



## *Community Development Department*

**DATE:** September 1, 2020

**FROM:** Ben Ehreth, AICP, Community Development Director

**ITEM:** Silver Ranch Second Addition – Zoning Change and Major Subdivision Final Plat

### **REQUEST**

Investcore, Inc. and Silver Ranch 19, LLLP are requesting approval of a zoning change from the A – Agricultural, R10 – Residential, CA – Commercial and P – Public zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts and a major subdivision final plat for Silver Ranch Second Addition. The requested actions replat and rezone a portion of Silver Ranch Addition First Replat and plat and re-zone additional property for future development of low density residential, a public park and areas for neighborhood commercial uses. Annexation is not being requested at this time.

The property is located in northeast Bismarck, on the south side of 43rd Avenue NE east of 52nd Street NE (a replat of Lots 1-24, Block 7, Silver Ranch Addition First Replat and part of the NE ¼ of Seciton 19, T139N-R79W/Gibbs Township).

Please place this item on the September 8, 2020 and September 22, 2020 City Commission meeting agendas.

### **BACKGROUND INFORMATION**

The Planning and Zoning Commission held a public hearing on these items on August 26, 2020.

No residents spoke at the public hearing and no written comments were received.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission recommended approval of the zoning change from the A – Agricultural, R10 – Residential, CA – Commercial and P – Public zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts and a major subdivision final plat for Silver Ranch Second Addition on a 7-1 vote.

## **RECOMMENDED CITY COMMISSION ACTION**

September 8th meeting of the Board of City Commissioners – consider the zoning change as outlined in Ordinance 6435 and call for a public hearing on this item for the September 22nd meeting of the Board of City Commissioners.

September 22nd meeting of the Board of City Commissioners – hold a public hearing on the zoning change as outlined in Ordinance 6435, consider the request for approval of the major subdivision final plat for Silver Ranch Second Addition, and take final action on the two related requests.

## **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim L. Lee, AICP | Planning Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Daniel Nairn, AICP | Planner, 355-1845 or [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

**ORDINANCE NO. 6435**

|                                   |       |
|-----------------------------------|-------|
| <i>First Reading</i>              | _____ |
| <i>Second Reading</i>             | _____ |
| <i>Final Passage and Adoption</i> | _____ |
| <i>Publication Date</i>           | _____ |

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

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

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

The following described property shall be excluded from the R10-Residential and CA-Commercial zoning districts and included within the R10 – Residential zoning district.

Lots 1-23, Block 1, Silver Ranch Second Addition.

The following described property shall be excluded from the CA-Commercial zoning district and included within the CA-Commercial zoning district.

Lot 24, Block 1, Silver Ranch Second Addition.

The following described property shall be excluded from the P-Public and R10-Residential zoning districts and included within the P-Public zoning district.

Lot 25, Block 1, Silver Ranch Second Addition.

The following described property shall be excluded from the A – Agricultural district and included within the CA – Commercial District.

Lot 1, Block 2, Silver Ranch Second Addition.

Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

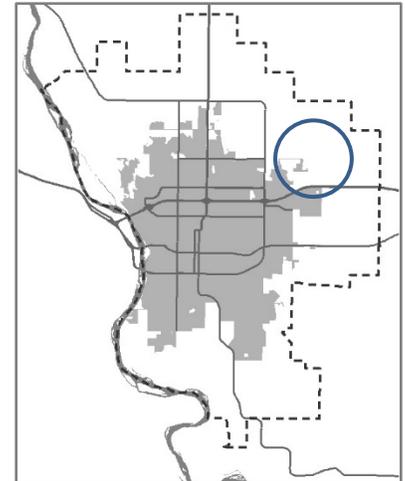
August 26, 2020

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

TRAKiT Project ID: ZC2020-005  
 FPLT2020-009

## Project Summary

|                         |   |
|-------------------------|---|
| <b>Title:</b>           | Silver Ranch Second Addition  |
| <b>Status:</b>          | Planning & Zoning Commission – Public Hearing   |
| <b>Owner(s):</b>        | Silver Ranch 19, LLLP (owner)<br>Investcore, Inc. (applicant)   |
| <b>Project Contact:</b> | Landon Niemiller, Swenson, Hagen & Co.  |
| <b>Location:</b>        | In northeast Bismarck, on the south side of 43 <sup>rd</sup> Avenue NE (a replat of Lots 1-24, Block 7, Silver Ranch First Addition First Replat, and part of the NE¼ of Section 19, T139N-R79W/Gibbs Township) |
| <b>Project Size:</b>    | 24.55 Acres   |
| <b>Request:</b>         | Replat residential, commercial, and park lots and plat and rezone additional commercial lots  |



## Site Information

| Existing Conditions         |   | Proposed Conditions         |  |
|-----------------------------|---|-----------------------------|--|
| <b>Number of Lots:</b>      | 46 lots in 1 block  | <b>Number of Lots:</b>      | 26 lots in 2 blocks  |
| <b>Land Use:</b>            | Undeveloped   | <b>Land Use:</b>            | Single and two-family residential, neighborhood commercial, and park   |
| <b>Designated GMP</b>       | Medium Density Residential/Mixed Use (portions not previously platted)  | <b>Designated GMP</b>       | Medium Density Residential/Mixed Use (portions not previously platted)   |
| <b>Future Land Use:</b>     |   | <b>Future Land Use:</b>     |  |
| <b>Zoning:</b>              | A – Agricultural<br>R10 – Residential<br>CA – Commercial<br>P – Public Use  | <b>Zoning:</b>              | R10 – Residential<br>CA – Commercial<br>P – Public Use   |
| <b>Uses Allowed:</b>        | A – Agriculture<br>R10 – Single and two-family residential<br>CA – Neighborhood commercial<br>P – Parks, open space, stormwater facilities, and other public uses | <b>Uses Allowed:</b>        | R10 – Single and two-family residential<br>CA – Neighborhood commercial<br>P – Parks, open space, stormwater facilities, and other public uses |
| <b>Max Density Allowed:</b> | R10 – 10 units / acre<br>CA – 30 units / acre   | <b>Max Density Allowed:</b> | R10 – 10 units / acre<br>CA – 30 units / acre  |

(continued)

## Property History

|        |  |          |  |          |     |
|--------|--|----------|--|----------|-----|
| Zoned: | 05/2018<br>(Silver Ranch First<br>Addition First Replat) | Platted: | 05/2018<br>(Silver Ranch First<br>Addition First Replat) | Annexed: | N/A |
|--------|--|----------|--|----------|-----|

## Staff Analysis

Investcore Inc. and Silver Ranch 19, LLLP are requesting approval of a zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts and approval of a major subdivision final plat for Silver Ranch Second Addition.

The Planning and Zoning Commission considered this request at their meeting of June 24, 2020 and called for a public hearing on the zoning change and tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 14<sup>th</sup> and 21<sup>st</sup>, and 10 letters were mailed to the owners of nearby properties on August 14<sup>th</sup>.

Adjacent uses include developing two-family residential areas to the west and agricultural land in all other directions.

The majority of this plat is a replat of portions of Silver Ranch First Addition First Replat, resulting in a net reduction of residential lots from 45 to 23. Most of the lots previously planned for two-family development would be converted to lots sized for single-family homes.

Additional land is included in the plat on the east side of Silver Ranch Road, with a requested zoning of CA – Commercial, which matches the current zoning across this collector roadway to the west.

### *Conformance with Comprehensive Plan*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the new portion proposed for platting as Medium Density Residential/Mixed Use. The requested CA – Commercial zoning district conforms to this classification,

as it could be utilized for either neighborhood commercial uses or multifamily residential.

The Growth Phasing Plan identifies this entire plat, even areas already platted, as a Future Urban Growth Area. This area cannot currently be served with city utilities until a sanitary sewer trunkline is extended through the undeveloped areas east of this plat. The necessary infrastructure should be in place prior or in conjunction with annexation of these lots, and the City would not be responsible for costs of installation. Annexation is not proposed at this time.

