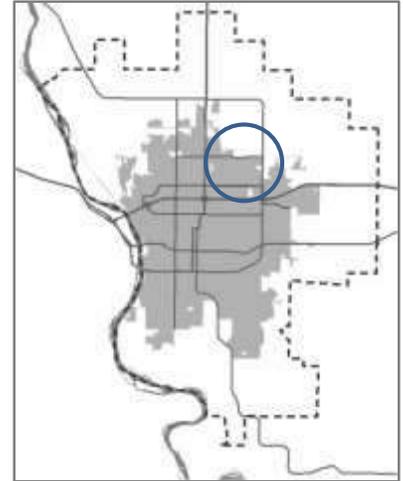
**Application for: Zoning Change**  
**Minor Subdivision Final Plan**

TRAKiT Project ID: ZC2019-014

MPLT2020-003

## Project Summary

<i>Title:</i>	Edgewood Village 7 <sup>th</sup> Addition 1 <sup>st</sup> Replat
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Edgewood Properties, LLLP
<i>Project Contact:</i>	Landon Niemiller, Swenson, Hagen & Co.
<i>Location:</i>	In northeast Bismarck, west of Centennial Road and south of 43 <sup>rd</sup> Avenue NE, just north of Legacy High School (a replat of Lots 1-3, Block 3, Edgewood Village 7 <sup>th</sup> Addition)
<i>Project Size:</i>	40.95 Acres
<i>Request:</i>	Replat and rezone to facilitate two-family and multifamily development of south half and future development of north half



## Site Information

### Existing Conditions

### Proposed Conditions

<i>Number of Lots:</i>	3 Lots in 1 Block	<i>Number of Lots:</i>	52 Lots in 1 Block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Two-Family Residential Multifamily Residential Office and Commercial Uses
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	PUD – Planned Unit Development	<i>Zoning:</i>	R10 – Residential RM30 – Residential RT – Residential
<i>Uses Allowed:</i>	Multifamily Residential	<i>Uses Allowed:</i>	R10 – Single and two-family residential RM30 – Multi-family residential RT – Offices and multi-family residential
<i>Max Density Allowed:</i>	23.2 units/acre	<i>Max Density Allowed:</i>	R10 – 10 units / acre RM30 – 30 units / acre RT – 30 units / acre

**Property History**

Zoned:	PUD – 09/2014 RM30/P – 03/2013	Platted:	04/2013	Annexed:	03/2013
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**Staff Analysis**

Edgewood Properties, LLLP is requesting approval of a zoning change from the PUD – Planned Unit Development zoning district to the RT – Residential, RM30 – Residential and R10 – Residential zoning districts and a minor subdivision final plat for Edgewood Village 7<sup>th</sup> Addition 1<sup>st</sup> Replat.

The Planning and Zoning Commission considered the zoning request at their meeting of January 22, 2020 and called for a public hearing on the zoning change. Previously, the applicant had requested a change to the Conditional CG – Commercial and Conditional CA – Commercial zoning district, but this has been revised to the less-intensive RT – Residential zoning district.

Adjacent uses include rural residential uses to the north across 43<sup>rd</sup> Avenue NE, undeveloped commercially-zoned land to the east across Minnesota Drive, Legacy High School to the south across Knudsen Avenue, and a mix of multifamily and single-family residential to the west across Nebraska Drive.

When the plat for Edgewood Village 7<sup>th</sup> Addition was recorded in 2013, the area was zoned RM30 – Residential with an unbuildable lot zoned P – Public through the middle. The zoning was changed to the current PUD the following year. The PUD is tied to a specific site development plan with 14 apartment buildings and a total of 950 residential units. The greenway through the center was retained, including a multiuse trail constructed and maintained by the Bismarck Parks and Recreation District. This lot is also encumbered with a stormwater easement.

The owner of the property does not intend to complete the development as outlined in the PUD. Because PUDs are self-contained zoning districts, a change of any part requires a change of the entire district.

In the short term, the property owner has stated the intention of developing 50 two-family residential dwellings on Lots 1-50, Block 1, followed by multifamily

residential uses on Lot 52, Block 1 in the south-east portion of the subdivision.

In the future, the property owner intends to develop the northern portion of the site adjacent to 43<sup>rd</sup> Avenue NE. The applicant has requested an RT – Residential zoning district, which would allow office uses as well as multifamily residential uses up to 30 units per acre. Staff supports this zoning, because of the frontage on a major arterial roadway and the zoning allows a transition between the commercial district to the east and multifamily residential to the west. Staff does not support anything more intensive at this time, because of the rural residential uses to the north.

The applicant is proposing to service the two-family dwellings with a private roadway. Private roadways are discouraged, but still permitted, in the zoning ordinance. The reason for the use of a private roadway is to limit the amount of space necessary for the right-of-way and allow more buildable room for lots.

The plat contains area within the Special Flood Hazard Area, otherwise known as the 100-year floodplain. However, the entire floodplain is contained with a stormwater and drainage easement, where building will not be permitted. A trail easement would be granted over the existing multiuse trail owned and maintained by the Bismarck Parks and Recreation District.

*Utility Capital Charges*

The creation of any new lots in the City of Bismarck is subject to utility capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to the recordation of the proposed plat.

**Required Findings of Fact** (relating to land use)

*Zoning Change*

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is not compatible with adjacent land uses and zoning, as proposed;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
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 the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Minor Subdivision Final Plat*

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP)
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the PUD – Planned Unit Development zoning district to the RT - Residential, RM30 – Residential and R10 – Residential zoning districts and the minor subdivision final plat for Edgewood Village 7<sup>th</sup> Addition 1<sup>st</sup> Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Zoning Map
5. Minor Subdivision Final Plat
6. Original Plat with Replatted Area Highlighted

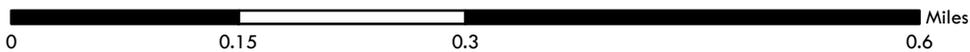
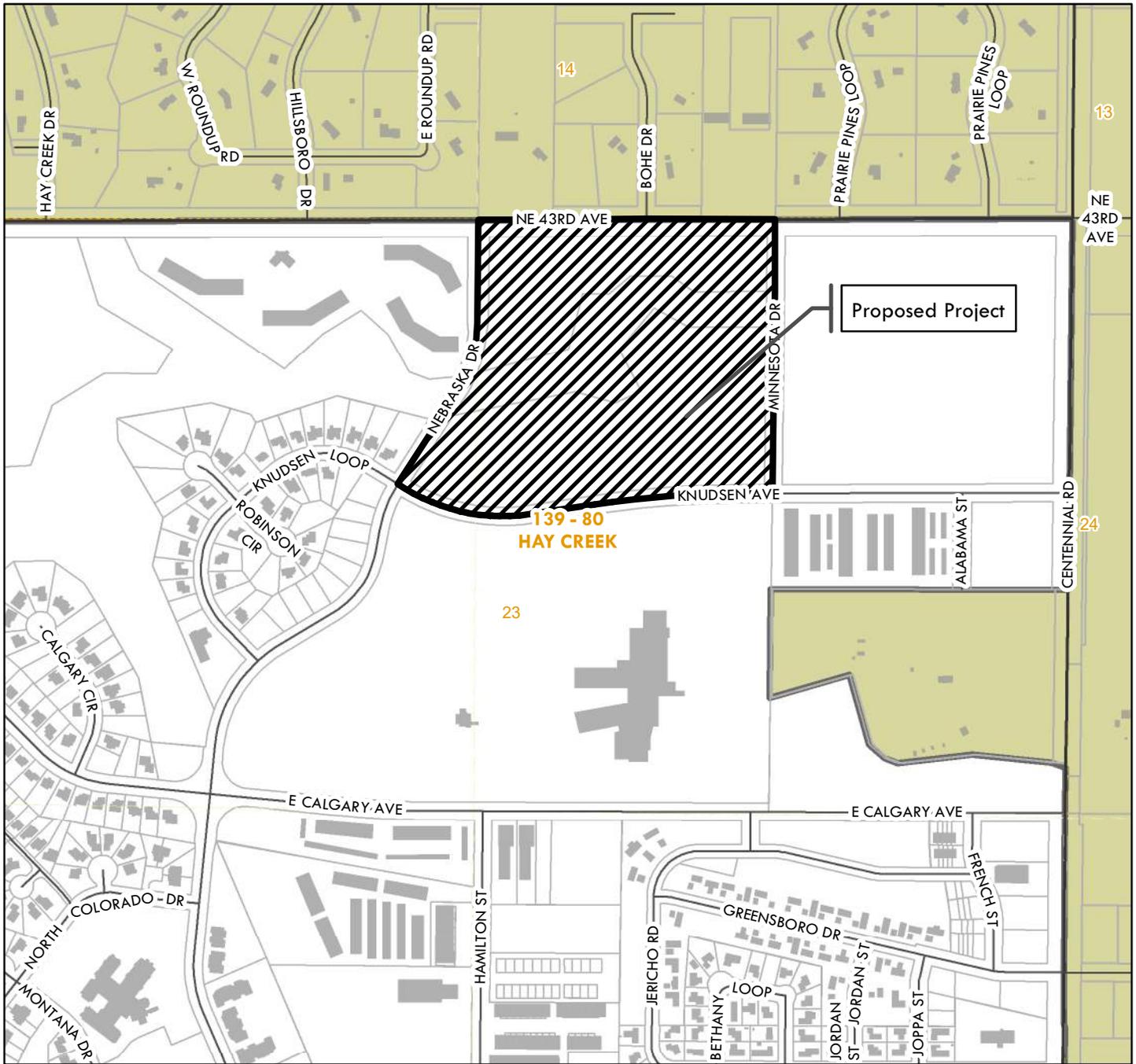
Staff report prepared by: Daniel Nairn, AICP, Planner  
 701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)



# Location Map

## Edgewood Village Seventh Addition First Replat

MPLT2020-003  
ZC2019-014

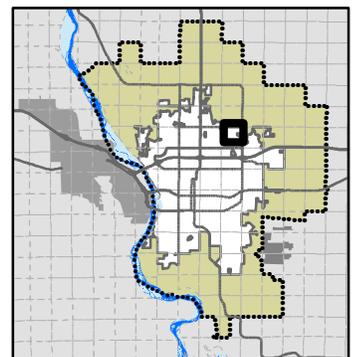


- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

*Section, township, and range indicated in orange*

City of Bismarck  
Community Development Department  
Planning Division  
March 3, 2020 (HLB)

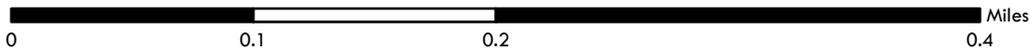
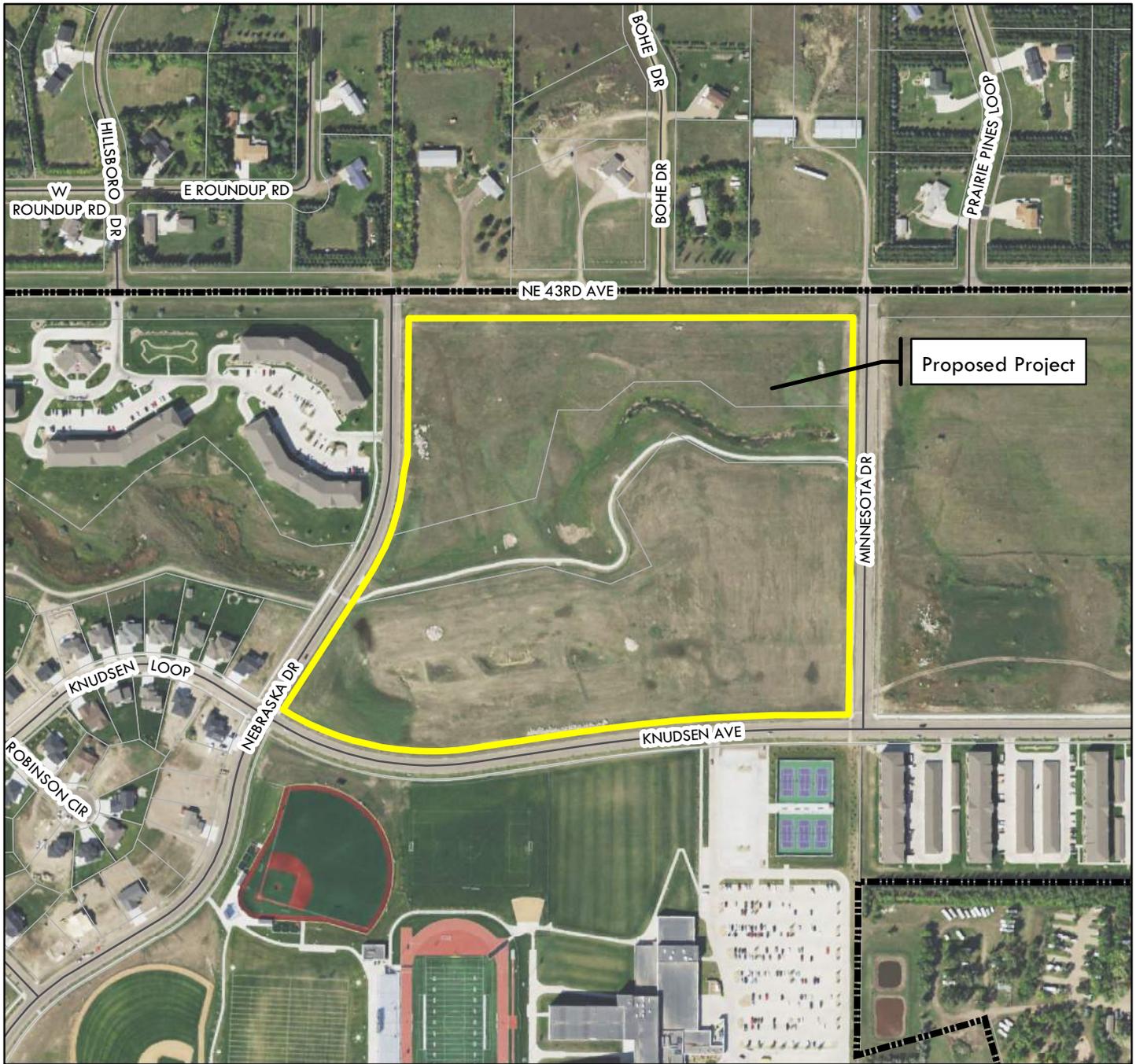
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*





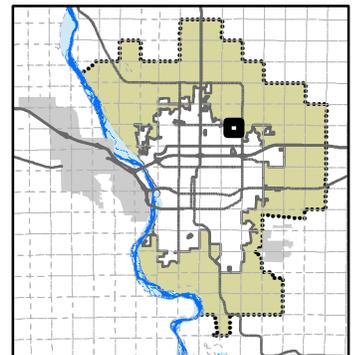
**Aerial Map**  
Edgewood Village 7th Addition

ZC2019-014  
MPLT2020-003



City Limits    Bismarck ETA Jurisdiction

Aerial Imagery from 2018



City of Bismarck  
Community Development Department  
Planning Division  
January 15, 2020

*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.*



# Zoning and Plan Reference Map

Block 3, Edgewood Village 7th Addition

ZC2019-014  
MPLT2020-003

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

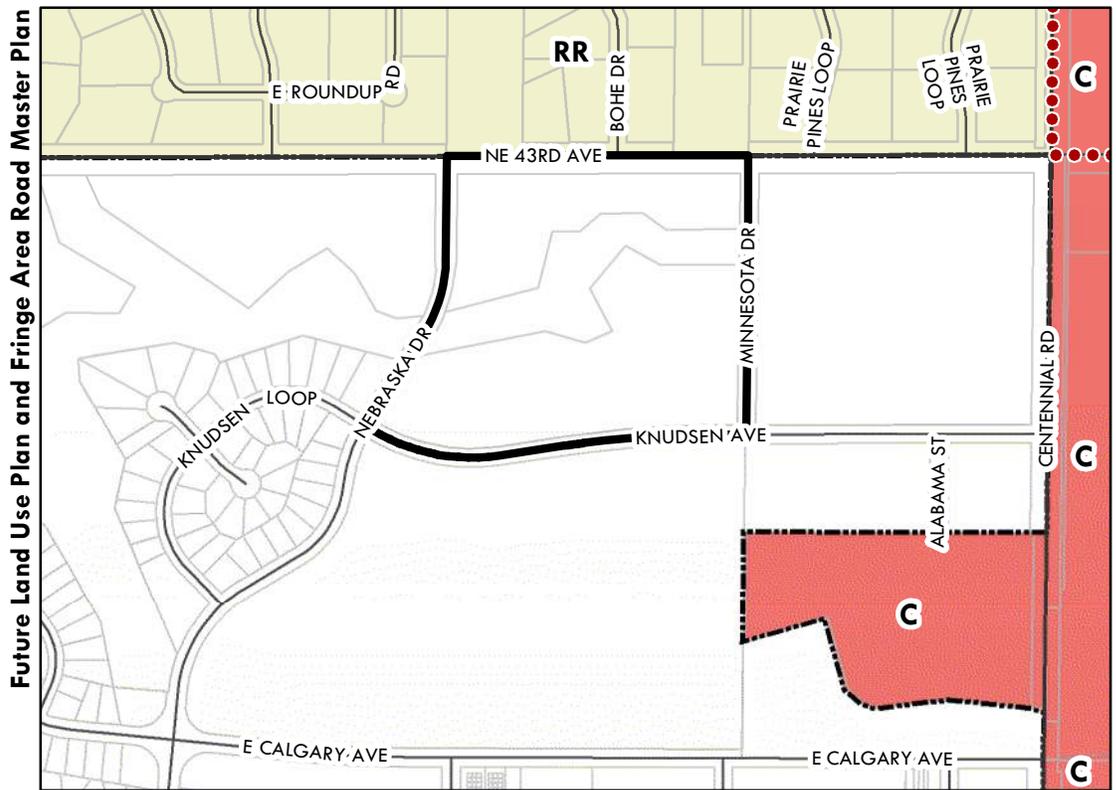
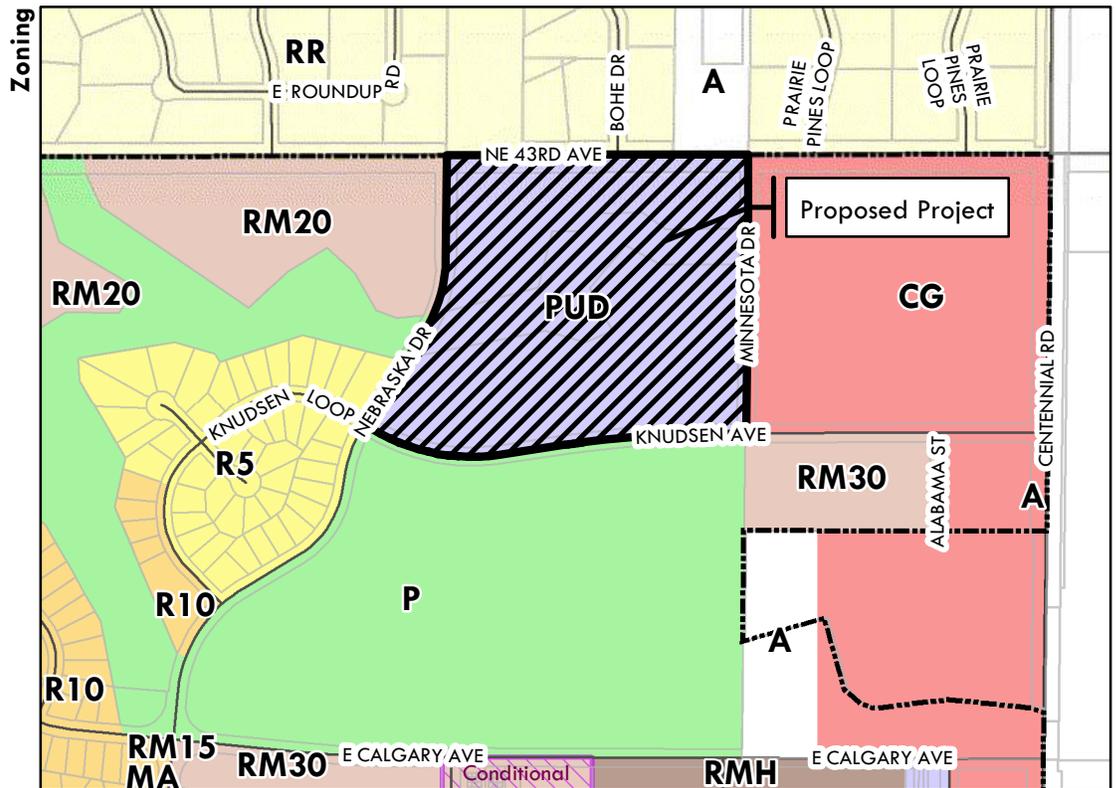
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



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



City of Bismarck  
Community Development Dept.  
Planning Division  
January 17, 2020

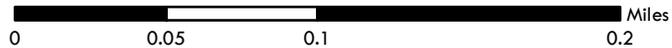
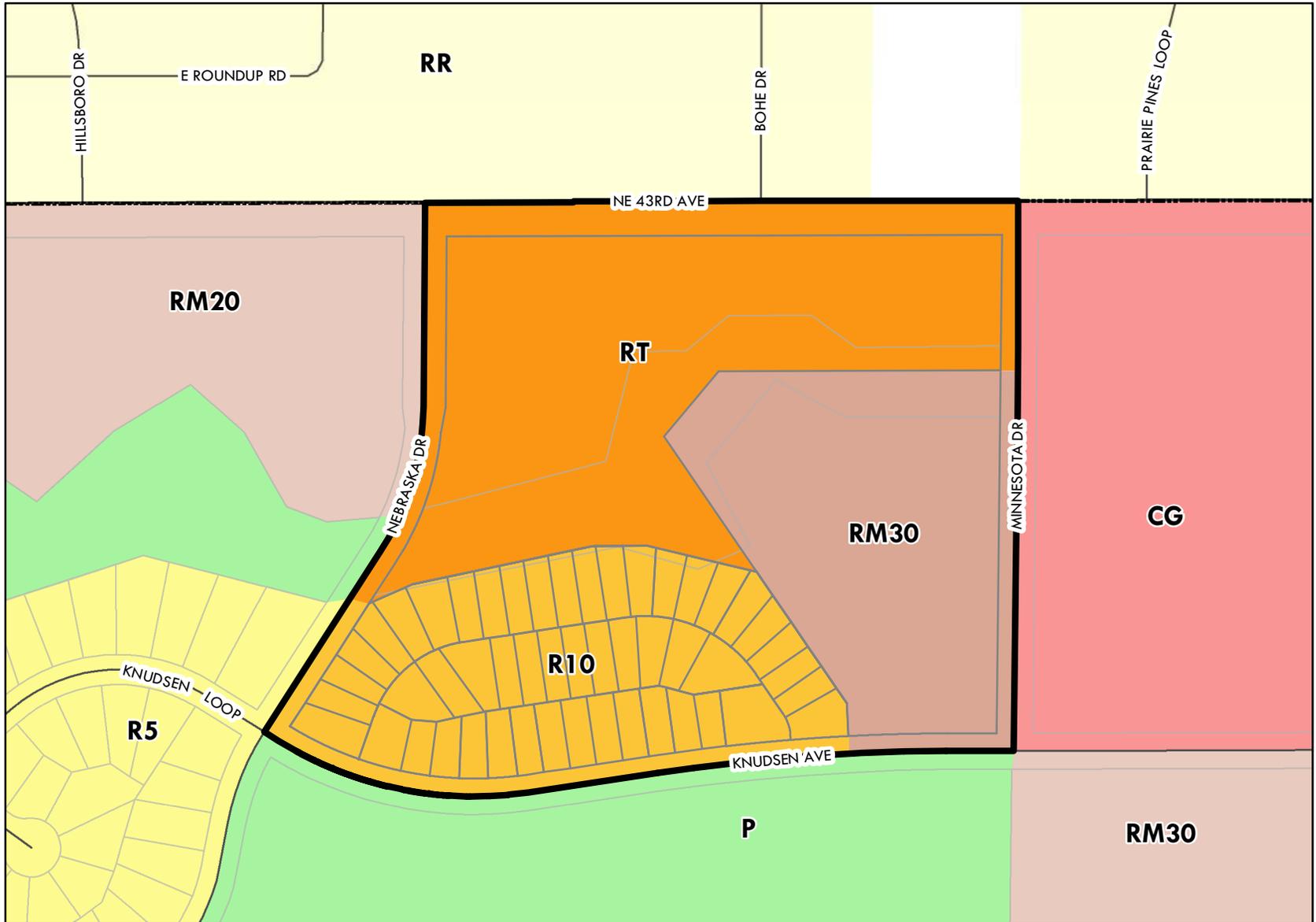
**Proposed New Zoning Map**

Project Area (zoning within is proposed)

**Zoning Districts**

- A** Agriculture
- RR** Rural
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district



City Limits

*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.*



# EDGEWOOD VILLAGE 7TH ADDITION 1ST REPLAT

BEING A REPLAT OF BLOCK 3 OF EDGEWOOD VILLAGE 7TH ADDITION  
OF THE NE 1/4 OF SECTION 23, TOWNSHIP 139 NORTH, RANGE 80 WEST  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



**NOTES**

**BASIS OF BEARINGS:**  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY  
CITY ORDINANCE

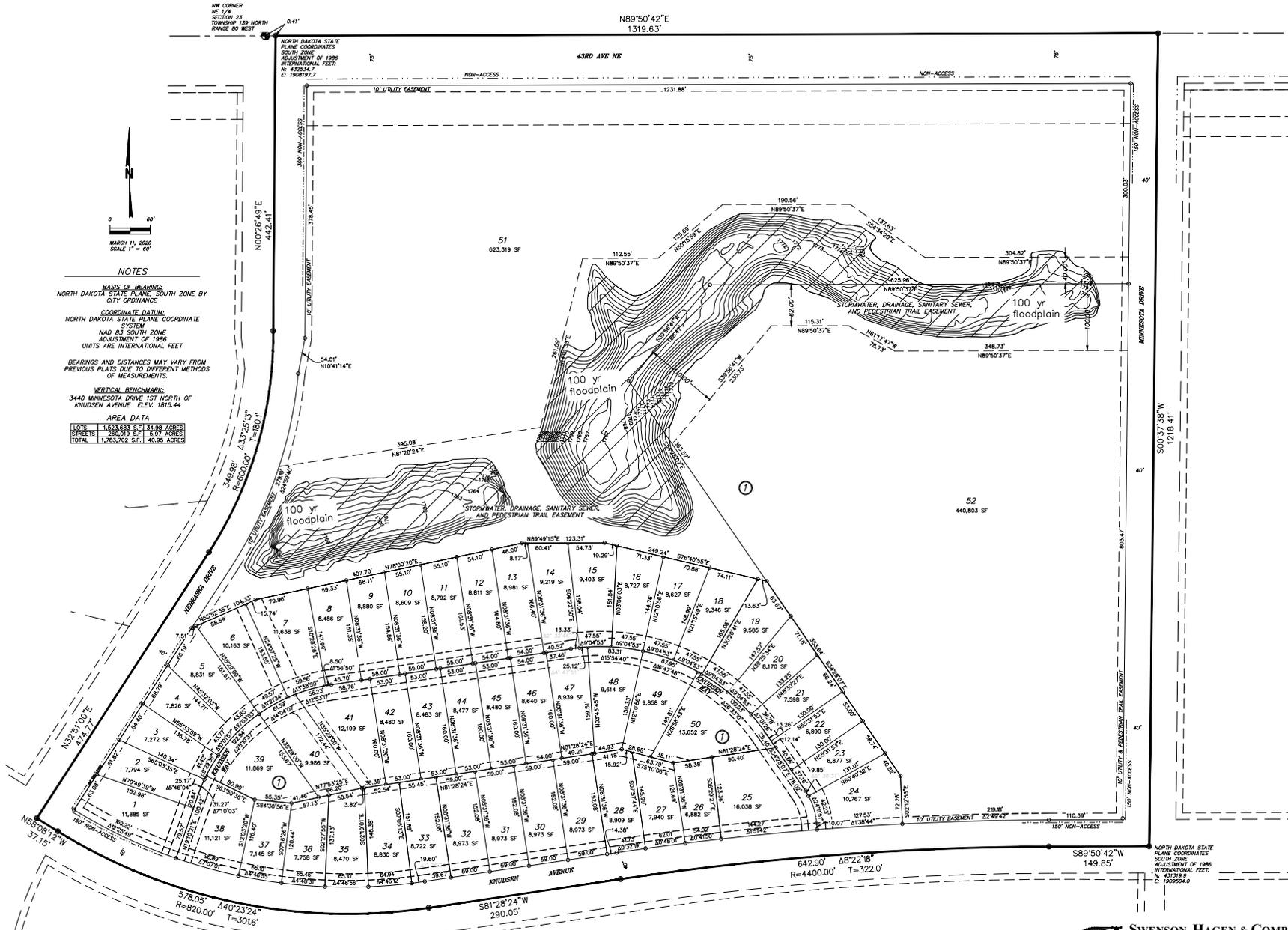
**COORDINATE DATUM:**  
NORTH DAKOTA STATE PLANE COORDINATE  
SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM  
PREVIOUS PLATS DUE TO DIFFERENT METHODS  
OF MEASUREMENTS.

**VERTICAL BENCHMARK:**  
3440 MINNESOTA DRIVE 1ST NORTH OF  
KNUDSEN AVENUE, ELEV. 1815.44

**AREA DATA**

LOTS	1,553,683 S.F.	34.98 ACRES
STREETS	260,000 S.F.	5.97 ACRES
TOTAL	1,813,683 S.F.	40.95 ACRES



**SWENSON, HAGEN & COMPANY P.C.**

300 Basin Avenue  
Bismarck, North Dakota 58501  
shag@swensonhagen.com  
Phone (701) 221-2600  
Fax (701) 221-2600

Services:  
- Hydrology  
- Land Planning  
- Civil Engineering  
- Landscape & Site Design  
- Construction Management

# EDGEWOOD VILLAGE 7TH ADDITION 1ST REPLAT

BEING A REPLAT OF BLOCK 3 OF EDGEWOOD VILLAGE 7TH ADDITION  
OF THE NE 1/4 OF SECTION 23, TOWNSHIP 139 NORTH, RANGE 80 WEST  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

## DESCRIPTION

BEING A REPLAT OF BLOCK 3 EDGEWOOD VILLAGE 7TH ADDITION OF THE NE 1/4 OF SECTION 23, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS 0.41 FEET NORTH 89 DEGREES 50 MINUTES 42 SECONDS EAST OF THE NORTHWEST CORNER OF THE NE 1/4 OF SAID SECTION 23, THENCE NORTH 89 DEGREES 50 MINUTES 42 SECONDS EAST, ALONG THE NORTH LINE OF SAID SECTION 23, A DISTANCE OF 1319.63 FEET TO THE CENTERLINE OF MINNESOTA DRIVE RIGHT-OF-WAY; THENCE SOUTH 00 DEGREES 37 MINUTES 38 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 1218.41 FEET TO THE CENTERLINE OF KNUDSEN AVENUE RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 50 MINUTES 42 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 149.89 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 4400.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 642.80 FEET; THENCE SOUTH 81 DEGREES 28 MINUTES 24 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 290.05 FEET; THENCE SOUTHWESTERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 820.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 578.05 FEET; THENCE NORTH 88 DEGREES 08 MINUTES 12 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 37.15 FEET TO THE CENTERLINE OF NEBRASKA DRIVE RIGHT-OF-WAY; THENCE NORTH 32 DEGREES 51 MINUTES 50 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 474.77 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 600.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 348.89 FEET; THENCE NORTH 00 DEGREES 26 MINUTES 49 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 442.41 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 40.95 ACRES, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_, 2020, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH ) SS SWENSON, HAGEN & CO. P.C.  
909 BASIN AVENUE  
BISMARCK, NORTH DAKOTA 58504  
TERRY BALTZER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 3595

## APPROVAL OF PLANNING AND ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON \_\_\_\_\_, 2020, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF, WE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN ATTEST  
BEN EPRETH - SECRETARY

## APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS ACCEPTED THE RE-DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

ATTEST  
KEITH J. HUNKE - CITY ADMINISTRATOR

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "EDGEWOOD 7TH ADDITION 1ST REPLAT", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.

GABRIEL J. SCHELL  
CITY ENGINEER

## OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT EDGEWOOD PROPERTIES, L.L.P., BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "EDGEWOOD 7TH ADDITION 1ST REPLAT", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE AND RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

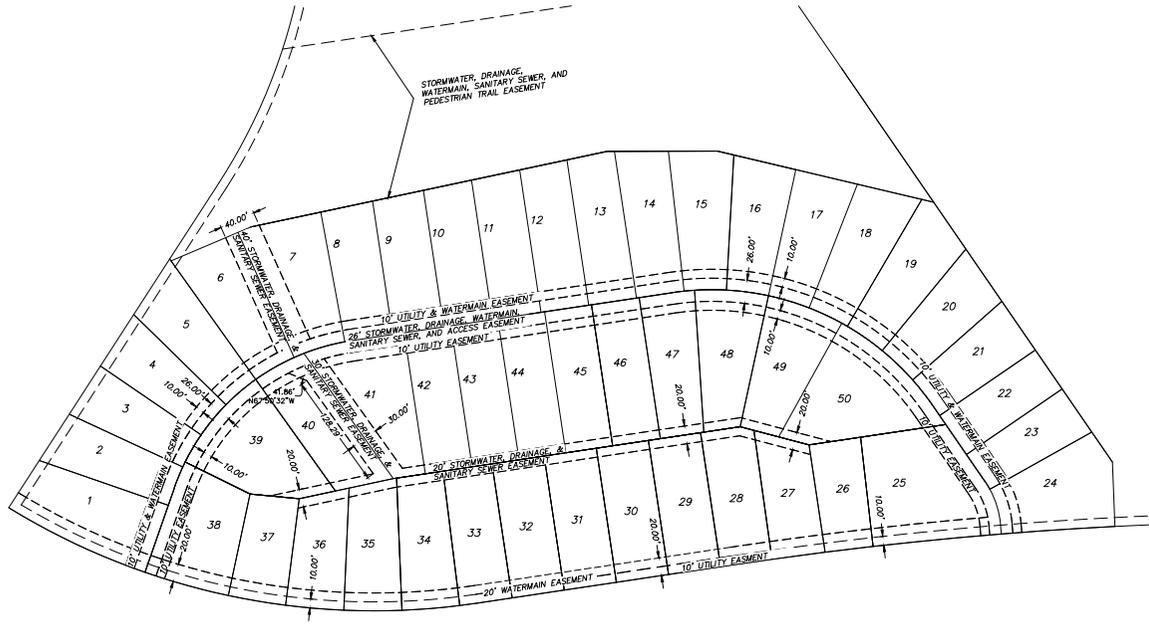
THEY FURTHER DEDICATE EASEMENTS TO THE PUBLIC WATERMAIN, SANITARY SEWER, STORMWATER & DRAINAGE EASEMENTS TO RUN WITH THE LAND FOR THE PURPOSE OF AND THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, AND REPAIR WATERMAIN, PEDESTRIAN TRAIL, SANITARY SEWER, & STORMWATER FACILITIES ACROSS THOSE LANDS DESIGNATED AS SUCH.

THEY ALSO DEDICATE AN ACCESS EASEMENT TO THE OWNERS OF LOTS 1-50 BLOCK 1 EDGEWOOD 7TH ADDITION 1ST REPLAT, AT ALL TIMES HEREAFTER, TO RUN WITH THE LAND, SAID EASEMENT TO INCLUDE THE FULL AND FREE RIGHT FOR SAID PARTIES, THEIR TENANTS, VISITORS, LICENSEES, AND CITY VEHICLES NEED RIGHTS TO ACCESS EASEMENT, POLICE/FIRE/MAINTENANCE TO PASS, AND REPASS ALONG SAID EASEMENT, AND THE RIGHT TO CONSTRUCT, REPAIR, AND ACCESS A PRIVATE DRIVEWAY ACROSS SAID EASEMENT.

STATE OF NORTH DAKOTA )  
COUNTY OF \_\_\_\_\_ ) EDGEWOOD PROPERTIES, L.L.P. (PRINT)  
51 BROADWAY N STE. 502  
FARGO, ND 58102

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED \_\_\_\_\_ OF EDGEWOOD PROPERTIES, L.L.P., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_



EASEMENT DETAILS LOTS 1-50 BLOCK 1



FEBRUARY 1, 2020  
SCALE 1" = 60'

## NOTES

**BASIS OF BEARING:**  
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY CITY ORDINANCE

**COORDINATE DATUM:**  
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 1986  
UNITS ARE INTERNATIONAL FEET

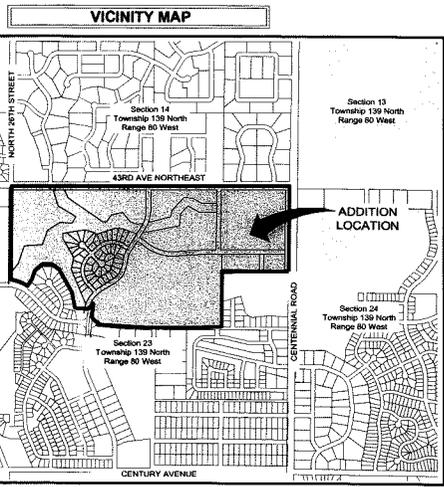
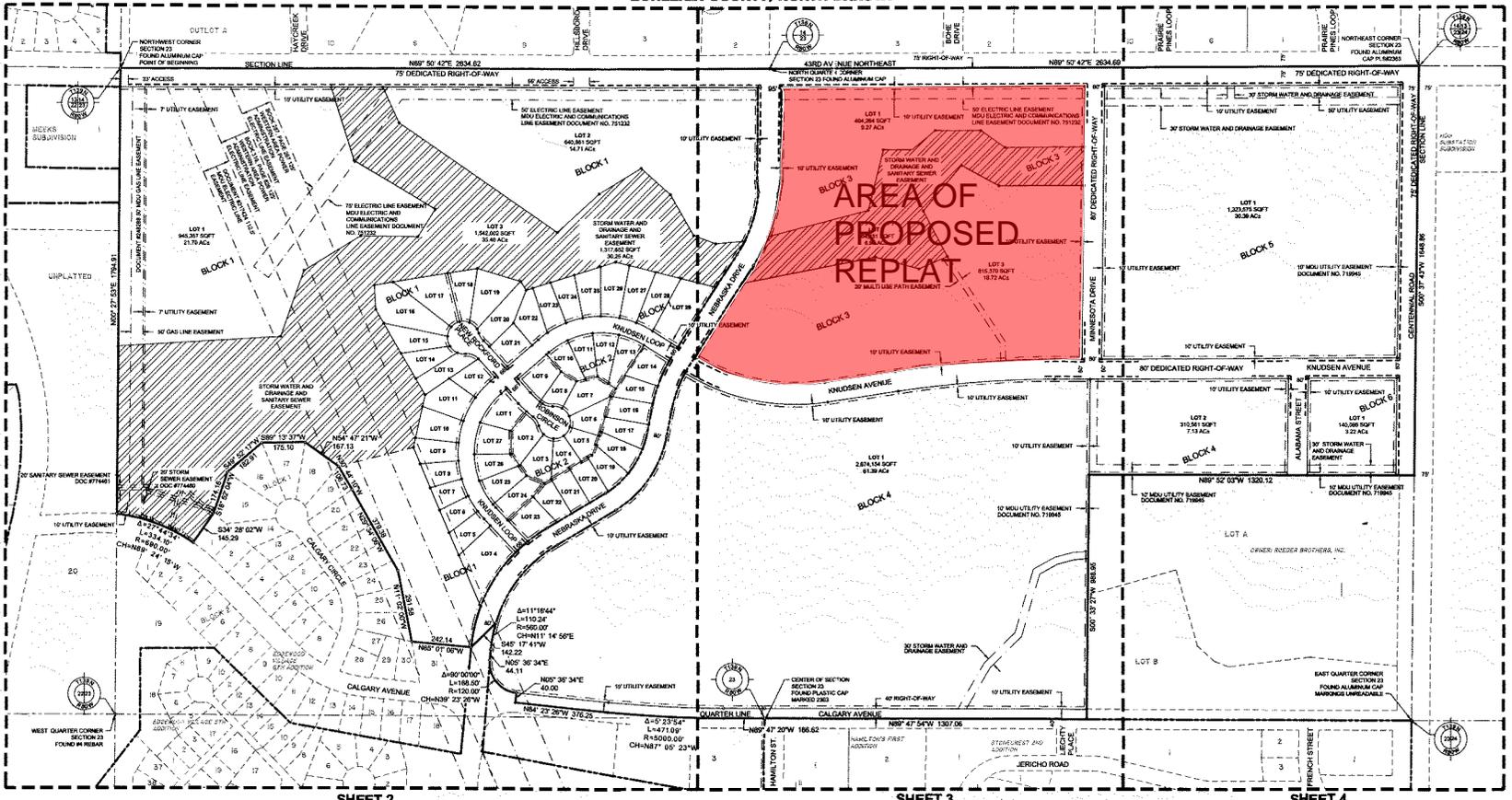
BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.

**VERTICAL BENCHMARK:**  
3440 MINNESOTA DRIVE 1ST NORTH OF KNUDSEN AVENUE ELEV. 1875.44 (NGVD 29)

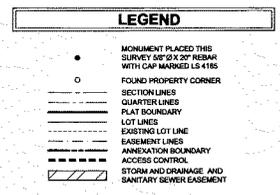
**AREA DATA**

LOTS	1-50	14,948 S.F.	0.348 ACRES
STREETS	266,919 S.F.	6.071 ACRES	
TOTAL	1,783,702 S.F.	40.95 ACRES	

**PLAT OF  
EDGEWOOD VILLAGE 7TH ADDITION  
TO THE CITY OF BISMARCK, NORTH DAKOTA  
BEING A REPLAT OF AUDITORS LOT A, B, AND C, LOTS 1, 2, AND 3, BLOCK 4, LOT 1, BLOCK 5, LOT 1, BLOCK 6 OF  
EDGEWOOD VILLAGE SIXTH ADDITION TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, SECTION 23,  
TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN,  
BURLEIGH COUNTY, NORTH DAKOTA**



- NOTES**
1. BASIS OF BEARINGS: GRID NORTH, NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE 3302, NAD83, BASED ON CITY OF BISMARCK CONTROL MONUMENTS. ALL DISTANCES ARE GROUND DISTANCES.
  2. VERTICAL DATUM: NAVD09
  3. THE FIELD SURVEY WAS COMPLETED ON 03/10/21
  4. NO RAILROAD RIGHT-OF-WAY EXISTS ON SUBJECT PROPERTY
  5. NO PARCELS, PUBLIC LANDS OR MULTIPLE USE TRAILS OR CROSSWALKS EXIST WITHIN OR ADJACENT TO SUBJECT SUBDIVISION PLAT.
  6. NO PERMANENT BUILDINGS OR STRUCTURES EXIST WITHIN OR ADJACENT TO SUBDIVISION PLAT.
  7. NO LAND IN SUBJECT SUBDIVISION LIE WITHIN THE 100 YEAR FLOOD PLAIN.
  8. LOT 3, BLOCK 1, AND LOT 2, BLOCK 6 ARE PLANNED TO BE USED FOR STORM WATER MANAGEMENT.
  9. PROPERTY OWNERS: BISMARCK LAND COMPANY, LLC, 2850 24TH AVE. S. SUITE 301 GRAND FORKS, ND 58008-3008 STEVEN E. SWANSON P.L.S. #18 ADVANCED ENGINEERING AND ENVIRONMENTAL SERVICES, INC. 4050 GARDEN VIEW DRIVE SUITE 200 GRAND FORKS, ND 58201
  10. REGISTERED LAND SURVEYOR



**WESTERN AREA POWER ADMINISTRATION**

THE UNITED STATES GOVERNMENT (WESTERN AREA POWER ADMINISTRATION) HOLDS TWO SEPARATE 120 FOOT (36.6' ON EACH SIDE OF THE CENTERLINE) EASEMENTS WITH THE RIGHT TO OPERATE, PATROL, REPAIR, MAINTAIN, USE, CONSTRUCT, AND RECONSTRUCT ELECTRICAL TRANSMISSION LINES.

THE FOLLOWING ACTIVITIES ARE PROHIBITED WITHIN THE TRANSMISSION LINE EASEMENT, UNLESS REVIEWED AND APPROVED BY WESTERN AREA POWER ADMINISTRATION (IN WRITING):

1. OWNER SHALL NOT ERECT ANY STRUCTURES. STRUCTURES BY WAY OF EXAMPLE, NOT BY LIMITATION, SHALL MEAN BUILDINGS, MOBILE HOMES, SIGNS, STORAGE TANKS, SEPTIC TANKS, SWIMMING POOLS, TENNIS COURTS, OR OTHER SIMILAR FACILITIES.
2. OWNER SHALL NOT DRILL WELLS OR CONDUCT MINING OPERATIONS.
3. OWNER SHALL NOT APPROPRIATELY CHANGE THE CHARACTER OF EXISTING TOPOGRAPHY. NORMAL GARDENING PRACTICES MAY BE CONDUCTED.
4. OWNER SHALL NOT ERECT BARRIERS OR FENCES OR ACROSS THE EASEMENT AREA WITHOUT FIRST SUBMITTING THE FENCE PLANS TO WAPA AND OBTAINING WAPA'S WRITTEN APPROVAL. REQUESTS FOR PERMISSION TO USE THE TRANSMISSION LINE RIGHT-OF-WAY SHOULD BE SUBMITTED TO THE WESTERN AREA POWER ADMINISTRATION, NORTH DAKOTA MAINTENANCE OFFICE, P.O. BOX 1173, BISMARCK, ND 58501-1173. (701) 321-4520
5. NO TREES OR VEGETATION SHALL BE PLANTED WITHIN THE DEDICATED LANDSCAPE AREAS UNDER THE TRANSMISSION LINE RIGHT-OF-WAY.
6. OBJECTS LOCATED WITHIN THE TRANSMISSION LINE RIGHT-OF-WAY THAT INTERFERE WITH THE SAFE OPERATION AND MAINTENANCE OF THE TRANSMISSION LINE CAN BE REMOVED BY WAPA.
7. PLANS FOR IMPROVEMENT PROJECTS SUCH AS CURB AND GUTTER PAVING, AND OTHER INFRASTRUCTURES WITHIN THE TRANSMISSION LINE RIGHT-OF-WAY SHALL BE PRESENTED TO WAPA FOR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION.

**COORDINATE REFERENCE DATA**

1. THE MONUMENT 1 BEING THE NORTHWEST CORNER OF SECTION 23, TOWNSHIP 139 NORTH, RANGE 80 WEST  
A. NORTHING: 42527.50'  
B. EASTING: 190582.87'  
C. ELEVATION: 1778.66' (NAVD09)
2. THE MONUMENT 2 BEING THE WEST QUARTER CORNER OF SECTION 23, TOWNSHIP 139 NORTH, RANGE 80 WEST  
A. NORTHING: 42527.50'  
B. EASTING: 190582.87'  
C. ELEVATION: 1778.66' (NAVD09)
3. BENCHMARK BISMARCK CONTROL MONUMENT C4-47  
A. NORTHING: 426876.00'  
B. EASTING: 190839.56'  
C. ELEVATION: 1724.89' (NAVD09)

Advanced Engineering and Environmental Services, Inc.  
4050 Garden View Drive Suite 200, Grand Forks, ND 58201  
Voice: 701-746-8067 Fax: 701-746-0370  
PROJECT NUMBER: P11246-2012-07  
PAGE 1 OF 4



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

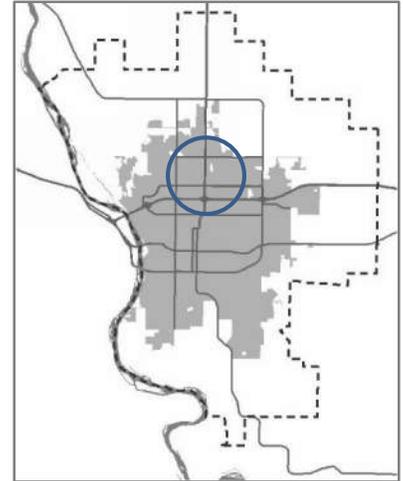
Agenda Item # 9  
 April 22, 2020

## Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2020-004

### Project Summary

<b>Title:</b>	Eugenes First Addition First Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	State Street Investments, LLC
<b>Project Contact:</b>	Rob Illg, RLS, SEH
<b>Location:</b>	In north-central Bismarck north of East Divide Avenue along the west side of State Street (a replat of Lots 13-20, Block 2, Tibesar First Subdivision and part of the SE <sup>1</sup> / <sub>4</sub> of Section 28, T139N-R80W/City Lands, to be known as Eugenes First Addition)
<b>Project Size:</b>	5.07 acres
<b>Request:</b>	Replat property for future commercial development



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 lot in 1 block	<b>Number of Lots:</b>	2 lots in 1 block
<b>Land Use:</b>	Vacant	<b>Land Use:</b>	Commercial
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	CG – Commercial	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	CG – 42 units / acre	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	04/1959	<b>Platted:</b>	07/1959 (Tibesars 1 <sup>st</sup> Add) 02/2020 (Eugenes First Addition)	<b>Annexed:</b>	Pre-1940
---------------	---------	-----------------	--	-----------------	----------

**Staff Analysis**

State Street Investments, LLC is requesting approval of a minor subdivision final plat titled Eugenes First Addition First Replat. Approval of the proposed minor subdivision final plat would allow for future commercial development.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10 and 17, 2020 and 26 letters we're mailed to the owners of nearby properties on April 9, 2020.