### *Transportation and Access*

This plat would convert a previously platted loop road, Bronze Loop, into two separate cul-de-sacs, Iron Circle and Iron Place. A waiver for use of the cul-de-sacs has been submitted, citing topography as a justification. According to the statement, the previous loop road would require the foundations of homes to be placed on significant fill, while the use of cul-de-sacs would allow homes to be built on natural slopes. The slopes are approximately 15-18% in this area, which are under the threshold when a slope protection easement would typically be required.

Secondary access may become an issue during construction of this subdivision. An alternate means of access must be provided once 32 residential building permits are issued with a single access. Although this is not a concern at the present platting stage, the developer should be aware that the sequence of roadway construction will determine how many lots can be developed.

Both police and fire staff have expressed concerns with any new development in this area without further access improvements to the overall area. The existing primary access to the Silver Ranch development, the two-lane rural 43<sup>rd</sup> Avenue NE, could be strained by further

(continued)

development, and the only secondary access currently available would add considerable distance for emergency response from the stations.

A temporary turnaround for emergency vehicles may be necessary at the southern terminus of Silver Ranch Road if the platted segment of the right-of-way is constructed without continuation of the roadway to the southeast. Staff recommends obtaining an easement for such a turnaround beyond the extent of the plat to use for a turnaround, if needed.

#### *Park and Open Space*

Lots 25, Block 1 was originally platted for a park to satisfy the conditions of the Neighborhood Parks and Open Space ordinance and policy for the entire Silver Ranch First Addition. The park lot will be included in the replat, with a slightly expanded footprint to allow sufficient space for stormwater conveyance and a multiuse trail. The Bismarck Parks and Recreation District has expressed interest in installing the planned improvements for this park in the short-term, to allow the existing residents to have access to these amenities and effectively communicate the park's existence to prospective residents. Because of the change in lot numbering and dimensions for the park, an addendum to the Park Development Agreement will be presented to the Bismarck Parks and Recreation District for review. Because the overall programming, location, and function of the park would not change, this addendum is not attached to the report.

A stormwater and drainage easement is included as part of Lot 1, Block 2, Silver Ranch 2<sup>nd</sup> Addition. This was shown as a separate lot on the preliminary plat, but has been combined with the lot to the north because this stormwater detention facility will remain privately owned. The Parks and Recreation District does not intend to use this land for continuation of a trail.

The area includes a series of wetlands. A jurisdictional determination is pending from the U.S. Army Corps of Engineers, with possible measures necessary to mitigate any impacts to these wetlands from development or construction of infrastructure. The City Engineer conditionally approved the post construction stormwater management permit and noted that a final resolution of

wetland permitting process may require amendments to the permit and/or the plat.

#### *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 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, if necessary trunklines are extended prior to annexation;
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.

(continued)

*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 with an existing 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 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; 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 for a zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts, and of a major subdivision final plat for Silver Ranch Second Addition, including the waiver request for cul-de-sacs, with the following conditions:

1. An easement for an emergency vehicle turnaround is obtained immediately beyond the southeast terminus of Silver Ranch Road in conjunction with recordation of the plat.
2. The City would not enter into any contracts relating to the construction of municipal infrastructure in any delineated wetland areas until a resolution on the jurisdictional determination, avoidance and mitigation is achieved with the US Army Corps of Engineers.