The property within the proposed plat is zoned CG – Commercial. Approval of the proposed plat would allow for the redevelopment of the property for commercial uses. Redevelopment of the property may generate additional vehicle trips and a traffic impact study may be required in conjunction with site plan review.

Adjacent uses include a manufactured home sales facility and manufactured home park to the north, a financial institution and fast food restaurant to the east across State Street, a fueling station to the south and commercial and public uses including a daycare center, fire station and offices to the west, across North 11th Street.

**Required Findings of Fact** (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The Post-Construction Stormwater Management Permit (PCSMP) the underlying plat of Eugenes First Addition was approved by the City Engineer on January 24, 2020. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) for this plat with the understanding that prior to any development, site plan or

additional division of the proposed two lot subdivision of Eugenes First Addition First Replat, an approved stormwater management plan is required. Future development is anticipated to maintain current overall drainage patterns with no increase in overall impervious surfacing. Additionally, depending upon the proposed future drainage patterns, a NDDOT permit may be required for stormwater discharge into ND 1804 (State Street) right-of-way prior to any land-disturbing activities. Approval of the stormwater management plan by the NDDOT is required at the time of development.

3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the minor subdivision final plat for Eugenes First Addition First Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Final Plat
5. Original Plat with Replatted Area Highlighted

Staff report prepared by: Jenny Wollmuth, AICP, CFM

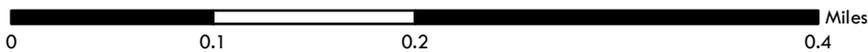
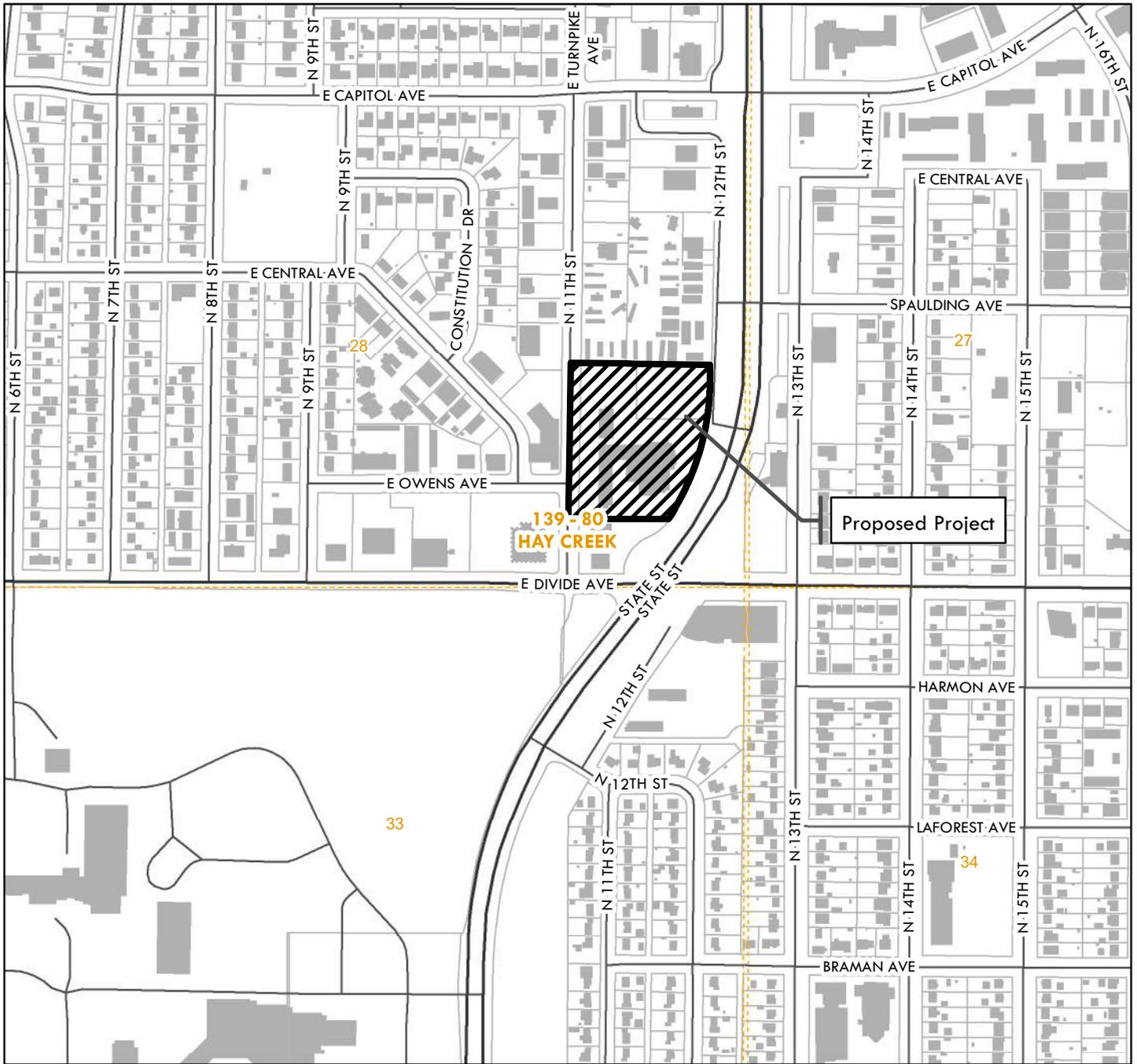
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

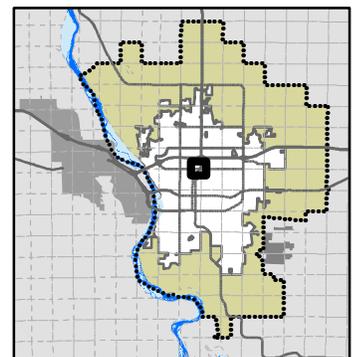
Eugenes First Addition First Replat

MPLT2020-004



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
March 20, 2020 (HLB)

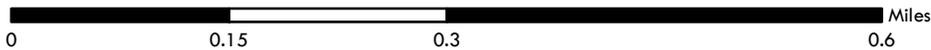
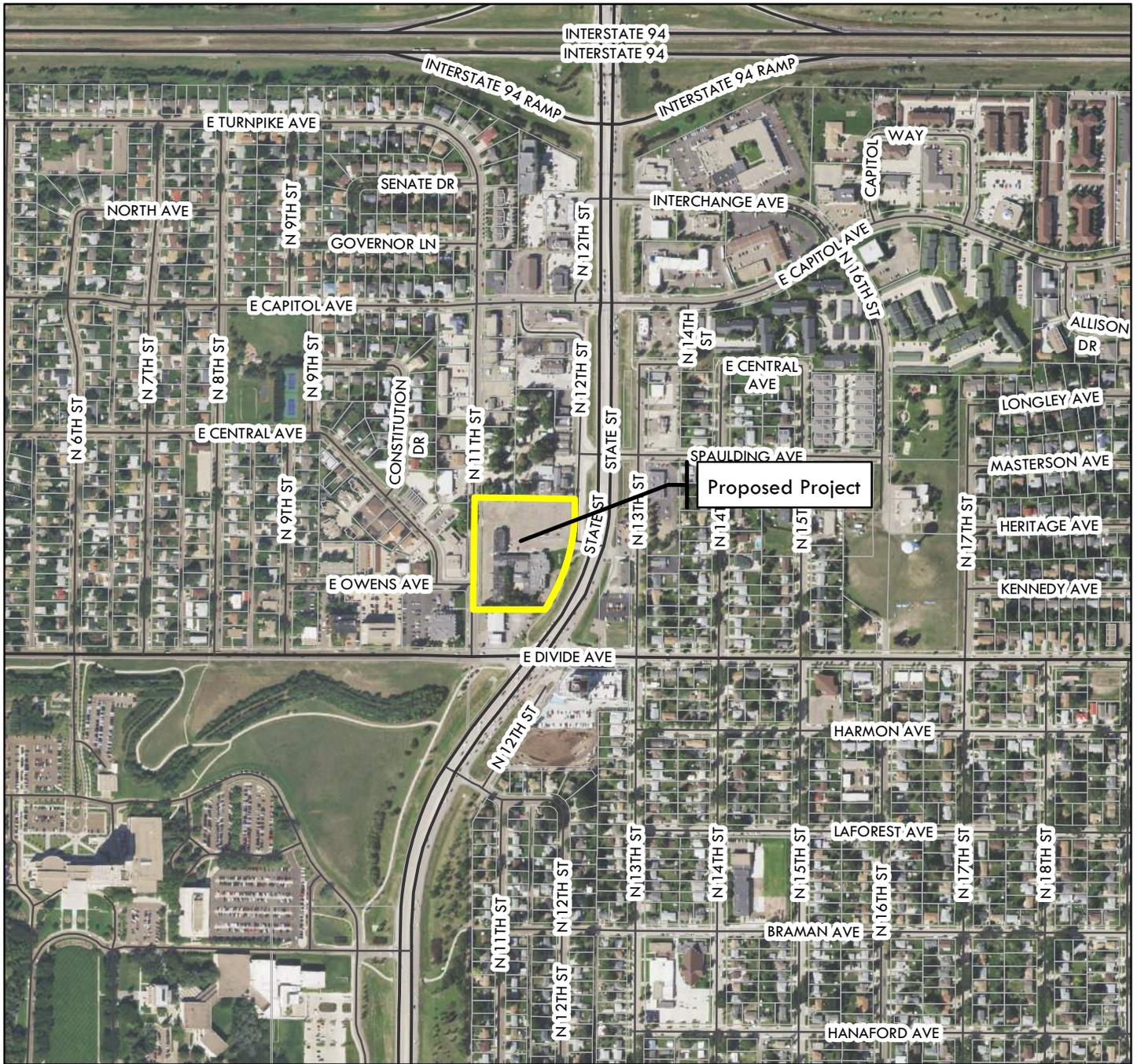
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



# Aerial Map

MPLT2020-006

Eugenes First Addition First Replat

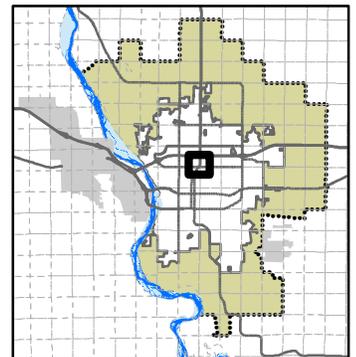


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
April 8, 2020

*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.*





# Zoning and Plan Reference Map

Eugenes First Addition First Replat

MPLT2020-006



### Zoning Districts

- A** Agriculture
- RR** Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential
- RT** Multifamily Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

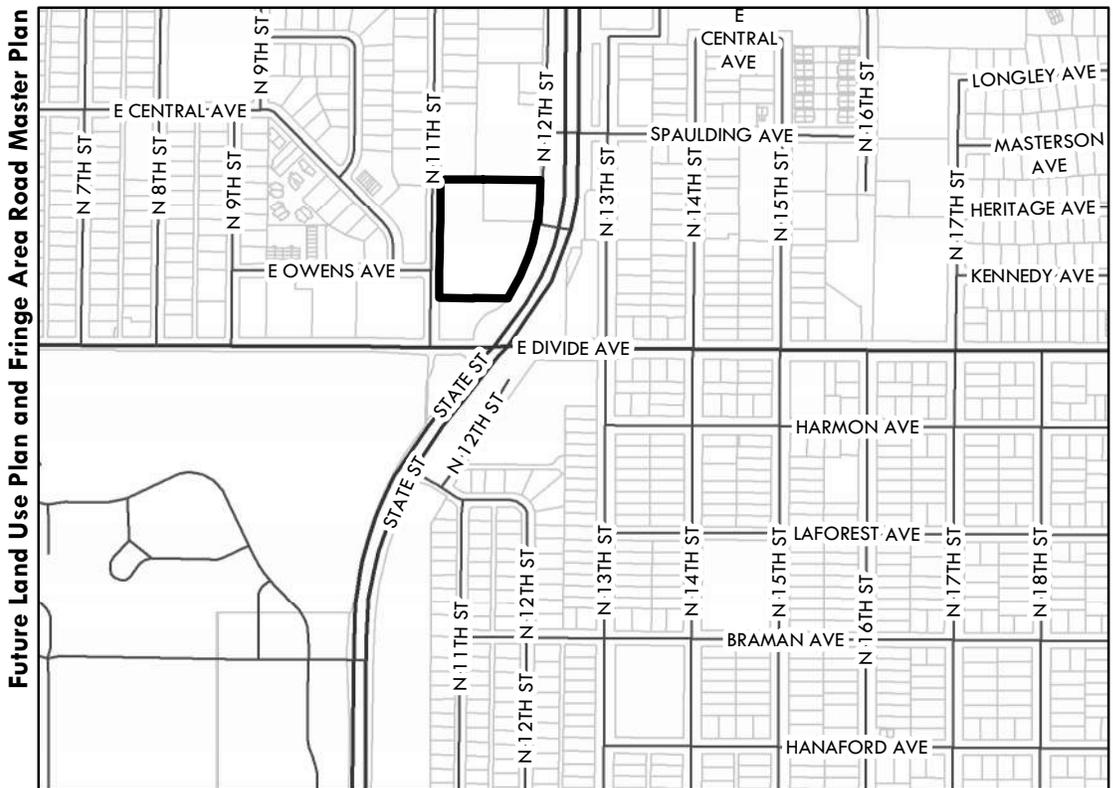
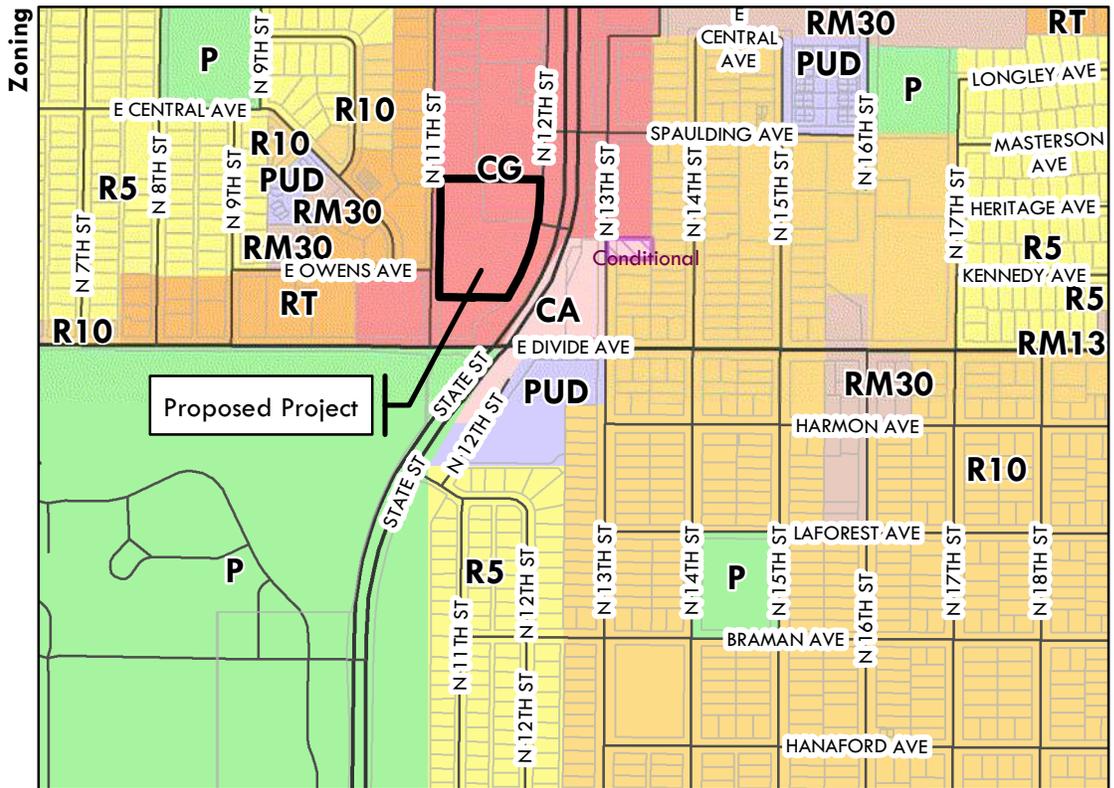
Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



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

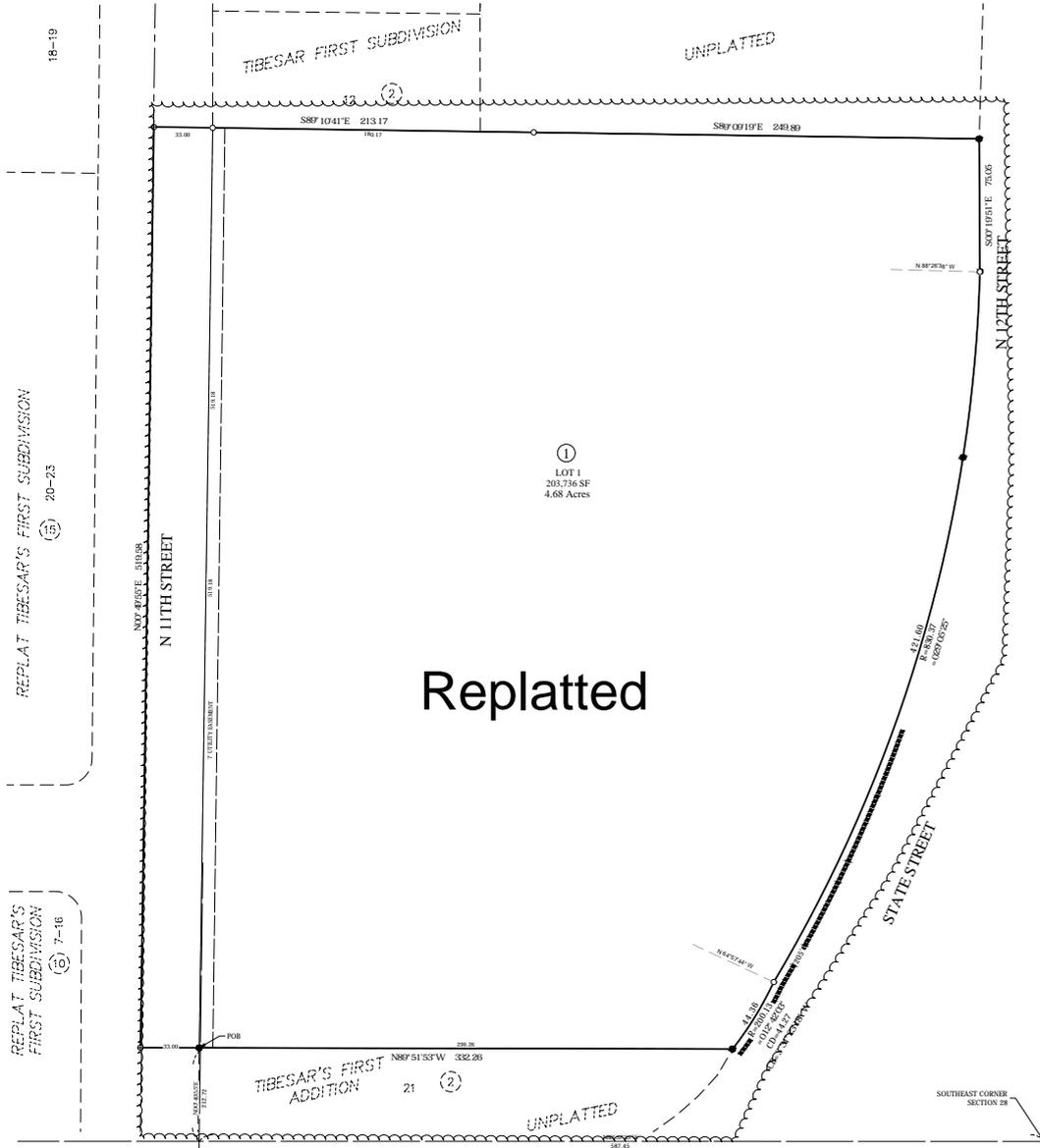


City of Bismarck  
Community Development Dept.  
Planning Division  
April 8, 2020



# EUGENES FIRST ADDITION

a replat of Lots 13-20, Block 2, Tibesar First Subdivision to the City of Bismarck and all that part of the Southeast Quarter, Section 28, Township 139 North, Range 80, West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota



## Replatted

### DESCRIPTION:

EUGENES FIRST ADDITION being a replat of Lots 13-20, Block 2, Tibesar First Subdivision to the City of Bismarck and all that part of the Southeast Quarter, Section 28, Township 139 North, Range 80, West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota, and being more particularly described as follows:

Commencing at the southeast corner of Section 28, thence North 89 degrees 57 minutes 25 seconds West 587.45 feet along the south line of Section 28, thence North 00 degrees 49 minutes 53 seconds East 212.72 feet to the Point of Beginning, thence North 89 degrees 51 minutes 53 seconds West 33.90 feet to the centerline of North 11th Street, thence North 00 degrees 49 minutes 53 seconds East along said centerline, 519.58 feet, thence South 89 degrees 10 minutes 41 seconds East, 213.17 feet, thence South 89 degrees 09 minutes 19 seconds East, 249.89 feet to the west right of way line of State Street, thence South 00 degrees 19 minutes 51 seconds East along said right of way line, 75.05 feet, thence continuing along said west right of way line southwesterly 42.60 feet along a tangential curve concave to the west having a radius of 830.37 feet and a central angle of 29 degrees 05 minutes 25 seconds; thence continuing along said west right of way line southwesterly 44.36 feet along a non-tangential curve concave to the west having a radius of 200.15 feet and a central angle of 14 degrees 42 minutes 03 seconds, and a chord bearing of South 31 degrees 23 minutes 18 seconds West, and a chord distance of 44.27 feet; thence North 89 degrees 51 minutes 53 seconds West 332.24 to the Point of Beginning.

Containing 5.07 acres, more or less.

### OWNER'S CERTIFICATE AND DEDICATION

State Street Investments, LLC, being all the owners of the lands platted herein, do hereby voluntarily consent to the execution of this plat titled EUGENES FIRST ADDITION, and dedicate and rededicate all rights of way as shown on this plat for public use, and consent to any access control to the property as shown.

We also dedicate easements to the City Of Bismarck to run with the land for gas, electric, telephone or other public utilities or services on or under those certain strips of land designated herein as utility, sanitary sewer, storm sewer, drainage and watermain easements.

We further dedicate any other easements or servitudes as shown and those that are recorded but not shown.

Kevin Christianson, Principal  
State Street Investments, LLC

STATE OF NORTH DAKOTA )  
COUNTY OF ) SS

Be it known on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared Kevin Christianson, known to me to be the person described in and who executed the within certificate and he acknowledged to me that he executed the same.

Notary Public: \_\_\_\_\_ County, North Dakota

My Commission Expires: \_\_\_\_\_

### SURVEYOR'S CERTIFICATE:

I, Robert M. Big, a Registered Professional Land Surveyor in the State of North Dakota, hereby certify that I made the within and foregoing plat which is a correct representation of the survey prepared under my direct supervision and completed on January 17, 2020 that all distances are correct, that the outside boundary lines are correctly designated herein, that all dimensional and geodesic details shown herein are true and correct to the best of my knowledge and belief and that all required monuments are placed in the ground as shown.



Robert M. Big  
Registered Professional Land Surveyor  
License No. 15-8444

### APPROVAL OF CITY PLANNING AND ZONING COMMISSION

The subdivision of land as shown hereon has been approved by the Planning and Zoning Commission of the City of Bismarck on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, in accordance with the laws of the State of North Dakota, ordinances of the City of Bismarck and regulations adopted by said Planning and Zoning Commission. In witness whereof we set the hands and seals of the Chairman and the Secretary of the Planning and Zoning Commission of the City of Bismarck.

Mike Schwartz  
Chairman

Ben J. Elreth  
Secretary

### APPROVAL OF BOARD OF CITY COMMISSIONERS

The Board of City Commissioners of the City of Bismarck, North Dakota, has approved the subdivision of land as shown hereon and does hereby vacate any previous plating within the boundary of the annexed plat and amends the master plan for the City of Bismarck on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Attest:  
Keith J. Hunkle, City Administrator

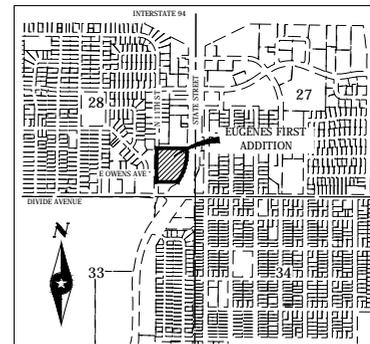
### APPROVAL OF CITY ENGINEER

I, Gabriel J. Schell, City Engineer of the City of Bismarck, North Dakota, hereby approve "EUGENES FIRST ADDITION" Bismarck, North Dakota, as shown hereon.

Gabriel J. Schell - City Engineer

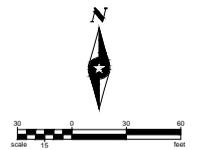
### LEGEND:

- FOUND MONUMENT
- REBAR W/ CAP IS-8444
- ⊕ ROADWAY POINT
- PLAT BOUNDARY
- NON ACCESS LINE
- UTILITY EASEMENT
- ADJACENT LOT LINE
- SECTION LINE



### VICINITY MAP

NOT TO SCALE  
1:1339, 830W



PHONE: 701.254.7121  
4719 SHELBOURNE ST., SUITE 6  
BISMARCK, ND 58503-5077  
www.sehnc.com

### AREA TABULATIONS:

Total	203,735 sq	4.68+ Acres
Streets	17,149 sq	0.38+ Acres
Total	220,884 sq	5.06+ Acres

BENCHMARKS  
City hydrant 0451 - 11th Street and Owens Avenue  
Elevation = 1841.79

### BASIS OF BEARING:

Derived from State Plane coordinates.

### HORIZONTAL DATUM:

North Dakota State Plane Coordinate System  
NAD 83 South Zone 3302 (Adjusted 88)  
International Units

### VERTICAL DATUM:

National Geodetic Vertical Datum of 1929

### OWNERS:

State Street Investments, LLC  
4265 45th S, STE 200  
Fargo, ND 58104

### SURVEYOR:

SEH Robert M. Big, PLS  
4719 Shelburne St.  
Bismarck, ND 58503

### SURVEYED:

May 28, 2018



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

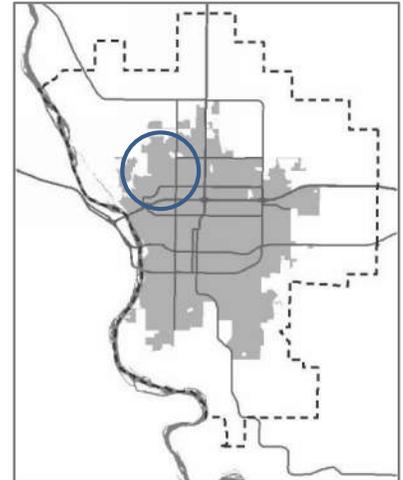
Agenda Item # 10  
April 22, 2020

## Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2020-006

### Project Summary

<b>Title:</b>	Carols Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Larry Benzinger and Vivian Lang (owners) PACES Lodging Corporation (applicant)
<b>Project Contact:</b>	Rob Illg, RLS, SEH
<b>Location:</b>	In northwest Bismarck, north of Arabian Avenue, west of North Washington Street, along the south side of Buckskin Avenue (a replat of the East 340 feet of Lot 1, Block 3, KMK Estates)
<b>Project Size:</b>	3.51 acres
<b>Request:</b>	Replat property for future development



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 parcel	<b>Number of Lots:</b>	2 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Office and multi-family residential
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	Conditional RT – Residential	<b>Zoning:</b>	Conditional RT – Residential
<b>Uses Allowed:</b>	RT – Offices and multi-family residential with a building height limit of two-stories	<b>Uses Allowed:</b>	RT – Offices and multi-family residential with a building height limit of two-stories
<b>Max Density Allowed:</b>	Conditional RT – 30 units / acre	<b>Max Density Allowed:</b>	Conditional RT – 30 units / acre

### Property History

<b>Zoned:</b>	08/2015	<b>Platted:</b>	Pre-1980	<b>Annexed:</b>	09/2014
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### Staff Analysis

PACES Lodging Corporation, Larry Benzinger and Vivian Lang are requesting approval of a minor subdivision final plat titled Carols Addition. Approval of the proposed plat would allow for future development of the property. The property is currently zoned Conditional RT – Residential, which would allow for the development of offices and multifamily residential buildings with a condition that all buildings on the property are limited to two stories in height.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020 and 36 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include two single-family dwellings owned and operated by Century Baptist Church to the north across Buckskin Avenue, existing single and two-family dwellings to the east across North Washington Street, undeveloped Conditional RT – Residential property and a single-family dwelling to the south, and an existing single-family dwelling to the west.

There is an existing gas line easement located along the southern portion of the proposed plat. The applicant has indicated they are working with the easement holder NuStar to verify the width of the easement and exact location of the gas line, and are requesting that the easement holder reduce the width to 50 feet on either side of the underground gas line. The proposed plat will not be forwarded to the City Commission for final action until the exact location and width of the required easement is identified and accepted by the easement holder.

*Utility Capital Charges*

The creation of any new lots in the City of Bismarck is subject to utility capital charges. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to the recordation of the proposed plat.

**Required Findings of Fact** (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with the understanding that prior to any development, site plan, or additional division of the proposed two-lot subdivision, an approved stormwater management plan will be required. Additionally, future development is required to maintain current overall drainage patterns and adhere to the 2014 North Washington Street Stormwater Management Plan.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the minor subdivision final plat for Carols Addition, with the following condition:

1. The exact location and width of the required NuStar gas line easement is identified and accepted by the easement holder prior to forwarding the proposed plat to the Bismarck City Commission for final action.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Final Plat
5. Original Plat with Replatted Area Highlighted

*Staff report prepared by:* Jenny Wollmuth, AICP, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

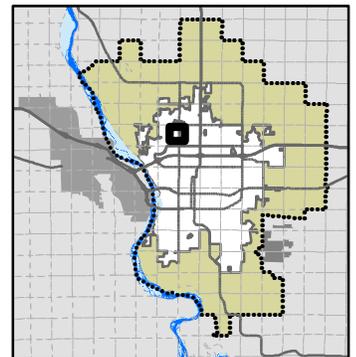
Carols Addition

MPLT2020-006



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
March 21, 2020 (HLB)

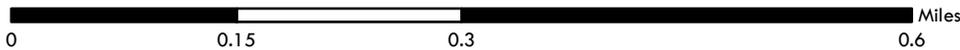
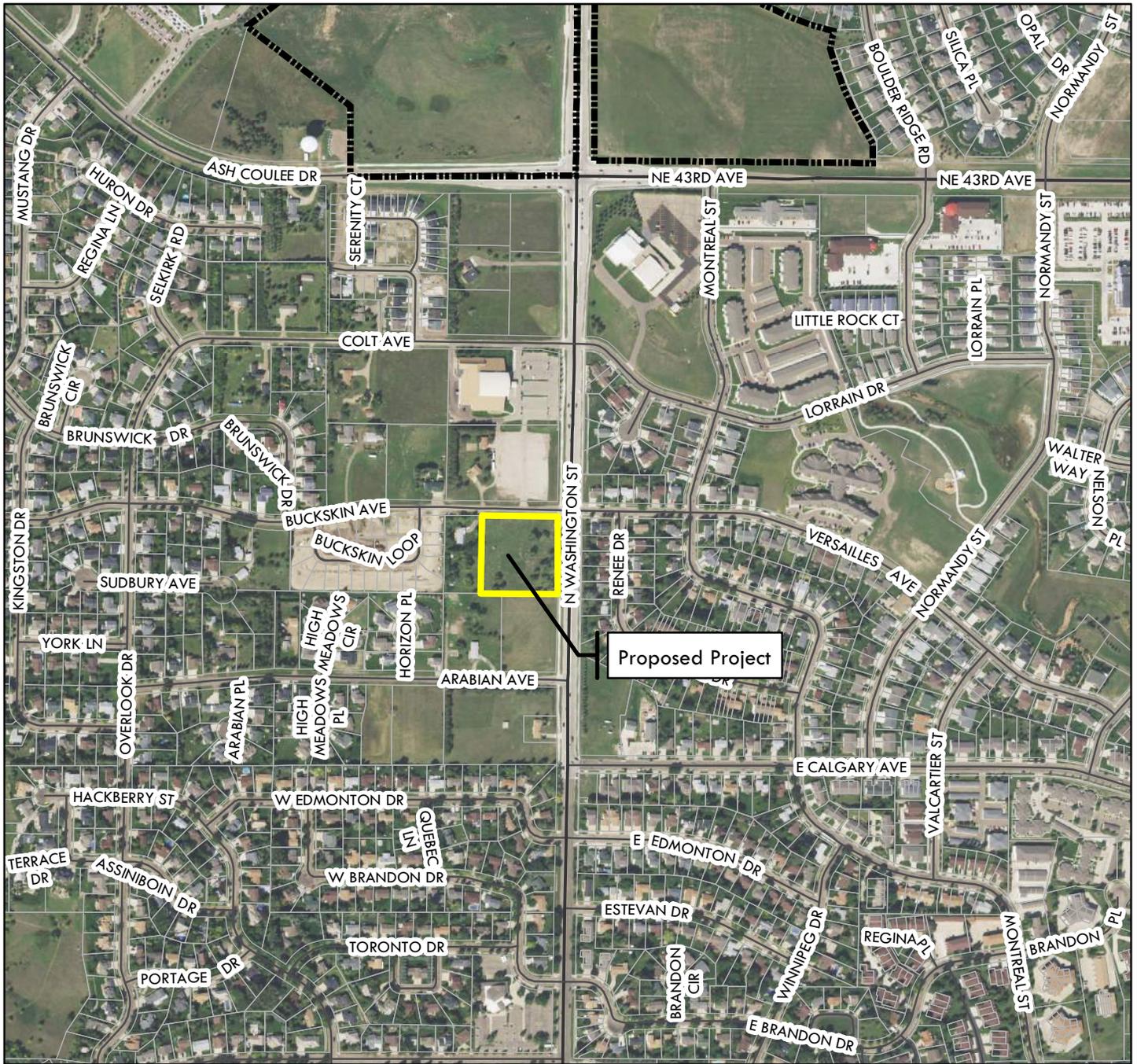
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



# Aerial Map

MPLT2020-006

Carols Addition

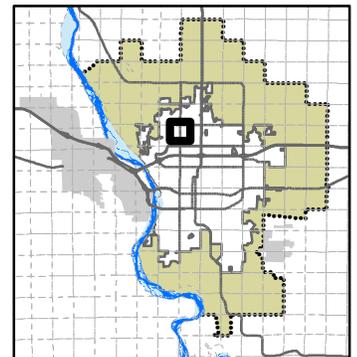


City Limits
 Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
 Community Development Department  
 Planning Division  
 April 8, 2020

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# Zoning and Plan Reference Map

Carols Addition

MPLT2020-006

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

### Zoning Districts

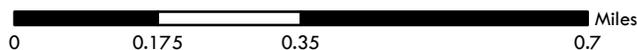
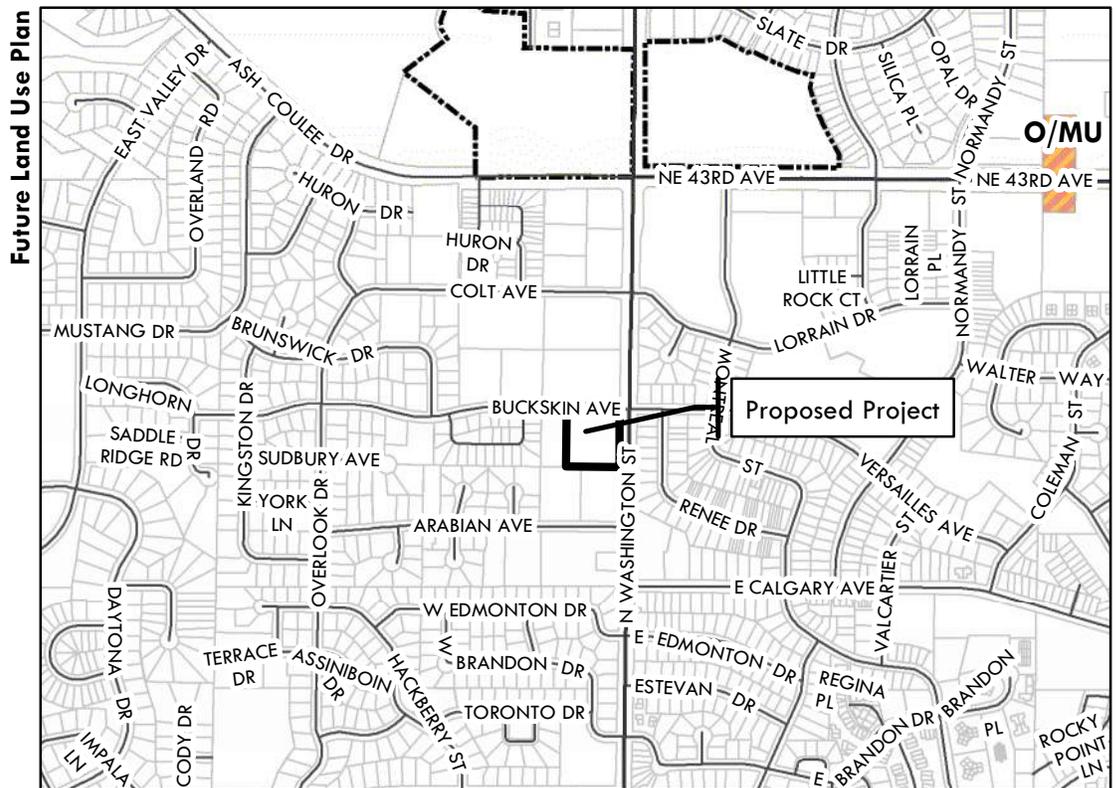
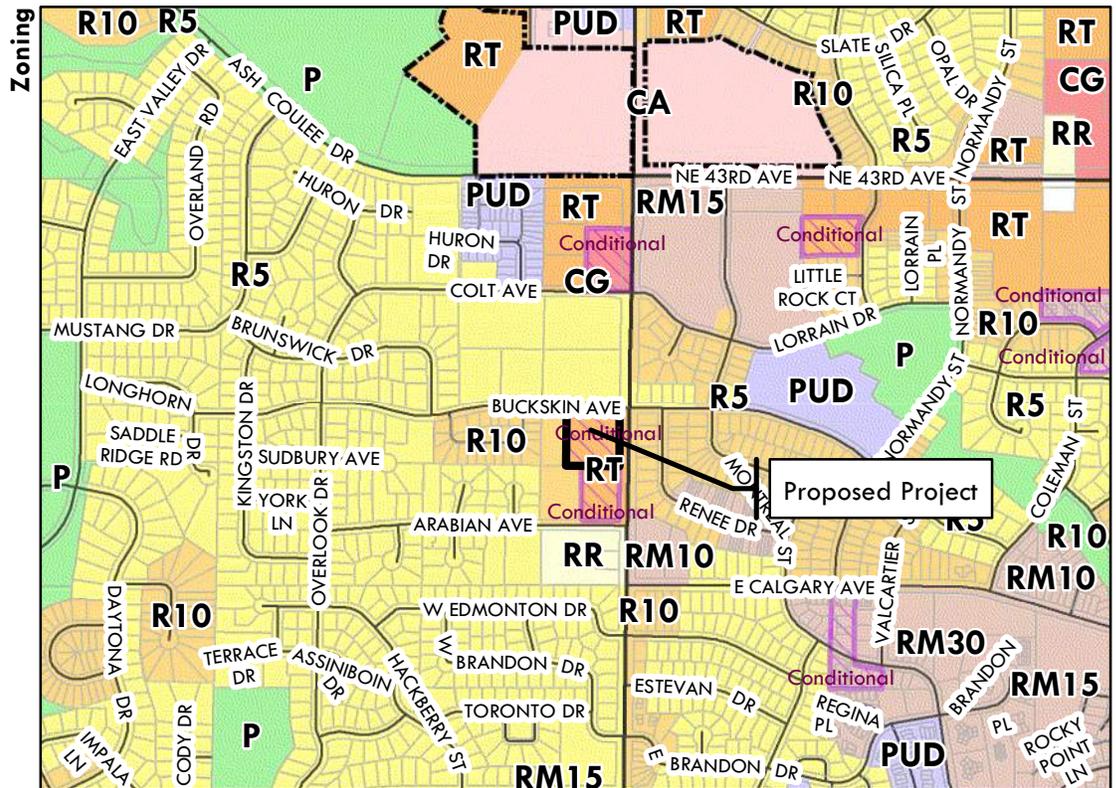
- A** Agriculture
- RR** Rural
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan



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



City of Bismarck  
 Community Development Dept.  
 Planning Division  
 April 8, 2020







# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

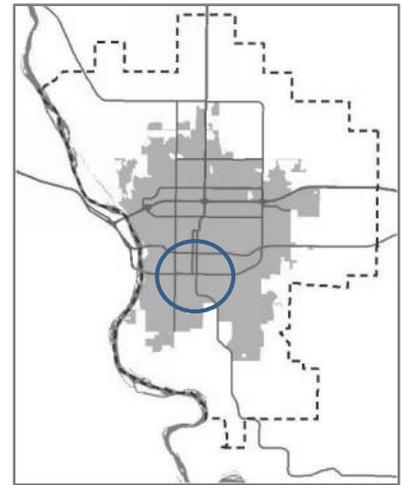
Agenda Item # 11  
 April 22, 2020

## Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2020-005

### Project Summary

<b>Title:</b>	Wachters Addition Second Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Kirkwood Mall Acquisition, LLC CBL & Associates Management, Inc.
<b>Project Contact:</b>	Landon Niemiller, Swenson Hagen & Co.
<b>Location:</b>	The property is most of the existing Kirkwood Mall located in central Bismarck, along the north side of East Bismarck Expressway, south of East Bowen Avenue, east of South 3rd Street and west of South 7th Street (a replat of Auditor’s Lots E, F, K and L of Blocks 3 and 4 and the vacated Arbor Avenue of Wachter’s Addition)
<b>Project Size:</b>	60.41 acres
<b>Request:</b>	Plat property for future commercial development



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	3 parcels	<b>Number of Lots:</b>	8 lots in 1 block
<b>Land Use:</b>	Commercial	<b>Land Use:</b>	Commercial
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	CG – Commercial	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	CG – 42 units / acre	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	Pre-1980	<b>Platted:</b>	04/1969	<b>Annexed:</b>	Pre-1980
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**Staff Analysis**

Kirkwood Mall Acquisition, LLC and CBL & Associates Management, Inc. are requesting approval of a minor subdivision final plat titled Wachters Addition Second Replat. Approval of the proposed plat would allow for the creation of outlots to accommodate existing commercial buildings and to allow for additional commercial development in conjunction with Kirkwood Mall

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 40 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include commercial uses to the north, east across South 7<sup>th</sup> Street, and to the south across Bismarck Expressway, and commercial and multifamily residential uses to the west, across South 3rd Street.

The proposed plat is encumbered by a number of existing utility easements. The applicant is proposing to vacate a portion of an existing MDU overhead power easement located along the western side of the proposed plat and relocate it approximately 40 feet to the west after the proposed plat has been recorded.

**Required Findings of Fact** (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;

2. The City Engineer has waived the requirement for a Post-Construction Stormwater Management Permit (PCSMP) in conjunction with this plat;
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the minor subdivision final plat for Wachters Addition Second Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Final Plat
5. Original Plat with Replatted Area Highlighted

*Staff report prepared by:* Jenny Wollmuth, AICP, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)





# Aerial Map

Wachters Addition Second Replat

MPLT2020-005

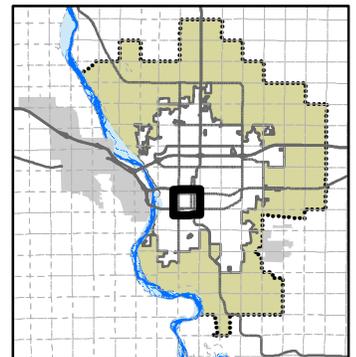


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
April 9, 2020

*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.*





# Zoning and Plan Reference Map

Wachters Addition Second Replat

MPLT2020-005

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

### Zoning Districts

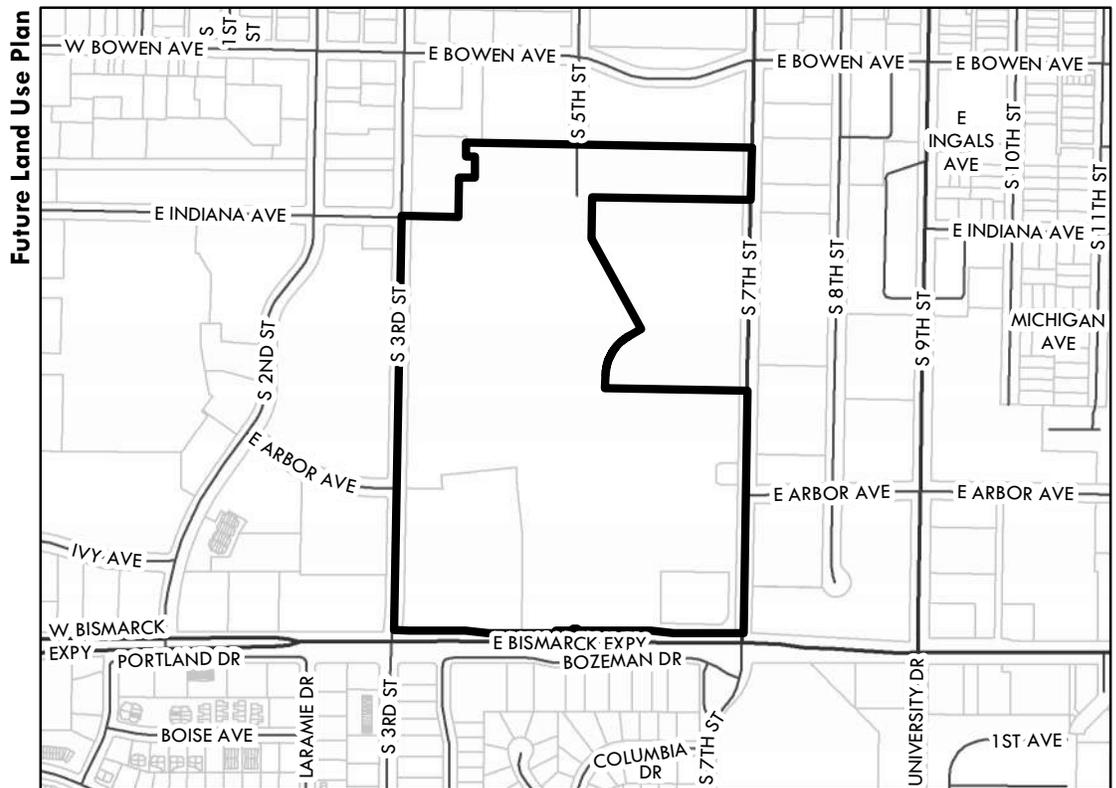
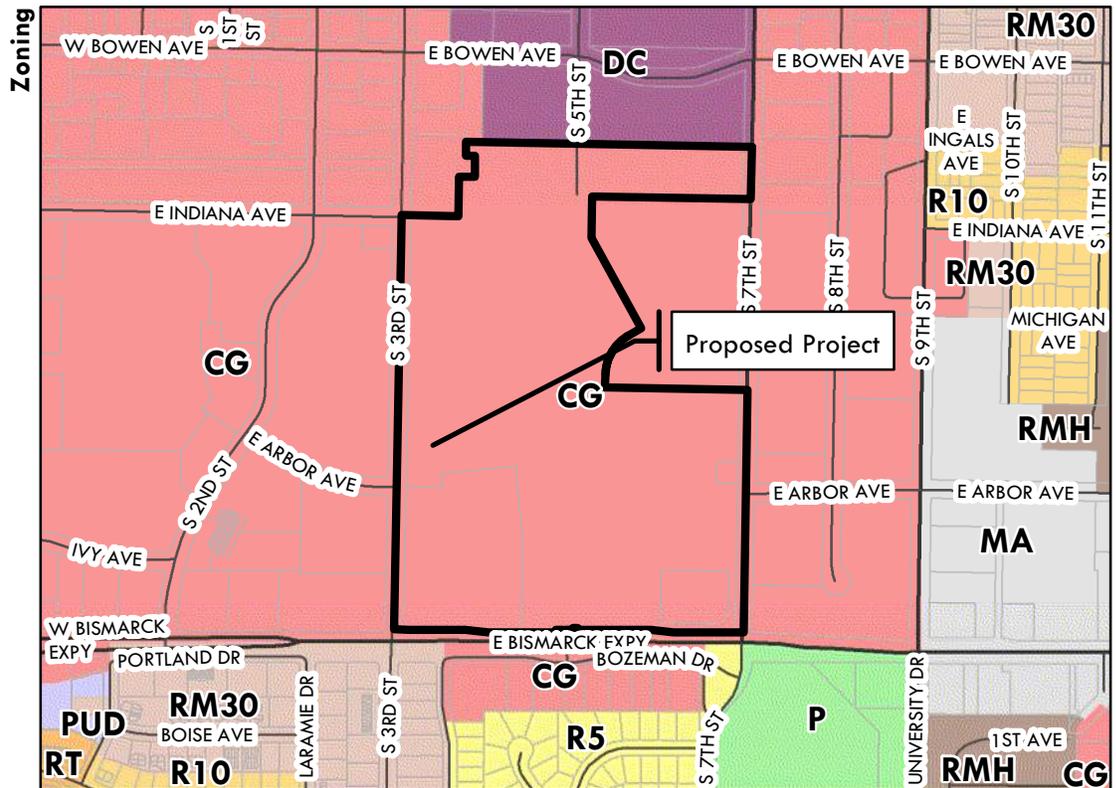
- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

Fringe Area Road Master Plan



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



City of Bismarck  
Community Development Dept.  
Planning Division  
April 13, 2020

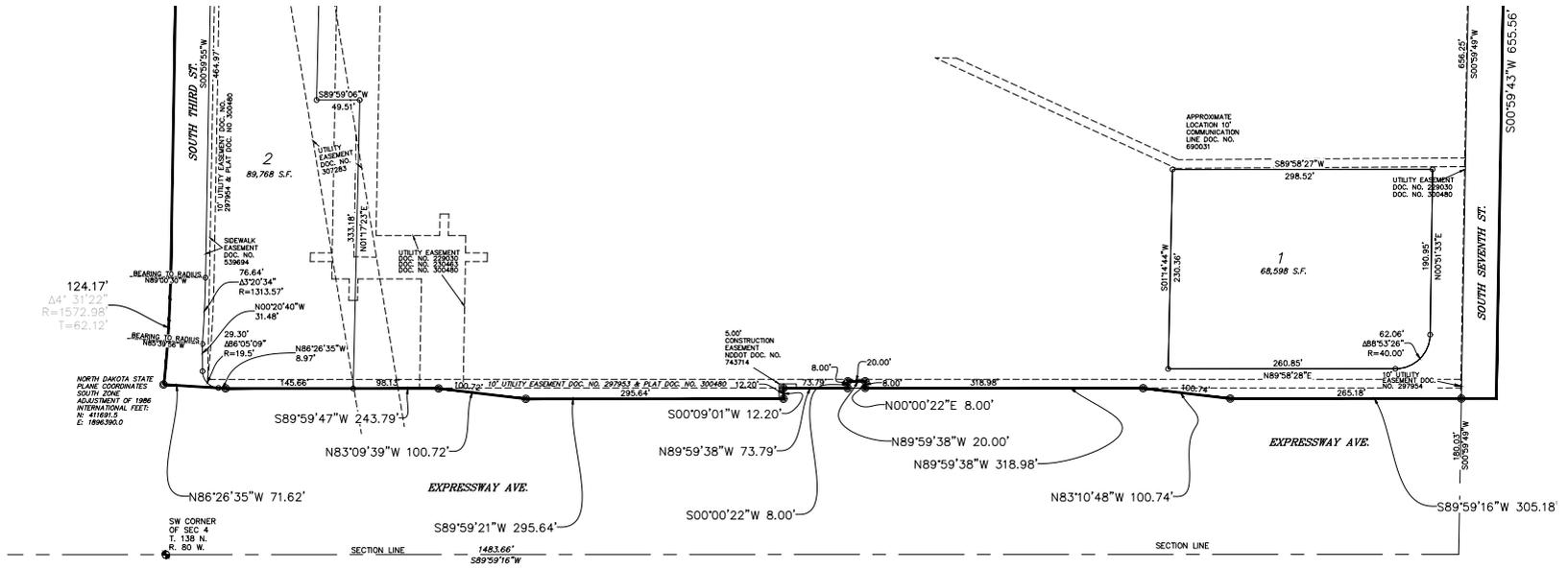
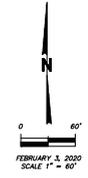






# WACHTER'S ADDITION SECOND REPLAT

BEING A REPLAT OF AUDITOR'S LOTS L, E, F, K OF BLOCKS 3 & 4 AND PARTS OF  
SOUTH THIRD STREET AND SOUTH SEVENTH STREET RIGHTS-OF-WAY AND  
VACATED ARBOR AVENUE OF WACHTER'S ADDITION  
PART OF THE SOUTH 1/2 OF SECTION 4 TOWNSHIP 138 NORTH, RANGE 80 WEST  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



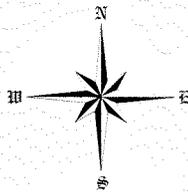
124.17'  
Δ4° 31'22\"  
R=1572.98'  
T=62.12'

NORTH DAKOTA STATE  
PLANE COORDINATES  
SOUTH ZONE  
ADJUSTMENT OF 1986  
INTERNATIONAL FEET:  
N: 416616.8  
E: 1896390.0

SW CORNER  
OF SEC 4  
T. 138 N.  
R. 80 W.

# WACHTER'S ADDITION

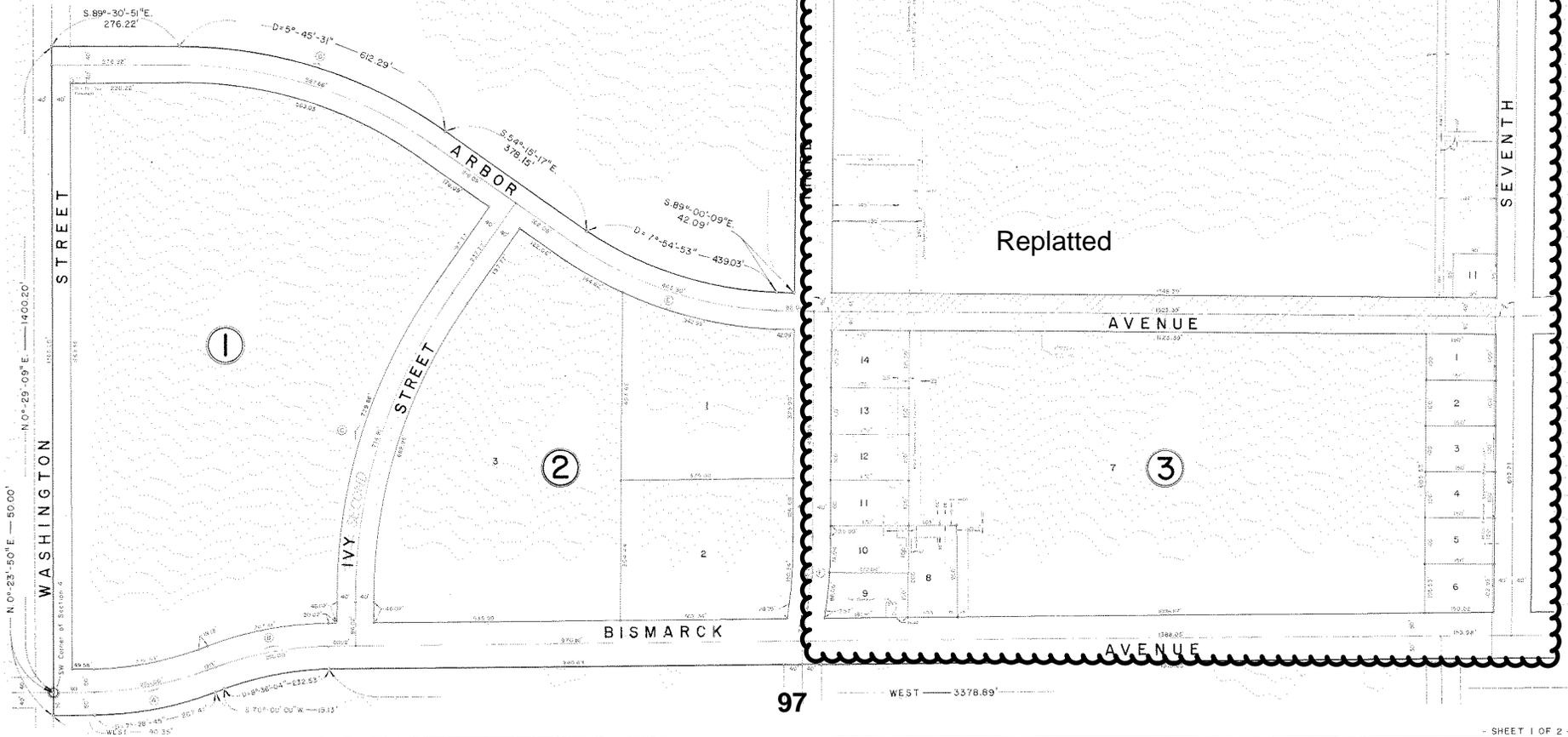
## BISMARCK, NORTH DAKOTA



SCALE: 1" = 100'  
DATE OF PLAT: APRIL 27, 1909

### CURVE DATA

CURVE	Δ	D	T	L	R
A, B, C	20°-00'-00"	85°-00'-00"	120.39	210.00	716.78
C	35°-44'-48"	59°-00'-00"	369.03	718.91	1,146.28
D	59°-15'-24"	6°-00'-00"	303.61	587.06	955.37
E	34°-44'-52"	77°-25'-00"	239.19	463.30	784.49
F	6°-59'-03"	4°-30'-00"	77.72	155.23	1273.57
G, H	7°-50'-00"	18°-15'-00"	59.24	116.67	315.62





# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

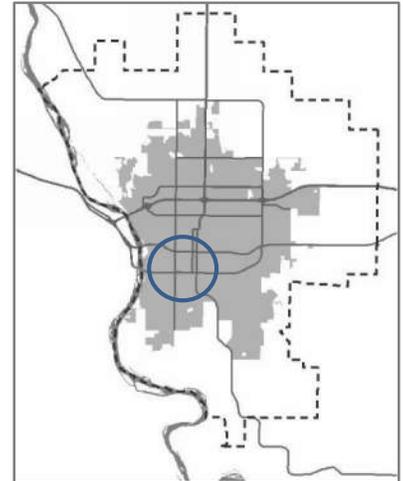
Agenda Item #12  
 April 22, 2020

## Application for: Special Use Permit

TRAKit Project ID: SUP2020-002

### Project Summary

<b>Title:</b>	Lot 5, Block 1, Wachters Addition Second Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Kirkwood Mall Acquisition, LLC CBL & Associates Management, Inc.
<b>Project Contact:</b>	Jason Petryszyn, PE, Swenson Hagen and Co.
<b>Location:</b>	In southcentral Bismarck, between East Bismarck Expressway and East Bowen Avenue, along the east side of South 3 <sup>rd</sup> Street (Kirkwood Mall)
<b>Project Size:</b>	79,691 square feet
<b>Request:</b>	Allow the operation of a drive-through in conjunction with a new fast food restaurant



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 parcel	<b>Number of Lots:</b>	1 lot in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Restaurant
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	CG – Commercial	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	CG – 42 units / acre	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	Pre-1980	<b>Platted:</b>	04/1969	<b>Annexed:</b>	Pre-1980
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### Staff Analysis

Kirkwood Mall Acquisition, LLC and CBL & Associates Management, Inc. are requesting approval of a special use permit to allow the operation of a drive-through in conjunction with a new fast food restaurant (Chick-fil-A).

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 40 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include commercial uses in conjunction with Kirkwood Mall to the north, east, and south, and multi-family residential and commercial uses to the west across South 3<sup>rd</sup> Street.

A drive-through in conjunction with a fast food restaurant is a permitted use within the CG – Commercial zoning district provided conditions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Special uses/Drive-in/Drive-through) are met. The applicant has indicated that the following conditions will be met prior to approval of a site plan and building permit for the proposed special use.

The following conditions apply:

1. *The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.*

The lot area, lot width, front yard, side yards, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the CG – Commercial zoning district. Compliance with all development standards will be verified through the site plan and building permit review processes.

2. *Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.*

Access to and egress from the drive-through establishment will be within the Kirkwood Mall property and will not impact adjacent sidewalks and streets.

3. *Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.*

Adequate off-street parking will be provided in conformance with Section 14-03-10 of this ordinance and will be verified through the site plan review process. Vehicle stacking spaces will also be provided on the premises in accordance with Section 14-03-10 of this ordinance. In addition, it is our understanding that a joint parking agreement will exist amongst all the lots within the Kirkwood Mall property.

4. *Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street.*

This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3<sup>rd</sup> Street.

5. *All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall*

(continued)

*comply with the standards established by the city engineer.*

This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3rd Street.

6. *On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.*

This provision is not applicable, as the drive-through establishment will not be located on a corner lot.

**Required Findings of Fact** (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special 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;

4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the special use permit for a drive-through in conjunction with a new fast food restaurant on Lot 5, Block 1, Wachters Addition Second Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan

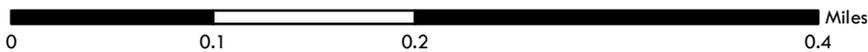
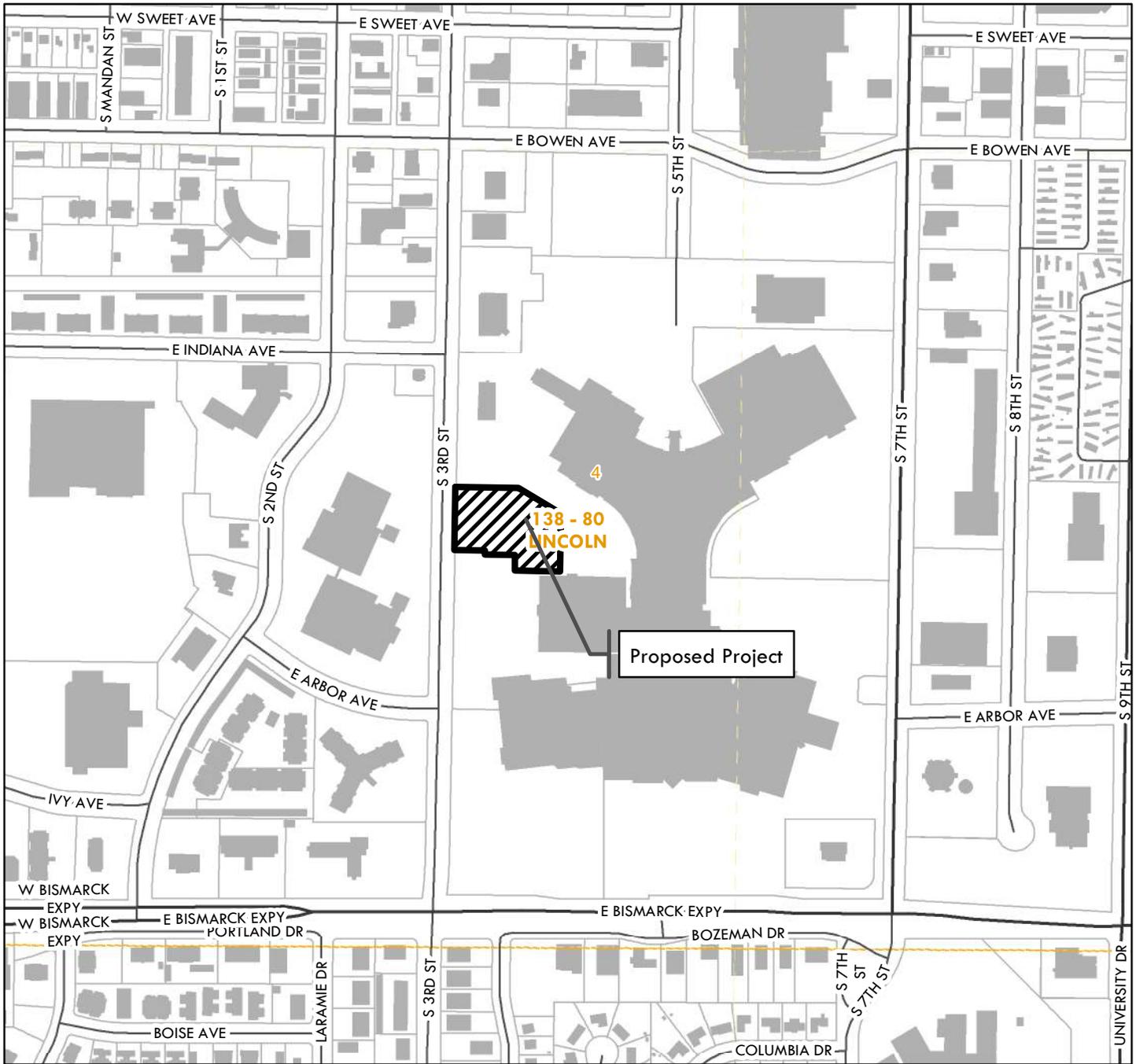
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner  
 701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

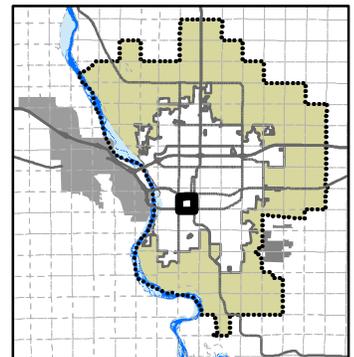
Wachters Addition Second Replat, Lot 5, Block 1

SUP2020-002



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 15, 2020 (HLB)

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# Zoning and Plan Reference Map

Wachters Addition Second Replat, Lot 5, Block 1

SUP2020-002



### Zoning Districts

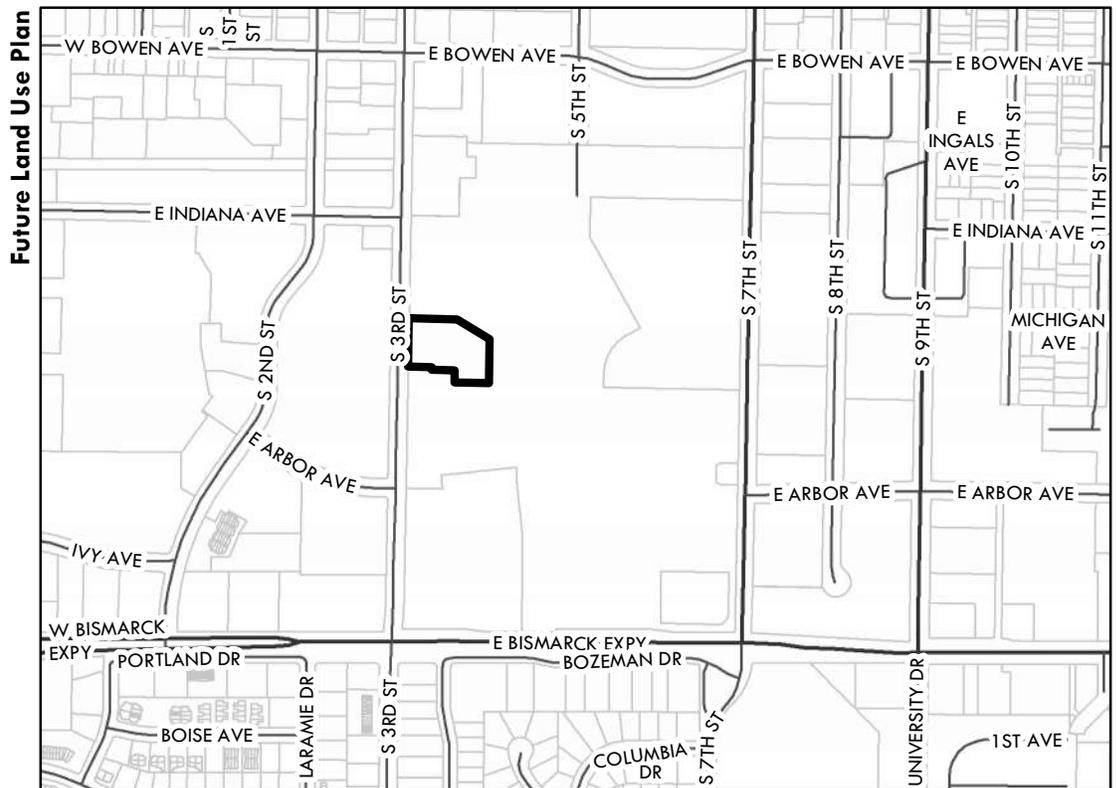
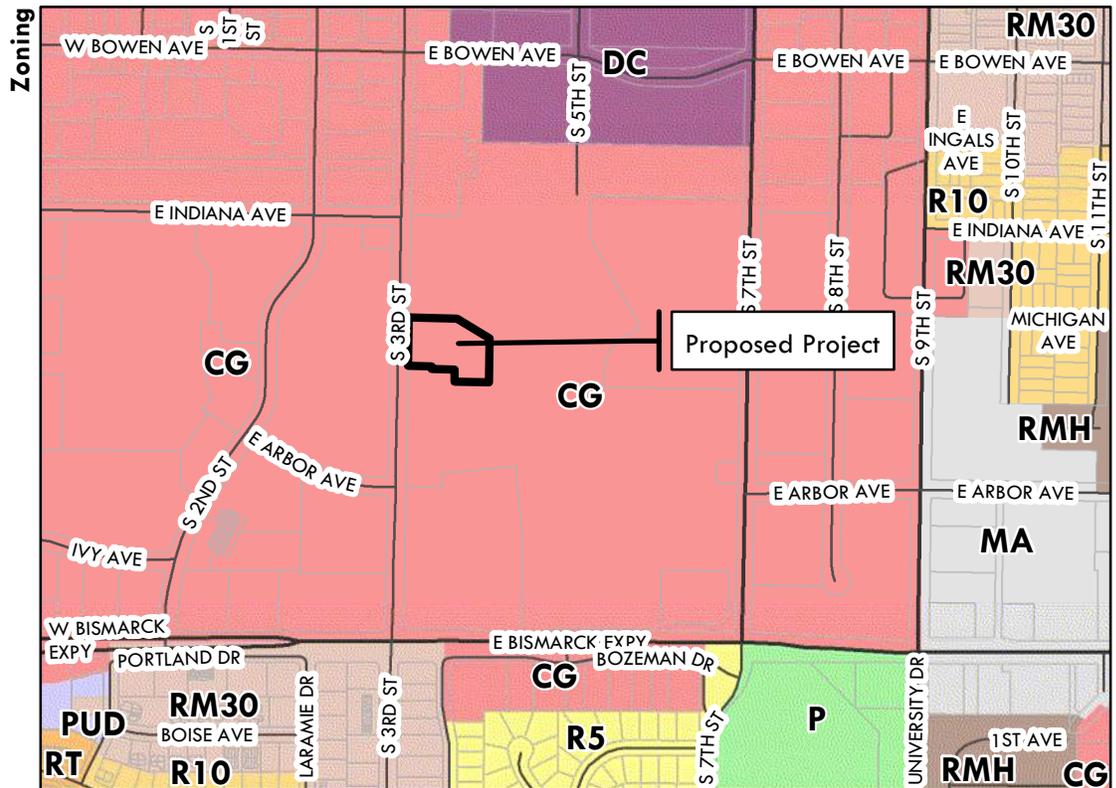
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- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
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- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

Diagonal lines indicate special condition

### Future Land Use Plan

- CONSRV** Conservation
- BP** Business Park
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- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

### Fringe Area Road Master Plan

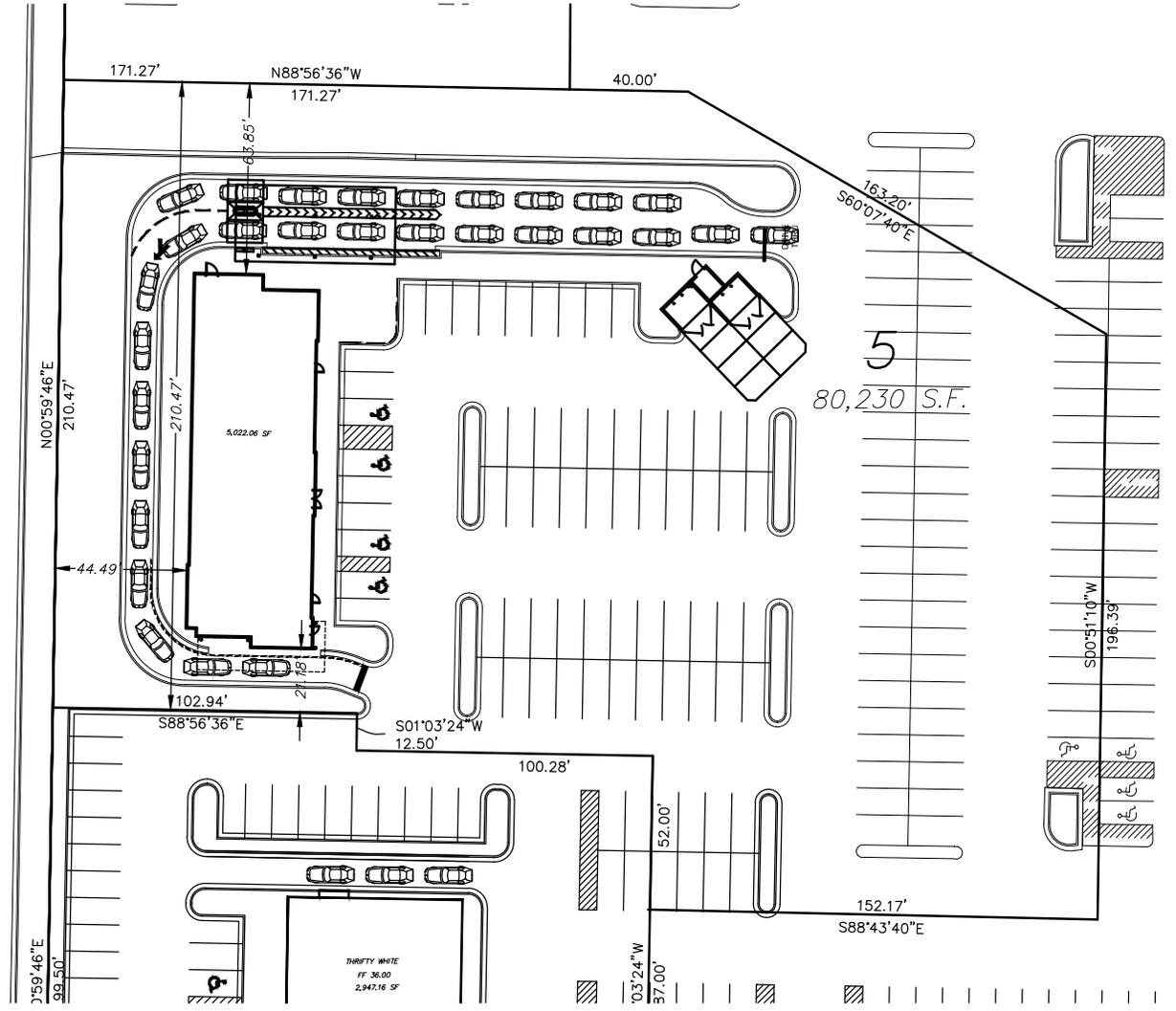


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City of Bismarck  
 Community Development Dept.  
 Planning Division  
 April 9, 2020

SOUTH 3RD STREET

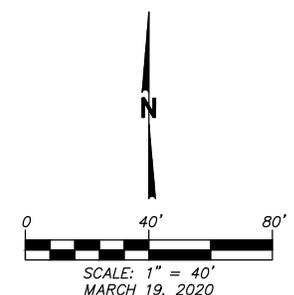


**REQUIRED**

LOT AREA: 7,000 SF  
 LOT WIDTH: 60'  
 FRONT YARD: 15'  
 SIDE YARD: NOT REQUIRED  
 REAR YARD: 10'  
 MAX COVERAGE: 80%  
 HEIGHT LIMIT: 130'  
 PARKING SPACES: 83  
 CAR STACKING: 12

**PROPOSED**

LOT AREA: 80,230 SF  
 LOT WIDTH: 210'  
 FRONT YARD: 44.49'  
 PARKING SPACES: 176  
 CAR STACKING: 29



**KIRKWOOD MALL**  
**LOT 5 CHICK-FIL-A CAR STACKING EXHIBITS**

**SWENSON, HAGEN & COMPANY P.C.**  
 400 Basin Avenue, Suite 200  
 Bismarck, ND 58501  
 Phone (701) 225-2600  
 Fax (701) 225-2606  
 Email: [info@swensons.com](mailto:info@swensons.com)  
<http://www.swensons.com>  
 Land Planning  
 Construction Management  
 Landscape & Site Design

P:\Bismarck\KPSCH\Herberger Outlots\2020 SITE PLANS.dwg, 3/30/2020 2:31:08 PM, DWG To PDF.pc3



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

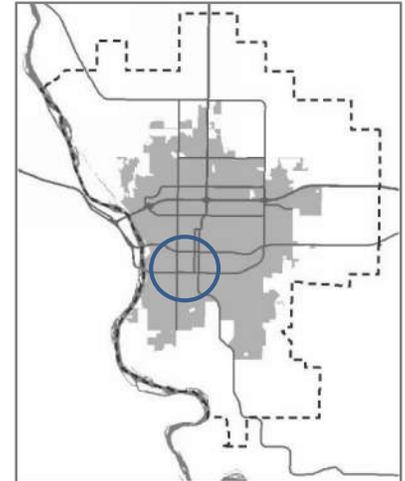
Agenda Item #13  
 April 22, 2020

## Application for: Special Use Permit

TRAKit Project ID: SUP2020-003

### Project Summary

<b>Title:</b>	Lot 4, Block 1, Wachters Addition Second Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Kirkwood Mall Acquisition, LLC CBL & Associates Management, Inc.
<b>Project Contact:</b>	Jason Petryszyn, PE, Swenson Hagen and Co.
<b>Location:</b>	In south Bismarck, between East Bismarck Expressway and East Bowen Avenue, along the east side of South 3 <sup>rd</sup> Street (Kirkwood Mall)
<b>Project Size:</b>	39,269 square feet
<b>Request:</b>	Allow the operation of a drive-through in conjunction with a new pharmacy



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 parcel	<b>Number of Lots:</b>	1 lot in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Restaurant
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	CG – Commercial	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	CG – 42 units / acre	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	Pre-1980	<b>Platted:</b>	04/1969	<b>Annexed:</b>	Pre-1980
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### Staff Analysis

Kirkwood Mall Acquisition, LLC and CBL & Associates Management, Inc. are requesting approval of a special use permit to allow the operation of a drive-through in conjunction a new pharmacy (Thrifty White Pharmacy).

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 40 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include commercial uses in conjunction with Kirkwood Mall to the north, east, and south, and multi-family residential and commercial uses west across South 3<sup>rd</sup> Street.

A drive-through in conjunction with a pharmacy is a permitted use within the CG – Commercial zoning district provided conditions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Special uses/Drive-in/Drive-through) are met. The applicant has indicated that the following conditions will be met prior to approval of a site plan and building permit for the proposed special use.

The following conditions apply:

1. *The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.*

The lot area, lot width, front yard, side yards, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the CG – Commercial zoning district. Compliance with all development standards will be verified through the site plan and building permit review processes.

2. *Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.*

Access to and egress from the drive-through establishment will be within the Kirkwood Mall property and will not impact adjacent sidewalks and streets.

3. *Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.*

Adequate off-street parking will be provided in conformance with Section 14-03-10 of this ordinance and will be verified through the site plan review process. Vehicle stacking spaces will also be provided on the premises in accordance with Section 14-03-10 of this ordinance. In addition, it is our understanding that a joint parking agreement will exist amongst all the lots within the Kirkwood Mall property.

4. *Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street.*

This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3<sup>rd</sup> Street.

5. *All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall*

(continued)

*comply with the standards established by the city engineer.*

This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3rd Street.

6. *On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.*

This provision is not applicable, as the drive-through establishment will not be located on a corner lot.

**Required Findings of Fact** (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special 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;

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6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the special use permit for a drive-through in conjunction with a new pharmacy on Lot 4, Block 1, Wachters Addition Second Replat.

**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan

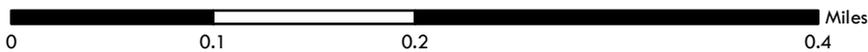
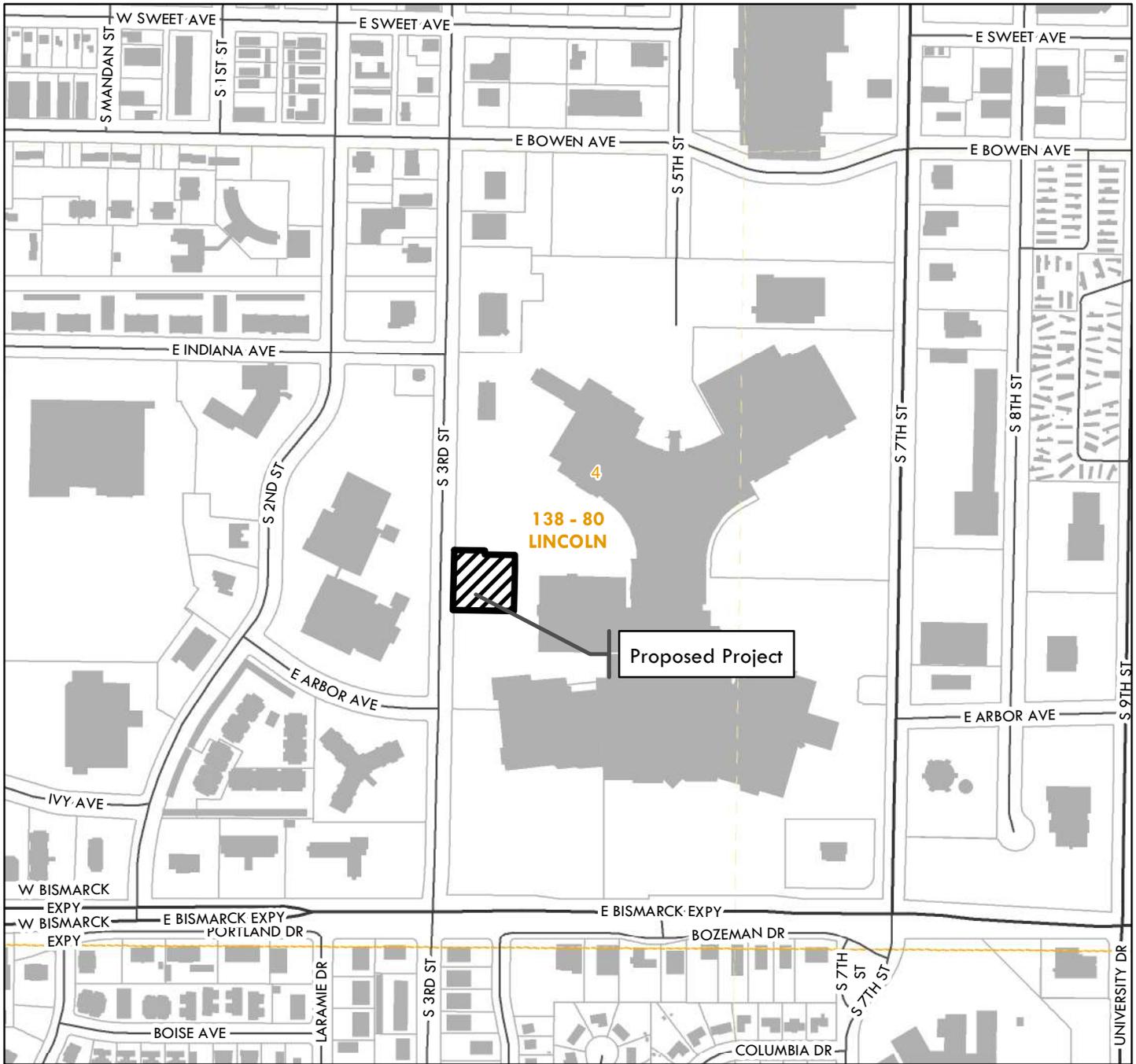
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner  
 701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

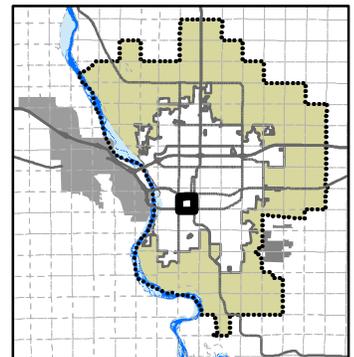
Wachters Addition Second Replat, Lot 4, Block 1

SUP2020-003



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 15, 2020 (HLB)

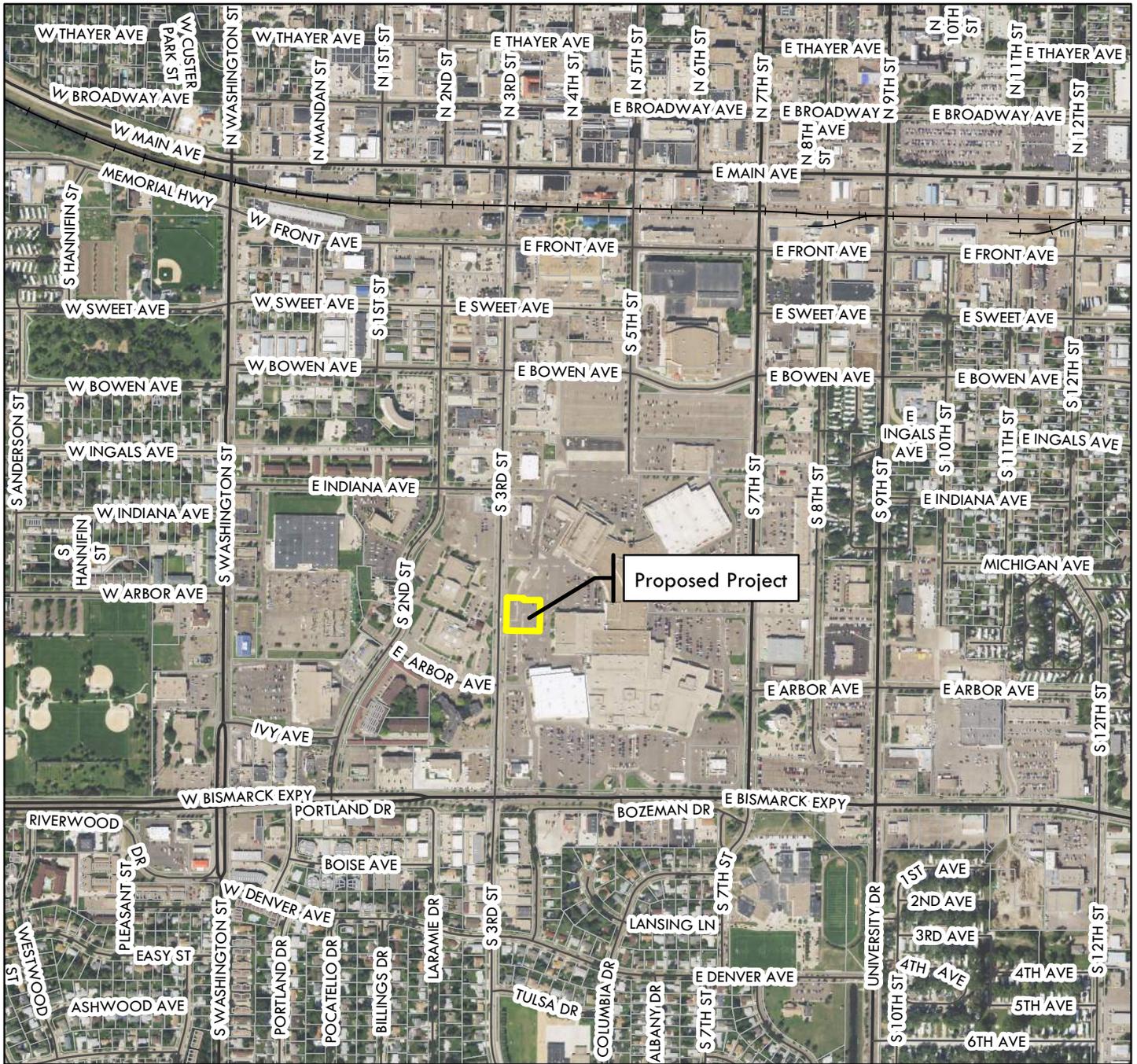
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# Aerial Map

Wachters Addition Second Replat, Lot 4, Block 1

SUP2020-003

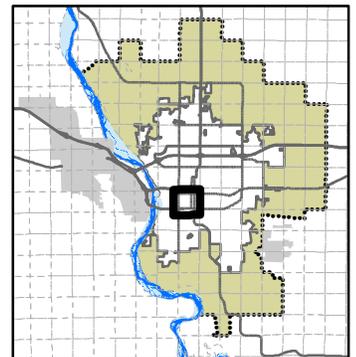


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from 2018

City of Bismarck  
Community Development Department  
Planning Division  
April 9, 2020

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# Zoning and Plan Reference Map

Wachters Addition Second Replat, Lot 4, Block 1

SUP2020-003

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

**Zoning Districts**

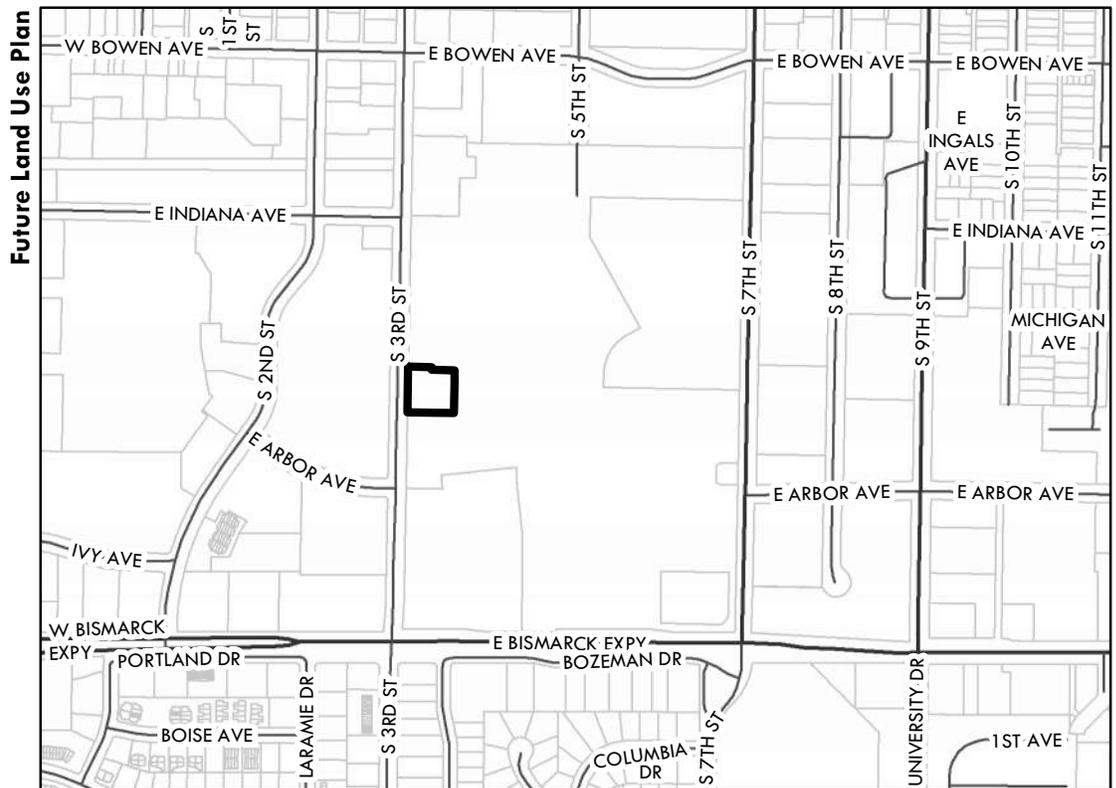
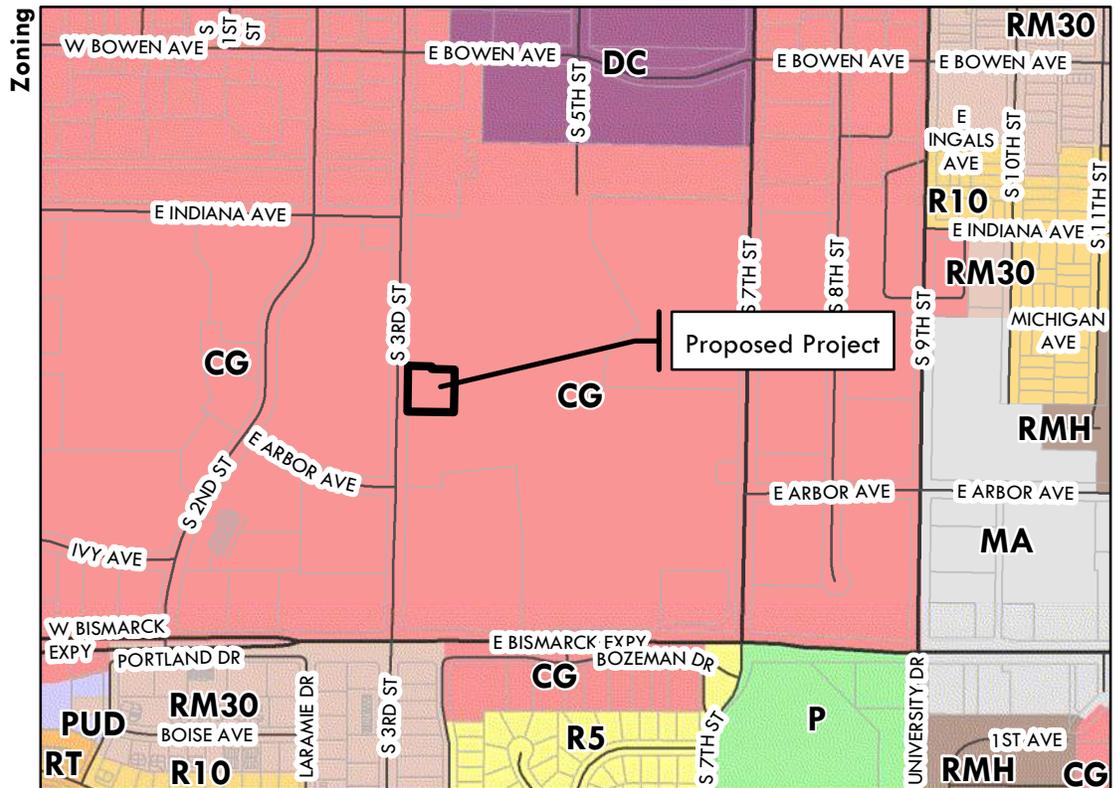
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**Fringe Area Road Master Plan**

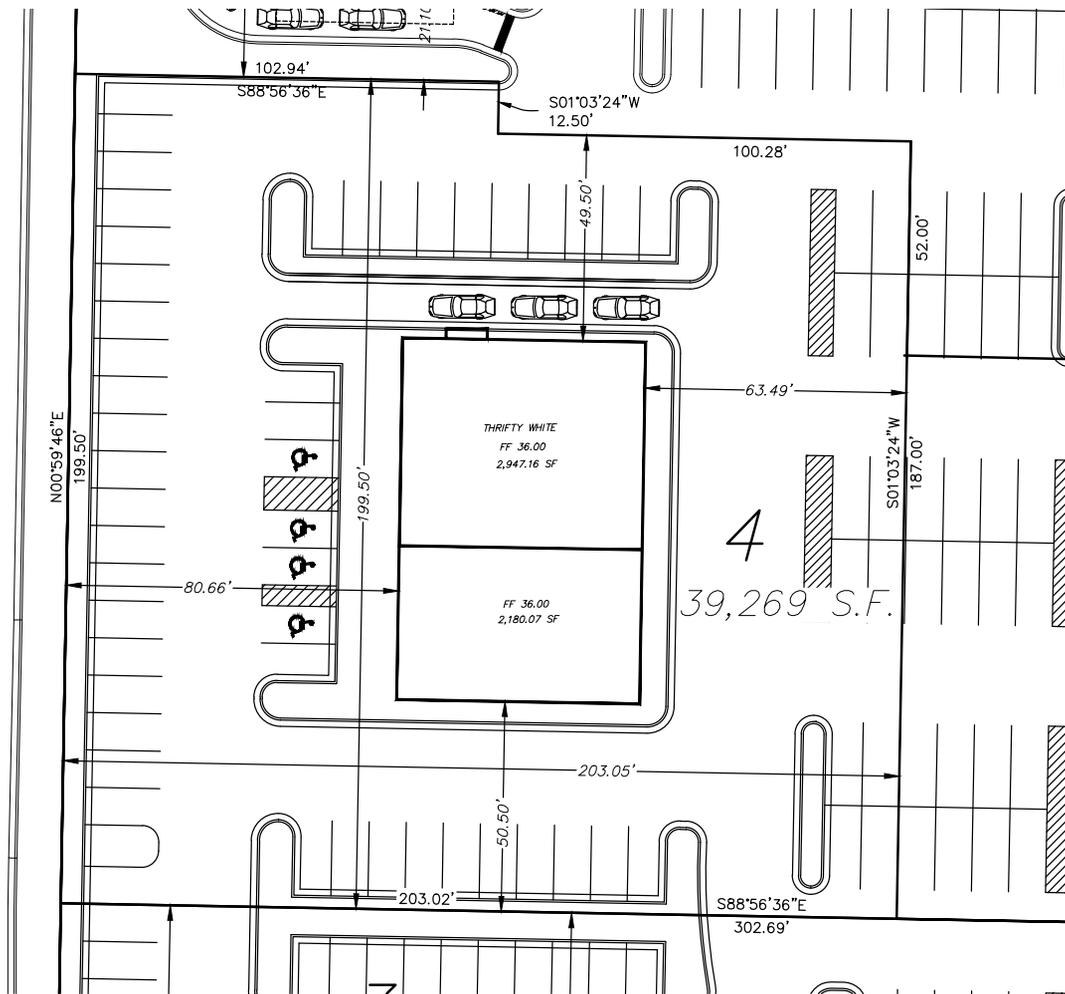


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City of Bismarck  
Community Development Dept.  
Planning Division  
April 9, 2020

SOU



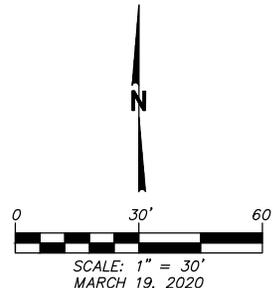
**REQUIRED**

LOT AREA: 7,000 SF  
 LOT WIDTH: 60'  
 FRONT YARD: 15'  
 SIDE YARD: NOT REQUIRED  
 REAR YARD: 10'  
 MAX COVERAGE: 80%  
 HEIGHT LIMIT: 130'  
 PARKING SPACES: 52  
 CAR STACKING: 3

**PROPOSED**

LOT AREA: 62,782 SF  
 LOT WIDTH: 199.50'  
 FRONT YARD: 80.66'  
 REAR YARD: 63.49'  
 PARKING SPACES: 60  
 CAR STACKING: 3

4  
 39,269 S.F.