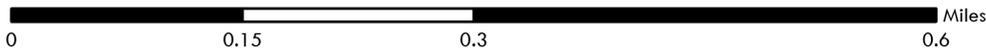
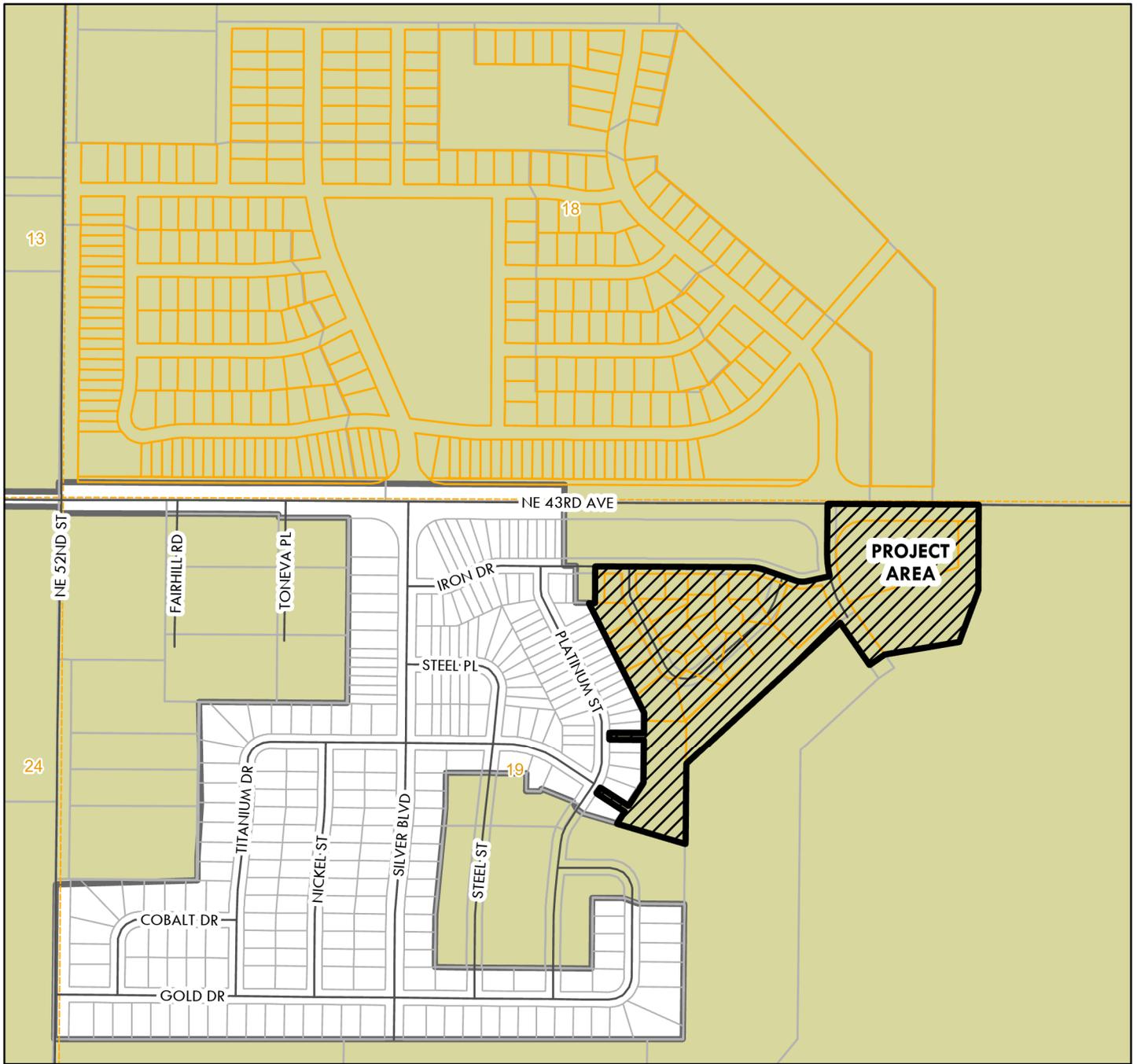
**Attachments**

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed zoning map
5. Final Plat
6. Preliminary Plat
7. Cul-de-sac Waiver Request



**Location Map**  
SILVER RANCH SECOND ADDITION

FPLT2020-009  
ZC2020-005

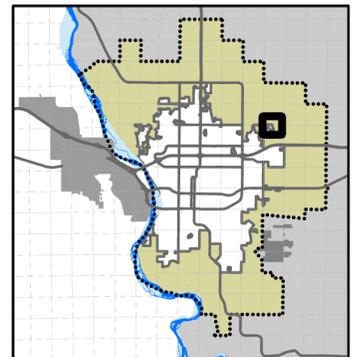


- City Limits
- County Outside ETA
- Bismarck ETA Jurisdiction
- Lots Pending Approval