**SWENSON, HAGEN & COMPANY P.C.**  
 300 Basin Avenue, Suite 200  
 Bismarck, ND 58501  
 Phone (701) 225-2600  
 Fax (701) 225-2606  
 www.swh.com  
 Email: shagen@swensons.com  
 Land Planning  
 Construction Management  
 Landscape & Site Design

**KIRKWOOD MALL**  
**LOT 4**  
**THRIFTY WHITE PHARMACY CAR STACKING EXHIBIT**



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

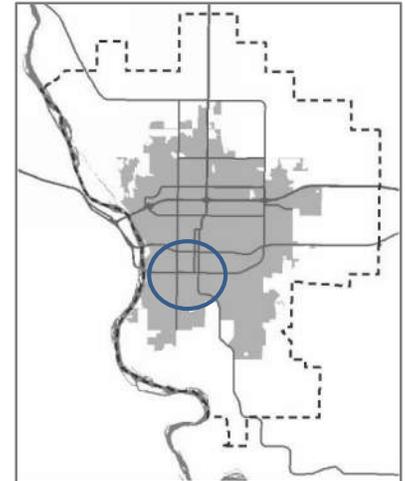
Agenda Item #14  
 April 22, 2020

## Application for: Special Use Permit

TRAKiT Project ID: SUP2020-004

### Project Summary

<b>Title:</b>	Lot 3, Block 1, Wachters Addition Second Replat
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Kirkwood Mall Acquisition, LLC CBL & Associates Management, Inc.
<b>Project Contact:</b>	Jason Petryszyn, PE, Swenson Hagen & Co.
<b>Location:</b>	In south central Bismarck, between East Bismarck Expressway and East Bowen Avenue, along the east side of South 3 <sup>rd</sup> Street (Kirkwood Mall)
<b>Project Size:</b>	62,782 square feet
<b>Request:</b>	Allow the operation of a drive-through in conjunction with a new fast food restaurant



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 parcel	<b>Number of Lots:</b>	1 lot
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Restaurant
<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan	<b>Designated GMP Future Land Use:</b>	Already zoned. Not in Future Land Use Plan
<b>Zoning:</b>	CG – Commercial	<b>Zoning:</b>	CG – Commercial
<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices	<b>Uses Allowed:</b>	CG – General commercial, multi-family residential, and offices
<b>Max Density Allowed:</b>	CG – 42 units / acre	<b>Max Density Allowed:</b>	CG – 42 units / acre

### Property History

<b>Zoned:</b>	Pre-1980	<b>Platted:</b>	04/1969	<b>Annexed:</b>	Pre-1980
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**Staff Analysis**

Kirkwood Mall Acquisition, LLC and CBL & Associates Management, Inc. are requesting approval of a special use permit to allow the operation of a drive-through in conjunction with a fast food restaurant (Blaze Pizza).

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on April 10, 2020 and April 17, 2020, and 40 letters were mailed to the owners of nearby properties on April 9, 2020.

Adjacent uses include commercial uses in conjunction with Kirkwood Mall to the north, east, and south, and multi-family residential and commercial uses to the west across South 3<sup>rd</sup> Street.

A drive-through in conjunction with a fast food restaurant is a permitted use within the CG – Commercial zoning district, provided conditions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Special uses/Drive-in/Drive-through) are met. The applicant has indicated that the following conditions, with the exception of one request for a waiver, will be met prior to approval of a site plan and building permit for the proposed special use.

The following conditions apply:

1. *The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.*

The lot area, lot width, front yard, side yards, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the CG – Commercial zoning district. Compliance with all development standards will be verified through the site plan and building permit review processes.

2. *Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.*

Access to and egress from the drive-through establishment will be within the Kirkwood Mall property and will not impact adjacent sidewalks and streets.

3. *Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.*

The applicant has requested a waiver from this requirement to reduce the stacking spaces from 12 spaces to 4 spaces. According to the applicant, the function of the proposed drive-through is different from a standard drive-through, as there will not be an ordering board or kiosk. All orders will be phoned in or done via the internet prior to arrival. Staff is supportive of the waiver on the condition that the drive-through is configured as proposed and all orders will be placed prior to arrival.

4. *Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street.*

This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3<sup>rd</sup> Street.

5. *All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked,*

(continued)

*standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.*

This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3rd Street.

- 6. *On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.*

This provision is not applicable, as the drive-through establishment will not be located on a corner lot.

**Required Findings of Fact** (relating to land use)

- 1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
- 2. The proposed special use is compatible with adjacent land uses and zoning;
- 3. The proposed special 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;

- 4. Adequate public facilities and services are in place or would be provided at the time of development;
- 5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
- 6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
- 7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
- 8. The proposed special use would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the special use permit for a drive-through in conjunction with a new fast food restaurant on Lot 3, Block 1, Wachters Addition Second Replat, including granting a waiver to reduce the required stacking spaces from 12 spaces to 4 spaces.

**Attachments**

- 1. Location Map
- 2. Aerial Map
- 3. Zoning and Plan Reference Map
- 4. Site Plan

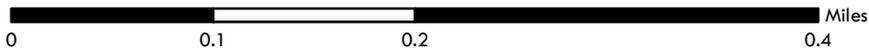
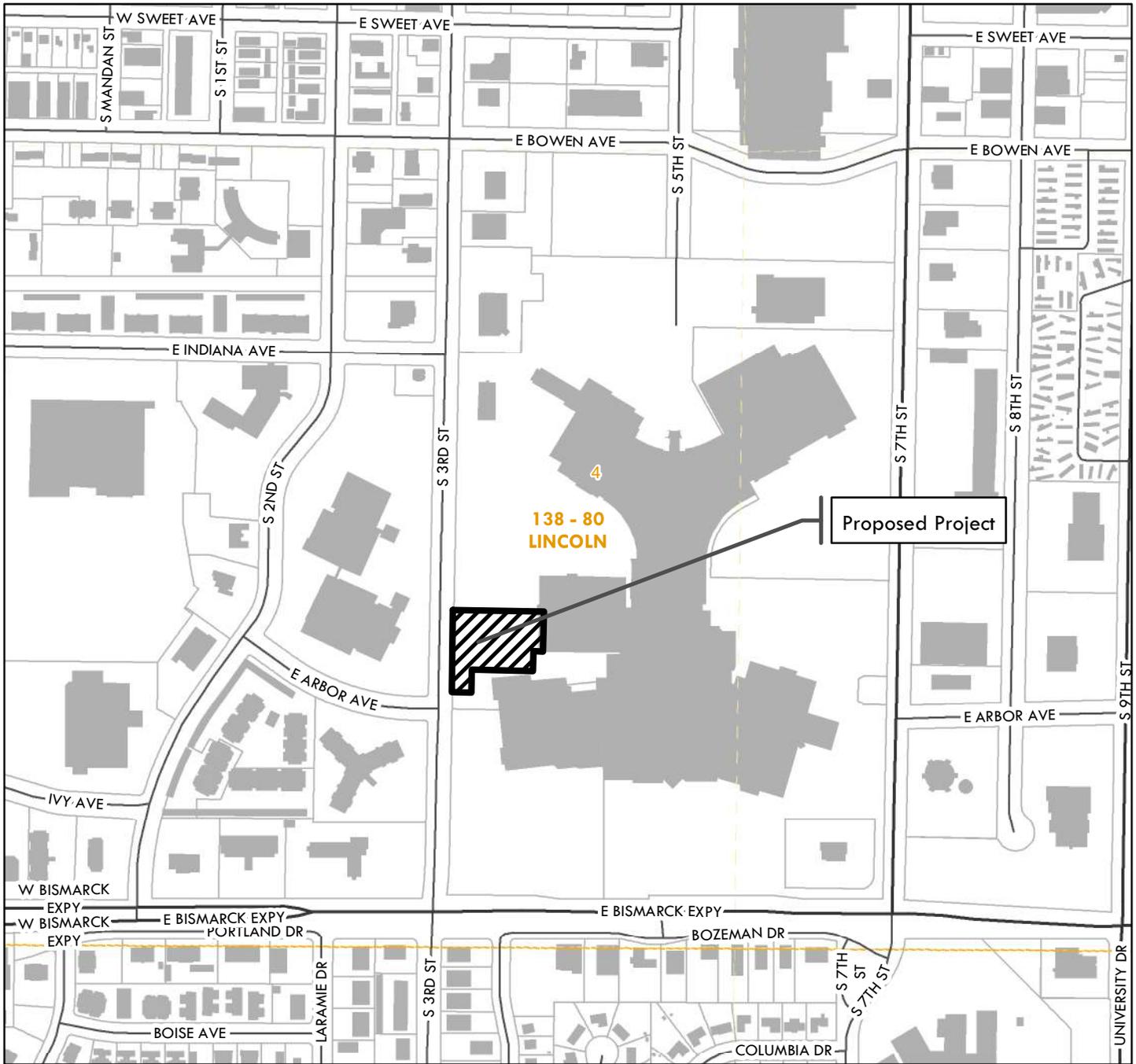
Staff report prepared by: Jenny Wollmuth, AICP, CFM  
 701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



# Location Map

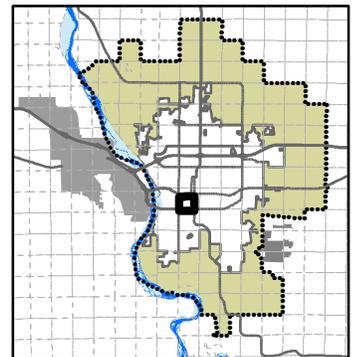
Wachters Addition Second Replat, Lot 3, Block 1

SUP2020-004



- City Limits
- Bismarck ETA Jurisdiction
- County Outside ETA

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 15, 2020 (HLB)

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.





# Zoning and Plan Reference Map

Wachters Addition Second Replat, Lot 3, Block 1

SUP2020-004

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

*Zoning Districts*

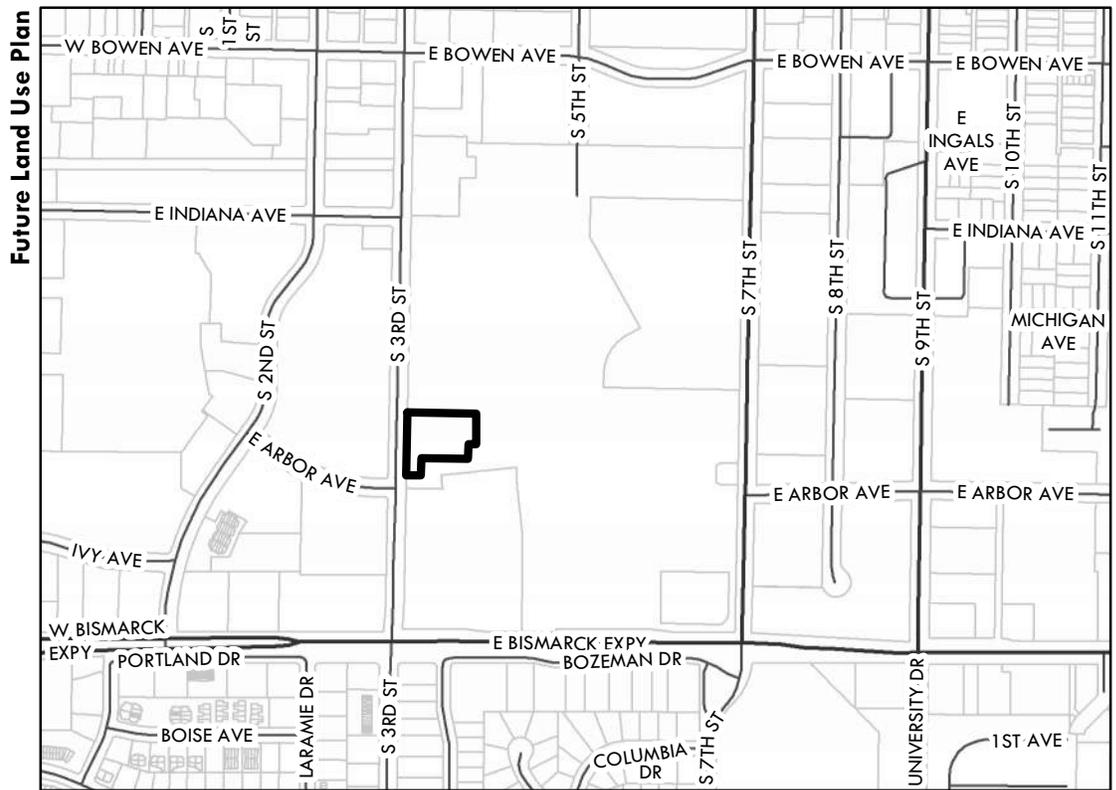
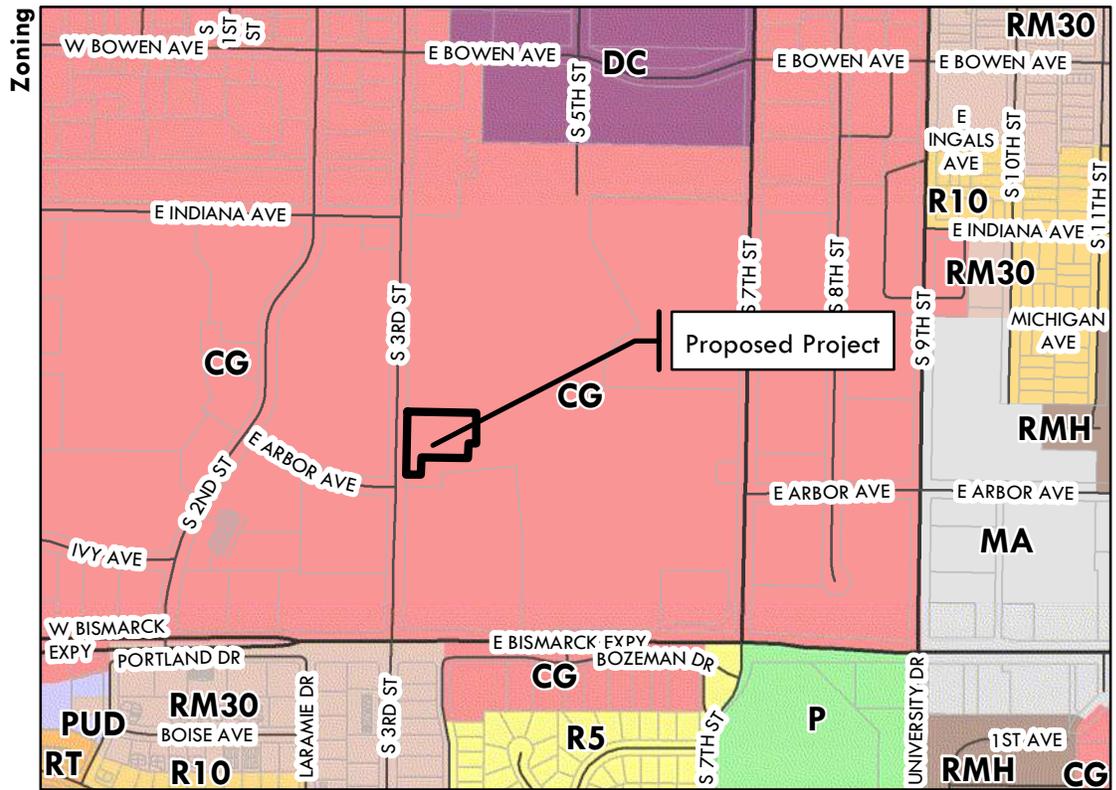
- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily (Offices)
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

Diagonal lines indicate special condition

*Future Land Use Plan*

- CONSRV** Conservation
- BP** Business Park
- C** Commercial
- C/MU** Commercial/Mixed Use
- CIVIC** Civic
- HDR** High Density Residential
- I** Industrial
- LDR** Low Density Residential
- MDR** Medium Density Residential
- MDR-/MU** Medium Density Residential/Mixed Use
- O/MU** Office/Mixed Use
- RR-C** Clustered Rural Residential
- RR** Standard Rural Residential
- UR** Urban Reserve

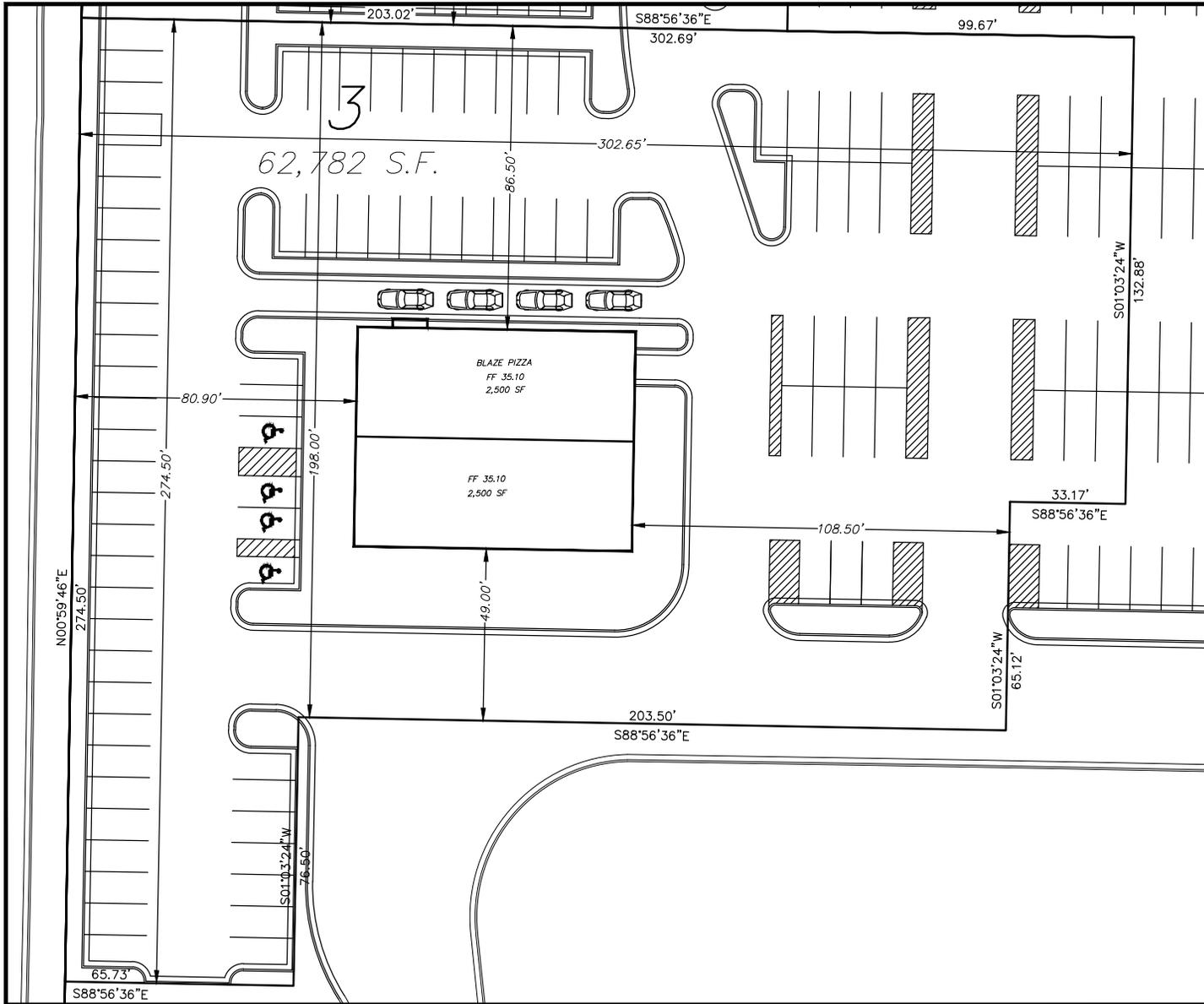
*Fringe Area Road Master Plan*



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

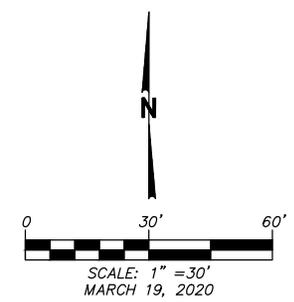


City of Bismarck  
Community Development Dept.  
Planning Division  
April 13, 2020



**REQUIRED**  
 LOT AREA: 7,000 SF  
 LOT WIDTH: 60'  
 FRONT YARD: 15'  
 SIDE YARD: NOT REQUIRED  
 REAR YARD: 10'  
 MAX COVERAGE: 80%  
 HEIGHT LIMIT: 130'  
 PARKING SPACES: 83  
 CAR STACKING: \*\*  
 \*\* USED FOR ONLINE OR CALL IN ORDER ONLY,  
 THERE WILL BE NO ORDER MENU.

**PROPOSED**  
 LOT AREA: 62,782 SF  
 LOT WIDTH: 198'  
 FRONT YARD: 80.90'  
 REAR YARD: 108.50'  
 PARKING SPACES: 95  
 CAR STACKING: 4



**SWENSON, HAGEN & COMPANY P.C.**  
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Services:  
 Surveying  
 Land Planning  
 Civil Engineering  
 Landscape & Site Design  
 Construction Management

**KIRKWOOD MALL**  
**LOT 3 BLAZE PIZZA CAR STACKING EXHIBIT**



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 15  
April 22, 2020

## Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2019-004

### Project Summary

Title:	Amendments to Sign Ordinance
Status:	Planning & Zoning Commission – Public Hearing (continued)
Project Contact:	Daniel Nairn, AICP, Planner
Sections Amended:	Chapter 4-04 – Signs and Outdoor Display Structures and various sections of Title 14
Request:	Adopt a new chapter of the zoning ordinance pertaining to the regulation of signs

### Staff Analysis

Community Development Department – Planning Division staff is initiating a zoning ordinance text amendment to add a new chapter to Title 14 (Zoning) of the City Code of Ordinances pertaining to the regulation of signs.

The Planning and Zoning Commission held a public hearing on September 25, 2019, and, upon hearing testimony from the public and a report from staff, continued the public hearing until November 20, 2019. At that meeting, the continued public hearing was continued again until February 26, 2020, and at that meeting the public hearing was continued again until April 22, 2020.

The draft ordinance is presented with changes shown in strike-out and underline format between the current draft and the draft presented during the February 26, 2020 public hearing. Additionally, a change matrix is provided to identify major changes between this draft and the ordinances currently in place.

The purpose of the zoning ordinance text amendment is to:

1. Assemble provisions related to signs into one chapter for simplicity;
2. Add basic standards and process requirements;

3. Align Bismarck’s sign ordinance with current best practices in peer communities and industry standards; and
4. Comply with federal case law and constitutional free speech requirements.

### Why Regulate Signs?

Regulation of signs, in general, has been commonplace throughout the United States for many years, and understanding the basic reasons for government involvement should inform the content of any regulation. Most signs are placed on private property, but have obvious visual impacts on the public right-of-way and adjoining properties.

Two primary reasons are as follows:

- Protect public safety by preventing or mitigating traffic hazards through obstruction of view, distraction of roadway users, and all other negative effects on public travel.
- Reduce the visual impact along public rights-of-way to improve the legibility of existing signs, including traffic control devices, and enhance the overall aesthetics of the community.

Additional purpose statements are included at the beginning of the ordinance, including facilitation of

(continued)

wayfinding, promotion of creative expression, and protection of property values.

**Conformance with Comprehensive Plan**

All updates to the zoning ordinance are required to be made in conformance to an adopted comprehensive plan. In Bismarck, several plans of various types are considered in the aggregate to be the comprehensive plan. Staff takes direction from these plans in drafting of all ordinances.

The draft sign ordinance furthers the following plan objectives:

Growth Management Plan (2014):

- Goal #2 Land Use and Image, Objective: “Encourage and support development that enhances the City’s image and identity.”
- Goal #3 Transportation, Objective: “Create a positive image along high volume corridors that serve as gateways into the City.”

Downtown Design Guidelines (2015)

- “Create a walkable, human-scaled environment.”
- “Encourage property improvements, new development projects and the continued efforts to have a vibrant, lively, and attractive destination as the heart of the community.”

Envision 2040: Bismarck Mandan LRTP (2015)

- “Reduce the incidence of all multi-modal crashes, with an emphasis on serious injury and fatal crashes and crash locations.”

It should also be noted that this ordinance represents completion of an objective established in the original 1980 Comprehensive Policy Plan:

Objective 5.01 Commercial/Policy B1

“Consider applying a modified version of the sign control ordinance on a city-wide basis”

During the 1970s, the first sign ordinance was applied to the downtown area of Bismarck. Although ordinance revisions have been made related to specific types of signs in the intervening years, the City has yet to adopt a comprehensive sign code.

**Changes Made to Draft Document**

Changes to certain portions of the draft sign code were made at the request of Planning and Zoning Commissioners and further discussion with stakeholders. The changes are summarized here, and the full text is available in the attached draft.

- The maximum size of site signs on properties for sale or rent is increased to 60 square feet to match the size of signs currently in use by a portable sign stakeholder.
- Portable signs may remain in a location for 300 days per calendar year. The time limit on temporary banners was also increased to match.
- Portable sign companies will not have to submit reports monthly. Instead they will have to keep records of all signs placed within the last year that the Zoning Administrator may request at any time.
- The language of fees is changed to reflect that permits may require a fee. All fees are established by the City Commission and are not written in to the ordinance.
- The requirement for off-premise sponsorship content not include more than 20% of the sign face is removed. This is only allowed for signs used by public or non-profit entities.

As noted in the previous staff report, a long timeframe for portable signs will be challenging for staff to enforce. Current best practice from industry groups and peer communities is to set the duration for no greater than 30-60 days. Mandan allows portable signs to remain for 240 day periods, and both City staff and portable sign companies attest to the difficulty in enforcing Mandan’s portable sign regulations.

**Sign Code Update Process**

Staff has utilized stakeholder input, examples from peer communities, and best practices promulgated by the sign industry and professional planning organizations as resources to draft this ordinance, including the United States Sign Council Foundation, the Sign Research Foundation, and the American Planning Association.

Staff began working with stakeholders in the sign industry, business community, and City staff from various departments in November of 2018. The following meetings have been held to date:

**Schedule of Stakeholder Involvement**

<b>November 2018</b>	Sign Ordinance Stakeholder Meeting
<b>December 2018- January 2019</b>	Meetings with individual stakeholders, including with individual on-premise and portable sign companies and with the principals of Bismarck Public Schools
<b>February 2019</b>	Sign Ordinance Stakeholder meeting
<b>April 2019</b>	First draft sign code released to stakeholder group
<b>May 2019</b>	Sign Ordinance Stakeholder meeting
<b>June 2019</b>	Meeting with portable sign companies
<b>July 2019</b>	Informational meeting with Planning and Zoning Commission
<b>August 2019</b>	Presented for consideration with the Planning and Zoning Commission.
<b>September 2019</b>	Initial public hearing on sign ordinance. Presentation to City Commission for feedback.
<b>October 2019</b>	Individual meetings with the Realtors association and Homebuilders Association.
<b>November 2019</b>	Sign Ordinance Stakeholder meeting.

<b>January 2020</b>	Meeting with on-premise sign companies.
<b>February 2020</b>	Meeting with portable sign companies, as well as a full sign ordinance stakeholder meeting and continued public hearing with the Planning and Zoning Commission.

Upon recommendation, a complete draft ordinance will be prepared for the City Commission showing the text of the new chapter and all sections of the existing ordinance to be removed. The repealed sections, in part or in full, are the following:

- Chapter 4-04 – Signs and Outdoor Display Structures. (entire chapter to be repealed)
- Chapter 14-02 – Definitions. Certain words relating to signs.
- Chapter 14-03-05(9) – Supplementary Provisions/Residential Area Identification Signs.
- Chapter 14-03-05(10) – Supplementary Provisions/Industrial Area Identification Signs.
- Subsection 14-03-06(1)d3
- Section 14-03-08(3)b – (Special Uses/Off Premise Advertising Sign)
- Subsection 14-03-08(3)m6
- Subsection 14-04-12(2)m (the second m); Subsection 14-04-14(2)u; Subsection 14-04-15(2)q;
- Subsection 14-04-21.1(7); Subsection 14-04-21.2(7).

Because administration of the new sign ordinance will require a few procedural changes from City staff, it is recommended that the ordinance become effective 60 days after adoption by the City Commission.

**Required Findings of Fact** (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;

(continued)

2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning ordinance text amendment creating Chapter 14-10 – Signs and amending or repealing various other sections in Title 4 and Title 14, as presented in the draft ordinance attached to the staff report, with an effective date of 60 days after approval by the City Commission.

**Attachments**

1. Change matrix
2. Draft zoning ordinance text amendment, with revisions from February draft shown

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*Staff report prepared by:* Daniel Nairn, AICP, Planner  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)

## SIGN CODE CHANGE MATRIX

The proposed sign code is a major amendment, including the consolidation of existing provisions from various titles of the code of ordinances into a new chapter within Title 14. Therefore, it is not feasible to present this amendment in traditional underline and strike-out format. The following table highlights substantive changes made to the content of the ordinance. This does not include minor changes to clarify or reorganize provisions:

<b>Change Made</b>	<b>Description</b>	<b>Reference</b>
Added purpose statement	Added new purpose statement for entire sign ordinance.	14-03.1-01
Removed terms from definitions	Removed the following terms: canopy, closed sign, facing or surface, flashing, frame effect, marquee (included within canopy), NIT, political campaign sign (included within yard sign), real estate sign (included within yard sign), exception, sight triangle (referenced in separate chapter), spite sign, transition time.	14-03.1-02(1)
Defined zoning districts in categories	Zoning districts are defined into agricultural, residential, commercial, industrial, and downtown zoning districts. Sign provisions are applied separately to each zoning district category.	14-03.1-02(1)
Definition of EMC	Previously, signs showing only time and temperature or fuel prices were excluded from the definition of EMC. These exclusions have been removed (not content neutral).	14-03.1-02(1)
Definition of Monument Signs	Signs on boulders or other inorganic natural features are classified as monument signs.	14-03.1-02(1)
Category for P – Public zoning districts	Signs in P – Public zoning districts adjacent to or across from residential districts follow residential standards; all others follow commercial standards.	14-03.1-02(1)
New defined terms	The following terms were added to definitions: changeable copy sign, permanent sign, primary street frontage, secondary street frontage, sign, site sign, temporary banner, yard sign.	14-03.1-02(1)
New Section for measurements	Methods for measuring area, distance, height, setback, and illumination are provided.	14-03.1-02(2)
New section for permit-exempt signs	Certain signs may be installed without obtaining a permit. These are each defined with requirements that apply to certain signs by type. These include architectural features, air-blown signs, beacons, carried signs, construction fence signs, EMC demos, feather flag signs, flags, graves, identification plaques, inward-oriented signs, public art, public utilitarian signs, sidewalk sign, small-scale freestanding signs, temporary banners, temporary lighting displays, vending machine signs, window signs, and yard signs.	14-03.1-03(2)
Creation of Site Signs	Site signs are created as temporary signs on sites that are either for sale or rent or under development. Certain conditions apply, but site signs are exempt from permits.	14-03.1-03(2)

<b>Change Made</b>	<b>Description</b>	<b>Reference</b>
New section for permit-exempt activities	Activities that do not require a sign permit are defined. This section is almost entirely new. Changing faces of certain signs requires permit and others do not.	14-03.1-03(3)
Expanded section for prohibited signs	Signs newly prohibited in all zoning districts include roof signs and vehicles signs (inoperable).	14-03.1-03(4)
Removal of certain prohibitions	Signs removed from prohibited list include spite signs, use of fluorescent “day-glo” paints, signs on stairwells, signs painted on walls.	14-03.1-03(4)
Section on new sign types	Zoning Administrator is authorized to classify new sign types into the closest defined sign type.	14-03.1-03(6)
Section on permitting procedures	This is a new section that is based generally on current practice, unless noted below.	14-03.1-04
Multiple signs together	Multiple signs may be included on one permit application.	14-03.1-04(3)
Street visualizations required	Renderings are required for all EMCs and billboards using photographs taken from the street at set distances, to assist with review of public safety impact.	14-03.1-04(3)d
Portable sign reporting	Portable signs do not require individual permits, but licensed sign installers must keep a record showing location and duration of all signs, including photographs, that may be requested by the zoning administrator. Identification of owner is required.	14-03.1-04(4)
Expanded maintenance requirements	Upkeep and maintenance of existing signs is addressed with more detail.	14-03.1-05(3)
Illumination	Illumination section added to protect against excessive brightness and light trespass.	14-03.1-05(4)
Fading colors	Transition between colors allowed in a fading, but not flashing, manner.	14-03.1-05(4)
Requirements for signs in public ROW	City Engineer is authorized to approve only signs above the right-of-way or sidewalk signs with an encroachment agreement.	14-03.1-05(5)a
Signs in sight triangles	Requirements for signs within sight triangles are clarified (this has not changed from current practice).	14-03.1-05(5)b
Temporary signs allowed within easements	Permanent signs are not allowed within easements (this has not changed from current practice). Temporary signs are exempt from requirement to not place signs within easements.	14-03.1-05(5)d
Obscenity prohibited	Obscene images or language from the point of view of a typical person applying current standards of the community is not allowed.	14-03.1-05(6)
Sponsorship content allowed as on-premise	on-premise signs for governmental or non-profit entities are allowed. This accounts for sponsorships and patronage.	14-03.1-05(9)
Purpose statements for zoning districts	New purpose standards added for all zoning districts.	14-03.1-06(1) 14-03.1-07(1) 14-03.1-08(1) 14-03.1-09(1)
Prohibited in Agricultural district	All non-exempt signs are prohibited in the Agricultural zoning district.	14-03.1-06(2)
Portable signs in Residential require Special Use Permit	Portable signs are prohibited from residential zoning districts unless a Special Use Permit is granted (including P-public districts adjacent to residential).	14-03.1-07(3)c

<b>Change Made</b>	<b>Description</b>	<b>Reference</b>
Height for residential identification signs	Previously residential identification signs were required to be from 6-12 feet depending on setback. This is changed to 8 feet.	14-03.1-07(4)d
Area for residential identification signs	Previously residential identification signs were required to be from 32 – 60 square feet, depending on setback. This is changed to 60 square feet.	14-03.1-07(4)d
Landscaping beneath residential identification signs	Landscaping required, as already required for institutional signs in residential districts.	14-03.1-07(4)f
Sign area for institutional signs in residential districts	Previously wall signs were limited to 120SF and freestanding signs to 40SF. This is changed to a formula based on linear street frontage applies to all types of signs.	14-03.1-07(5)a
Setback for institutional signs in residential districts	Previously, monument signs above 3 feet and pole signs with content less than 8 feet required 25 foot setbacks. This is changed to pole signs are required to be setback at least the height of the sign, and monument signs are not required to be set back.	14-03.1-07(5)b
Content of institutional signs in residential districts	Previously limited to name and activities or services. Removed, although general on-premise sign requirements remain.	14-03.1-07(5)a
Height of institutional signs in residential districts	Maximum height of institutional signs in residential districts is increased from 15 to 20 feet.	14-03.1-07(5)b
Illumination of institutional signs in residential districts	Removed restrictions on internal illumination of signs. No time limit is applied. Only general illumination standards apply.	14-03.1-07(5)
EMCs in residential zoning districts	Electronic message center signs were previously prohibited in residential zoning district, but they are now allowed with a special use permit. Limits are placed on number, area, clearance, operation, etc.	14-03.1-07(5)d
EMCs on monument signs	EMCs were previously prohibited on monument signs. These would now be allowed.	14-03.1-07(5)d 14-03.1-08(3)d
EMC illumination standard	The standard for maximum illumination of EMCs is changed from a NIT-based to a footcandle-based measurement.	14-03.1-07(5)d 14-03.1-08(3)d
Number of freestanding signs in commercial districts	Pole signs and monument signs are each limited to one sign per street frontage per parcel. One addition small freestanding sign is allowed per street frontage.	14-03.1-08(3)a
Standard clearance of all signs	Previously clearance requirements varied between 7 feet and 10 feet, depending on sign type and district. Consistent clearance of 8 feet is now used for all signs, including EMCs (except 10 feet in sight triangles).	14-03.1-08(3)
Height of freestanding signs in commercial districts	Height of pole signs are limited to 50 feet in most commercial and industrial areas or 30 feet in neighborhood commercial, office, and medical areas.	14-03.1-08(3)a
Interstate-oriented signs may be higher	With a special use permit, a sign oriented toward an interstate may be up to 80 feet in height. EMCs may not be higher than 50 feet.	14-03.1-08(3)a

<b>Change Made</b>	<b>Description</b>	<b>Reference</b>
Wall signs on accessory buildings	Wall signs may only be affixed to a principal building, not an accessory building.	14-03.1-08(3)b
Projecting sign dimensions	Projecting signs may not extend more than 6 feet, over drive lanes, and must maintain 8 feet of clearance.	14-03.1-08(3)c
EMC height limits	Limits of heights of EMCs are eliminated. Instead, the EMC portion of the sign must be beneath static portion.	14-03.1-08(3)d
Portable sign requirements	All new requirements are added for portable signs, including duration, area, on-premise location, number, etc.	14-03.1-08(5)
EMCs and air blown signs downtown	EMCs and air blown signs are prohibited in downtown zoning districts.	14-03.1-09(3)
Clarification of area requirements downtown	The allowable sign area is based on linear feet of frontage <i>occupied by building</i> . This has previously been the practice, but is now clarified in the ordinance.	14-03.1-09(4)
Dimensional lettering on signs downtown	Dimensional lettering was previous required for non-illuminated wall signs and projecting signs. This would also be required for non-illuminated pole signs and monument signs.	14-03.1-09(5)
Illuminated signs downtown	Clarify that signs are exempt from dimensional requirements only if illuminated from within.	14-03.1-09(6) 14-03.1-09(8)
Exemptions from dimensional lettering	Narrow supplementary text is also excluded from the requirement to be dimensional.	14-03.1-09(5)
Signs painted on buildings downtown	This is not allowed on historic structures.	14-03.1-09(6)
Canopy Sign Height	Signs were previously permitted to hang below canopies, with a clearance of 7 feet above grade. This is changed to 8 feet.	14-03.1-09(7)
Height of pole signs downtown	This is reduced from 25 feet to 20 feet.	14-03.1-09(10)
Number of pole signs downtown	Only one pole sign is allowed per parcel. Previously, parcels with multiple street frontages could install a pole sign for each frontage.	14-03.1-09(10)
Any business allowed sidewalk signs	Any business occupant may utilize a sidewalk sign. Sidewalk signs were previously limited to ground-floor businesses.	14-03.1-09(11)
Sidewalk sign clearance	Sidewalk sign placement previously required 6 feet of open pathway. This is reduced to 4 feet to match ADA requirements and to be consistent with other encroachments.	14-03.1-09(11)
Sidewalk sign width	Maximum sidewalk sign width is increased from 2 feet to 2 ½ feet to align with existing signs in use.	14-03.1-09(11)
New section on non-conforming signs	Preexisting signs that do not conform to zoning may remain and certain actions may be performed on non-conforming signs.	14-03.1-10
Responsible party assigned	References to "Building Official," "Zoning Administrator," and "City Administrator" now all refer to "Zoning Administrator."	Throughout

# CITY OF BISMARCK SIGN CODE

Amended as of: 4/08/2020  
Adopted on: TBD

Annotations reflect changes from 2/26/2020 DRAFT

DRAFT

# City of Bismarck Zoning Ordinance – Chapter 14-03.1 Signs

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## Chapter 14-03.1 – SIGNS

### Section 14-03.1-01 Purpose

The purpose of this chapter is to:

1. Provide fair standards and procedures to ensure that individuals, businesses, and organizations have a reasonable ability to communicate messages to the general public.
2. Protect public safety by preventing or mitigating traffic hazards through obstruction of view, distraction of roadway users, and all other negative effects on public travel.
3. Promote wayfinding to facilitate the efficient identification of destinations, which requires making a distinction between on-premise signs, which provide said benefits, and off-premise signs, which do not directly aid in wayfinding.
4. Reduce visual clutter along public rights-of-way to improve the legibility of existing signs, including traffic control devices, and enhance the overall aesthetics of the community.
5. Protect property values of residential and commercial property owners who may be negatively impacted by signs within view of the property.
6. Encourage creative expression and artistic contributions to the community, which requires a distinction between signs of a commercial and non-commercial nature.
7. Preserve the health, safety, and general welfare of the public.

### Section 14-03.1-02 Definitions and Measurements

1. **Definitions of Terms.** In addition to the overall definitions for zoning contained in Section 14-02-03 (Definitions) of the City Code of Ordinances, the following definitions represent the meanings of terms as they are used in this chapter:

**Air-blown Sign.** A sign that is designed to be moved or filled with air or gas, such as balloons and products marketed as “air puppet” or “tube man.” This includes such devices that do not contain a message but are intended to attract attention.

**Awning:** Any structure or shelter attached to and projecting outward from the face of a building, typical extending over a sidewalk or other thoroughfare.

**Changeable Copy Sign.** A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged manually without altering the

face of the sign. Reader boards and marquee signs are considered changeable copy signs.

**Commercial Zoning District:** The CA – Commercial, CG – Commercial, HM – Health Medical, or RT – Residential zoning districts. Street frontages in a P – Public zoning district that are not adjacent to or across from a residential zoning district are considered to be within a commercial zoning district for the purpose of this section.

**Community-Wide Event.** Any special event or other local, cultural, educational, or sporting activities of specific benefit to the City. Any content with the primary purpose of endorsing or promoting commercial interests; campaign messages that endorse or oppose a candidate for election to public office; or business logos and sponsorships by commercial entities shall not be considered advertisement of a community event.

**Digital Off-Premise Advertising Sign:** An off-premise advertising sign with a digital display of information that is capable of displaying multiple static images sequentially and is controlled by electronic communications. A sign with one digital face and one static face shall be considered a digital off-premise advertising sign.

**Downtown Zoning District:** The DC – Downtown Core and DF – Downtown Fringe zoning districts.

**Electronic Message Center Sign (EMC):** An on-premise advertising sign with a digital display of information that is capable of displaying characters, letters or illustrations and can be electronically changed by remote or automatic means.

**Feather Flag Sign:** A freestanding sign typically constructed of a single plastic or metal shaft driven in the ground or fixed to a weighted base and with an attached pennant that is vertically elongated and attached to the shaft.

**Frame Hold Time:** The duration or interval of time during which each individual digital advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

**Freestanding Sign:** A permanent sign that is not attached to any building or structure, with the exception of a structure, such as a pole or foundation, with the sole purpose of supporting signs. Freestanding signs are further divided into pole signs or monument signs.

**Industrial Zoning District:** The MA – Industrial or MB – Industrial zoning districts.

**Monument Sign:** a freestanding sign supported by a base of at least seventy-five (75) percent of the sign width with the highest point of the sign face located

eight (8) feet or less from the ground. Signs that are affixed to boulders or other inorganic natural features may be considered monument signs.

**Off-Premise Advertising Sign:** A ground sign, as defined in the most recent adoption of the International Building Code (IBC), that may advertise goods or services that are not associated with the use of the premises. Off-premise advertising signs may also advertise on-premise goods or services. An off-premise advertising sign may be static, digital, illuminated, non-illuminated or any combination thereof where permitted.

**On-Premise Advertising Sign:** A sign advertising the business, person, service or major product of the building or land upon which it is located, or identifying the premises or goods manufactured, produced, or services rendered thereon. On-premise does not necessarily imply that the sign and its referent share a single lot or parcel, but a set of contiguous lots or parcels that function as a whole use may be considered a premise for the purposes of this definition.

**Permanent Sign:** Any sign that is intended to be and is constructed to remain unchanged in character and position and affixed to features such as the ground or building for one (1) year or more. A temporary sign left in place for one (1) year or more does not become a permanent sign.

**Pole Sign:** A freestanding sign resting on or supported by one or more poles or other vertical structures. Any permanent freestanding sign that does not meet the definition of monument sign shall be considered a pole sign. Signs commonly referred to as pylon signs are considered poles signs.

**Portable Sign:** A sign that is constructed so as to be movable, either by skids, wheels, truck or other conveyance and which does not have a permanent foundation or is otherwise permanently fastened to the ground and is not actively used as a vehicle for movement of goods. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors. However, sidewalk signs are not considered portable signs.

**Projecting Sign:** A sign that is wholly or partly dependent upon a building or structure for support and which projects outward from the surface of the building in a direction not parallel to the surface.

**Residential Zoning District:** The R5 – Residential, R10 – Residential, RM – Residential, RMH – Residential, RR – Residential, or RR5 – Residential zoning districts. Lots or parcels within a P – Public zoning district that is adjacent to or across from a residential zoning district are considered to be within a residential zoning district for the purpose of this section.

**Sidewalk Sign:** A sign that is portable, typically designed with an A-frame structure, and is placed on the sidewalk or boulevard area of a public right-of-way, associated with an abutting commercial establishment.

**Sign:** Any visual display visible from a public right-of-way designed to identify, announce, direct, or inform.

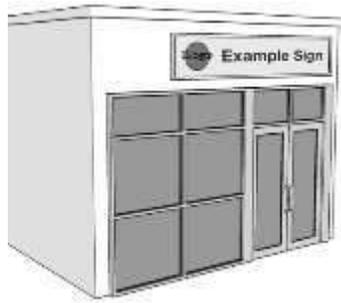
**Sign Face:** The entire surface area of the sign that is used to identify, advertise or communicate information for visual representation and is visible from any one direction, exclusive of any supporting structure for the sign. Multiple parts of a sign attached to a wall are considered a single sign face if the parts are intended to be viewed as a coherent whole. Multiple sign faces may be considered parts of one sign, provided the sign faces are no greater than eighteen (18) inches from each other in distance and are either parallel to or at an interior angle of less than thirty (30) degrees with each other.

**Site Sign:** An on-premise sign of temporary nature installed on a parcel of land with certain activity specified in this ordinance underway and constructed of temporary materials such as plywood, durable plastic, composite, or metal, with or without a frame. Yard signs as herein defined shall not be considered site signs.

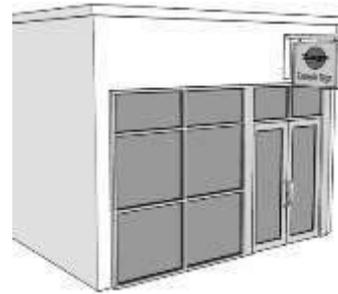
**Temporary Banner:** A display sign banner, or other advertising device constructed of, cloth, canvas, fabric or other light temporary material, with or without a structural frame intended for a limited period of display, including but not limited to decorative displays for holidays, public demonstrations, business sales, promotions, and relocations. Portable signs as herein defined shall not be considered temporary banners.

**Wall Sign:** A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms a background surface of, the sign.

**Yard Sign:** A small sign of a temporary nature inserted into the ground by wire or post, including but not limited to real estate signs, garage sales, political signs, and construction signs, constructed of a light temporary material, such as corrugated plastic, aluminum, or composite, with or without a frame. Portable signs and site signs as herein defined shall not be considered yard signs.



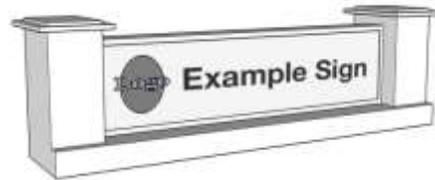
Wall Sign



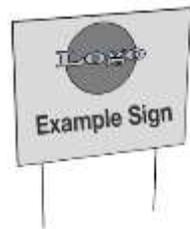
Projecting Sign



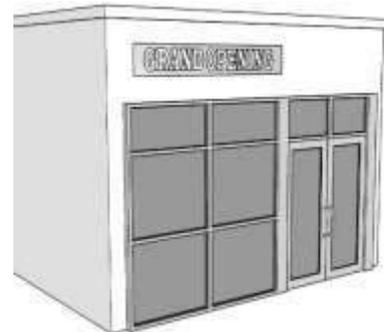
Pole Sign



Monument Sign



Yard Sign



Temporary Banner

Figure 1: Illustrations of Selected Sign Types

2. **Method of Measurement.** All dimensional measurements in this chapter shall be calculated based on the following methods:
  - a) **Determining Allowable Area.** Wherever a total allowable sign area is applied in this chapter, the following methods shall be used to determine area measurements:
    - i. The total allowable sign area for all signs on a parcel is based on the

length of linear street frontage of the parcel on a public right-of-way, other than alleyways, towards which the sign or signs are oriented in all parcels outside of Downtown Zoning Districts. In Downtown Zoning Districts, total allowable sign area for all signs on a parcel is based on the length of street frontage that is occupied by a building at any point along a perpendicular line extending from the street frontage, other than alleyways, towards which the sign or signs are oriented.

- ii. The primary street frontage shall be considered the side from which the principal structure on the parcel has its primary entrance, which is the means by which the majority of the ground-floor space of the building is accessed or the most commonly used entrance for the building. In such cases where said entrance is on a corner, the Zoning Administrator shall assign one street frontage as primary.
  - iii. Secondary street frontages shall be considered all sides of a property that are not considered the primary street frontage.
  - iv. The total allowable sign area is applied separately to the primary street frontage and any secondary street frontages as herein defined, and allowable area may not be transferred between frontages on a parcel.
  - v. Only permitted signs are included in total allowable sign area calculations. Permit-exempt signs shall not be included.
- b) **Area of Sign Face.** the area in square feet of a sign face, not including any supporting structures, is measured as follows:
- i. Signs within a cabinet or base with a regular polygon or circular shape shall be measured as the total area of the shape, including any frame.

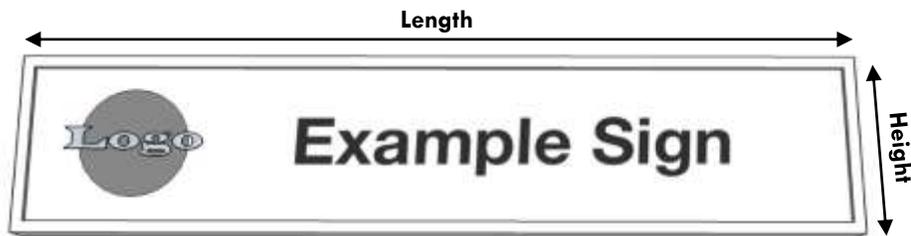


Figure 2: Example of regular shape area measurement (Length x Height)

- ii. Signs with irregularly-shaped sign faces or multiple parts, such as independent letters or logos, shall be measured as the area of the smallest single polygon with all interior angles less than 180 degrees that encompasses the entire sign face.



Figure 3: Example of irregular shape area measurement (Area within dashed line)

- iii. Signs on a non-planar shape, such as spheres, cylinders, cones, or other multidimensional shapes, shall be measured as the area of the sum of the four vertical sides of the smallest cube that completely encompasses the sign.

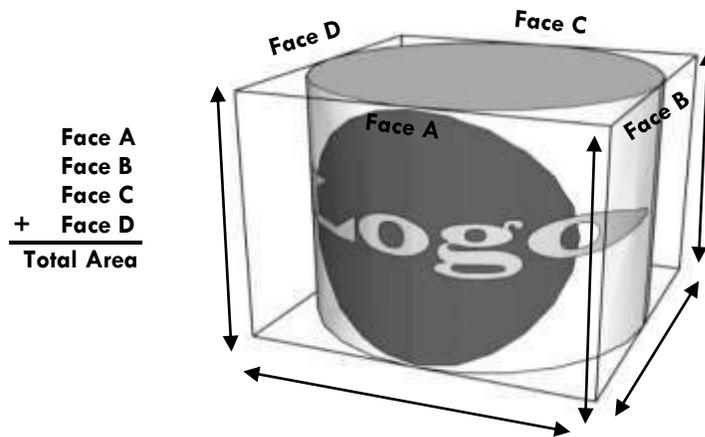


Figure 4: Example of measurement of non-planar shape

- iv. Signs with two faces are measured as the area of only the larger of the two faces, as long as the faces are no greater than eighteen (18) inches from each other in distance and are either parallel to or at an interior angle of less than thirty (30) degrees with each other. Signs with multiple faces that do not meet this condition shall be considered separate signs for each face.

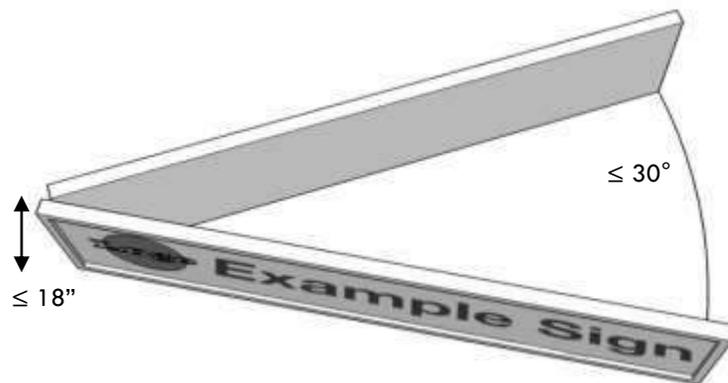


Figure 5: Example of one sign with two faces

- c) **Height of Sign.** The vertical distance in feet between the top of the curb of the roadway nearest to the pole, monument, or building wall supporting the sign and the highest point of the area of the sign face.
- d) **Setback of Sign.** The horizontal distance between any part of a sign or supporting structure and the front property line of the parcel the sign is located within.
- e) **Clearance of Sign.** The vertical distance between any part of a sign, including supporting structure, and the highest finished grade directly beneath the sign.

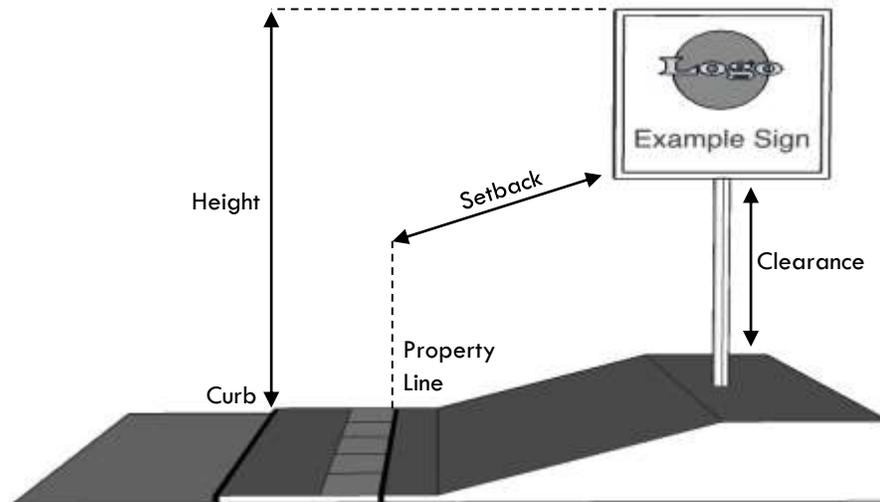


Figure 6: Example of height, setback, and clearance measurements

- f) **Spacing of Signs.** The shortest distance between two signs, as measured horizontal to the ground plane from the any point on both signs.
- g) **Illumination of Signs.** The illumination of signs is measured in foot-candles by an illuminance meter. Two measurements must be taken, one for ambient light and another for operational light, with as short a duration between tests as practicable. Required illumination levels are determined by subtracting ambient light from operational light.
  - i. **Location of Tests.** Measurements shall be taken from a distance no closer than the nearest curb of a public right-of-way or the nearest property line to the subject sign at a height of three (3) feet above the ground.
  - ii. **Time of Tests.** Measurements may be taken at any time. However, conducting tests at least 30 minutes past sunset is recommended.
  - iii. **Testing Method.** Ambient light is recorded with the subject sign turned off, or alternatively the sign may be blocked by a dark and opaque object. Operational light is recorded with the sign turned on and

displaying a full white image, or alternatively measured as the highest level recorded during normal sign operation. The light meter shall be pointed directly at the sign for both tests.

### Section 14-03.1-03 Scope of Sign Provisions

1. **Applicability and Jurisdiction.** This chapter shall apply to the construction, installation, function, maintenance, and/or alteration of all signs, whether permanent or temporary, in the entirety of the City of Bismarck and its extraterritorial zoning jurisdiction.
2. **Permit Exempt Signs.** The following signs are exempt from requirements to obtain permits in Section 14-03.1-04, but are still subject to the general standards of Section 14-03.1-05 and any specific standards as noted herein:
  - a) **Address Number.** A physical street address marking, as required by Section 10-01-07 (Numbering Buildings and Lots) of the City Code of Ordinances, except where the address information is also included within the name of the business or organization owning or occupying the premises.
  - b) **Air-Blown Sign.** A temporary sign, as defined in this chapter, subject to the following provisions
    - i. Air-blown signs may be displayed on a property or lease space for a continuous display period of no greater than seven (7) days. Up to two (2) display periods are permissible per calendar year per business or organization. The display periods cannot be consecutive and must be separated by at least thirty (30) days.
    - ii. Air-blown signs are prohibited in the downtown zoning districts
  - c) **Architectural Feature.** A sign, symbol, logo, or lettering that is integral to a building's structure and design that is constructed with permanent materials that are used generally throughout the building and are not specific to the sign.
  - d) **Beacon Transmission:** The use of location-based wireless transmission to or collection of information from personal electronic devices within proximity of the transmitter, through means such as Bluetooth or similar technologies, provided that transmitters are on private property and use is in compliance with all applicable state and federal law.
  - e) **Bulletin Board.** An informational display, such as a menu board, an event listing, promotional flyer, or other display intended to be read from a close distance and providing specific information typically sought by the viewer. Bulletin Boards may be illuminated only externally with light directed toward the bulletin board.
  - f) **Carried Sign.** A sign carried or worn by a person or persons, provided that all traffic safety laws are met.

- g) **Construction Fence Sign.** A sign affixed to a fence erected temporarily around a construction site, subject to the following provisions:
  - i. Construction fence signs must be installed flush to the fence and may not extend beyond the area of the fence, but are otherwise not limited size.
  - ii. Construction fence signs must be removed no later than thirty (30) days after a certificate of occupancy has been granted on the building on site or ceasing of the activity for which the fence is used.
- h) **Electronic Message Center Sign Demonstration.** The temporary display of an electronic message center for demonstration purposes over a period of twenty-four (24) hours or less, provided the sign is used as an on-premise advertising sign without any off-premise advertising content.
- i) **Feather Flag Sign.** A sign, as defined in this chapter, subject to the following provisions:
  - i. Feather flag signs may be displayed on a property or lease space for a continuous display period of no greater than sixty (60) days. Up to two (2) display periods are permissible per calendar year per business or organization. The display periods cannot be consecutive and must be separated by at least thirty (30) days.
  - ii. Feather flag signs are prohibited in the downtown zoning districts.
- j) **Flag or Pennant.** A flag, emblem or insignia of any nation, political subdivision, corporation, or any other entity.
- k) **Grave Marker.** A name or other marker of the deceased located in a cemetery.
- l) **Identification Plaque.** A small, permanent wall sign or plaque that identifies a household name, business and/or organization occupying a building, subject to the following provisions:
  - i. No more than one (1) identification plaque is permitted on any parcel.
  - ii. Identification plaques may not exceed one and a half (1 ½) square feet in area in residential zoning districts.
  - iii. Identification plaques may not exceed three (3) square feet in area in commercial zoning districts, industrial zoning districts, downtown zoning districts, or agricultural zoning districts. An identification plaque may be freestanding in agricultural zoning districts.
  - iv. Identification plaques may not be illuminated, either internally or externally.
- m) **Inwardly-Oriented Sign.** A sign that meets any of the following conditions:
  - i. Located indoors;

- ii. Located inside a stadium, concert venue, or athletic fields and oriented toward patrons of that venue;
  - iii. Located within a parking area or site, such as signs used to provide directions or practical information, and oriented toward the interior of the site;
  - iv. Any sign not intended to be visible from the public right-of-way or any adjoining property.
- n) **Public Art.** Any installation of a mural or visual artwork visible from a public right-of-way that does not contain any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, business, logo, trademark, or other commercial message. The following provisions must be met only in the DC – Downtown Core and DF – Downtown Fringe zoning districts:
- i. All Downtown Design Review procedures shall be followed for any installation of public art.
  - ii. The public art is not installed on any side of a building directly adjacent to a public right-of-way, excluding alleys.
  - iii. The public art is not installed on a vacant building or within a vacant lot or parcel, unless the property owner has filed a building permit with the intention of occupation or is otherwise actively in the process of improving the building or parcel for the purpose of occupation.
  - iv. The public art is not installed on any original façade of a building listed as a contributing structure of the downtown historic district, unless the art may be attached to a removable panel without damage to the underlying historic façade and the artwork meets all other downtown design review requirements pertaining to historic structures.
- o) **Public Utilitarian Sign.** Signs of a non-commercial nature and in the public interest displayed by order of a political subdivision or public utility in performance of its official duties for the purpose of traffic control, wayfinding, public safety, providing legal notice, or identifying public facilities or historical landmarks.
- p) **Sidewalk Sign.** A portable sign, as defined in this chapter. Sidewalk signs are subject to the following restrictions:
- i. The maximum width of a sidewalk sign shall be two (2) feet, six (6) inches and the maximum height shall be four (4) feet.
  - ii. Sidewalk signs may only be placed within a public right-of-way in downtown districts, subject to standards of Section 14-03.1-09(11). Sidewalk signs must be placed on private property in all other districts, unless granted an encroachment agreement.

- q) **Site Sign.** A temporary site sign used for on-premise commercial advertising, as defined in this chapter. Site signs are subject to the following restrictions, depending on activity currently underway on the parcel or in the vicinity thereof:
- i. **For Sale or Rent.** Site signs may be placed on parcels containing property that is currently for sale or rent in commercial, industrial, downtown, or agricultural zoning districts, as well as any RM – Residential zoning district. On said parcels, one (1) site sign may be placed per street frontage on a parcel, with one (1) additional site sign allowed on street frontages of greater than two hundred (200) feet in length. Said site sign(s) shall be no greater than ~~forty-sixty~~ (4060) square feet in area and eight (8) feet in height, and shall be removed no later than thirty (30) days after sale, lease, or occupancy of the property.
  - ii. **Under Development or Construction.** Site signs may be placed on parcels in areas that are currently under development or building construction in any zoning district. On said parcels, no more than three (3) site signs may be placed at each entrance into a development or site. All of said site sign(s) shall be no greater than one-hundred and forty-four (144) square feet in area cumulatively and ten (10) feet in height, and may be displayed until thirty (30) days after all lots in a subdivision have been sold by the developer or thirty (30) days after a certificate of occupancy has been granted on an individual commercial property that is not associated with a subdivision under development.
  - iii. Site signs are prohibited on properties that do not meet either of the provisions of this section.
  - iv. Site signs are permitted in addition to any other signs, temporary or permanent, allowed on a parcel under this chapter, and all measurements of spacing or number shall be made independently of other sign types.
  - v. Site signs may not be illuminated, either internally or externally.
- r) **Small-Scale Freestanding Sign.** A small permanent on-premise sign, typically used for ancillary messages such as providing directions, subject to the following provisions:
- i. The sign is no larger than six (6) square feet with a height of three (3) feet or less.
  - ii. No more than two (2) small-scale freestanding signs may be installed on each street frontage of each parcel, in addition to any permitted freestanding signs.

- s) **Temporary Banner.** A temporary sign, as defined in this chapter, subject to the following provisions:
- i. Temporary banners may be displayed on a property or lease space for a continuous display period of no greater than ~~two hundred and fortythree hundred~~ (240300) days per calendar year per business or organization.
  - ii. Temporary banners may not be used to advertise off-premise commercial content.
  - iii. Temporary banners must be attached to, and flush with, a building wall, retaining wall, fence, or other permanent structure.
  - iv. Temporary banners may not exceed thirty-two (32) square feet in area in downtown zoning districts and residential zoning districts.
  - v. Temporary banners may not be displayed on residential properties of four (4) units or less.
  - vi. Temporary banners may not be illuminated, with the exception of temporary banners affixed to a permitted permanent sign structure to allow for transitions between occupants of a building.
- t) **Temporary Lighting Display.** Temporary use of low-wattage lighting for holidays or other events, including standard effects such as flashing or fading, provided any associated glare does not create a public nuisance or traffic safety hazard.
- u) **Vending Machine Sign.** A sign integral to a legally-operating vending machine.
- v) **Window Sign.** A sign affixed to the inside or outside of an exterior window or located in the interior of a building, within twelve (12) inches of a window, and oriented outside the window, subject to the following requirements:
- i. Window signs may not be used to advertise off-premise commercial content.
  - ii. In downtown zoning districts, paper, cardboard, or solid surface signs are not permitted on second floor windows or above.
  - iii. In the downtown zoning districts, all window signs on a building may not occupy more than twenty-five (25) percent of the total transparent window surface of each window or door opening, unless the interior space is unoccupied or window signs are used for an appropriate screening function and are approved by the Downtown Design Review Committee. Notwithstanding, any window sign or part thereof that does not completely impede visibility, but provides transparency between individual letters or designs, shall be counted as fifty (50) percent of a window sign for the purposes of measuring maximum window coverage.

- w) **Yard Sign.** A temporary sign, as defined in this chapter. Yard signs are subject to the following provisions:
- i. A yard sign may not be used to advertise off-premise commercial content. Advertisement of on-premise commercial activity, including but not limited to real estate, sales, construction activity, is permitted for the entire duration of said activity and must be removed within thirty (30) days after completion of said activity. Non-commercial yard signs are permitted and not limited in number or duration.
  - ii. Yard signs are not permitted for home occupations permitted under Section 14-03-06(2) of the City Code of Ordinances.
  - iii. Each yard sign may not exceed eight (8) square feet in area, exclusive of any post or supporting structure. Notwithstanding, one (1) non-commercial yard sign may exceed this area limitation for a time period no greater than twenty-four (24) hours. Said non-commercial sign may not be used more than one (1) time per calendar year on any parcel unless the content of the sign is changed.
  - iv. Yard signs may be freestanding or attached to a fence, deck, or garage door, but may not be affixed to a building wall or any vegetative matter.
  - v. Yard signs may not be illuminated, either internally or externally.

3. **Permit Exempt Activity.** The following activities are exempt from requirements to obtain a permit in Section 14-03.1-04 only if the activity does not render a sign non-compliant, or further non-compliance in the case of non-conforming signs, with any ordinance requirements:

- a) **Routine Maintenance.** Maintenance necessary to keep a sign in a functional and attractive condition, including painting, cleaning, replacing parts, and small repairs. Temporary removal may be considered maintenance if the same sign is placed back in the same location and orientation. Any enlargement, structural alteration, upgrading technological elements, or relocation is not considered routine maintenance.
- b) **Change of Message.** Changing the message content on the face of any off-premise advertising sign, changeable copy sign, or electronic message center. Replacing or altering the face of any other permitted permanent sign is not exempt from requirements to obtain a permit for the replacement or alteration.
- c) **Removal of Sign.** The removal of any permanent or temporary sign, including the dismantling and complete removal of all supporting structures used exclusively for the sign.

4. **Prohibited Signs.** Certain signs that detract from the purpose of this chapter are prohibited. Provisions related to the prohibition of signs in specific zoning districts

are within sections 14-03.1-06 through 14-03.1-09. The following signs are prohibited in all zoning districts:

- a) **Sign Resembling Public Facility.** A private sign that resembles or conflicts with a public sign or traffic control device.
  - b) **Roof Sign:** A sign that is mounted on the roof of a building which is wholly dependent upon a building for support and which projects above the parapet of a building for a flat roof, the eave line of a building with gable roof, or the deck line of a building with a mansard roof. A false roof, canopy, and other non-structural fascia shall not be considered a roof for the purposes of this section.
  - c) **Searchlights:** High-intensity lighting devices oriented outward, such as strobe lights, searchlights, laser lights, or beacons, unless said lights are part of a temporary lighting display as exempted in Subsection 14-03.1-02(2).
  - d) **Use of Mechanical Motion.** A sign that rotates, revolves, pivots, swings, or uses any mechanical motion, with the exception of rotating barber poles.
  - e) **Use of Vegetation.** A sign painted on or affixed to a tree or other organic matter.
  - f) **Use of Live Animal.** A sign that uses a live animal.
  - g) **Use of Pyrotechnics.** A sign that uses open flames, sparks, explosions, or any form of illumination by means other than electricity. This prohibition does not apply to fireworks displays that comply with all local and state requirements.
  - h) **Use of Sound.** A sign that emits any sound through audio speakers or any other device. This includes the use of sound to advertise or draw attention to a business or activity occurring on premise that is clearly audible from a public right-of-way or adjoining property, whether or not the sign includes a visual component.
  - i) **Vehicle Sign.** The use of a parked car, truck, bus, boat, or other vehicle or part thereof as a sign, unless the vehicle containing a sign meets all of the following conditions:
    - i. The vehicle is consistently used in the normal conduct of a business or organization or is utilized as an example of products that are sold on premises.
    - ii. The vehicle is maintained in operable condition and is properly registered with the State of North Dakota Department of Transportation.
    - iii. The vehicle is lawfully parked.
5. **Permitted Signs.** Any sign that is not identified as a permit exempt sign or a prohibited sign by this section shall be considered a permitted sign, and shall require a permit and be subject to all provisions of this chapter, including but not

limited to all pole signs, monument signs, wall signs, projecting signs, sidewalk signs, changeable copy signs, and portable signs.

6. **New Sign Types.** It is recognized that, due to changing technology and the desires of businesses in the community, sign types may be proposed that do not clearly meet any definitions of this chapter. Such signs are not necessarily prohibited by this ordinance. The Zoning Administrator is hereby authorized to interpret a proposed new sign type to be substantially similar, in terms of size, shape, duration, and overall visual impact, to a sign type defined in this chapter, including prohibited sign types.

#### Section 14-03.1-04      **Permitting Procedures**

1. **Permit Required.** No sign or any structure with the sole purpose of supporting a sign may be constructed, installed, displayed, relocated, converted to electronic or reconstructed until the applicable sign permit is issued by the Zoning Administrator, pursuant to Section 04-01-08 of the City Code of Ordinance, unless identified as a permit exempt sign or permit exempt activity in this chapter.
2. **Sign Installation License.** A person may not engage in the business of erecting or placing signs or be entitled to a permit to erect or place any sign under the provisions of this chapter unless licensed to do so by the Zoning Administrator on written application as prescribed.
  - a) **Insurance Required.** A license may not take effect until the licensee files with the Zoning Administrator a copy of the licensee's liability insurance policy in the minimum amount of two hundred and fifty thousand dollars (\$250,000) for each person and five hundred thousand dollars (\$500,000) for each occurrence, which names the City of Bismarck as an additional insured, and insures against any damage or claim resulting from or related to the erection or maintenance of any sign within the City's jurisdiction by the licensee.
  - b) **License Duration.** Licenses are valid for the calendar year within which the license is issued. All licenses expire on December 31 of each year.
3. **Permit Submittal Requirements.** The following items shall be submitted by an applicant to the Zoning Administrator prior to the issuance of any sign permit:
  - a) **Application.** A written application prescribed by the City must be submitted for all signs. The City may prescribe separate applications for different sign types with specific information relevant to each type contained therein. Multiple signs on a single site to be installed within thirty (30) days of each other may be included on a single application, provided sufficient information is provided for all signs included in the application.
  - b) **Sign Display.** An elevation or photographic visualization of the proposed sign and surrounding context, with exact dimensions of the area, height, depth, and placement of the sign, must be submitted for all signs, with the exception

of portable signs. If any other signs exist within the parcel, they must be shown and dimensioned or described in terms of area.

- c) **Site Plan.** A site plan showing the dimensions of the sign, the exact location of the sign and any appurtenant features must be submitted for all pole signs, monuments signs, and off-premise advertising signs. This requirement may be waived by the Zoning Administrator if the sign is shown on an approved site plan for the overall development of the site.
  - d) **Street Visualizations.** Street visualizations must be submitted for all new electronic message center signs and off-premise advertising signs, unless waived by the City Engineer. Renderings of the proposed sign superimposed on a photograph of the proposed location, with accurate scale and placement, must be submitted. A separate rendering is required from 100 feet, 300 feet, and 500 feet from each direction of all streets from which the sign would be visible.
  - e) **Operational Narrative.** An operational narrative is required for all electronic message centers and digital off-premise advertising signs. The narrative must outline brightness levels, times of day the sign will be operational, entrance or exit effects that will be utilized, and any other features of the sign that are relevant to administration of this chapter. The operational narrative shall be agreed to and signed by the owner of the sign.
  - f) **Public Safety Verification.** For all new off-premise advertising signs or electronic message center signs, a written verification from the City Engineer and Chief of Police, or their designees, that the public safety provisions of Section 14-03.1-05 have been, or will be met, with the proposed sign is required.
4. **Portable Sign Reporting.** A licensed sign installer may place an unlimited number of portable signs without approval of a permit for each sign placement, subject to the following reporting requirements.
- a) **Monthly-Keeping Report Required.** Any sign installer with portable signs in use that have not been issued individual ~~reports-permits~~ must ~~provide-keep monthly-a~~ reports to the Zoning Administrator on a form prescribed by the City containing the following information:
    - i. Name and address of the sign installer.
    - ii. A record of each sign placed for any duration of time ~~within the month~~, indicating the address, street toward which the sign is oriented, the date the sign was placed, the date the sign was removed, if applicable, and a photograph of the sign in location during each display period.
    - iii. Evidence of property owner approval for each sign in use at any time ~~during the month~~.

b) **Submittal of Report.** Any licensed sign installer shall furnish a report upon request of the Zoning Administrator of all portable signs placed by the installer within the previous one year of the request date, or since the effective date of this ordinance, whichever is most recent.

b)c) **Individual Option.** In lieu of ~~submitting monthly~~ keeping reports, portable signs may also be permitted individually according to the procedures of this section. A license and insurance is not required for individually-permitted portable signs.

c)d) **License Revocation.** The Zoning Administrator may revoke the license of any sign installer for ~~the remainder of any calendar~~ up to one year upon failure to provide ~~timely and an~~ accurate ~~monthly~~ reports in a timely manner, or failure to meet any other requirements of this ordinance.

5. **Permit fees.** All sign permits ~~are may be~~ subject to a fee, as established in Section 4-02-05 (Building Permit Fees) of the City Code of Ordinances.
6. **Issuance of Permit.** After a reasonable period of time for review, the Zoning Administrator shall issue a sign permit to any sign that conforms to the provisions of this chapter, as demonstrated in the application submittal as well as any documented communications between the applicant and City staff, which shall be considered part of the application submittal. Non-compliant signs will be issued a denial.
7. **Inspection.** The Building Inspections Division may inspect any proposed or existing sign at any time to ensure compliance with all requirements of this chapter.
8. **Revocation of Permit.** The Zoning Administrator may revoke any issued sign permit upon determination that the application contained false or misleading information or an actual sign is substantially different than described in the application and submitted documents.
9. **Appeals.** Any denial or revocation of a sign permit by the Zoning Administrator, or any enforcement action taken against an existing sign for non-compliance, is subject to an appeal to the Board of City Commissioners following the procedures of Section 14-06-03 (Appeal Procedures) of the City Code of Ordinances.

#### Section 14-03.1-05      **General Standards**

1. **Application.** The provisions of this section apply to all signs, whether permitted or permit-exempt, in all zoning districts.
2. **Building Code.** All permanent signs must conform to the standards of the International Building Code, Appendix H – Signs in its form most recently adopted through Section 04-02-02 (Adoption of the City of Bismarck Building Code) of the City Code of Ordinances, except that any conflicts between said Appendix H and this chapter shall be interpreted in favor of the most restrictive.

3. **Maintenance of Signs.** All signs, whether permanent or temporary, shall be kept in a state of good repair and operation at all times. The Zoning Administrator may issue a notice and order to any owner of property containing a sign out of compliance with the provisions of this chapter to maintain or remove said sign. A sign shall be considered in disrepair if it exhibits one or more of the following conditions:

- a) A business or organization that has vacated the property on which the sign is located, or any freestanding supporting structure without a sign face. A sign or supporting structure shall be considered abandoned and in violation of this section six (6) months after the occurrence of either event.
- b) Structural supports are deemed to be unstable due to deterioration or previous damage.
- c) Panels, sections, or lettering of the sign face are missing or significantly damaged or faded.
- d) Bulbs are burned out or electronic elements of a sign are malfunctioning such that the intended display of the sign is compromised.
- e) Paint, coating, or other cosmetic materials of the sign are peeling or no longer present in their original form.
- f) The face of a sign is obstructed from public view by growth of vegetation on private property or any other visual obstruction.
- g) The condition of a sign has changed in any way that creates a public safety hazard.

4. **Illumination of Signs.** The illumination of all signs, including electronic message centers and digital off-premise advertising signs, is subject to the following requirements:

- a) Externally-illuminated signs shall direct illumination toward the sign or downward so as to minimize the amount of glare or light trespass across property lines.
- b) Internally-illuminated signs shall not exceed a brightness level that creates a safety hazard for drivers on adjacent roadways or a nuisance for any nearby residential uses, as determined by the Zoning administrator.
- c) High-intensity lighting devices oriented outward, such as laser lights, strobe lights, searchlights, and beacons, are not permitted.
- d) Lighting for any signs, with the exception of electronic message centers or digital off-premise advertising signs, may not alternate between fully illuminated and fully non-illuminated in a flashing manner. However, lighting of internally illuminated signs may gradually transition between colors in a fading, but not flashing manner, as determined by the Zoning Administrator.
- e) Illumination of temporary and portable signs is not permitted, as further stated in Sections 14-03.1-03(2) and 14-03.1-08(5) of this chapter.

5. **Restrictions on Placement.** In all zoning districts, the placement or installation of all signs is further restricted in the following areas:
- a) **Public Right-of-Way.** No sign, or any part thereof, may be located within or above a public right-of-way, either temporarily or permanently, unless an encroachment agreement is approved in accordance with Title 02-01-04 of the City Code of Ordinances or as permitted in Section 14-03.1-09(11) (Sidewalk Signs). The City Engineer is authorized to approve encroachment agreements for signs extending above a public right-of-way.
  - b) **Sight Triangles.** Any sign in a sight triangle, as defined in Section 14-02-03 (Definitions) of the City Code of Ordinances, is subject to the following additional standards:
    - i. No freestanding sign may visually obstruct the vertical space between three (3) feet and ten (10) feet above grade, with the exception of a pole or base with a diameter or longest horizontal cross-section of eight (8) inches or less. No sign face or other supporting structures may be located within said vertical space.
    - ii. No wall signs or projecting signs shall be permitted, except where exempted in the downtown zoning districts.
  - c) **Property Lines.** No part of any sign, or necessary supports of a sign, may project across or over any property line.
  - d) **Easements.** With the exception of portable signs, yard signs, site signs, and other signs of a temporary nature, no sign may be placed within or above any utility, access, stormwater and drainage, or any other easement encumbering use of the land, unless this provision is waived in writing by the City Engineer and/or all owners with rights to the easement.
  - e) **Means of Egress.** No sign may be placed or installed in such a way that obstructs any means of egress from windows or doors required by building or fire code.
6. **Restrictions on Content.** All provisions of this chapter apply irrespective to the content or message of any sign, and no greater preference is conferred to commercial over non-commercial signs, except that the following content, without reference to the viewpoint of the speaker, shall not be displayed on any sign:
- a) Text or images that may be reasonably confused with traffic control or public safety devices, including any sign that contains the words “stop,” “caution,” “danger,” or similar words hereby reserved for public safety.
  - b) Text or images that are obscene from the point of view of a typical person applying current standards of the community to the whole content of the sign; describe sexual or excretory functions, as defined by state law; and, taken as a whole, lack serious literary, artistic, political, or scientific value.

- c) Text or images that are unlawful by local, state or federal law, including but not limited to slander, defamation, incitement to imminent lawless action, and true threats.
7. **Protection of Public Safety.** A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard.
  8. **Standards of Structure Not Applicable.** Freestanding signs shall not be considered a structure and subject to dimensional requirements, such as setbacks and heights, applied to structures within Chapter 14-04 (District Regulations) of this Title. All dimensional standards for freestanding signs within this chapter shall take precedence.
  9. **Off-Premise Content on Signs of Public Interest.** Notwithstanding all other provisions of this chapter, permanent on-premise signs or temporary banners used by public or non-profit entities or used for community-wide events may include ancillary off-premise content, such as naming rights or sponsorships, ~~provided said content comprises no more than twenty (20) percent of the total area of the sign face.~~

**Section 14-03.1-06 Agricultural Zoning District Standards**

1. **Purpose.** The standards for signs in this section are intended to preserve the agricultural nature of this district and discourage any uses with direct commercial sales or services requiring signage.
2. **Application.** No signs are permitted in the A – Agricultural zoning district, with the exception of:
  - a) Portable signs, subject to all requirements of Section 14-03.1-08(5) applicable to commercial zoning districts.
  - b) Any signs exempt under Section 14-03.1-03 of this ordinance.

**Section 14-03.1-07 Residential Zoning District Standards**

1. **Purpose.** The standards for signs in this section are intended to preserve the residential character of neighborhoods while allowing uses within this district the reasonable ability to identify themselves and promote activities occurring on premises.
2. **Application.** In addition to general standards of this chapter, the provisions of this section apply only to permitted signs within residential zoning districts, as defined in

this chapter. Certain street frontages in the P – Public zoning district are considered to be within a residential zoning district.

3. **Prohibited Signs.** In addition to signs prohibited in Section 14-03.1-30 (Scope of Sign Provisions), the following signs are prohibited in residential zoning districts:
  - a) Off-premise advertising signs
  - b) Portable signs.
  
4. **Identification of Residential Areas.** Signs used for the purpose of identifying residential subdivisions, multifamily complexes, or manufactured home parks are permitted, subject to the following standards:
  - a) **Number.** No more than two (2) signs shall be permitted for each entrance to a residential subdivision, or for each multifamily complex or manufactured home park. For the purposes of this section, residential subdivisions shall include all phases of staged developments that share a common name or identity.
  - b) **Monument Sign Permitted.** Only monument signs may be used to identify residential areas.
  - c) **Entrances.** The sign may only be located at an entrance to a residential subdivision, multifamily residential complex or manufactured home park.
  - d) **Sign Dimensions.** The total area of the sign face shall not exceed sixty (60) square feet, and the sign may not exceed eight (8) feet in height.
  - e) **Sign Materials.** The base, supports, and face of the sign shall be constructed of durable, weather-resistant materials.
  - f) **Landscaping.** All monument signs shall be provided with landscaping around the base of the sign.
  - g) **Dimensional Lettering.** The sign must be dimensional in nature, utilizing letters, numerals, and/or imagery that are either raised or engraved relative to the plane of sign face.
  - h) **Maintenance Responsibility.** Ongoing responsibility for maintenance and upkeep of the sign shall be assigned to a private entity with sufficient rights and capacity to complete said duties. The Zoning Administrator reserves the right to request any documents of an association and to make a determination regarding its ability to comply.
  
5. **Signs for Non-Residential Uses.** On-premise advertising signs are permitted in residential zoning districts on properties with non-residential uses, other than home occupations, such as schools and religious institutions, subject to the following standards:
  - a) **Area of Signs.** The total allowable sign area in residential zoning districts shall be as follows:

- i. **Primary Street Frontage.** The total allowable sign area on a primary street frontage is one-half ( $\frac{1}{2}$ ) square foot of sign area for every one (1) linear foot of street frontage.
  - ii. **Secondary Street Frontage.** The total allowable sign area on a secondary street frontage is one-quarter ( $\frac{1}{4}$ ) square foot of sign area for every one (1) linear foot of street frontage.
  - iii. **Small Lot Exception.** A wall sign of up to 20 square feet may be permitted on any street frontage, notwithstanding requirements of this section.
- b) **Freestanding Signs.** Freestanding signs shall be subject to the following provisions:
- i. **Number.** One (1) freestanding sign may be permitted per street frontage, up to a maximum of two (2) signs on any parcel.
  - ii. **Height of Sign.** The overall height of a freestanding sign shall not exceed twenty (20) feet.
  - iii. **Setback of Sign.** All parts of a pole sign shall be setback from the front property line a distance at least the height of the sign. A monument sign shall not be subject to any setback additional to what may be required in Section 14-03.1-05.
  - iv. **Landscaping.** All monument signs shall be provided with landscaping around the base of the sign.
  - v. **Clearance.** Pole signs that are greater than three (3) feet in height shall have a clearance of at least eight (8) feet, except where required to be greater within a sight triangle.
- c) **Wall Signs.** Wall signs shall be subject to the following provisions:
- i. **Number.** One (1) wall sign may be permitted per street frontage, up to a maximum of four (4) signs on any parcel, subject to the following standards:
  - ii. **Principal Building.** Signs may only be affixed to the principal building on the property, and may not be affixed to any accessory buildings.
  - iii. **Placement of Sign.** The face of a wall sign shall be parallel to the plane of the wall it is mounted on and shall not project above or beyond the wall it is mounted on.
  - iv. **Dimensional Lettering.** Wall signs must be dimensional in nature, utilizing letters, numerals, and/or imagery that are either raised or engraved from the plane of the sign face.
- d) **Electronic Message Center Signs.** The following provisions apply to electronic message center signs within residential zoning districts or within one-hundred and fifty (150) feet of a residential zoning district, as measured from any

part of the sign to the nearest property line within any residential zoning district:

- i. **Special Use Permit.** A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances.
- ii. **Sign Type.** Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by Section 14-03.1-03(3). No off-premise advertising may occur on electronic message center signs.
- iii. **Number of Signs.** Only one (1) electronic message center sign shall be allowed per parcel.
- iv. **Area of Signs.** the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area.
- v. **Proportion of Sign.** Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement.
- vi. **Operational Requirements.** Electronic message center signs shall be subject to the following operational requirements:
  - a) **Brightness.** The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.
  - b) **Frame Hold Time.** The sign shall have a frame hold time of no less than three (3) seconds between 7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.
  - c) **Effects.** The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.
  - d) **Video.** The use of streaming video or full-motion video on any electronic message center sign is prohibited.
- vii. **Sign Features.** Electronic message center signs shall be equipped with the following features:
  - a) A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and

- b) A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.

6. **Portable Signs.** In addition to general standards of Section 14-03.1-05, the following provisions apply to all portable signs in residential zoning districts:

- a) A special use permit is obtained from the City of Bismarck Planning and Zoning Commission, subject to all requirements of Section 14-03-08, to verify that the placement and design of proposed portable sign(s) does not have a negative impact on the surrounding neighborhood. The term of any special use permit may not exceed two (2) years.
- b) All requirements pertaining to portable signs in commercial zoning districts in Section 14-03.1-08(5) are met.

### Section 14-03.1-08 **Commercial Zoning District Standards**

1. **Purpose.** The standards for signs in this section are intended to afford the greatest degree of flexibility for signs in areas with commercial or industrial activity while still adhering to the other purpose of this chapter.
2. **Application.** In addition to general standards of this chapter, the provisions of this section apply only to permitted signs within commercial zoning districts or industrial zoning districts, as defined in this chapter.
3. **On-Premise Advertising Signs.** In addition to general standards of Section 14-03.1-05, the following provisions apply to all on-premise advertising signs, excluding portable signs.
  - a) **Freestanding Signs.** Freestanding signs, including pole signs and monument signs, are permitted according to the following provisions:
    - i. **Number:** Pole signs shall be limited to one (1) pole sign per street frontage per parcel, and monument signs shall be limited to one (1) monument sign per street frontage per parcel. Multiple businesses operating on-premises may be advertised on any single sign.
    - ii. **Area.** There is no maximum allowable sign area within commercial zoning districts.
    - iii. **Setback.** Freestanding signs are not subject to any setback additional to what may be required in Section 14-03.1-05.
    - iv. **Height.** The following height requirements shall apply, based on the zoning district within which the sign is located:
      - a) In the CA – Commercial, HM – Health and Medical, and RT – Residential zoning districts, freestanding signs shall not exceed thirty (30) feet in height.

- b) In the CG – Commercial, MA – Industrial, and MB – Industrial zoning districts, freestanding signs shall not exceed fifty (50) feet in height.
- v. **Interstate-Oriented Freestanding Sign.** Notwithstanding the requirements of this section, a freestanding sign may be installed at a height of no greater than eight (80) feet, subject to the following additional standards:
  - a) A special use permit is obtained from the City of Bismarck Planning and Zoning Commission, subject to all requirements of Section 14-03-08.
  - b) The sign is oriented toward and within six hundred and sixty (660) feet of an Interstate.
  - c) All permitting requirements of Section 14-03.1-04 of this chapter that are applicable to off-premise advertising signs are submitted, including street visualizations and verification of public safety.
  - d) The sign does not contain an electronic message center displayed above fifty (50) feet in height.
- vi. **Clearance.** Pole signs that are greater than three (3) feet in height shall have a clearance of at least eight (8) feet, except where required to be greater within a sight triangle.
- b) **Wall Signs.** Wall signs are permitted in commercial zoning districts and industrial zoning districts according to the following provisions:
  - i. **Number:** There is no limit to the number of wall signs on a parcel in commercial zoning districts or industrial zoning districts.
  - ii. **Area.** There is no maximum allowable wall sign area in commercial zoning districts or industrial zoning districts.
  - iii. **Setback** There are no setbacks required for wall signs in commercial zoning districts or industrial zoning districts.
  - iv. **Height.** There are no height limits for wall signs in commercial zoning districts or industrial zoning districts.
  - v. **Principal Building.** Wall signs may only be affixed to a principal building on the property, and may not be affixed to any accessory buildings.
  - vi. **Placement of Sign.** The face of a wall sign shall be parallel to the plane of the wall it is mounted on and shall not project above or beyond the wall it is mounted on.
- c) **Projecting Signs.** Projecting signs are permitted in commercial zoning districts and industrial zoning districts according to the following provisions. For the

purposes of this section, projecting signs include signs that are attached to or displayed on an awning:

- i. **Number.** There is no limit to the number of projecting signs on a parcel in commercial zoning districts or industrial zoning districts.
  - ii. **Area.** There is no maximum allowable projecting sign area in commercial zoning districts or industrial zoning districts.
  - iii. **Setback.** There are no setbacks required for projecting signs in commercial zoning districts or industrial zoning districts. Projecting signs may extend into a required setback and are not considered part of a structure for the purpose of determining setbacks.
  - iv. **Height.** There are no height limits for projecting signs in commercial zoning districts or industrial zoning districts.
  - v. **Extension.** A sign may not project from the face of any building or structure a distance of more than six (6) feet.
  - vi. **Clearance.** Projecting signs shall have a clearance of at least eight (8) feet, except where required to be greater within a sight triangle. A projecting sign may not extend above a driving, loading or parking lane or area.
- d) **Electronic Message Center Signs.** The following provisions apply to electronic message center signs within commercial zoning districts or industrial zoning districts, with the exception of electronic message center signs located within one hundred and fifty (150) feet of any residential zoning district, as measured from any part of the sign to the nearest property line within any residential zoning district, which are subject to residential requirements for electronic message center signs in Section 14-03.1-07(5)d.
- i. **Sign Type.** Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by Section 14-03.1-03(3). No off-premise advertising may occur on electronic message center signs. Digital off-premise advertising signs are defined independently and subject to requirements of Section 14-03.1-08(4).
  - ii. **Number of Signs.** No more than one (1) electronic message center sign shall be allowed per street frontage per parcel.
  - iii. **Area of Sign.** The electronic message center sign portion of any sign shall not exceed the area specified in the table below, which is based on the zoning district in which the sign is located and the functional classification of the roadway toward which the sign is oriented.

Functional Class of Road	Zoning District				
	MA or MB Industrial	CG Commercial	CA Commercial	HM Health Medical	RT Residential
Interstate	100 SF	100 SF	72 SF	N/A	48 SF
Principal Arterial	100 SF	100 SF	72 SF	32 SF	32 SF
Minor Arterial	72 SF	72 SF	48 SF	32 SF	32 SF
Collector	48 SF	48 SF	32 SF	32 SF	32 SF
Local	32 SF	32 SF	32 SF	32 SF	32 SF

- iv. **Proportion of Sign.** Electronic message center signs may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) of the entire sign area, and must be entirely below the static portion of the sign. Electronic message center signs used as wall signs are exempt from this requirement.
- v. **Operational Requirements.** Electronic message center signs shall be subject to the following operational requirements:
  - e) **Brightness.** The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.
  - a) **Frame Hold Time.** The sign shall have a frame hold time of no less than one (1) second. The use of animation and background animation is allowed and is not subject to the one (1) second frame hold time requirement.
  - b) **Effects.** Special effects may be used to transition from one frame to another, provided said entrance effects result in all of the text within the frame appearing at once or in the order that the text is normally read, including, but not limited to, scrolling from right to left or scrolling from bottom to top entrance effects. Entrance effects where all of the text within the frame does not appear at once or in the order that the text is normally read are prohibited, including, but not limited to, scrolling from left to right, scrolling from top to bottom, and entrance effects referred to as slot machine, slots, splice, mesh, radar, kaleidoscope and spin. There are no limitations on the types of exit effects used. Except for such transitions, each frame shall remain static with no additional frame or hold effects applied to text within the frame, including, but not limited to, the fading or flashing on any part of the message and hold effects referred to as flash, spin, twinkle, wavy and rumble. The use of bijou lights as a frame effect is allowed.
  - c) **Video.** The use of full-motion video is prohibited.
- vi. **Sign Features.** Electronic message center signs shall be equipped with the following features:

- a) A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and
- b) A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.