*Section, township, and range indicated in orange*

City of Bismarck  
Community Development Department  
Planning Division  
August 13, 2020 (HLB)

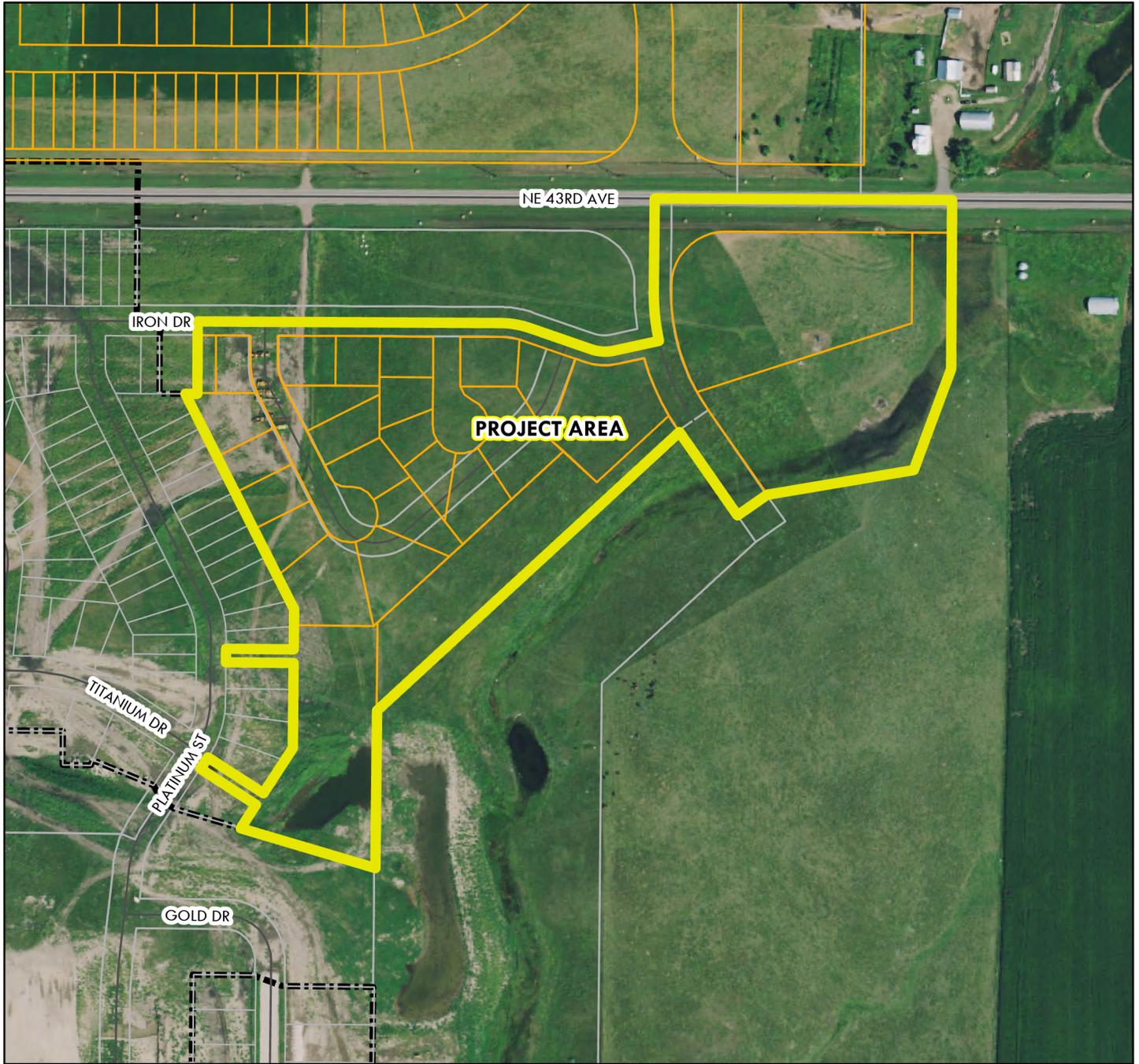
*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.*