4. **Off-Premise Advertising Signs.** In addition to general standards of Section 14-03.1-05, the following provisions shall apply specifically to all off-premise advertising signs:

- a) **Zoning Districts Permitted.** Off-premise advertising signs are only permitted in any CG - Commercial, MA - Industrial, or MB - Industrial zoning district. Off-premise advertising signs are prohibited in the CA – Commercial, RT – Residential, and HM – Health Medical zoning districts.
- b) **State Approval Required.** The sign meets provisions outlined in Chapter 24-17 of the North Dakota Century Code (NDCC) and a permit has been issued by the North Dakota Department of Transportation, where required.
- c) **Front Yard Setback.** Off-premise advertising signs shall not be subject to front yard setback requirements for each zoning district, but the entirety of the sign shall be set back at least fifteen (15) feet from any property line fronting a street, except that off-premise advertising signs oriented toward Interstate 94 (not business loop) are exempted from this front yard setback requirement.
- d) **Roadway Functional Class.** Off-premise advertising signs may only be located adjacent to a minor or principal arterial roadway. If the right-of-way of an arterial roadway includes a local or frontage roadway, the sign may be adjacent to said local or frontage roadway.
- e) **Sign Area.** Each sign face may not exceed three hundred (300) square feet in area, sixteen (16) feet in height or thirty (30) feet in width, with the exception of off-premise advertising signs oriented toward Interstate 94 (not business loop) or Bismarck Expressway east of the intersection with Airport Road, which may not exceed six hundred and seventy-two (672) square feet in area, sixteen (16) feet in height or fifty (50) feet in width. In addition, no off-premise advertising sign face may be less than two hundred (200) square feet in area.
- f) **Extensions to Signs.** A non-digital off-premise advertising sign may have up to an additional twenty percent (20%) of the sign face area on the perimeter of the sign face for extension elements. All sign extension space shall be of the same material as the sign face.
- g) **Number of Faces.** The sign shall have no more than two (2) faces.
- h) **Height of Signs.** The sign shall not exceed fifty (50) feet in height, and the sign face shall have a clearance of at least ten (10) feet.

- i) **Spacing.** Any and all parts of the sign, whether static or digital, shall be located at least three hundred (300) feet from any part of an existing or approved off-premise advertising sign, whether static or digital; at least two hundred (200) feet from the center point of any intersection of an arterial and an arterial and/or collector roadway; and at least five hundred (500) feet from the nearest right-of-way of an interstate interchange. In addition, all parts of a digital off-premise advertising sign shall be located at least twelve hundred (1,200) feet from any part of an existing or approved digital off-premise advertising sign. Distance is measured as the linear distance along the centerline of the roadway toward which the sign is oriented. The distance shall be measured between any two signs on the same or opposite sides of this roadway.
  - j) **Residential Setback.** The sign shall be located at least three hundred (300) feet from any residential zoning district, as measured from any part of the sign to the nearest property line within any residential zoning district.
  - k) **No Obstruction of View.** The sign shall not obstruct any other existing sign, either off-premise or on-premise.
  - l) **Digital Signs.** Digital off-premise advertising signs shall meet the following additional standards:
    - i. The sign shall have a frame hold time of no less than seven (7) seconds and must transition instantaneously from one static image to another static image without any special effects. The use of streaming video, full-motion video, animation or frame effects is prohibited.
    - ii. The sign shall have a default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and
    - iii. The sign shall have a mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.
    - iv. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.
  - m) **Conversion of Type.** A separate sign permit shall be required for the conversion of any existing non-digital off-premise advertising sign to a digital off-premise advertising sign. An existing non-conforming sign must meet all requirements outlined in this chapter prior to approval of a sign permit.
5. **Portable Signs.** In addition to general standards of Section 14-03.1-05, the following provisions apply to all portable signs in commercial zoning districts or industrial zoning districts:
- a) **On-Premise.** Portable signs may only be used as on-premise signs, unless a portable sign is used to inform or promote a community-wide event as defined in this chapter.

- b) **Spacing.** Portable signs shall be placed with a minimum spacing of one hundred (100) feet between portable signs on a parcel.
- c) **Dimensions.** Portable sign faces shall not exceed sixty (60) square feet in area, and the sign, including all supporting structures, shall not exceed eight (8) feet in height. Lettering may not extend beyond the face of the sign.
- c)d) **Duration.** Portable signs may only be displayed at any location for three hundred (300) days within any calendar year. Each location must be vacated of all portable signs for the remaining sixty-five (65) days of each calendar year. For the purposes of this section, a location shall be defined as a street frontage of a parcel or portion thereof within which a sign may be legally placed and meet all spacing requirements.
- d) **Duration.** Three options presented for Planning and Zoning Commission consideration
- e) **Option A:**
- f) ~~“Portable signs may only be displayed at any location for a period of up to thirty (30) days, after which no portable sign may be displayed at said location for an additional fifteen (15) days. For the purposes of this section, a location shall be defined as a street frontage of a parcel or portion thereof within which a sign may be legally placed and meet all spacing requirements.”~~
- Option B:**
- ~~“Portable signs may only be displayed at any location for two hundred and forty (240) days within any calendar year. Each location must be vacated of all portable signs for the remaining one hundred and twenty five (125) days of each calendar year. For the purposes of this section, a location shall be defined as a street frontage of a parcel or portion thereof within which a sign may be legally placed and meet all spacing”~~
- Option C:**
- ~~“Portable signs may not be placed in any location permanently.”~~
- g)e) **Electricity.** Portable signs may not be wired to received electricity, produce electricity, or contain any batteries.
- h)f) **Parking.** Portable signs shall not obstruct a parking space required to meet the provisions of Section 14-03-10 (Off-Street Parking and Loading) of the City Code of Ordinances.
- i)g) **Identification.** The name and telephone number of the owner of any portable sign must be clearly displayed while in use.

Section 14-03.1-09 **Downtown Zoning District Standards**

1. **Purpose.** The standards for signs in this section are intended to encourage signs that are scaled and oriented predominantly toward pedestrians, complementary to the existing context of the downtown streetscape, and aligned with the goals and objectives of the Downtown Design Guidelines.
2. **Application.** In addition to general standards of this chapter, the provisions of this section apply only to permitted signs within downtown zoning districts, as defined in this chapter.
3. **Prohibited Signs.** In addition to signs prohibited in Section 14-03.1-30(4), the following signs are prohibited in downtown zoning districts:
  - a) Off-premise advertising signs.
  - b) Electronic message center signs.
  - c) Portable signs, excluding sidewalk signs.
  - d) Feather flag signs.
  - e) Air-blown signs.
4. **Area of Sign.** The total allowable sign area for on-premise advertising signs shall be as follows:
  - a) **Downtown Core.** In the DC - Downtown Core zoning district, the following measurements apply:
    - i. **Primary Street Frontage.** The total allowable sign area on a primary street building frontage is two and a half (2 ½) square feet of sign area for every one (1) linear foot of street frontage.
    - ii. **Secondary Street Frontage.** The total allowable sign area on a secondary street building frontage is (1) square foot of sign area for every one (1) linear foot of street frontage.
  - b) **Downtown Fringe.** In the DF - Downtown Fringe zoning district, the following measurements apply:
    - i. **Primary Street Frontage.** The total allowable sign area on a primary street building frontage is one (1) square foot of sign area for every one (1) linear foot of street frontage.
    - ii. **Secondary Street Frontage.** The total allowable sign area on a secondary street building frontage is one-half (½) square foot of sign area for every one (1) linear foot of street frontage.
5. **Dimensional Lettering.** All signs in downtown zoning districts, except as herein exempted, including wall signs, projecting signs, pole signs, and monument signs are required to be dimensional, utilizing raised letters, numerals, and/or imagery.

- a) **Relief of Lettering.** Lettering greater than six (6) inches in height must protrude at least one (1) inch from the base surface of the sign. Lettering greater than three (3) inches in height must likewise protrude at least one-half (½) inch, and lettering three (3) inches or less in height or supplemental lettering or imagery with narrow text or lines may be installed flush to the surface of the sign face.
  - b) **Exemptions.** The following types of permitted signs are exempt from dimensional lettering requirements:
    - i. Signs that are internally illuminated.
    - ii. Signs painted on the wall of a building.
    - iii. Sidewalk signs.
    - iv. Signs on an awning of light material that is not suitable for supporting dimensional lettering.
    - v. All permit exempt signs.
6. **Wall Signs.** Wall signs are permitted in downtown zoning districts according to the following provisions:
- a) The face of a wall sign shall be parallel to the plane of the wall it is mounted on and shall not project above or beyond the wall it is mounted on.
  - b) All signs placed against exterior walls of buildings and structures may not protrude more than twelve (12) inches from a wall's surface.
  - c) Signs painted directly on exterior walls or surfaces of a building are allowed, provided such signs are not located on the front façade of the building and the building is not an historic structure, as defined in this Title.
7. **Awning Signs.** Signs placed on or attached to an awning are permitted in downtown zoning districts according to the following provisions:
- a) No awning may extend into the sidewalk further than two (2) feet from the back of the street curb.
  - b) Any awning shall generally be located within a window and/or door recess.
  - c) The shape, color, and material of any awning shall complement the overall architectural design of the building and conform to the Downtown Design Guidelines.
  - d) A sign may be attached beneath an awning, provided sufficient structural support for the weight of the sign existing and the sign does not extend more than one (1) foot below the lowest point of the awning.
  - e) All signs attached to or hanging below canopies must maintain a clearance at least eight (8) feet must be provided below all parts of the sign.

- f) Signs on sloped canopies shall be encouraged to be placed on the vertical band or the valance of the awning and shall be discouraged on the sloped portion.
8. **Projecting Signs.** Projecting signs are permitted in downtown zoning districts according to the following provisions:
- a) A sign may not project from the face of any building or structure a distance of more than four (4) feet.
  - b) Projecting signs shall have a clearance of at least eight (8) feet, and no part of any projecting sign may be above the sill of any second floor window of the building or the parapet of the roof of the building.
  - c) A projecting sign may not be permitted in an alley, unless the primary public access to the business or firm is obtained from the alley.
9. **Monument Signs.** Monument signs are permitted in downtown zoning districts according to the following provisions:
- a) A monument sign or any part thereof may not exceed eight (8) feet in height, recognizing that a lower maximum height is required in sight triangles
  - b) Monument signs shall be constructed of brick, stone, or a similar durable material complementary to the building material.
  - c) No more than one (1) monument sign may be installed per street frontage on any lot or parcel. Parcels with multiple street frontages are permitted an additional monument sign for each additional frontage.
10. **Pole signs.** Pole signs are permitted in downtown zoning districts according to the following provisions:
- a) A pole sign may not be more than twenty (20) feet in height.
  - b) Pole signs of greater than three (3) feet in height shall have a clearance of at least eight (8) feet, except where a greater clearance is required in sight triangles.
  - c) No more than one (1) pole sign may be installed on any parcel.
  - d) The visible supports of any pole sign shall be enclosed or covered with a decorative sheathing.
11. **Sidewalk Signs:** Sidewalk signs are permitted in downtown districts within the public right-of-way according to the following provisions:
- a) One (1) sidewalk sign is allowed per business or organization occupying an adjoining property.
  - b) All sidewalk signs must be portable and may not be affixed to the ground or any streetscape elements, such as signs or trees.

- c) The maximum width of a sidewalk sign shall be two (2) feet, six (6) inches and the maximum height shall be four (4) feet.
- d) A sidewalk sign shall be placed only where a minimum width of four (4) continuous feet for pedestrian movements and all requirements of the Americans with Disabilities Act can be maintained.
- e) Sidewalk signs may be placed on the sidewalk only during hours of operation and must be removed during non-business hours.
- f) Sidewalk signs shall not be illuminated.
- g) Sidewalk signs may not be placed in a location that creates a safety hazard by limiting visibility for pedestrians or motorists or obstructing any building ingress or egress.
- h) Streamers, flags, or banners shall not be attached to any sidewalk sign or use the sign as an anchor.

12. **Downtown Design Review.** All signs in the downtown districts shall be subject to the City's downtown design review procedures in accordance with the provisions of Sections 14-04-21.1(4) (DC - Downtown Core Zoning District) and 14-04-21.2(4) (DF – Downtown Fringe Zoning District) of the City Code of Ordinances.

- a) The Downtown Design Review Committee may delegate design review of any application for a sign permit or permit-exempt sign to the Building Official.
- b) The Downtown Design Review Committee may waive any provision of this section, or impose additional requirements, as a condition of any design approval, for reasons including aligning with surrounding context, preserving historic integrity, allowing unique and creative expression, or any other objective of the Downtown Design Guidelines. Any such waiver shall be recorded in the minutes of the meeting and enforced by the Building Inspections Division.
- c) An applicant may appeal a decision of the Downtown Design Review Committee in a similar manner to any appeal of an advisory board.

#### Section 14-03.1-10 **Non-Conforming Signs**

1. **Application.** Any existing permanent sign that does not currently conform to a provision or provisions of this ordinance, and did conform to all applicable regulations at the time of said sign's installation or most recent alteration, relocation, or reconstruction shall be considered a non-conforming sign. Portable or temporary signs may not be considered non-conforming.
2. **Continuation.** A non-conforming sign may continue to exist in its vested form, place, and operation and shall not be considered in violation of this ordinance, unless rendered in violation on the basis of this section.

3. **Maintenance and Change of Message.** Activities that are permit-exempt under Section 14-03.1-03 or any change of message content may be performed on a non-conforming sign only if the activity does not increase the extent to which the sign does not comply with ordinance requirements.
4. **Technological Upgrades.** Any electronic elements of a non-conforming electronic message center or digital off-premise advertising sign may be replaced or upgraded, provided the overall dimensions, orientation, and location of the screen is not altered and the operation of the sign is in compliance with all provisions of this ordinance.
5. **Relocation.** A non-conforming sign may not be relocated or reoriented, unless the sign in its new location or orientation complies with all provisions of this ordinance. Temporary removal and replacement of a sign for repair purposes shall not be considered relocation.
6. **Alteration.** A non-conforming sign may not be enlarged or altered, except as allowed by this section. Electronic components or illumination may not be added to a non-conforming sign where none previously existed.
7. **Reconstruction.** A damaged non-conforming sign may be rebuilt or reconstructed to resemble its previous condition only if the following conditions are met:
  - a) The cost of reconstruction does not exceed fifty (50) percent of the replacement cost of the sign at the time of damage.
  - b) The reconstructed sign is not enlarged or altered such that the sign is non-compliant with the provisions of the ordinance to a greater extent than the sign was prior to damage.



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 16

April 22, 2020

## Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2019-003

### Project Summary

Title:	Off-Street Parking and Loading
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Jenny Wollmuth, AICP, CFM, Planner
Sections Amended:	Section 14-02-03 (Definitions) Section 14-03-08 (Special Uses) Section 14-03-10 (Off-Street Parking and Loading)
Request:	Adopt revisions to the existing Off-Street Parking and Loading requirements

### Staff Analysis

Community Development Department – Planning Division staff is initiating a zoning ordinance text amendment to revise the existing Off-Street Parking and Loading requirements outlined in the City of Bismarck’s zoning ordinance, Title 14 of the City Code of Ordinances.

The Planning and Zoning Commission considered this request at their meeting of February 26, 2020 and called for a public hearing on the proposed zoning ordinance text amendment.

The revisions to existing requirements are being proposed to prepare for changes to mobility demands, reduce the number of variances for off-street parking and to align with current and anticipated development trends.

Variance requests can be an indicator of needed revisions to the zoning ordinance. Requests to reduce off-street parking and loading requirements are one of the more common variance requests the Board of Adjustment considers. Roughly 22% of all variances requested in the past 5 years are related to off-Street parking and loading requirements. Through the variance process, there has been a reduction of approximately 1,200 Off-Street parking spaces since 2014.

The first off-street parking and loading requirements for Bismarck appeared in the 1953 Zoning Ordinance. Periodic changes have occurred over the years to keep pace with development trends. In 2015, 2016, and 2017 Planning staff initiated amendments to modify off-street parking and loading requirements. These modifications reduced parking requirements for certain uses, clarified how parking is calculated, and provided some flexibility to the Zoning Administrator to determined required parking for certain uses. However, even with these modifications, Planning staff have continued to observe an increase in requests to vary from existing off-street parking and loading requirements throughout the community.

Modifications to the existing off-street parking requirements have also been identified as implementation strategies in the Infill and Redevelopment Plan and the Strategic Plan.

#### Ordinance Update Process

Planning staff have relied on information and data from peer communities, professional organizations, such as the American Planning Association and the Institute of Transportation Engineers, and stakeholder input to create the proposed amendments to the ordinance.

Early in the ordinance update process, a stakeholder group comprised of industry professionals, including

(continued)

engineers, realtors, developers and City staff, was created to help draft the proposed ordinance. The stakeholder group also includes a member of the Board of Adjustment, a member of the Planning and Zoning Commission and the Mayor.

Planning staff began working with the stakeholder group in the fall of 2019. Since then, four stakeholder meetings have been held.

*Public Input Meeting*

Planning staff held a public input meeting on the proposed ordinance on March 12, 2020. The meeting was fairly well attended and questions were asked of staff. It should be noted that no suggestions for changes to the proposed ordinance were mentioned during the meeting.

*Changes to Existing Requirements*

Although amendments have been made to the off-street parking and loading section of the zoning code, much of the original formatting has remained. The revisions include reformatting this section and the following notable changes:

1. Exemptions to parking within the DC – Downtown Core, DF – Downtown Fringe and HM – Health Medical zoning districts;
2. Allowing adjacent on-street parking to count toward required parking;
3. A 20 percent reduction for parking calculations based on gross floor area to account for spaces utilized for restrooms, kitchens, storage areas, utility rooms and circulation;
4. An additional 10 percent reduction for mixed-use buildings that include a residential component;
5. The addition of a new category for low and moderate income multi-family housing;

6. Reduction for adding bicycle parking, and;
7. The addition of a new section that will allow Planning staff the authority to administratively approve parking alternatives, such as shared parking, based on certain conditions, rather than requesting a variance from the Board of Adjustment.

**Required Findings of Fact** (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Sections 14-02-03 (Definitions), 14-03-08 (Special Uses) and 14-03-10 (Off-Street Parking and Loading), as presented in the draft ordinance attached to the staff report.

**Attachments**

1. Draft zoning ordinance amendment

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner  
 701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

*First Reading* \_\_\_\_\_

*Second Reading* \_\_\_\_\_

*Final Passage and Adoption* \_\_\_\_\_

*Publication Date* \_\_\_\_\_

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-02-03 (DEFINITIONS) AND 14-03-08 (SPECIAL USES), AND REPEAL AND RE-ENACT SECTION 14-03-10 (OFF-STREET PARKING AND LOADING) OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO OFF-STREET PARKING AND LOADING

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

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

14-02-03. **Definitions.** The following definitions represent the meanings of terms as they are used in these regulations:

\* \* \* \*

Low and Moderate Income Multi-family Housing. Multi-family housing for persons who are income qualified that is usually supported by state and federal funding programs.

Section 2. Amendment. 14-03-08 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Special Uses is hereby amended to read as follows:

\* \* \* \*

14-03-08(3)(a)(5). **Permanent uses (administrative approval).** The Zoning Administrator may issue special use permits for the following uses without a public hearing or approval of the City Planning and Zoning Commission:

- a. Small animal veterinary clinic. Defined as a facility in which the practice conducted is essentially an outpatient type of practice with an occasional

confinement limited to domestic household pets. A small animal veterinary clinic may be permitted in a CG, MA, MB or A district as a special use provided.

\* \* \* \*

5. Off-street parking space shall be provided as required in section 14-03-10(1)(i), ~~office buildings, of this article.~~

Section 3. Repeal and Re-enact. 14-03-10 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Off-Street Parking and Loading is hereby repealed and re-enacted to read as follows:

14-03-10. **Off-Street Parking and Loading**

- 1. **Purpose.** The provisions of this section are intended to provide accessible, attractive, secure and well-maintained off-street parking and loading areas with the appropriate number of spaces in proportion to the needs of proposed and future uses and to prevent overflow parking into adjacent properties. The provisions of this section are also intended to help protect the public health, safety and general welfare by:
  - a. Helping to avoid and mitigate traffic congestion;
  - b. Encouraging multi-modal transportation options and enhanced pedestrian safety; and,
  - c. Providing flexible methods for responding to the transportation and access demands of various land uses.
  
- 2. **Applicability.** The parking, stacking and loading requirements contained herein shall apply to any of the following:
  - a. **New Development.** The parking, stacking and loading requirements of this section shall apply to any new building constructed and to any new use established.
  - b. **Expansion and Alterations.** The parking, stacking and loading requirements of this section shall apply when an existing structure or use is expanded or enlarged. Additional parking and loading spaces will be required only to serve the enlarged or expanded area. The parking, stacking and loading space provided for the existing use prior to the expansion or alteration may not be reduced below what is required.
  - c. **Change of Use.** The parking, stacking and loading requirements of this section shall apply to any change of use that would result in a requirement for more parking, stacking or loading spaces than the existing use. Additional parking, stacking and loading spaces will only be required in proportion to the extent of the change, not for the entire building or use.

In the case of a change of use where the current use does not meet the minimum parking requirements and the proposed change of use would require less parking, stacking or loading spaces than the current use, regardless of the number of spaces actually provided on the site, the Zoning Administrator may allow such change of use provided the parking, stacking, and loading spaces for the new use is no less conforming than the current use.

### 3. Reductions and Exemptions.

- a. **Mixed Use Parking Reductions.** Parking requirements may be reduced by an additional ten (10) percent for mixed use developments including a combination of residential, or a hotel or motel in combination with office and/or commercial uses.
- b. **Bicycle Parking Reductions.** The following reductions may be used to provide relief from off-street parking requirements:
  - i. The number of vehicle parking spaces may be reduced by one (1) for five (5) bicycle parking spaces provided on the parcel, up to ten (10) percent of the total required vehicle parking spaces.
    1. A fixed bicycle rack shall be installed with the following design guidelines:
      - a. Support the bicycle at two points above its center of gravity.
      - b. Accommodate high security U-shaped bike locks.
      - c. Accommodate locks securing the frame and one or both wheels, preferably without removing the front wheel from the bicycle.
      - d. Provide adequate distance between spaces so that bicycles do not interfere with each other.
      - e. Do not contain protruding elements or sharp edges.
      - f. Do not bend wheels or damage other bicycle parts.
      - g. Do not require the user to lift the bicycle off the ground in order to place it into the rack.
    2. The bicycle rack is provided with an aisle one side of the bicycle parking space to allow for adequate access and maneuvering.
    3. The bicycle rack is connected to an Americans with Disabilities Act (ADA) accessible side-walk or corridor.
    4. The bicycle rack is placed on a dustless all-weather hard surface material.
    5. The bicycle rack is located so as to not interfere with pedestrian or motor vehicle traffic.

6. Bicycle parking may be provided within a building, but the location must be easily accessible.
  - c. **Parking Exemption.** Properties located within the DC – Downtown Core, DF – Downtown Fringe, and HM – Health Medical zoning districts are not subject to the off-street parking and loading requirements of this section.
4. **Required Parking.** Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy in any zone shall be approved unless required parking is provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided.

When the installation of required parking cannot be completed in conjunction with site development due to seasonal constraints, the Zoning Administrator may issue a temporary certificate of occupancy with the understanding that the installation of the required parking be completed by a date agreed upon by the Zoning Administrator and property owner(s).

5. **Design Standards for Required Off-Street Parking and Loading Spaces.** All applications for a building permit or certificate of occupancy shall include a site plan, drawn to scale, that depicts the location and arrangement of required parking and loading spaces, driveways, and walkways as provided for in this section.
  - a. **Parking Spaces.** Each required off-street parking space shall be of an area at least nine (9) feet wide and eighteen (18) feet in length, in addition to the ingress and egress driveways required.
  - b. **Compact Parking Spaces.** A compact parking space shall be of an area at least eight (8) feet wide and sixteen (16) feet in length in addition to the ingress and egress driveways required. Compact parking spaces may count for up to 10 percent of required parking spaces and must be marked or signed as compact parking.
  - c. For each parking space, not under a roof, there shall be provided additional area for access lanes, aisles and drives necessary for safe and adequate parking maneuvering. Access lanes, aisles and drives must be designed according to acceptable professional industry design standards.
  - d. **Accessible Parking Spaces and Aisles.** The size, number and location of stalls reserved for ADA parking shall be provided and identified as required by applicable ADA regulations. These spaces are included in the calculation for the total required parking.
  - e. **Electric Vehicle Charging Stations.** Charging station stalls must meet local, state and federal requirements. These spaces are included in the calculation for the total required parking.

- f. Surfacing. All applications for required off-street parking and loading spaces and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock, crushed asphalt, crushed concrete, or gravel shall not be considered an acceptable surfacing material.
- g. Turnarounds. All off-street parking areas shall be designed so that vehicles do not have to back into the public right-of-way to exit parking areas.
- h. Encroachment. No parking space may block access to another parking space. No open area in an off-street parking area shall be encroached upon by buildings, storage or any other use.
- i. Pedestrian Facilities. Off-street parking areas for fifty (50) or more vehicles shall have walkways separated from the parking area and surfaced with a dustless all-weather hard surface material to provide safe access from parking areas, bicycle storage areas, public rights-of-way and existing pedestrian facilities to building entrances.
- j. Striping. All off-street parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement.
- k. All required parking, stacking and loading spaces, and access areas shall be used exclusively for the temporary parking and maneuvering of vehicles and shall not be used for the sale, lease, display, repair, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, or equipment, or for any other use not authorized by the provisions of this Title.
- l. Loading Facilities. For each off-street loading space required by this section there shall be provided space clear and free of all obstructions, at least ten (10) feet in width, fifty feet (50) feet in length and fourteen (14) feet in height. Off-street parking and off-street loading space shall be provided with methods of ingress and egress such that it will be unnecessary for trucks or tractor trailer combinations to back into them from a public street or out of them into a public street; however, off-street loading spaces may utilize adjacent local streets as needed for ingress and egress when specifically approved in writing by the City Engineer or designee, based upon a submitted drawing using truck turning radius templates that demonstrates how the loading spaces will be utilized.
- m. Maintenance. All off-street parking and loading facilities for the use of the public required pursuant to the provisions of this section shall be paved, drained, lighted and periodically maintained by the owner in accordance with specifications of the City Engineer.
- n. Reductions. Required off-street parking spaces may not be reduced except upon the approval of the Zoning Administrator and then only after proof that, by reason of a decrease of floor space, seating capacity, number of employees, or change in

other factors controlling the regulation of the number of parking spaces, the proposed reduction is reasonable and consistent with the intent of this section.

**6. Calculation of Required Parking.**

- a. When the determination of the number of parking, stacking, bicycle parking or loading spaces results in a requirement of a fractional space, any fraction up to and including one-fourth shall be disregarded and fractions over one-fourth shall require one additional parking, stacking, bicycle parking or loading space.
- b. When there are multiple structures on a lot or multiple uses within a structure, parking shall be calculated separately for each different use area within a building or site, including all accessory uses, unless a plan for shared parking or joint-use parking is approved by the Zoning Administrator.
- c. One parking space for each twenty-five (25) uninterrupted linear feet of available street frontage of a local roadway usable for on-street parking directly adjacent to a parcel may be deducted from the total off-street parking spaces required for a site. The width of drive accesses, designated non-parking areas, sight triangles, and similar circumstances may not be considered as available for the purpose of on-street parking space. Parking on roadways classified as an arterial roadway or a collector roadway will not be considered.
- d. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on the largest shift.
- e. When parking is required based on seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per five (5) occupants.
- f. The number of parking spaces shall be provided on the basis of the following minimum requirements:

USE	REQUIRED NUMBER OF OFF-STREET PARKING SPACES
<b>Residential Uses</b>	
Single-family	Two (2) spaces for each dwelling unit.
Two-family	Two (2) spaces for each dwelling unit.
Accessory dwelling unit	One (1) space for accessory dwelling unit.
Low and moderate income multi-family housing	0.65 spaces for each dwelling unit.

Multi-family	One (1) space for each efficiency unit or each one-bedroom unit; and, Two (2) spaces for each two-bedroom unit or larger.
Rooming & boarding houses	One (1) space for each sleeping room rented, plus two (2) additional spaces for the owner or operator of the house.
Senior housing	0.65 spaces for each dwelling unit.
Dormitories	One (1) space for each sleeping room.
Adult or disabled care centers, convalescent homes and nursing homes	One (1) space for each four (4) patient beds, plus one additional space for each employee.
<b>Institutional Uses</b>	
Elementary and middle schools	One (1) space for each employee, plus additional space for any places of public assembly in accordance with the requirements set for in this section for such uses.
Schools including colleges, and high schools	One (1) space for each employee, plus additional space for any places of public assembly in accordance with the requirements set forth in this section for such uses and one space for every three (3) students.
Libraries and museums	One (1) space for each three hundred sixty (360) square feet of gross floor area.
Places of public assembly including exhibition halls, convention halls, auditoriums, sports arenas, athletic fields and theaters	One (1) space for each five (5) seats provided. If fixed seats are not provided, then parking shall be determined at a rate of one space per five (5) occupants.
Religious institutions	One space for each five (5) seats provided in an assembly area. If fixed seats are not provided, then parking shall be determined at a rate of one space per five (5) occupants.
<b>Commercial Uses</b>	
Child care centers	One (1) space for each employee and one (1) space for each ten (10) children.

Motor fueling stations/convenience stores	Four (4) spaces plus two (2) spaces for each service stall or bay. Facilities designed for sale of other items shall be required to provide additional parking in accordance with other applicable provisions of this Section.
Motor vehicle repair garages	Two (2) spaces for each repair stall, plus additional spaces as needed to store vehicles waiting to be repaired or picked up after repair.
Hospitals	One (1) space for each two (2) patient beds plus one (1) additional space for each two (2) employees.
Hotels and motels	One (1) space for each guest room. If, in addition to the guest rooms, patrons are provided with assembly halls, bars, restaurants, nightclubs, retail shops, service establishments or other businesses, additional off-street parking spaces will be required for such other uses in accordance with the regulations of this section for those uses.
Funeral homes and mortuaries	One (1) space for each four (4) seats or one (1) space for seventy-five (75) gross square feet of building area, whichever is greater.
Office buildings	One (1) space for each three hundred sixty (360) square feet of gross floor area.
Medical, chiropractic and dental clinics	One (1) space for each three hundred (300) square feet of gross floor area.
Veterinary clinics	One (1) space for each three hundred (300) square feet of gross floor area.
Sports and fitness clubs	One (1) space for three hundred sixty (360) square feet of gross floor area.
Retail sales and service	One (1) space for each three hundred (300) square feet of gross floor area.
Multi-tenant shopping center	One (1) space for each three hundred (300) square feet of gross leasable area, provided the area of all dining and drinking establishments within the shopping center do not exceed twenty-five (25) percent of the total leasable area.
Furniture and appliance sales	One (1) space for each seven hundred twenty (720) square feet of gross floor area.
Bar, tavern or lounge	One (1) space for each sixty (60) square feet of gross floor area, plus one (1) space for each employee on the largest shift. Outdoor patio areas shall not be included when calculating floor area.

Full service restaurant	One (1) space for each seventy-five (75) square feet of gross floor dining area, plus one (1) space for each employee. Outdoor patio areas shall not be included when calculating gross floor area. If the restaurant includes a designated bar area, off-street parking shall be provided for that area at a ratio of one (1) space for each sixty (60) square feet of gross floor bar area.
Fast food restaurant with or without drive-through facilities, including coffee shops, ice cream or yogurt shops	One (1) space for each sixty (60) square feet of gross floor dining area. Outdoor patio area shall not be included when calculating gross floor area. If a drive-through is included, stacking space in accordance with the applicable provisions of this Section must also be provided.
Take out restaurant with no patron seating	One (1) space for each two hundred forty (240) square feet of gross floor area.
Amusement uses	One (1) space for each three hundred sixty (360) square feet of gross floor area.
<b>Industrial Uses</b>	
Service businesses located within the MA – Industrial or MB – Industrial zoning district with fifty (50) percent or more of the gross floor area devoted to storage, warehouse and/or industry use, including those facilities commonly referred to as shop condos	One (1) space for each four hundred (400) gross square feet of each unit storage area.  Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking. These provisions shall apply on a per unit basis for multi-tenant or multi-owner buildings such as shop condos.
Self-service storage facilities	A dedicated parking lane with a minimum width of nine (9) feet shall be provided adjacent to each storage unit opening in the building. Driveways adjacent to each parking lane shall be a minimum of twenty (20) feet in width. In facilities provided with a dedicated rental or leasing office, one (1) space for each three hundred (300) gross square feet of office area must also be provided.
Manufacturing and industrial plants, public utility buildings, fabricating plants and all other similar structures	One (1) space for each manufacturing employee on the largest shift, plus one (1) space for each three hundred (300) gross square feet of office area. Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking.

Warehousing and distribution	One (1) space for each employee on the largest shift or one (1) space for each two thousand four hundred (2,400) square feet of gross floor area, whichever is greater, plus one (1) space for each three hundred (300) gross square feet of office area. Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off- street parking.
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g. **Interpretation.** For uses not specifically listed in this section, parking requirements shall be determined by the Zoning Administrator on the same basis as required for the most similar listed uses. In such cases, the Zoning Administrator may also consult parking reference materials including, but not limited to, manuals prepared by the American Planning Association and the Institute of Transportation Engineers.

7. **Location of Required Parking Facilities.** The off-street parking facilities required by this section shall be on the same parcel of land as the structure they are intended to serve. When practical difficulties prevent the establishment of such facilities upon the same parcel, off-site parking shall be furnished within four hundred (400) feet of the premises to which they are appurtenant. In addition, adequate and safe pedestrian access shall be provided to and from the off-site parking facility.
8. **Off -Street Vehicle Stacking.** Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street vehicle stacking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required vehicle stacking space shall be of an area at least ten (10) feet wide and twenty (20) feet in length. Vehicle stacking lanes shall be located completely upon the parcel of land that includes the structure they are intended to serve and shall be so designed as to not impede on- or off-site traffic movements. All vehicle stacking spaces shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock, crushed asphalt, crushed concrete, or gravel shall not be considered an acceptable surfacing material. The number of off-street vehicle stacking spaces shall be provided on the basis of the following minimum requirements:

Type of Use	Minimum Number of Stacking Spaces	Measured From
Financial institution- ATM	3 spaces per lane	Kiosk
Financial institution – teller	4 spaces for first lane, 3 spaces for each additional lane	Window or pneumatic tube kiosk
Drive-through restaurant	12 spaces	Pick-up window
Drive-through coffee shop	10 spaces	Pick-up window
Car wash, automatic	6 spaces per bay	Entrance
Car wash, self-service	3 spaces per bay	Entrance
Drive-through car service (oil change and similar)	3 spaces per bay	Entrance
Drive-through pharmacy	3 spaces	Window
Drive-through cleaners	3 spaces	Window
Drive-through photo lab	3 spaces	Window
Self-service fueling station	2 spaces per fueling island	Each end of the fueling island
Gated parking lots and entrances	2 spaces	Gate

- a. **Interpretation.** For uses not specifically listed above, stacking requirements shall be determined by the Planning and Zoning Commission, in conjunction with approval of a special use permit, on the same basis as required for the most similar listed uses.

9. **Special Use Permit for a drive-in/drive-through retail or service establishment.**

Drive-in/drive-through for retail or service establishments are subject to the requirements of Section 14-03-08(4)(g). A drive-through facility with vehicle stacking spaces based on one type of use may not be converted to another type of use without the submittal and approval of a new site plan. A new special use permit shall be required for any change to a use with greater vehicle stacking space requirements.

10. **Administrative Approval of Parking and Stacking Alternatives.** The Zoning

Administrator, where appropriate, may approve a reduction of required parking, provided a parking study prepared by the applicant or their consultant is submitted for review.

Such study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers, the American Planning Association (APA), Urban Land Institute, or other acceptable estimates as approved by the zoning administrator. The study should also include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by development type, density, size and scale, and location. Additional considerations will be given to adaptive re-uses surrounding land uses, anticipated users, seasonal uses, low and moderate housing, availability of transportation choices, walkability index score and existing or proposed pedestrian infrastructure. The study shall document the source of data used to develop the recommendations. Any subsequent change in use or dimensions of a site approved utilizing this Section of the ordinance will require a review to determine if adequate parking exists for any new use.

- a. **Shared Parking.** The Zoning Administrator, where appropriate, may approve shared or simultaneous use of parking provided a parking study prepared by the applicant or their consultant is submitted for review. Such study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers, the American Planning Association, Urban Land Institute, or other acceptable estimates as approved by the Zoning Administrator. Such study must provide the following:
  - i. It can be demonstrated that the location and design requirements of this section are met.
  - i. Adequate and safe pedestrian access is provided from and to parking areas.
  - ii. In the event that an off-site parking area is not under the same ownership as the principal use served, a written shared parking agreement, for heirs and assigns of the properties will be required. An attested copy of the agreement between the owners of record must be submitted to the Zoning Administrator for review and approval. The agreement must be recorded with the Burleigh County Recorder prior to the issuance of a building permit for any use served by the off-site parking area.
  - iii. Any subsequent change in use or dimensions by either party will require proof that the minimum parking requirements of the approved shared parking agreement are met.
- b. **Parking Determination.** The Zoning Administrator may apply to the Board of Adjustment for an interpretation of the provisions of this article for required parking, stacking and loading requirements and the Board of Adjustment shall render a decision in writing in the manner provided for in this section for such action.

11. **Off-Street Loading.** Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a

site plan showing the required loading space or structural design for off-street loading purposes to be provided in connection with such building, improvement or use, in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan.

- a. The number of off-street stacking spaces shall be provided on the basis of the following minimum requirements:
  - i. Each department store, freight terminal or railroad yard, medical facility, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment which has an aggregate gross floor area of twenty-five thousand (25,000) square feet or more, arranged, intended or designed for such use, shall provide off-street truck loading or unloading berths in accordance with the following table:

Square feet of Aggregate Gross Floor Area Devoted to Such Use	Required Number of Berths
25,000 but less than 40,000	1
40,000 but less than 100,000	2
100,000 but less than 160,000	2
160,000 but less than 240,000	4
240,000 up to and including 320,000	5
For each additional 90,000	1 additional berth

- ii. Each auditorium, convention hall, exhibition hall, funeral home, hotel, office building, restaurant, sports arena, medical facility which has an aggregate gross floor area of fifty thousand (50,000) square feet or more used or intended to be used for service to the arranged, intended or designed use shall provide off-street truck loading or unloading berths in accordance with the following table:

Square feet of Aggregate Gross Floor Area Devoted to Such Use	Required Number of Berths
50,000 up to and including 250,000	1
For each additional 250,000	1 additional berth

**12. Continuing Character of Obligation.** The schedule of requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the real estate on which any such structure is located as long as the structure is in existence and its use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for an owner of any building affected by this Section to discontinue, change or dispense with, or to cause the discontinuance or change of the required vehicle parking or loading spaces apart from the discontinuance, sale or transfer of such structure, without establishing alternative vehicle parking or loading space which meets with the requirements of and is in compliance with this Section. It shall be unlawful for any firm or corporation to use such building without acquiring such land or other suitable land for vehicle parking or loading space which meets with the requirements of and is in compliance with this Section.

**13. Special Use Permit for Off-Site Parking Lots.** Off-site parking lots within residential areas are subject to the requirements of Section 14-03-08(4)(x). The off-street loading facilities required by this section shall in all cases be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this Section. All required off-street parking and loading facilities along with all ingress and egress driveways thereto shall be zoned appropriately for the principal use which they are intended to serve.

**14. Nonconforming uses.** In the case of nonconforming uses where major repairs, substantial alterations or extensions are made, no such major repairs, substantial alterations or extensions shall be permitted unless and until the off-street parking and off-street loading facility space requirements of this section, so far as they apply to the use to which such building is devoted, shall be fully provided for. Provided, however, this item shall not apply to the rebuilding of nonconforming uses that are being rebuilt according to Section 14-03-09 of the zoning ordinance.

*(Ord. 4117, 12-30-86; Ord. 4213, 8-02-88; Ord. 4323, 4-24-90; Ord. 4236, 1-17-89; Ord. 4325 and 4326, 4-24-90 & 5-01-90; Ord. 4333, 6-05-90; Ord. 4332, 6-05-90; Ord. 4336, 7-31-90; Ord. 4770, 06-25-96; Ord. 4821, 02-25-97; Ord. 4863, 08-12-97; Ord. 4936, 09-08-98; Ord. 5206, 10-08-02; Ord. 5207, 10-08-02; Ord. 5247, 04-22-03; Ord. 5295, 02-24-04; Ord. 5501, 04-25-06; Ord. 5527, 06-27-06; Ord. 5693, 09-23-08; Ord. 5728, 05-26-09; Ord. 5852, 11-22-11; Ord. 6028, 01-28-14; Ord. 6040, 04-22-14; Ord. 6043, 04-22-14; Ord. 6050, 05-27-14; Ord. 6120, 05-26-15; Ord. 6157, 8-25-15; Ord. 6171, 10-27-15; Ord. 6195, 03-22-16; Ord. 6271, 07-25-17)*

Section 4. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication

DRAFT

**BISMARCK PLANNING & ZONING COMMISSION  
MEETING MINUTES  
February 26, 2020**

The Bismarck Planning & Zoning Commission met on February 26, 2020, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chair Schwartz presided.

Commissioners present were Steve Bakken, Brian Bitner, Brian Eiseman, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Wendy Van Duyne, Trent Wangen and Mike Schwartz

Commissioner Tom Atkinson was absent.

Staff members present were Ben Ehreth – Community Development Director, Kim Lee – Planning Manager, Will Hutchings – Planner, Daniel Nairn – Planner, Jenny Wollmuth – Planner, Hilary Balzum – Community Development Administrative Assistant and Janelle Combs – City Attorney.

**MINUTES**

Chair Schwartz called for consideration of the minutes of the January 22, 2020 meeting.

**MOTION:** Commissioner Bakken made a motion to approve the minutes of the January 22, 2020 meeting, as presented. Commissioner Levchak seconded the motion and it was unanimously approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

**PRESENTATION/PUBLIC HEARING  
2020-2045 METROPOLITAN TRANSPORTATION PLAN**

Rachel Drewlow said the Metropolitan Transportation Plan (MTP)/Arrive 2045 is what drives the Metropolitan Planning Organization (MPO) transportation planning efforts. She then distributed presentation documents for reference. The presentation is attached as Exhibit A.

Wade Kline, KLJ, said the information shared shows the process of collecting data all the way to adoption via performance-based planning. He said multiple performance targets allow for the improvement of the completion rate of construction processes as well. Mr. Kline explained how the public involvement phases identified needs and findings were then drafted through interactive meetings to help engage citizens. He added that a smart mobility workshop looked at scenarios including technology changes and how it might affect the future of local transportation. He said the alternative analysis crunched the numbers and determined priority projects based on availability funding while the macro analysis helped to short-list larger project needs, such as the Missouri River crossing. He said they worked hard

with the public to help understand goals, such as safety and security and this helped with the project scoring and ranking process. He said the interstate needs were analyzed by various methods, as well as the many needs for improvements to US Highway 83 and what the cost-effective possibilities might be. He said they reviewed short, mid and long-range projects and then they studied the various system needs as the plan moved forward. Mr. Kline stated the urban road and regional roads were considered with safety plan and a number of projects do demonstrate the entire process. He added that the Bismarck sales tax is critical and without it there would be a lot of unmet needs. He then explained that the regional program continues to focus on State Street and Interstate-94 at Bismarck Expressway, which are achievable goals, and they also have projected focuses following historic funding splits. Mr. Kline closed by saying the approval schedule of meetings is also attached to the presentation.

Commissioner Schell asked what the relationship of the Future Land Use Plan (FLUP) is to the traffic models represented.

Mr. Kline said the City's Future Land Use Plan projections drove the model, so it is ultimately derived from the FLUP.

Chair Schwartz opened the public hearing.

There being no comments, Chair Schwartz closed the public hearing.

Commissioner Laning asked if the intent is to approve the MTP at this time.

Mr. Ehreth said that is the expectation as all MPO jurisdictions are to affirm that they are comfortable with it. He added the full plan is available on-line as well if more information is needed.

Commissioner Levchak said as projects move forward, they would be individually enumerated with separate approval processes.

Mr. Ehreth said that is correct and added that the approval by the Bismarck Planning and Zoning Commission allows for an eligibility for federal funding annually. He said the Transportation Improvement Plan (TIP) is a four-year construction plan that is referenced in this plan as well.

Commissioner Van Duyne asked how using this document can help in some decision-making processes in the future.

Mr. Ehreth said the process to create a Comprehensive Plan is underway which will draw from this plan as well as others and staff is still detailing that plan, as far as how to include it all. He added that the Metropolitan Transportation Plan would also be included in the Comprehensive Plan.

Commissioner Laning said the map shared indicates 71st Avenue NE as a truck bypass and asked if that is continuing to be the plan.

Ms. Drewlow said the proposed beltway around Bismarck included 71st Avenue NE and 66th Street NE. In the previous long-range plan, staff anticipated more land development in that area but development has slowed some. She said right-of-way still needs to be preserved even though the current plan does not financial constrain a full construction of the beltway within the planning-horizon.

Commissioner Bitner said he will not be voting on this item at this time, as it will come before the Burleigh County Commission at which point he will then vote.

**MOTION:** Based on the presentation and information from staff, Commissioner Bakken made a motion to adopt the 2020-2045 Metropolitan Transportation Plan (MTP)/Arrive 2045 to be forwarded for further consideration by the Bismarck City Commission. Commissioner Eiseman seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion. Commissioner Bitner abstained.

### **CONSIDERATION**

- A. LOT 4, BLOCK 2, KMK ESTATES (HUNTINGTON COTTAGES SECOND ADDITION) – ZONING CHANGE**
- B. OFF-STREET PARKING AND LOADING – ZONING ORDINANCE TEXT AMENDMENT**

Chair Schwartz called for consideration of the following consent agenda items:

- A. Lot 4, Block 2, KMK Estates (Huntington Cottages Second Addition) – Zoning Change
- B. Off-Street Parking and Loading – Zoning Ordinance Text Amendment

**MOTION:** Based on the findings contained in the staff reports, Commissioner Bakken made a motion to approve consent agenda items A and B, calling for public hearings on the items as recommended by staff. Commissioner Eiseman seconded the motion and it was unanimously approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

### **FINAL CONSIDERATION – ANNEXATION PARTS OF BLOCKS 1-6, SILVER RANCH FIRST ADDITION FIRST REPLAT**

Chair Schwartz called for final consideration of the annexation of parts of Blocks 1-6, Silver Ranch First Addition First Replat. The property is located northeast of Bismarck, on the south side of 43rd Avenue NE.

Mr. Nairn gave an overview of the request, including the following findings related to land use for the annexation:

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the annexation of parts of Blocks 1-6, Silver Ranch First Addition First Replat, more specifically described as Lots 24-33, Block 1; Lots 1-4 and 15-44, Block 2; Lots 1-2 and 9-12, Block 3; Lot 1, Block 4; Lots 1-3, Block 5, Lots 1-21, Block 6, Silver Ranch First Addition First Replat and the 43<sup>rd</sup> Avenue NE right of way between the boundary between Lots 33 and 34, Block 1, Silver Ranch First Addition First Replat and the boundary between Lots 23 and 24, Block 1, Silver Ranch First Addition First Replat, more precisely described as the East 471.61 feet of the West 2,194.70 feet of the South 75 feet of the SW $\frac{1}{4}$  of Section 18, T139N-R79W/Gibbs Township, included in Document# 845385.

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation of parts of Blocks 1-6, Silver Ranch First Addition First Replat, more specifically described as Lots 24-33, Block 1; Lots 1-4 and 15-44, Block 2; Lots 1-2 and 9-12, Block 3; Lot 1, Block 4; Lots 1-3, Block 5, Lots 1-21, Block 6, Silver Ranch First Addition First Replat and the 43<sup>rd</sup> Avenue NE right of way between the boundary between Lots 33 and 34, Block 1, Silver Ranch First Addition First Replat and the boundary between Lots 23 and 24, Block 1, Silver Ranch First Addition First Replat, more precisely described as the East 471.61 feet of the West 2,194.70 feet of the South 75 feet of the SW $\frac{1}{4}$  of Section 18, T139N-R79W/Gibbs Township, included in Document# 845385. Commissioner Laning seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

## **PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT HAY CREEK SUBSTATION ADDITION**

Chair Schwartz called for the public hearing on the final plat and the zoning change from the A-Agricultural zoning district to the MA-Industrial zoning district for Hay Creek Substation

Addition. The proposed plat is one lot in one block on 15 acres and is located in east Bismarck, along the east side of North Bismarck Expressway, between East Main Avenue and East Divide Avenue (part of the SW<sup>1</sup>/<sub>4</sub> of Section 36, T139N-R80W/City Lands).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use for the zoning change:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies may be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The proposed zoning change is in the public interest and is not solely for the benefit of a single property owner.
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 the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth then gave the findings related to land use for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.

6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare

Ms. Wollmuth said, based on these findings, staff recommends approval of the zoning change from the A – Agriculture zoning district to the MA – Industrial zoning district and the major subdivision final plat for Hay Creek Substation Addition.

Commissioner Schell asked if there are specific floodway and floodplain needs related to this plat.

Ms. Wollmuth replied there are and that the proposed plat it is located within the Special Flood Hazard Area, and the applicant have submitted a CLOMR, or Conditional Letter of Map Revision to relocated the floodway within the proposed plat. Once the grading is complete and the floodway is relocated and approved by staff and FEMA, a formal LOMR or Letter of Map Revision reflecting the proposed changes will be issued by FEMA.

Chair Schwartz opened the public hearing.

There being no comments, Chair Schwartz closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the zoning change from the A-Agricultural zoning district to the MA-Industrial zoning district and final plat for Hay Creek Substation Addition. Commissioner Bakken seconded the motion the motion was approved with Commissioners Bakken, Bitner,

Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

## **PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT APPLE MEADOWS THIRD SUBDIVISION**

Chair Schwartz called for the public hearing on the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Apple Meadows Third Subdivision. The proposed plat is 28 lots in two blocks on 103.1 acres and is located east of Bismarck, south of County Highway 10 between 4th Avenue SE and Apple Creek Road, along the east side of 80th Street SE (part of the SW¼ of Section 4, T138N-R79W/ Apple Creek Township).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use for the zoning change:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies may be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The Apple Creek Township Board of Supervisors has received notification of the proposed zoning change; however, they have not yet made a recommendation for the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
6. The proposed 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 general intent and purpose of the zoning ordinance.
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth then gave the findings related to land use for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The Apple Creek Township Board of Supervisors has received notification of the proposed final plat; however, they have not yet made a recommendation for the proposed final plat.
7. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
8. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
9. Portions of the proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed subdivision would not adversely affect the public health, safety and general welfare

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 major subdivision final plat for Apple Meadows Third Subdivision.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said the subdivision would have lots with a minimum 1.5 acres in size and some are even larger because of the floodplain areas within. Commissioner Levchak asked if the subdivision would be serviced by rural water. Mr. Niemiller said that is correct.

Commissioner Bitner said he would be recusing himself from discussion and voting on this request.

Commissioner Levchak asked if there are restricted uses in the floodplain. Mr. Niemiller said there are and added that there are some non-buildable conservation areas and some areas would need a LOMR-F if the owner wants to bring in any fill dirt to elevate their property. Mr. Niemiller also stated that an impact to the floodway may be permitted.

Conna Cook, 8250 4<sup>th</sup> Avenue SE, said she has lived in this area since 1975 and she feels maintaining 4<sup>th</sup> Avenue SE could be a problem and the narrow width of this road is concerning, if it is only to be partially paved. She said 80<sup>th</sup> Street SE at Apple Creek Road floods and asked how the stormwater management plan will fix that. She said she is not against the development but is worried and feels the soil and water tables should also be checked. She said she will miss the view but she welcomes the new owners to the community.

Commissioner Laning asked what the road plans are.

Ms. Wollmuth said the Burleigh County Highway Department has representation here and can describe those plans.

Casey Einrem, Burleigh County Assistant Engineer, said 4<sup>th</sup> Avenue SE is to be paved from 80<sup>th</sup> Street SE to Fuji Drive and that the pavement portion of the road would be approximately 20 feet wide. He said some additional width can be added to the south with gravel. He said this would be similar to the Copper Ridge and Last Chance Subdivision developments which were paved to meet the County's policy.

Commissioner Laning asked if the contractor does the paving, would that raise the priority status for Burleigh County to continue the paving.

Mr. Einrem said typically those roads are improved as traffic needs change, and this is not a highly traveled area currently. He added that the proposal would not contribute to some flooding issues Apple Creek experiences, as there would be enough ponds in place to intercept storm water to both the north and south.

Commissioner Levchak asked what the groundwater depth is in that area. Mr. Einrem said it estimated that it sits at three to four feet and the gravel handles that well. He said 4<sup>th</sup> Avenue SE is not planned to be extended further to the east because of having to cross Apple Creek, a golf course and a floodplain in order to do so, so it will be kept as a dead-end roadway.

Commissioner Levchak said he knows other areas have failed because of the higher water table and that cost ends up coming back onto the homeowner.

Mr. Einrem said some areas within the county are worse than others as it relates to the water table, which is why there currently is not a groundwater collection requirement in the ordinance now.

Commissioner Levchak said if these houses are to have basements their sump pumps would run continuously.

Mr. Einrem said this development would be very similar to other areas within the county and while there is a concern of groundwater in some areas, it would be difficult to address those variables in an ordinance. He said there is also the concern of not having a basement in the event of severe weather so homeowners generally do a half basement, run sump pumps to ditches and then maintain those as needed.

Jason Petryszyn, Swenson, Hagen & Co., said a dig was performed to check the water table here in early 2019 and with digging 10-12 feet they did not find any oversaturation. He said it is mostly clay layers and there will be a detention pond to intercept runoff outside of the current conservation area.

Commissioner Schell asked who would own and operate the pond. Mr. Petryszyn said it would be handled by a homeowner's association.

Additional written comments in opposition to these requests are attached as Exhibits B-C.

There being no further comments, Chair Schwartz closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Apple Meadows Third Subdivision. Commissioner Levchak seconded the motion the motion was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion. Commissioner Bitner abstained.

## **PUBLIC HEARING – FINAL PLAT EUGENES FIRST ADDITION**

Chairman Schwartz called for the public hearing on the major subdivision final plat for Eugenes First Addition. The proposed plat is one lot on 5.07 acres and is located in north-central Bismarck north of East Divide Avenue along the west side of State Street (a replat of Lots 13-20, Block 2, Tibesar First Subdivision and part of the SE<sup>1</sup>/<sub>4</sub> of Section 28, T139N-R80W/City Lands).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP), with the understanding that additional development of the property or division of the proposed plat will require a more detailed stormwater management plan during site plan review.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the major subdivision final plat for Eugenes First Addition.

Chair Schwartz opened the public hearing.

Commissioner Laning asked if the parcels could be combined into one and asked why the property is being platted.

Ms. Wollmuth said there are portions of the property that are not platted so in order for the development to take place, the property is required to be platted.

Commissioner Bakken asked if North 11<sup>th</sup> Street or the frontage road would be used for access.

Ms. Wollmuth said access could be by either at this time.

Commissioner Bakken asked if the primary route would be around the fire station. Ms. Wollmuth said that is not known as of yet.

Rob Illg, SEH, Inc., said the plan is to plat the property now and do a minor plat later if there is a desire to create additional lots. The property would be designed so that both the frontage road and North 11<sup>th</sup> Street could be used for access.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Schell said staff made a request to include a non-access line on North 12<sup>th</sup> Street, with the exception of existing access points, until the nature of the development is known.

**MOTION:** Commissioner Levchak made a motion to recommend approval of the major subdivision final plat for Eugene's First Addition. Commissioner Bakken seconded the motion and the request was unanimously approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

## **PUBLIC HEARING – FINAL PLAT DUNN SUBDIVISION**

Chairman Schwartz called for the public hearing on the major subdivision final plat for Dunn Subdivision. The proposed plat is two lots on 8.4 acres and is located south of Bismarck, between the Missouri River and Sibley Drive, along the south side of Oahe Bend Drive (Auditor's Lot A of the NW<sup>1</sup>/<sub>4</sub>, Section 34, T138N-R80W/Lincoln Township).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP), with written concurrence from the County Engineer.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
7. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the major subdivision final plat for Dunn Subdivision.

Chair Schwartz opened the public hearing.

Mr. Niemiller said this request is essentially dividing one parcel into two lots with the plan of selling the unoccupied southern lot.

Commissioner Bitner said there is a north-south access easement to the property line and asked if that would also serve the lot to the south if it is developed.

Mr. Niemiller said it would, adding the only new access would be for a driveway.

Commissioner Levchak asked if there is a septic drain field on the new lot. Mr. Niemiller said there is as well as a rural water line.

There being no further comments, Chair Schwartz closed the public hearing.

**MOTION:** Commissioner Bakken made a motion to recommend approval of the major subdivision final plat for Dunn Subdivision. Commissioner Levchak seconded the motion and the request was unanimously approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT  
SOUTHBAY FIFTH ADDITION FIRST REPLAT**

Chairman Schwartz called for the public hearing on the minor subdivision final plat for Southbay Fifth Addition First Replat. The proposed plat is 10 lots on 2.44 acres and is located in south Bismarck, east of England Street and west of Downing Street, at the intersection of West Glenwood Drive and Britannic Lane (Replat of Lots 16-21, Block 4, Southbay Fifth Addition and part of West Glenwood Drive right-of-way).

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the minor subdivision final plat for Southbay Fifth Addition First Replat, including the waiver requests for the use of private streets/cul-de-sac and reduced lot widths, and with the understanding that the plat will not be forwarded to the City Commission for final action until the following conditions are met:

1. An easement release for the previously dedicated access, sanitary sewer and watermain easement is provided.
2. An agreement for the private street and private utilities is provided to be recorded with the plat.

Commissioner Bakken asked if the lot width waiver is for only two lots. Mr. Hutchings said it would be for Lots 4, 6 and 7.

Commissioner Levchak asked if the road is a private drive. Mr. Hutchings said it is and there would be a homeowner's association created that would own and maintain the roadway.

Chair Schwartz opened the public hearing.

There being no comments, Chair Schwartz closed the public hearing.

**MOTION:** Commissioner Bakken made a motion to recommend approval of the minor subdivision final plat for Southbay Fifth Addition First Replat, including the waiver requests for the use of private streets/cul-de-sac and reduced lot widths, and with the understanding that the plat will not be forwarded to the City Commission for final action until the following conditions are met: 1. An easement release for the previously dedicated access, sanitary sewer and watermain easement is provided; and 2. An agreement for the private street and private utilities is provided to be recorded with the plat. Commissioner Levchak seconded the motion and the request was unanimously approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT  
LOT 6 AND THE EAST 2 FEET OF LOT 7, BLOCK 2, HIGH MEADOWS NINTH  
ADDITION (436 BRUNSWICK DRIVE)**

Chair Schwartz called for the public hearing on a special use permit to allow the construction of an accessory dwelling unit within an addition to a single-family home located on Lot 6 and the East 2 feet of Lot 7, Block 2, High Meadows Ninth Addition (436 Brunswick Drive). The property is located in northwest Bismarck, west of North Washington Street and south of Ash Coulee Drive, on the northwest side of Brunswick Drive.

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special 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.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.

6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to allow the construction of an accessory dwelling unit within an addition to a single-family home on Lot 6 and the East 2 feet of Lot 7, Block 2, High Meadows Ninth Addition (436 Brunswick Drive).

Commissioner Levchak asked if the dwelling unit would be attached to the existing home.

Mr. Nairn said it would be and that it is considered an interior accessory dwelling unit.

Commissioner Levchak said that just seems like an addition onto a home to him.

Mr. Nairn said there is a dividing line when it comes to having an independent kitchen and living quarters, so they would typically be treated like separate units.

Commissioner Levchak asked if a second kitchen then of any kind would require a special use permit like this.

Mr. Nairn said that if it is a complete, independent dwelling, then that is correct.

Chair Schwartz opened the public hearing.

Ms. Combs said this would be the first accessory dwelling unit to be permitted in the City, adding that they have a grandmother who needs to be closer to her family. She said in the future they would be able to rent it out as long as they continue to live in the house and they were required to notify the neighbors of this change as well. Ms. Combs said this is a relationship occupancy and essentially would be an attached granny flat.

Commissioner Levchak asked if this were a building for personal use only would it still require a special use permit.

Mr. Ehreth replied the intent is to consider what warrants the accessory dwelling unit need and process.

Commissioner Bakken asked if any ADA compliance is required. Mr. Ehreth said it is not a publicly-accessible property so ADA requirements do not apply.

Ms. Combs said, although ADA requirements do not apply in this case, it will be constructed with ADA compatibility for accessibility purposes for their family member.

There being no further comments, Chair Schwartz closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Levchak made a motion to approve the special use permit to allow the construction of an accessory dwelling unit within an addition to a single-family home located on Lot 6 and the East 2 feet of Lot 7, Block 2, High Meadows Ninth Addition (436 Brunswick Drive). Commissioner Bakken seconded the motion and the motion was approved with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

### **PUBLIC HEARING- ZONING ORDINANCE TEXT AMENDMENT SIGN ORDINANCE**

Chair Schwartz called for the continued public hearing on a zoning ordinance text amendment relating to amendments to the sign ordinance, which would adopt a new chapter of the zoning ordinance pertaining to the regulation of signs.

Mr. Nairn gave an overview of the proposed amendments including the history of meetings, the purpose of the zoning ordinance text amendment, why sign regulation is needed, how this would conform to the Comprehensive Plan, how public comments have been responded to and the update process and schedule.

Mr. Nairn gave an overview of the amendment, then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Nairn said based on these findings, staff recommends approval of the zoning ordinance text amendment creating Chapter 14-10 – Signs and amending or repealing various other sections in Title 4 and Title 14, as presented in the draft ordinance attached to the staff report, with an effective date of 60 days after approval by the City Commission.

Commissioner Laning asked how see-through signs would be addressed.

Mr. Nairn said 25% of a window may be completely covered and an additional 50% would be allowed to be covered if it is possible to see through the lettering.

Commissioner Levchak asked if a pole sign with a special use permit required is to ensure structural stability.

Mr. Nairn said all pole signs would require engineering and those over 50 feet high near the interstate would have a public hearing before this Planning and Zoning Commission to ensure that any impacted property owners in the area have an opportunity to comment.

Commissioner Laning asked if the Electronic Message Centers section should indicate a continuous duration.

Mr. Nairn said that can be added.

Commissioner Levchak asked how it is sometimes decided who owns a sign.

Mr. Nairn said the only differentiation would be who obtains the permit and also one other stakeholder suggestion was to remove the statement regarding wayfinding. He said there has been multiple meetings and negotiations and he feels a good faith attempt at this ordinance has been made.

Commissioner Laning asked what the handout provided comparing controlled versus non-controlled portable signs is speaking to.

Mr. Nairn said that was provided by a member of the public who is here and can further describe his concerns.

Commissioner Schell asked if a two-year special use permit would be a one-time deal.

Mr. Nairn said it would be for what is requested at that time, but multiple signs could be reviewed at a time.

Chair Schwartz opened the public hearing.

Scott Bina, Mann Signs, thanked staff for the opportunity to share concerns and give feedback. He said he feels the proposed ordinance can be a positive thing and it is important to understand what is required for permanent signs, such as engineering fees, sign design standards and site plans to ensure safety. He said he feels portable signs should have to follow the same requirements if they are going to be left up for long periods of time.

Commissioner Levchak asked if Mann Signs has a recommendation on the time limit.

Mr. Bina said option A is preferable which would be 30 days on and 15 days off.

Commissioner Bitner asked if Mann Signs offers portable signs.

Mr. Bina said they offer temporary signs, but not portable signs. He said site signs are more for commercial real estate items and they are not typically on trailers or wheels.

Commissioner Martin asked if the permitting process and other requirements can be accomplished within 30 days.

Mr. Bina said the timeframe for obtaining a permit is generally one to two weeks and the engineering process can take up to 30 days.

Kim Hagel, Awesome Signs, said they disagree with the definition used for portable signs and said they have several concerns including zoning restrictions such as in P-Public zoning districts where the placement would be limited or could require a special use permit, the time limit of 240 days per business when they were told this was a per parcel limitation. Ms. Hagel said they were recently told there would be no fee for business-owned signs, but the proposed ordinance states that all sign permits require a fee. She said the complaint process is an issue because violations can be reported from a variety of sources but on February 12<sup>th</sup> the City Attorney said only two complaints had been received for signs and she asked how the complaints would be managed. She said she feels this ordinance is not fair and these companies are offering a needed service. She said Mr. Nairn said banners would have the same stipulations as portable signs, but with no permit or documentation required. Ms. Hagel showed examples of various signs during her presentation.

Commissioner Laning said he does not see a difference between the signs in the two pictures provided.

Ms. Hagel said there is not a difference and they are on the same site and both are on trailers.

Duane Hagel, Awesome Signs, said after the meetings that have taken place it seems the allowed portable sign sizes have been reduced and said those existing signs should be grandfathered in. He said they keep asking what exactly the problem is and when they went to the last meeting they did not get any further information. He said portable signs are not being treated the same as realtor signs and site signs and he would not like a time limit, but if there is one it should be based on the business, not the property. He closed by saying their company has helped a lot of people over the last 14 years.

Commissioner Bakken asked how practical a 30-day time limit on a sign is.

Mr. Hagel said it is not practical and added that small businesses often cannot afford a big sign so they pick what works for them.

Commissioner Van Duyne asked what the average duration of a portable sign is.

Mr. Hagel said some are out for a year, some are out for less and it just depends on the need of the business and the area it is in. He said he does not feel it is fair and the rules and maps included are hard to interpret.

Commissioner Levchak asked what they might prefer the time duration be.

Mr. Hagel said he would like to see 10 months on, two months off.

Commissioner Bakken said there needs to be a difference between permanent versus temporary and said at what point does a sign need to become permanent.

Mr. Hagel said they cannot determine that and many businesses now do not agree with the time limits either.

Jamie McLean, Bismarck Mandan Board of Realtors, said a great job was done by staff with follow-up and research and that realty signs fall in to several categories. He said he understands having to possibly change how to do business.

Jordan Hauck referred to a hand-out he distributed to the Commissioners as Exhibit D and said controlled versus non-controlled signage needs to be looked at, for example in Mandan where their ordinance is not working like it should. He said he does not necessarily agree with the proposed 240-day limit and he has a customer who has a sign year-round because other methods do not work for them. He said some businesses cannot afford other advertising and their sign is well maintained.

Commissioner Levchak said controlled or not controlled, they are both portable. He said they admittedly can do business without a limited amount of time and asked how long his preferred time limit would be.

Mr. Hauck said he agrees with the others in 10 months at a time being allowed being preferable.

Commissioner Van Duyne asked what difference would be between 10 months and 240 days and asked if the enforcement would be the same.

Mr. Hauck said 10 months would still result in two months without services or income and the Mandan sign companies enforce themselves and help each other out when needed.

Commissioner Van Duyne asked what the City of Bismarck's plan is for enforcement.

Mr. Ehreth said limiting the time to 10 months would not necessarily be less challenging and City staff will find a way to make it work as needed. He said multi-tenant properties will be challenging to enforce and would be complaint based as well.

Commissioner Bakken asked if a permit requirement could be put on the building owner.

Mr. Hauck said it would be preferable for the sign company to handle the permitting portion.

Commissioner Bakken asked how often maintenance is needed on portable signs. Mr. Hauck replied every two years often sanding and repainting is needed and approximately \$4,000 a year is spent on new letters, so it can become costly.

Chair Schwartz asked if there is a 240-day limit in Mandan and if it would be beneficial to be consistent with them.

Mr. Hauck said he would rather have the 10-month limit and avoid losing more income or business.

Commissioner Levchak said he feels this ordinance addresses some major concerns and lessens the hurt a bit.

Jeremy Martin, Magnet Signs, said customers need portable and permanent sign options. He said Electronic Message Centers have their place and feels sometimes those messages get lost because they never change.

Commissioner Bakken said there is a concern of putting burden on those companies who will do right by this ordinance.

Commissioner Bitner asked if temporary signs and portable signs are being treated equally with each other.

Mr. Martin said they need to follow the same requirements otherwise how will they be tracked and it will not be fair if the requirements are not the same.

Additional comments are attached as Exhibit D.

There being no further comments, Chair Schwartz closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Laning made a motion to continue the public hearing on the zoning ordinance text amendment relating to the sign code to the April 22nd meeting, to allow time for further discussions on time durations. Commissioner Bakken seconded the motion.

Commissioner Levchak said he feels this ordinance has too many options and some more thought needs to be given before it is brought back.

Commissioner Martin said there is a conflict with an owner-owned temporary sign and the difference of a partial foundation.

Commissioner Levchak said they have to be treated the same as far as duration and whether they are business owned or sign company owned.

Commissioner Schell asked if the ordinance defines the code needed to enforce recourse.

Mr. Ehreth said it does and they have requested an effective date in order to work through those specifics. He said they would like guidance for both staff and the sign companies as well.

Ms. Combs said enforcement would be to include inspections, notice and orders, court filings and offenses.

Commissioner Bitner asked if the sign code would be enforced in the ETA. Ms. Combs said it would be the same as abatements and nuisances, but they have mostly had compliance.

Commissioner Bitner said a lot of regulations seems to be happening while pointing at sign companies who are ultimately paying the price with unnecessary burdens.

Commissioner Levchak said there is an issue of fairness for portable versus temporary and permanent sign companies.

Commissioner Bakken asked for an explanation of the actual problem and the need for the ordinance.

Mr. Ehreth said it is part of the Supreme Court ruling of needing neutral content and also how to regulate that content, so they have attempted that by allowing site signs and whatever the business need is.

Commissioner Schell said they have the information needed and need to make a decision on durations, so he does not favor continuing the public hearing at this time.

Commissioner Martin said he would like to withdraw his motion to continue the public hearing to April 22nd. Commissioner Bakken, having seconded the motion, concurred.

Commissioner Martin said he would like to make a motion to approve the ordinance as recommended by staff, with the change of the duration to 300 days instead of 240 days.

**MOTION:** Commissioner Martin made a motion to approve the zoning ordinance text amendment related to the sign code, with the change of the duration of temporary signs from 240 days to 300 days. Commissioner Levchak seconded the motion.

Commissioner Bitner said size, fees, complaint basis and fairness are still issues, so there is not just the one outstanding issue of the time duration.

Commissioner Bakken said what is or is not enforceable is not the way to govern an ordinance.

Commissioner Bitner said he would like to see the ordinance be amended and brought back.

Commissioner Levchak said to have staff address those areas of concern and bring back a revised ordinance.

Commissioner Bitner said it just needs a little more work as far as portable, temporary and permanent definitions go.

Commissioner Levchak asked why the difference in size allowances as well and asked if those should be made the same in order to avoid any issues.

Mr. Nairn said they can be made the same and the requirement was based on the sizes of signs observed in field surveys. He said staff has no objections to increasing the allowable size of the site signs to match the portable signs.

Mr. Ehreth asked what other information might be needed prior to the next meeting.

Commissioner Bitner said he wants the concerns of the companies to be addressed by editing the draft, define temporary versus portable and the size limit, as well as the change in duration from 240 days to 300 days and the question of a fee being required or not.

Mr. Ehreth said only licensed installers would be required to report their numbers monthly and an individual business owner could install a sign with an individual permit, so those items are already defined.

Mr. Nairn said that is also part of the budget adopted by the City Commission, so it would not necessarily fall into this ordinance, but the intent is for individual portable signs to not have an associated fee and that information was relayed to the sign companies.

Commissioner Bitner said if more staff time is going to be required for enforcement that should be covered somehow as well.

Mr. Ehreth said a permit would be required, but not necessarily a fee.

Commissioner Martin said the ordinance states all permits are subject to a fee. Mr. Ehreth said that will be clarified by staff.

Chair Schwartz asked if staff can commit to making the changes discussed in a reasonable amount of time.

Mr. Nairn said they will work to.

Commissioner Schell said the portion regarding the fee gives the Commission the ability to determine an appropriate fee without specifying what it is.

Commissioner Martin withdrew his motion to approve the zoning ordinance text amendment related to sign codes, with the change of the duration of temporary signs from 240 days to 300 days. Commissioner Levchak, having seconded the motion, concurred.

**MOTION:** Commissioner Laning made a motion to continue the public hearing on the zoning ordinance text amendment related to the sign code to the April 22<sup>nd</sup> meeting, to allow time for staff to make the changes as suggested. Commissioner Van Duyne seconded the motion and with Commissioners Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion, the motion was approved.

Commissioner Bakken asked if it is possible to send the packet without the entire draft sign code attached.

Ms. Combs said distributing a digital version would be fine, but it has to contain the entire document.

**OTHER BUSINESS**

There was no other business to discuss at this time.

**ADJOURNMENT**

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 8:30 p.m. to meet again on March 25, 2020.

Respectfully submitted,

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Hilary Balzum  
Recording Secretary

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Mike Schwartz  
Chair



# Local Approvals Presentation

February 2020

*Bismarck-Mandan*

## Metropolitan Transportation Plan

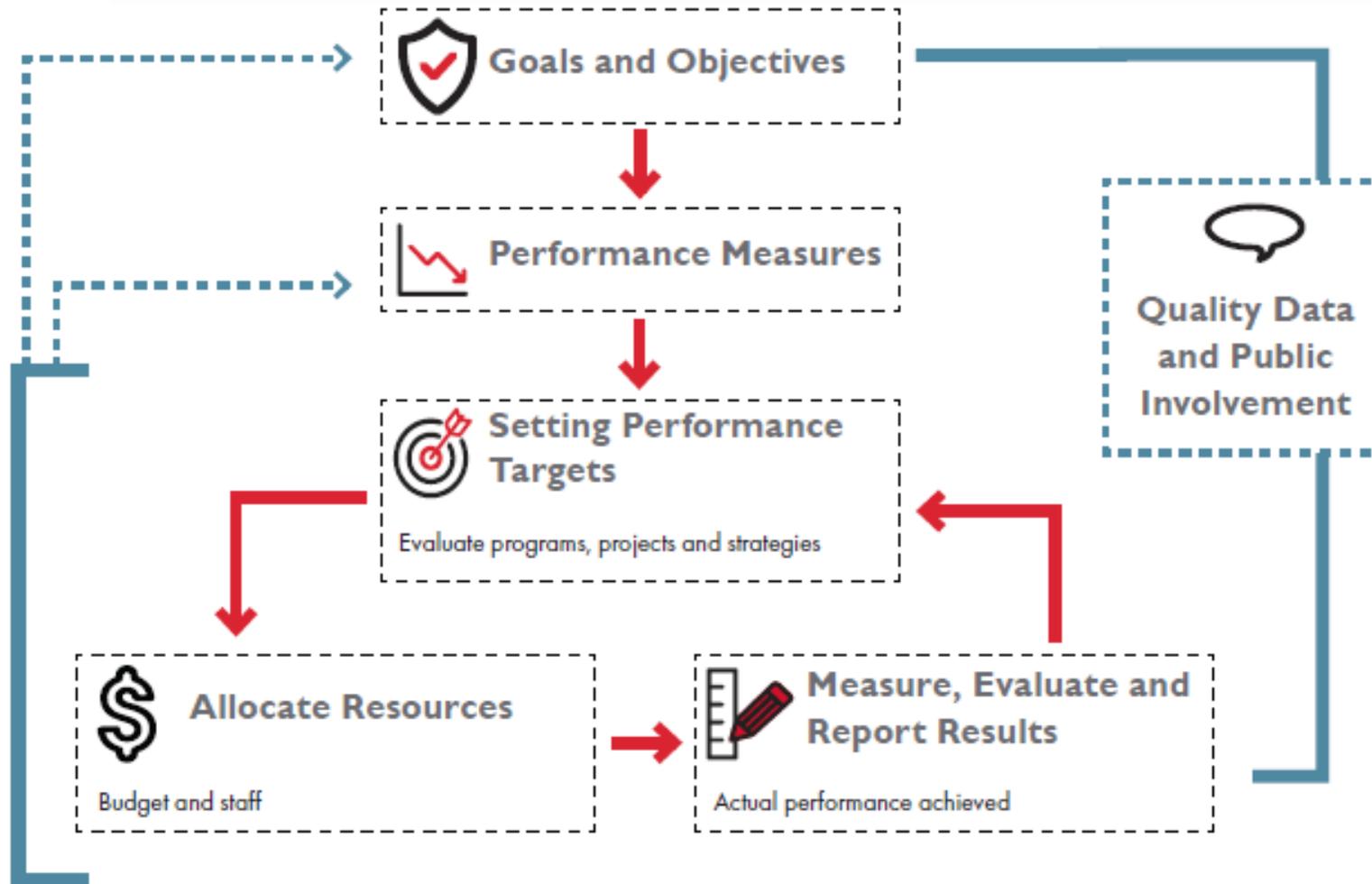
# THE PROCESS



# MTP Development Process



# Performance Based Planning



# Arrive 2045 Performance Targets

## Safety

Desired Target:  
Reduction in crashes

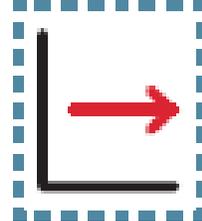


## Infrastructure Condition

Desired Target:  
Decrease Percent  
of Unsatisfactory/  
Degraded Pavement



Desired Target:  
Maintain Bridges



## Congestion Reduction

Desired Target:  
Reduction of VHT per  
Capita



Desired Target:  
Reduction of VMT per  
Capita



## Alternative Transportation

Desired Target:  
Decrease single  
vehicle use



Desired Target:  
Increase miles of  
bicycle facilities



Desired Target:  
Increase fixed route  
transit ridership



## Project Delivery

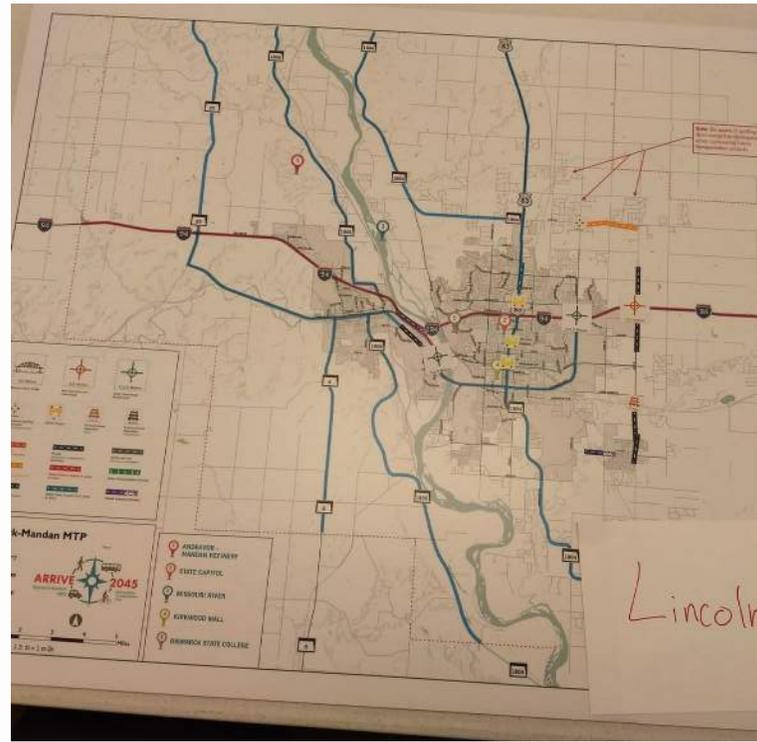
Possible Desired Target:  
Reduction of the number  
of delayed projects



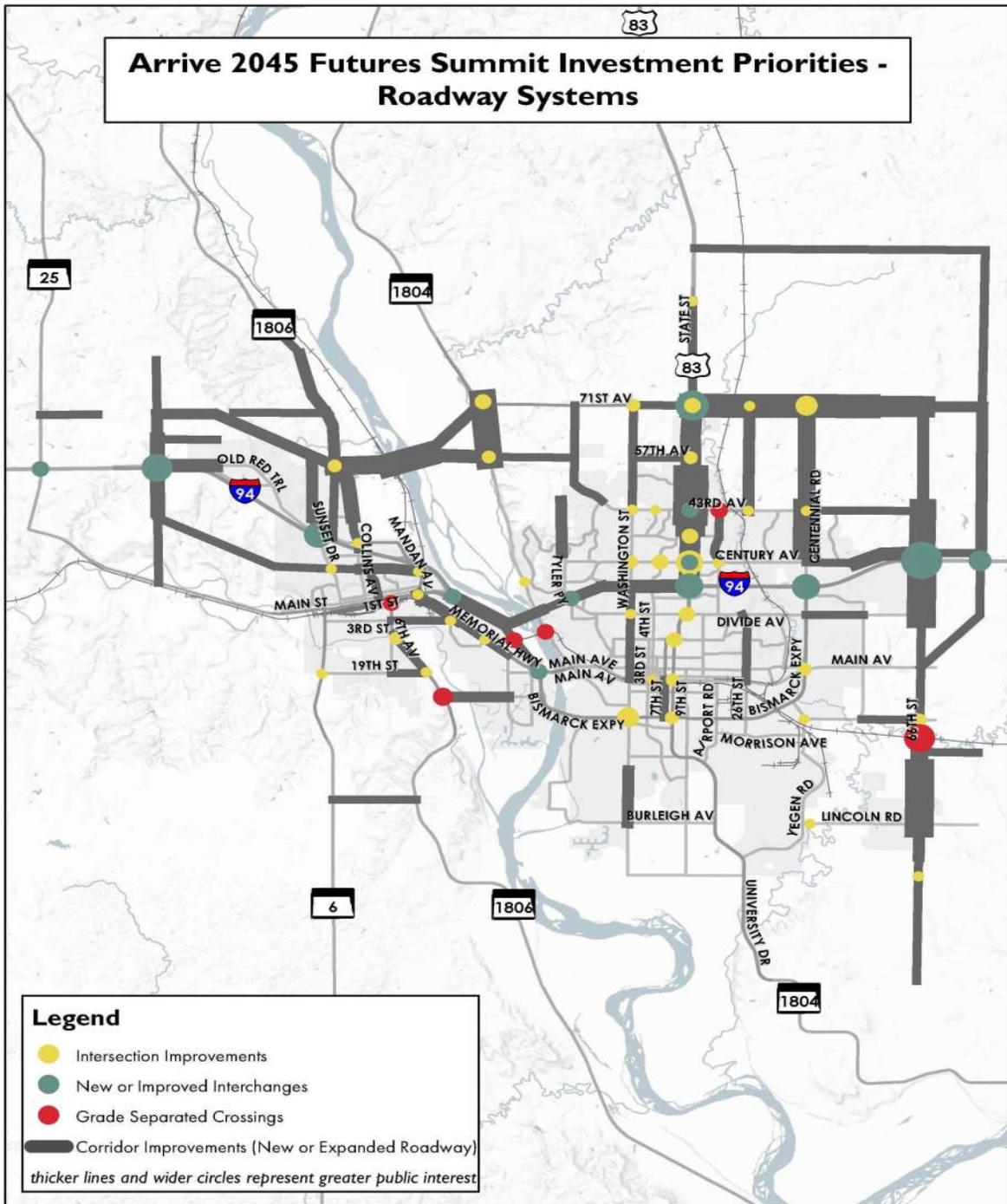
# Public Engagement Overview

- » **Round #1 – Futures Summit**
  - » Understand **issues/needs**
- » **Round #2 – Prioritize Projects**
  - » **Smart Mobility Workshop**
- » **Round #3 Draft Plan**

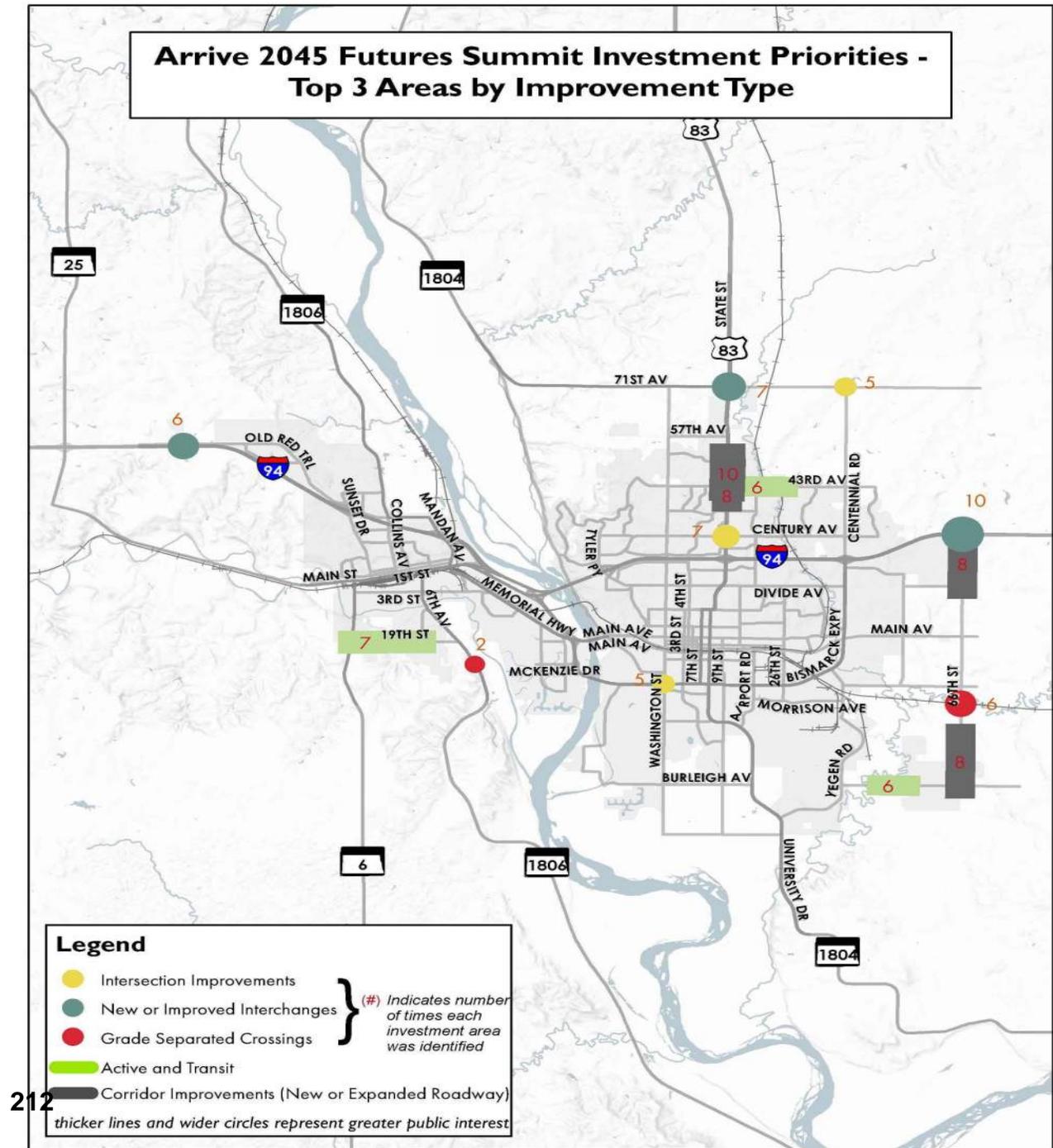
# PIM# 1 - Futures Summit Mapping



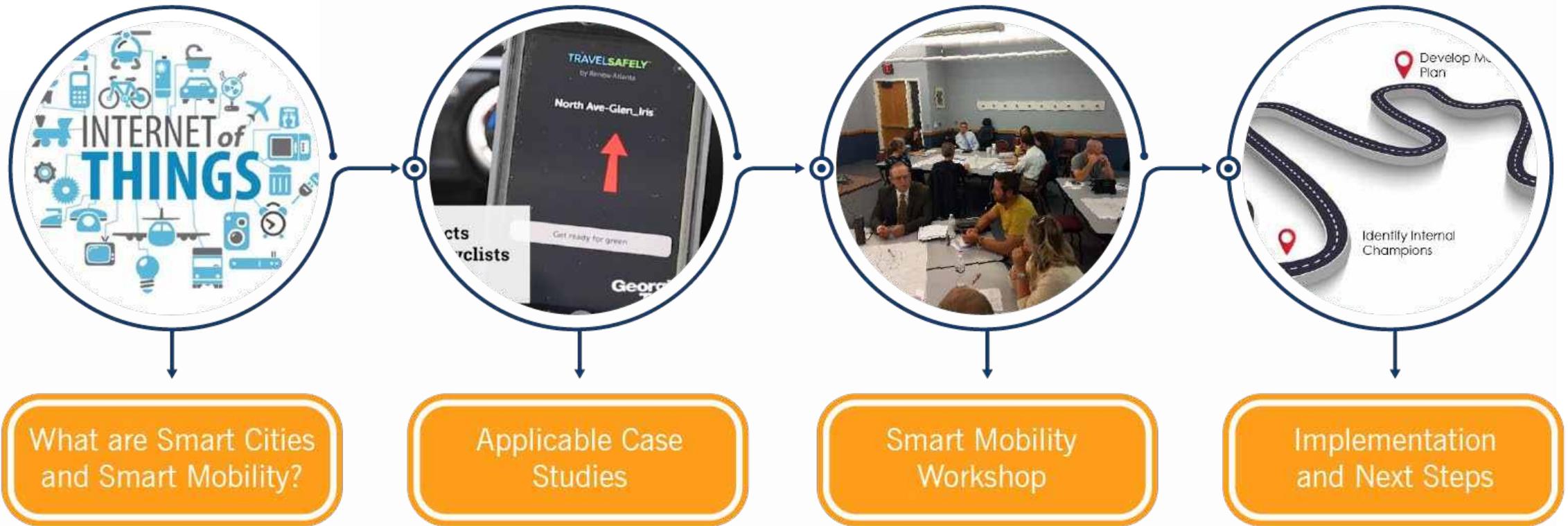
## Arrive 2045 Futures Summit Investment Priorities - Roadway Systems



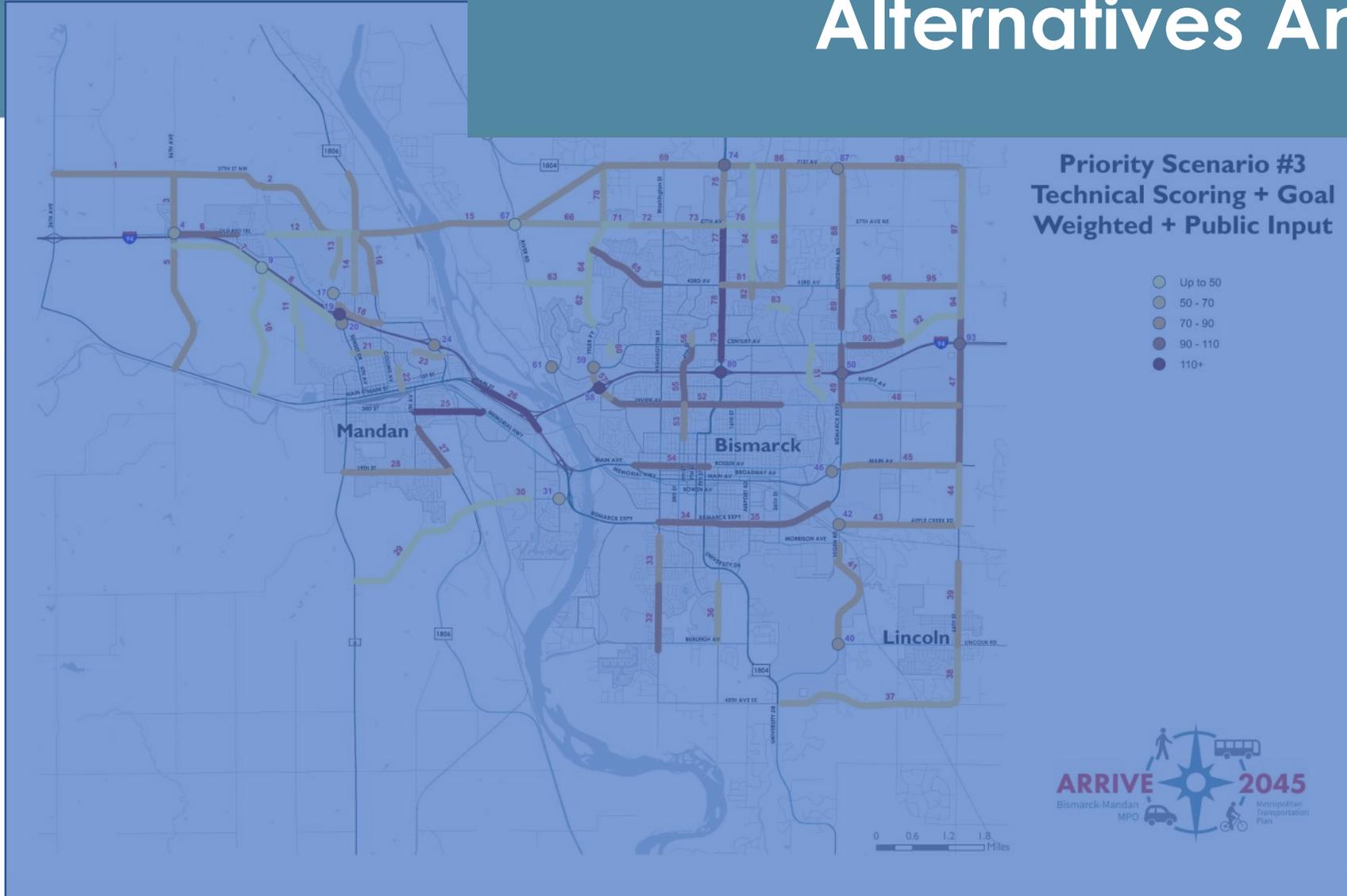
## Arrive 2045 Futures Summit Investment Priorities - Top 3 Areas by Improvement Type



# Smart Mobility Workshop

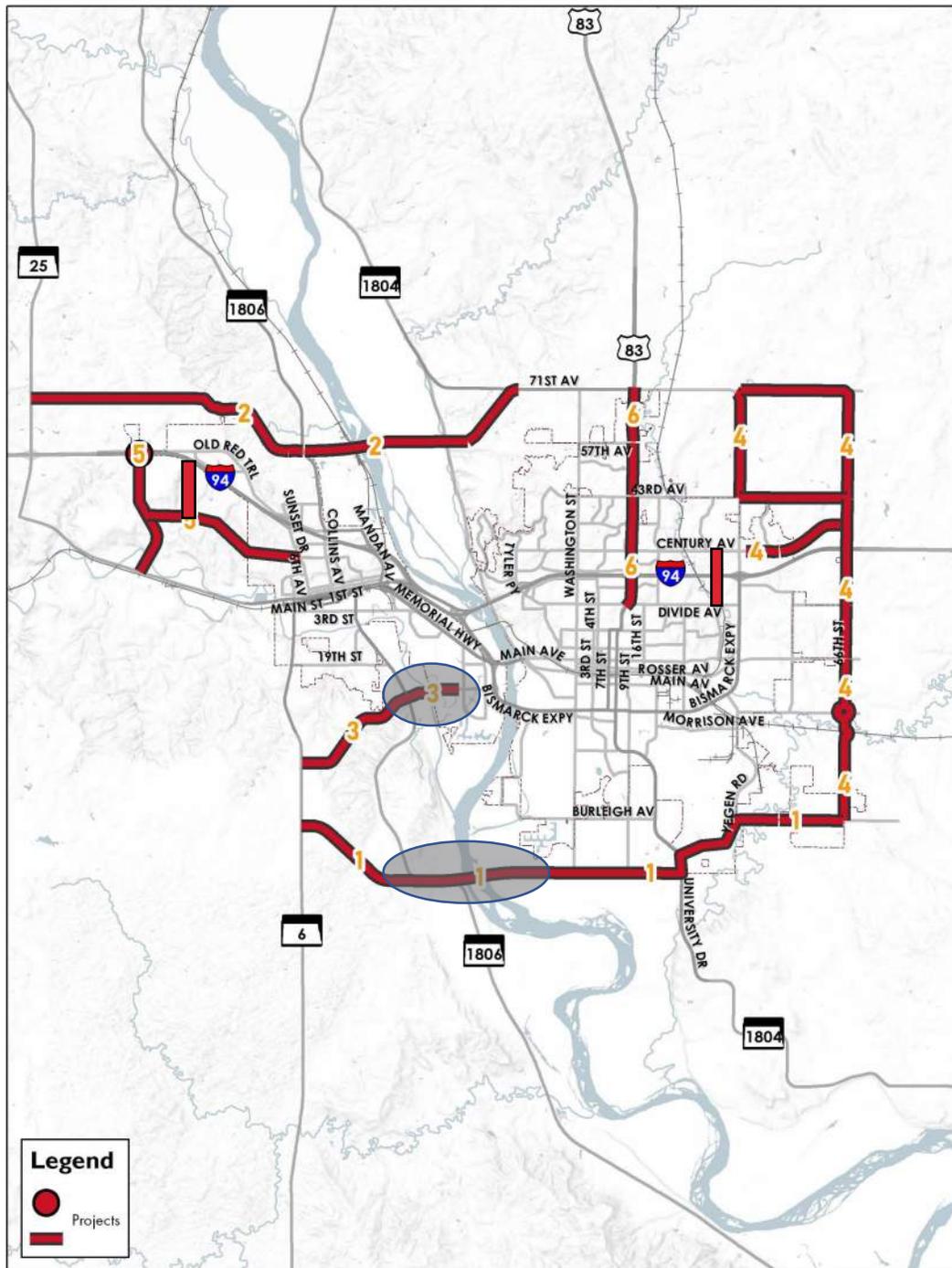


# Alternatives Analysis



# Macro Analysis

- » Ten concept clusters were independently modeled.
- » Summary of impacts compared against the 2045 Conditions.
- » Assisted in Shortlisting Larger Project Needs



# Goal Weighting

## Prioritized Goal Results

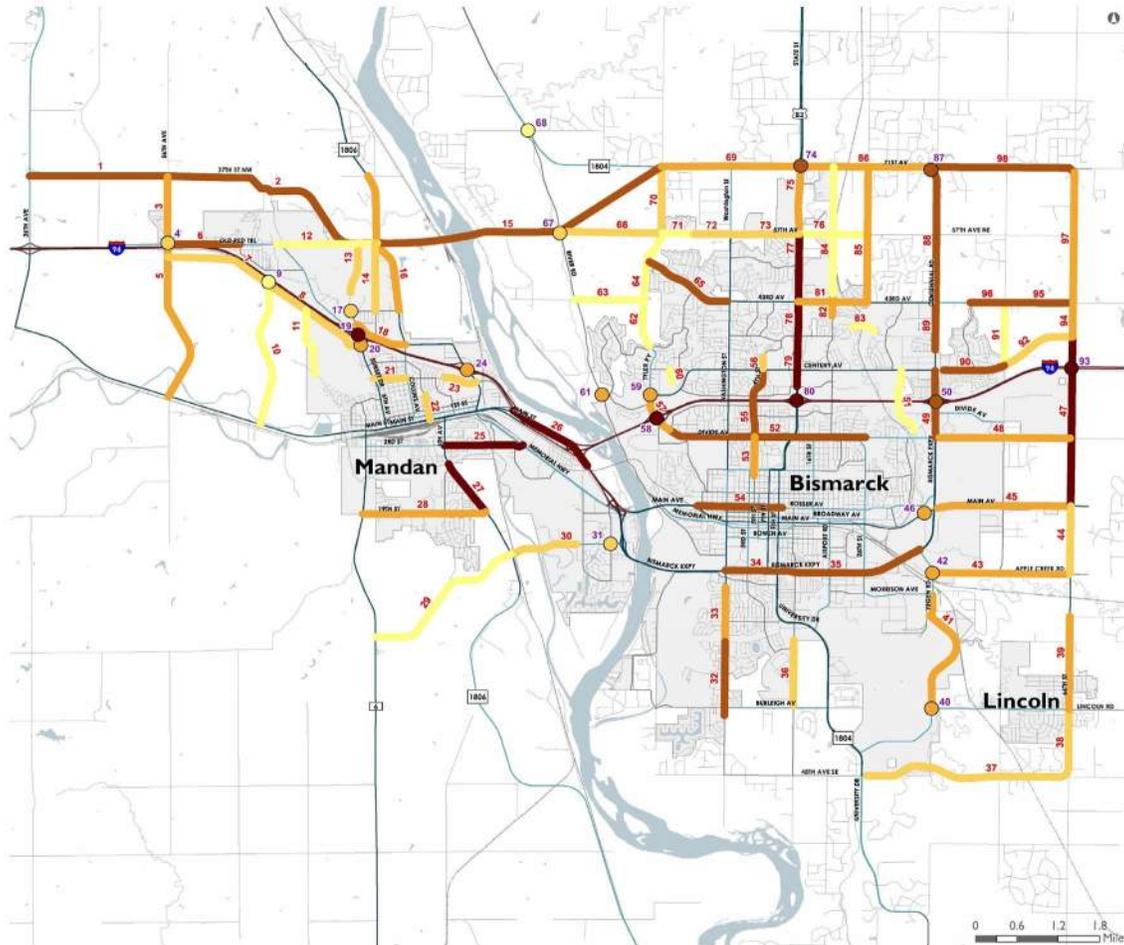
Table 2.3: Prioritized Goals

Arrive 2045 Goals and Objectives	Total Votes	Goal Ranking	Prioritization Weight
Goal 1: Safety & Security	87	#2	4.5
Goal 2: Infrastructure Condition	96	#1	5
Goal 3: Congestion Reduction	70	#3	3.6
Goal 4: System Reliability for Freight Movement & Economic Vitality	44	#4	2.3
Goal 5: Alternative Transportation Modes to Automobile Travel	41	#6	2.1
Goal 6: Environmental Sustainability	43	#5	2.2
Goal 7: Reduced Project Delays	23	#7	1.2

» Translate public and technical input

» Allow for “scoring” to reflect both technical and public desires

# Project Scoring/Ranking



» **Preferred Scenario**

» Weighted Technical Score

+

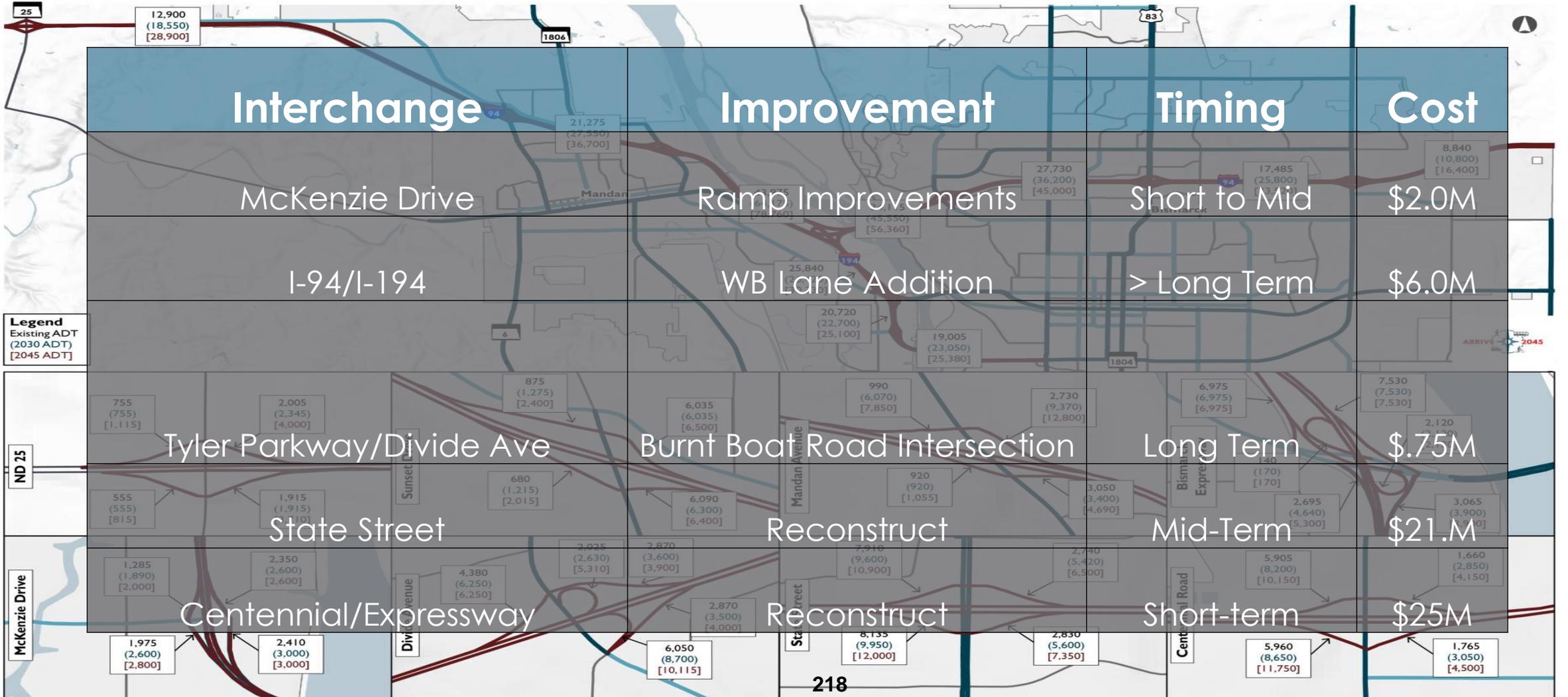
» Public Priorities Added

+

» Added weight more regionally significant projects



# Interstate – Alternatives Analysis



# US 83 Evaluation & Summary

Alternative	Benefits (\$)	Benefits (%)	Deficient	Costs	Costs (%)
6-Lane At Grade	\$523.3M	Best	36% LOS "E"	\$64.3M	Best
6-Lane with Interstate Avenue Grade Separation	\$495.2M	-5%	32% LOS "E"	\$89.3M	+39%
Expressway	\$289.5M	-45%	0% LOS "E"	\$145.1M	+125%

» Study Did Not Quantify Environmental, Social, or Business Impacts

» Analysis Used Only Macro-Modeling Tools

# Financial Plan – Methods & Assumptions

## » Revenue Estimates

- 2015- 2022 (Existing + Committed)

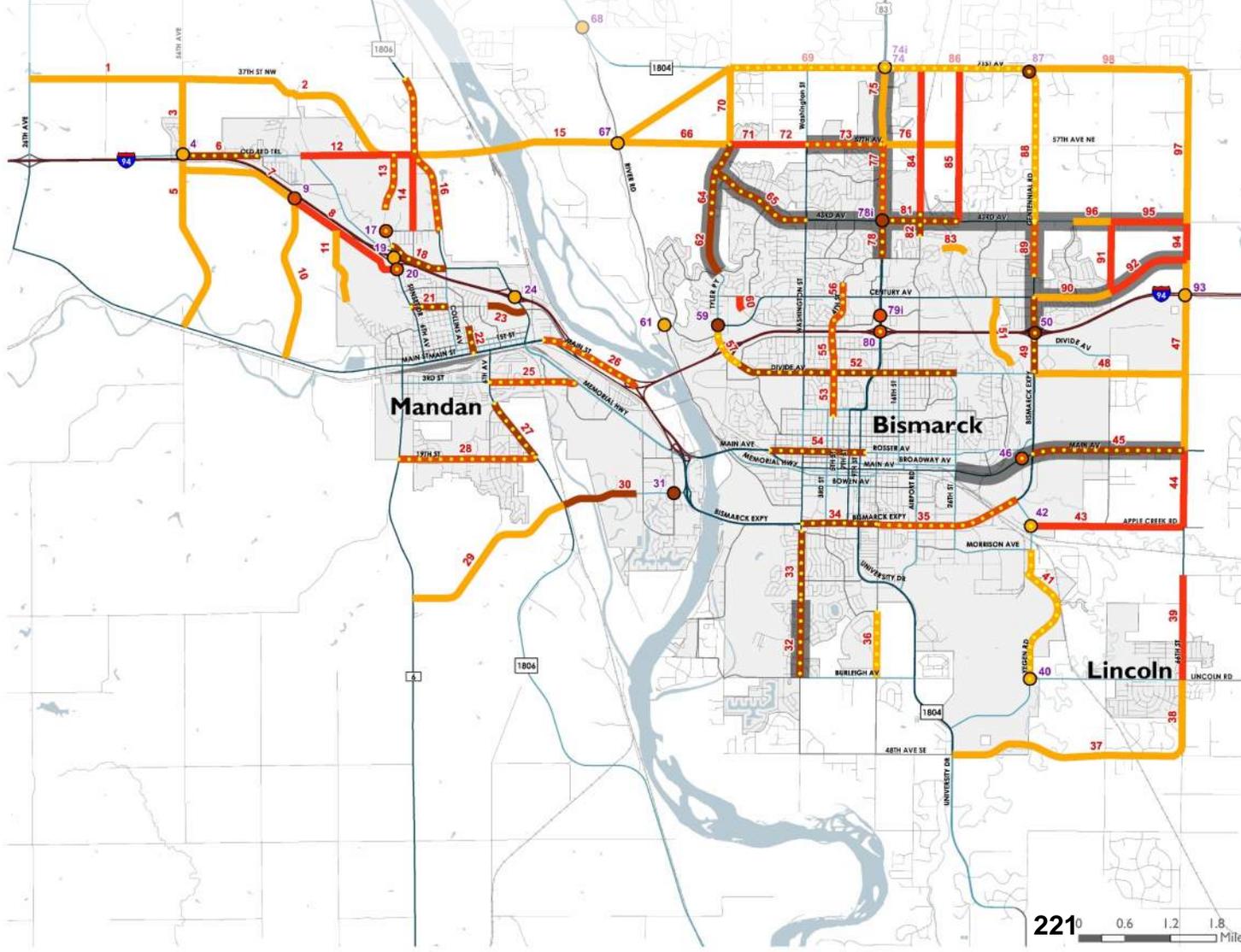
## » Operations & Maintenance (O&M)

## » Preservation & Maintenance (P&M) vs. Capacity/Expansion

- Evaluation of 2011 – 2022 TIP/STIP



# Financial Plan & Project Prioritization



## Project Phasing

- Short Range Projects
- Mid Range Projects
- Long Range Projects
- Short Range Projects for Constrained Plan
- Mid Range Projects for Constrained Plan
- Long Range Projects for Constrained Plan
- Bismarck Sales Tax Eligible Corridors



# Short Range Constrained List

ID	Location	Termini	Termini	Description	Phase	Cost	Year of Expenditure [YOE]	Program	Urban Program Priority
6	Old Red Trail	56th Avenue	40th Avenue NW	Reconstruct as 3-lane urban section.	Short	\$8,400,000	\$9,826,812	Urban	2
18	Old Red Trail	Sunset Drive	ND1806 / Collins Avenue	Restripe for 3-lane urban section.	Short	\$39,500	\$46,209	Safety	
21	Division Street	Sunset Drive	ND 1806 / Collins Avenue	Reconstruction.	Short	\$2,500,000	\$2,924,646	Urban	5
22	3rd Avenue NE	Main Street	5th Street	Reconstruction.	Short	\$2,500,000	\$2,924,646	Urban (P&M)	7
23	Division Street	8th Avenue E	Mandan Avenue	Construct as 2-lane urban section.	Short	\$2,880,000	\$3,369,193	Urban	
27	Highway 1806	19th Street	Heart River Bridge	Pavement preservation project, including addition of turn lanes and signals at 8th Avenue and 19th Street.	Short	\$1,750,000	\$2,047,252	Regional	
30	McKenzie Road	Highway 1806	39th Avenue E	Construct as 2-lane rural section. Include new bridge across Heart River. Add signals at McKenzie Drive/ Bismarck Expressway ramps and at McKenzie Drive/ 40th Avenue.	Short	\$15,650,000	\$18,308,286	Urban	
31	McKenzie Road	46th Avenue SE		Intersection capacity improvement.	Short	\$2,500,000	\$2,924,646	Urban	
32	Washington Street	Burleigh Avenue	Drainage Channel	Reconstruct as 3-lane urban arterial.	Short	\$8,720,000	\$10,201,167	Urban	3
33	Washington Street	Drainage Channel	Denver Avenue	Turn lane improvements including restripe south of Reno Avenue as 3-lane section.	Short	\$39,000	\$45,624	Safety	
34	Bismarck Expressway	Washington Street	12th Street	Safety improvements.	Short	\$5,000,000	\$5,849,293	Safety	
45	Main Avenue	Bismarck Expressway	66th Street	Widen from 2-lane to 3-lane section (including intersection improvement at 52nd Street).	Short	\$10,020,000	\$11,721,983	Urban	6
49	Bismarck Expressway / Centennial Road	Divide Avenue	Century Avenue	Widen from 5-lane to 6-lane section.	Short	\$3,960,000	\$4,632,640	Mix	
50	Bismarck Expressway / Centennial Road	I-94		Interchange reconstruction.	Short	\$25,000,000	\$29,246,464	Interstate	
52	Divide Avenue	Turnpike Avenue	26th Street	Restripe as 3-lane urban section.	Short	\$143,500	\$167,875	Safety	
54	Rosser Avenue	Main Avenue	10th Street	Restripe as 3-lane urban section.	Short	\$62,000	\$72,531	Safety	
59	Century Avenue	Tyler Parkway		Intersection capacity improvement.	Short	\$2,500,000	\$2,924,646	Urban	
62	Tyler Parkway	Valley Drive	43rd Avenue	Construct as 2-lane urban section.	Short	\$4,260,000	\$4,983,597	Urban	
64	Tyler Parkway	43rd Avenue	57th Avenue	Overlay existing roadway to 2-lane rural section.	Short	\$500,000	\$584,929	Urban	8
65	Ash Coulee Drive	Tyler Parkway	Washington Street	Widen from 2-lane to 3-lane urban section.	Short	\$5,240,000	\$6,130,059	Urban	4
78	State Street	Calgary Avenue	43rd Avenue	At grade improvements: Calgary Avenue and 43rd Avenue; widening to 6-lane urban section from Calgary Avenue through 43rd Ave intersection.	Short	\$15,185,000	\$17,764,302	Regional	
78i	State Street	43rd Avenue		Grade separation.	Short	\$30,000,000	\$35,095,757	Regional	
81	43rd Avenue	State Street	26th Street	Construct 3-lane or 5-lane urban section.	Short	\$10,000,000	\$11,698,586	Urban	1
82	19th Street	North Valley Loop/Yucca Avenue	43rd Avenue	Reconstruct as 3-lane urban section.	Short	\$1,380,000	\$1,614,405	Urban	1
87	71st Avenue	Centennial Road		Intersection capacity improvement.	Short	\$2,500,000	\$2,924,646	Safety	
TBD	State Street	Calgary Avenue	43rd Avenue	Shared use path.	Short	\$1,000,000	\$1,169,859	Regional	

» Establish short range Federal aid priorities

» Focus on Urban Roads Funds

» Consider Regional Roads and Safety Programs

# Financial Analysis – Short Range



- » **Urban Program**
  - » Requires \$16M to \$19M in Bismarck Sales Tax to balance program
  
  - » All Bismarck projects are sales tax eligible; sales tax benefit to urban system not fully shown in MTP financial analysis
  
- » **Regional**
  - » Program is balanced; however P&M revenues needed to support low cost improvements on State Street
  
  - » Assumes constraint of “low cost” improvements on State Street;
  
  - » High cost improvements on State Street remain “illustrative
  
- » **Interstate Program**
  - » Generally balanced – major improvement at Exit 161

# Financial Analysis – Mid & Long Range

## » **Urban Program**

- » Program generally balanced (mid to long)

## » **Regional**

- » Program is balanced; however requires use of P&M revenue to support program.
- » Assumes constraint of “low cost” improvements on State Street;
- » High cost improvements on State Street remain “illustrative

## » **Interstate Program**

- » Requires more capacity investment to support reconstruction of Exit 159; program still balanced (mid)
- » No capacity programmed in long range

# Capacity vs. Expansion - Projected vs. Expected

**Projected - Investment by Major Program**

	Urban	Regional	Interstate
<b>Capacity</b>	82.0%	20.9%	47.4%
<b>P&amp;M</b>	18.0%	79.1%	52.6%

**Arrive 2045 Actual - Investment by Major Program**

	Urban	Regional	Interstate
<b>Capacity</b>	85.2%	49.5%	47.7%
<b>P&amp;M</b>	14.8%	50.5%	52.3%

- » Arrive 2045 generally follows historic funding splits between capacity vs. P&M
- » Only exception is Regional program which is the result of addressing existing and projected needs along State Street
  - » Regional Program assumptions heavily discounted in short range to account for Memorial Highway project

# Local Approvals Schedule

Bismarck City Planning and Zoning	Feb 26 (5:00 pm)	Tom Baker Meeting Rm City/ County Office Bldg 221 N 5 <sup>th</sup> St, Bismarck, ND
Bismarck City Commission	Mar 10 (5:15 pm)	
Burleigh County Planning and Zoning	Mar 11 (5:15 pm)	Tom Baker Meeting Rm City/ County Office Bldg 221 N 5 <sup>th</sup> St, Bismarck, ND
Burleigh County Commission	Mar 16 (5:00 pm)	
Mandan City Planning and Zoning	Feb 24 (5:30 pm)	Commission Room Mandan City Hall 205 2 <sup>nd</sup> Ave NW, Mandan, ND
Mandan City Commission	Mar 3 (5:30 pm)	
Morton County Planning and Zoning	Feb 27 (5:30 pm)	Commission Room Morton Cty Courthouse 210 2 <sup>nd</sup> Ave NW, Mandan, ND
Morton County Commission	Mar 12 (5:30 pm)	
Lincoln Planning and Zoning	Feb 25 (7:00 pm)	Lincoln City Hall 74 Santee Road Lincoln, ND
Lincoln City Council	Mar 5 (7:00 pm)	



# Comments & Contacts

## Project Contacts

Wade Kline, KLJ

[Wade.kline@kljeng.com](mailto:Wade.kline@kljeng.com)

701.271.5009

Rachel Drewlow, MPO

[rdrewlow@bismarcknd.gov](mailto:rdrewlow@bismarcknd.gov)

701.355-1852

## More Information:

[www.arrive2045.com](http://www.arrive2045.com)

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Sattler Land Development written comments from Mark and Terri Wilhelm  
**Date:** Tuesday, February 25, 2020 12:38:01 PM

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**From:** Terri Wilhelm [mailto: ]  
**Sent:** Tuesday, February 25, 2020 8:21 AM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** Sattler Land Development written comments from Mark and Terri Wilhelm

Please consider our written comments about the Sattler Land Development Project that will be discussed at the February 26 Burleigh County Commission meeting.

February 25, 2020

To the Burleigh County Commission:

We are writing in regards to the planned Sattler Development off of 80<sup>th</sup> Street and 4<sup>th</sup> Avenue in Apple Creek Township.

We are writing to you not to stop or hinder this project in anyway as we knew this would probably happen someday and here it is. Rather we are writing to ask for some considerations and answers for when this land and the roadways around it are developed.

Our home at 8561 4<sup>th</sup> Ave SE has been in my family for over 50 years. I remember a day when ours was the only house on this land for miles. I grew up here and after my father passed away, we bought the home from my mother because of the serene setting and the family ties.

One of our biggest concerns with this development is the gravel road on 4<sup>th</sup> Ave which runs across the north side of the property. This road was originally built to accommodate our home and the home at end of 4<sup>th</sup> Ave. Since then a handful of other homes were built and it is also able to accommodate these residents.

First of all, this road is quite narrow and can barely accommodate two vehicles driving in opposite direction without each driver pulling over to the side of the road to allow one another to pass. This currently works fine for those who live here now because of the small amount of traffic that currently uses this road. This will not be the case with the amount of increased traffic that will come once the development is complete. Our concern is twofold, safety and preservation of the road.

We would like to ask that if this development is approved, it include a paved and widened road all the way to the end of 4<sup>th</sup> Ave SE to the Perman driveway in order to accommodate the heavy increase in traffic. If this is not possible at least in front of the entire development so the road can handle the traffic.

We would also ask that it include "additional" signage signaling it is a dead-end road and there is "NO" access.

Although the development and the planned road only goes to the west of the Wilhelm property, we know that once these 28 homes are built, this will increase the traffic on this road exponentially and not "just" to the west of the Wilhelm property.

We know from experience that when people get lost on this road and they do all the time, since it is a dead end road, they have no choice but to drive to the end of road where we live and turn around on ours or Perman's property. Many even drive into Perman's driveway or through our driveway to turn around. If the road is left as is today, the access to our home could quickly deteriorate and could likely become damaged and unusable.

As it is now, when it rains a lot or during the spring thaw, this road can barely handle the handful of people that travel it today as it becomes very muddy and uneven and hard navigate.

This road because of the number of people who use it and the fact it is at best a secondary road is not well maintained by the county during much of the year. It simply cannot handle more traffic without some major improvements.

This road is fine the way it is now and accommodates our current needs, but in all fairness this development will bring much more traffic and should be part of the development costs not ours to pave and expand this road.

A question we also have is, how will this road be maintained if it is not paved all the way to the Perman property? Will the plow just turn around and leave the gravel road untouched?

We do know that it takes a different type of equipment to clear snow from a gravel road so as the proposal looks, there will just this small section with possibly no maintenance if it goes through as proposed. I guess we would like some answers on how this will be maintained once this development happens.

We also know in the summer, the County applies extra gravel and grades and smooths the road to keep it drivable will this still be done to this small section if left unpaved? This is a concern to us.

As it is now, the County may or may not plow 4<sup>th</sup> Avenue after a major storm and in fact many times Todd Perman clears it himself with his Tool Cat so we can all get to 80<sup>th</sup> Street. We have been very patient and kind concerning maintenance on this road and in all the time we have been there I think we have only complained once as we figure it is part of living in the country, but we are worried about what will happen now.

I think the only other major concern we currently have is where will the drainage from this development go? Apple Creek is just south of this development and we hope there is a good plan to contain sewage and run off the development creates. We would like more information about this also.

Thank you for listening to our concerns. We certainly hope you make this a fair experience for all of use who currently live on and near this development as we love where we live and hope to live there in harmony for many years to come.

Sincerely,

Mark and Terri Wilhelm  
8561 4<sup>th</sup> Ave SE  
Bismarck ND 58501



**From:** [Suzanne Wald](#)  
**To:** [Planning - General Mailbox](#)  
**Cc:** [Suzanne Wald](#); [waldrnch@gmail.com](mailto:waldrnch@gmail.com)  
**Subject:** Sattler Development  
**Date:** Wednesday, February 26, 2020 9:32:29 AM  
**Attachments:** [doc06374020200226092856.pdf](#)

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Burleigh County Commission,

Attached find a letter voicing several concerns and also questions regarding the proposed Sattler Development off of 80th Street in Apple Creek Township.

Thank you,  
*Sue Wald*  
7717 Viking Drive  
Bismarck, ND 58501  
[REDACTED]

February 25, 2020

To the Burleigh County Commission:

I am writing in regards to the planned Sattler Development off of 80th Street in Apple Creek Township to the east of Viking Drive.

Our home is at 7717 Viking Drive and was stick built on-site late 2017-18. We moved in 2 years ago this month. We chose the lot due to the quiet location and the country feel. After searching for months in the Bismarck area we continued to come back to the location as it reminded us of where we came from, a country setting on a gravel road where your neighbors were close but far enough away to not have to run into them every morning and night.

Some of my biggest concerns are the extra traffic on 80th street as it will take away that country feeling and what will this new development do to the value of our homes as our development was started in the early 2000s and is not a "keep up with the Joneses" environment which was a total draw for us as we cannot afford to do that, nor do we want to have to keep up with the neighbors.

Will this development affect our future real estate taxes? Will this development cause our development as a whole to now have to pay for specials and such even though we do not have street lights or sidewalks, etc.?

Apple Creek road is already difficult to traverse as it is very rough, how will the extra traffic affect that road, what about 80th street? Will the new development be first in line for the maintenance crews?

My husband and I would like more information about the effects of the new development in our area. Thank you for listening to my concerns. I hope the new development will not adversely affect our living experience in our development as we would like to remain in the area for years to come and would like for our neighbors to continue to live in the development as several of them were a part of the beginning of the development and others have lived there for 15+ years. I know I can speak for several of them as they voiced their similar concerns to me last fall when speculation was floating around regarding the planned Sattler development.

Sincerely,



Suzanne and Joe L. Wald  
7717 Viking Drive  
Bismarck, ND 58501



# Here are some examples of signs around Bismarck

Not controlled by proposed ordinance



Controlled by proposed ordinance



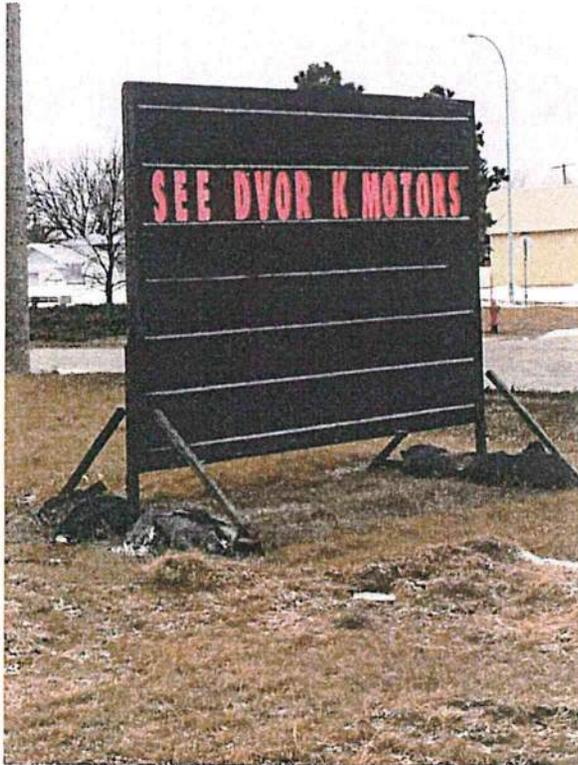
Not Controlled



Controlled



Not Controlled



Controlled



**Not Controlled**



**Controlled**



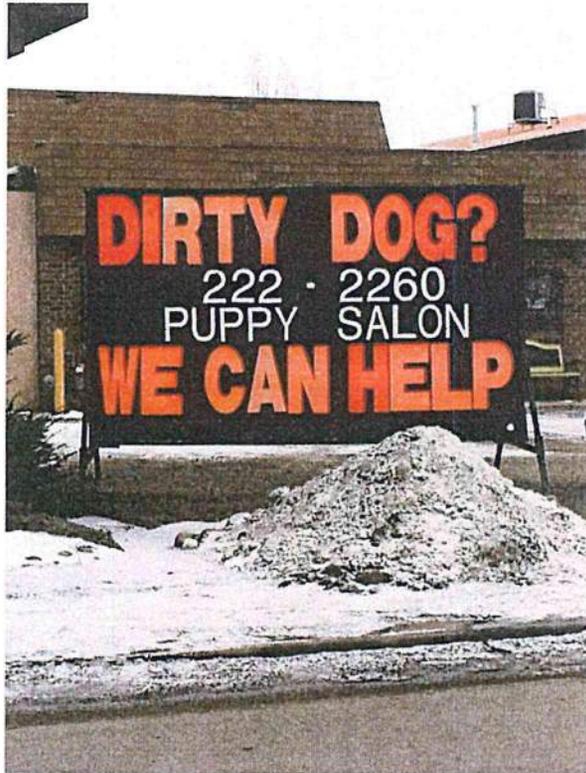
Not Controlled



Controlled



**Not Controlled**



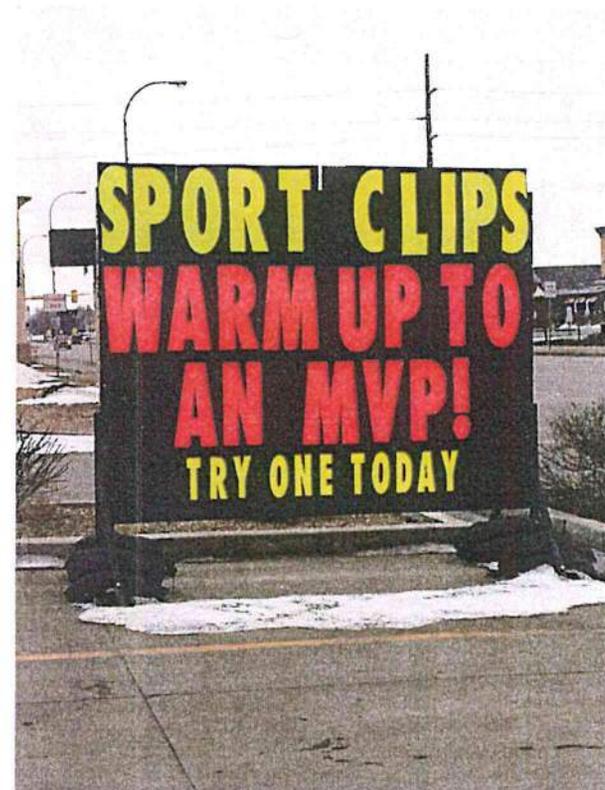
**Controlled**



**Not Controlled**



**Controlled**



**Not Controlled**



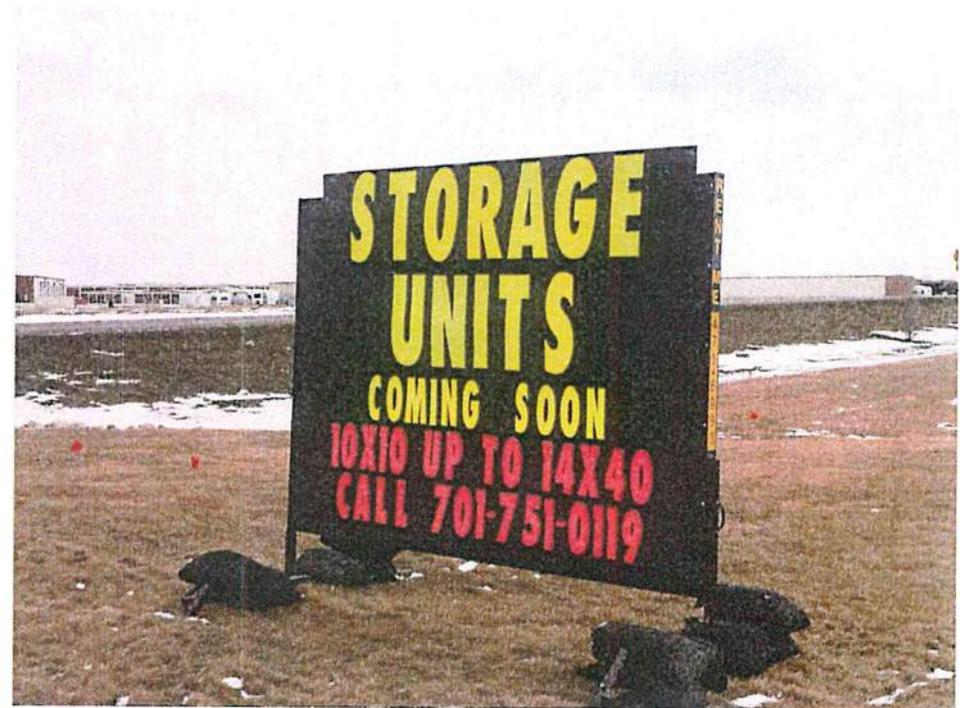
**Controlled**



**Not Controlled**



**Controlled**



Not Controlled



Controlled



**From:** [Daniel Nairn](#)  
**To:** [Hilary Balzum](#)  
**Subject:** FW: Sign codes  
**Date:** Wednesday, February 26, 2020 4:32:16 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
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**From:** Wayne Munson [mailto: [REDACTED]]  
**Sent:** Tuesday, February 18, 2020 4:12 PM  
**To:** [REDACTED]; Brian Eiseman <[REDACTED]>; Van Duyne, Wendy <[REDACTED]>; Greg Zenker <gzenker@bismarcknd.gov>; Steve Marquardt <[REDACTED]>  
**Cc:** Brian Ritter ([REDACTED]); Ben Ehreth <behreth@bismarcknd.gov>; Daniel Nairn <dnairn@bismarcknd.gov>; Brady Blaskowski <bblaskowski@bismarcknd.gov>  
**Subject:** Sign codes

Good afternoon.

Once again I will be out of town when the Planning and Zoning commission holds a public forum to discuss the proposed codes.

I wanted to take the time to thank the staff for its diligence in preparing a Sign Code for our fair city. In the past several months we have continued to meet and share our thoughts. The code that is being proposed is still a work in progress but I think it is ready for the City Council. From the list of concerns that I started with, the staff has either answered the question or adjusted the code to a workable solution.

The items that I still have a concern with are:

Section 14-03.1-08 – Commercial Zoning Districts -Specifically Interstate oriented Free Standing Sign. Staff is requesting a Special Use Permit be applied for when a sign is requested between 50 and 80' tall.

I also asked staff to consider applying this section to properties within 660' of Highway 83 stretching from the interstate to the north city limit line.

Section 14-03.1-09 – Downtown Zoning District – Specifically prohibited signs

Electronic Message Centers are prohibited, yet we have 3 at the Event Center and 5 at commercial businesses.

At the end of the day, once the city council approves the proposed code, we will have the opportunity to challenge the code when needed with the variance process.

Thank you for all of your hard work on this.



## Wayne Munson

Co-Founder | The Sign Guy, **Bismarck Sign Co.**

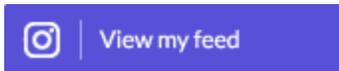
 [701-751-7777](tel:701-751-7777)

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 [www.BismarckSignCo.com](http://www.BismarckSignCo.com)

 1926 Frontier Drive, Bismarck ND 58504



PERMIT ACTIVITY REPORT - MTD  
DATE SELECTION 2/2020

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Census Code	2/2020		2/2019		2/2020		2/2019	
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	8	\$1,602,051.57	0	\$0.00	1	\$740,570.02	0	\$0.00
MANUFACTURED HOMES	3	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	1	\$13,535.20	1	\$46,790.76	0	\$0.00	0	\$0.00
DECKS\PORCHES & COVERED PORCHES	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ALTERATION/OTHER	3	\$70,500.00	2	\$38,900.00	1	\$23,300.00	1	\$20,000.00
HOME OCCUPATION	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	12	\$133,614.00	20	\$250,237.00	2	\$46,800.00	2	\$41,834.00
RESIDENTIAL	4	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	11	\$177,400.00	6	\$101,050.00	1	\$600.00	1	\$2,500.00
SIGN ALTERATION	1	\$1,350.00	1	\$2,200.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	1	\$575,000.00	4	\$10,666,281.00	5	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	14	\$2,197,705.00	14	\$2,861,614.00	0	\$0.00	1	\$20,000.00
<b>Total</b>	<b>60</b>	<b>\$4,771,155.77</b>	<b>48</b>	<b>\$13,967,072.76</b>	<b>10</b>	<b>\$811,270.02</b>	<b>5</b>	<b>\$84,334.00</b>

PERMIT ACTIVITY REPORT - MTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Trade Permit Type	2/2020		2/2019		2/2020		2/2019	
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	47	\$0.00	57	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	99	\$3,144,220.32	85	\$1,324,317.40	15	\$477,604.00	20	\$176,505.27
BUILDING PLUMBING	24	\$4,282,111.00	15	\$216,261.00	5	\$88,924.93	2	\$22,800.00
<b>Total</b>	<b>170</b>	<b>\$7,426,331.32</b>	<b>157</b>	<b>\$1,540,578.40</b>	<b>20</b>	<b>\$566,528.93</b>	<b>22</b>	<b>\$199,305.27</b>

PERMIT ACTIVITY REPORT - MTD  
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	*****City*****		*****ETA*****	
	2/2020	2/2019	2/2020	2/2019
Living Units	Units	Units	Units	Units
MANUFACTURED HOMES	3	0	0	0
<b>Total</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>

PERMIT ACTIVITY REPORT - MTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Permit Type	3/2020		3/2019		3/2020		3/2019	
	Total	Valuations	Total	Valuations	Total	Valuations	Total	Valuations
SINGLE FAMILY DETACHED	22	\$5,055,034.30	9	\$2,721,755.98	5	\$1,131,960.49	1	\$250,939.22
ROWHOUSE (2) 1-HR FIRE SEPARATION	5	\$984,981.47	0	\$0.00	2	\$429,629.68	0	\$0.00
RESIDENTIAL ADDITION	1	\$199,860.56	0	\$0.00	2	\$93,589.52	1	\$19,080.00
DETACHED GARAGE	0	\$0.00	0	\$0.00	4	\$156,065.00	0	\$0.00
DECKS\PORCHES & COVERED PORCHES	4	\$15,301.76	3	\$7,544.00	0	\$0.00	3	\$5,673.00
RESIDENTIAL ALTERATION/OTHER	3	\$397,719.00	1	\$2,500.00	0	\$0.00	0	\$0.00
HOME OCCUPATION	0	\$0.00	1	\$0.00	1	\$0.00	0	\$0.00
STORAGE SHED	0	\$0.00	2	\$8,834.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	6	\$78,170.00	8	\$117,345.00	2	\$32,422.00	2	\$30,983.00
RESIDENTIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	12	\$124,725.00	12	\$92,844.00	0	\$0.00	0	\$0.00
SIGN ALTERATION	2	\$5,200.00	3	\$6,608.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	1	\$40,000,000.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL ADDITION	1	\$207,338.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	11	\$1,956,160.00	13	\$1,525,413.00	0	\$0.00	0	\$0.00
<b>Total</b>	<b>69</b>	<b>\$49,024,490.09</b>	<b>52</b>	<b>\$4,482,843.98</b>	<b>16</b>	<b>\$1,843,666.69</b>	<b>7</b>	<b>\$306,675.22</b>

PERMIT ACTIVITY REPORT - MTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Trade Permit Type	3/2020		3/2019		3/2020		3/2019	
	Total	Valuations	Total	Valuations	Total	Valuations	Total	Valuations
BUILDING ELECTRIC	98	\$41,998.00	41	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	106	\$1,812,090.32	92	\$509,311.18	9	\$38,331.00	11	\$83,616.00
BUILDING PLUMBING	24	\$1,700,911.00	8	\$196,775.00	4	\$69,600.00	1	\$10,500.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	2	\$0.00	0	\$0.00
<b>Total</b>	<b>228</b>	<b>\$3,554,999.32</b>	<b>141</b>	<b>\$706,086.18</b>	<b>15</b>	<b>\$107,931.00</b>	<b>12</b>	<b>\$94,116.00</b>

PERMIT ACTIVITY REPORT - MTD  
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	*****City*****		*****ETA*****	
	3/2020	3/2019	3/2020	3/2019
	Units	Units	Units	Units
Living Units				
Total	0	0	0	0

PERMIT ACTIVITY REPORT - YTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Census Code	2/2020		2/2019		2/2020		2/2019	
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	8	\$1,602,051.57	2	\$381,227.20	1	\$740,570.02	0	\$0.00
ROWHOUSE (2) 1-HR FIRE SEPARATION	2	\$461,045.04	8	\$1,452,182.16	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	3	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	1	\$13,535.20	1	\$46,790.76	0	\$0.00	0	\$0.00
DECKS\PORCHES & COVERED PORCHES	2	\$2,232.00	1	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ALTERATION/OTHER	7	\$370,850.00	10	\$589,400.00	5	\$181,075.00	2	\$61,750.00
HOME OCCUPATION	1	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	19	\$221,974.00	40	\$519,428.00	4	\$66,768.00	5	\$91,624.00
RESIDENTIAL	4	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
NEW SIGN PERMITS	15	\$189,100.00	18	\$140,549.00	1	\$600.00	1	\$2,500.00
SIGN ALTERATION	3	\$16,350.00	2	\$3,800.00	0	\$0.00	0	\$0.00
ELECTRONIC MESSAGE CENTER	0	\$0.00	1	\$23,090.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	3	\$20,315,000.00	5	\$10,695,281.00	5	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	29	\$4,412,236.07	26	\$10,101,293.00	0	\$0.00	3	\$790,000.00
<b>Total</b>	<b>97</b>	<b>\$27,604,373.88</b>	<b>117</b>	<b>\$23,953,041.12</b>	<b>16</b>	<b>\$989,013.02</b>	<b>12</b>	<b>\$945,874.00</b>

**PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 2/2020**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Permit Type	2/2020		2/2019		2/2020		2/2019	
	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	114	\$0.00	106	\$120,000.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	186	\$5,930,475.32	182	\$2,077,299.40	28	\$594,724.00	35	\$310,625.27
BUILDING MECHANICAL FIREPLACE	0	\$0.00	0	\$0.00	1	\$3,000.00	0	\$0.00
BUILDING MECHANICAL NEW CONSTRUCTION	1	\$23,000.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING PLUMBING	40	\$5,418,216.79	25	\$662,825.00	8	\$125,223.43	2	\$22,800.00
<b>Total</b>	<b>341</b>	<b>\$11,371,692.11</b>	<b>313</b>	<b>\$2,860,124.40</b>	<b>37</b>	<b>\$722,947.43</b>	<b>37</b>	<b>\$333,425.27</b>

PERMIT ACTIVITY REPORT - YTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Living Units	2/2020	2/2019	2/2020	2/2019
	Units	Units	Units	Units
MANUFACTURED HOMES	3	1	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	2	8	0	0
SINGLE FAMILY DETACHED	8	2	1	0
<b>Total</b>	<b>13</b>	<b>11</b>	<b>1</b>	<b>0</b>

**PERMIT ACTIVITY REPORT - YTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Permit Type	3/2020		3/2019		3/2020		3/2019	
	Total	Valuations	Total	Valuations	Total	Valuations	Total	Valuations
SINGLE FAMILY DETACHED	30	\$6,657,085.87	11	\$3,102,983.18	6	\$1,872,530.51	1	\$250,939.22
ROWHOUSE (2) 1-HR FIRE SEPARATION	7	\$1,446,026.51	8	\$1,452,182.16	2	\$429,629.68	0	\$0.00
MANUFACTURED HOMES	3	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	2	\$213,395.76	1	\$46,790.76	2	\$93,589.52	1	\$19,080.00
DETACHED GARAGE	0	\$0.00	0	\$0.00	4	\$156,065.00	0	\$0.00
DECKS\PORCHES & COVERED PORCHES	6	\$17,533.76	4	\$7,544.00	0	\$0.00	3	\$5,673.00
RESIDENTIAL ALTERATION/OTHER	10	\$768,569.00	11	\$591,900.00	5	\$181,075.00	2	\$61,750.00
HOME OCCUPATION	1	\$0.00	3	\$0.00	1	\$0.00	0	\$0.00
STORAGE SHED	0	\$0.00	2	\$8,834.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	25	\$300,144.00	48	\$636,773.00	6	\$99,190.00	7	\$122,607.00
RESIDENTIAL	5	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
NEW SIGN PERMITS	27	\$313,825.00	30	\$233,393.00	1	\$600.00	1	\$2,500.00
SIGN ALTERATION	5	\$21,550.00	5	\$10,408.00	0	\$0.00	0	\$0.00
ELECTRONIC MESSAGE CENTER	0	\$0.00	1	\$23,090.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	4	\$60,315,000.00	5	\$10,695,281.00	5	\$0.00	0	\$0.00
COMMERCIAL ADDITION	1	\$207,338.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	40	\$6,368,396.07	39	\$11,626,706.00	0	\$0.00	3	\$790,000.00
<b>Total</b>	<b>166</b>	<b>\$76,628,863.97</b>	<b>169</b>	<b>\$28,435,885.10</b>	<b>32</b>	<b>\$2,832,679.71</b>	<b>19</b>	<b>\$1,252,549.22</b>

PERMIT ACTIVITY REPORT - YTD  
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\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

Permit Type	3/2020		3/2019		3/2020		3/2019	
	Total	Valuations	Total	Valuations	Total	Valuations	Total	Valuations
BUILDING ELECTRIC	212	\$41,998.00	147	\$120,000.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	292	\$7,742,565.64	274	\$2,586,610.58	37	\$633,055.00	46	\$394,241.27
BUILDING MECHANICAL FIREPLACE	0	\$0.00	0	\$0.00	1	\$3,000.00	0	\$0.00
BUILDING MECHANICAL NEW CONSTRUCTION	1	\$23,000.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING PLUMBING	65	\$7,123,627.79	33	\$859,600.00	13	\$201,823.43	3	\$33,300.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	2	\$0.00	0	\$0.00
<b>Total</b>	<b>570</b>	<b>\$14,931,191.43</b>	<b>454</b>	<b>\$3,566,210.58</b>	<b>53</b>	<b>\$837,878.43</b>	<b>49</b>	<b>\$427,541.27</b>

PERMIT ACTIVITY REPORT - YTD  
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Living Units	3/2020	3/2019	3/2020	3/2019
	Units	Units	Units	Units
MANUFACTURED HOMES	3	1	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	1	0
RESIDENTIAL ADDITION	1	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	7	8	2	0
SINGLE FAMILY DETACHED	28	11	5	1
<b>Total</b>	<b>39</b>	<b>20</b>	<b>8</b>	<b>1</b>