**Aerial Map**  
SILVER RANCH SECOND ADDITION

FPLT2020-009  
ZC2020-005

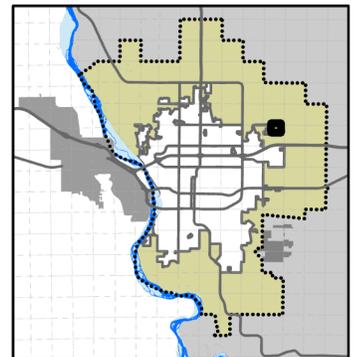


- Lots Pending Approval
- City Limits
- Bismarck ETA Jurisdiction

Aerial Imagery from 2019

City of Bismarck  
Community Development Department  
Planning Division  
August 13, 2020

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# Zoning and Plan Reference Map

Lots 4-6, Block 16, Northern Pacific Addition

FPLT2020-009  
ZC2020-005

### Zoning Districts

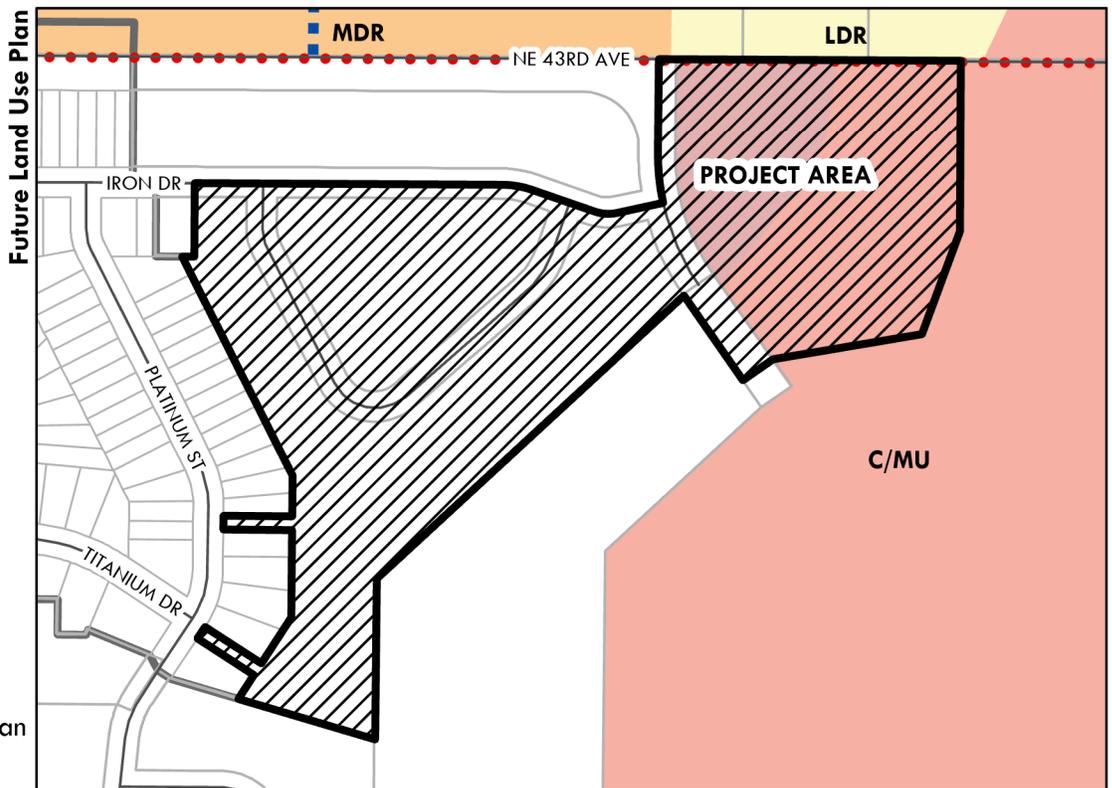
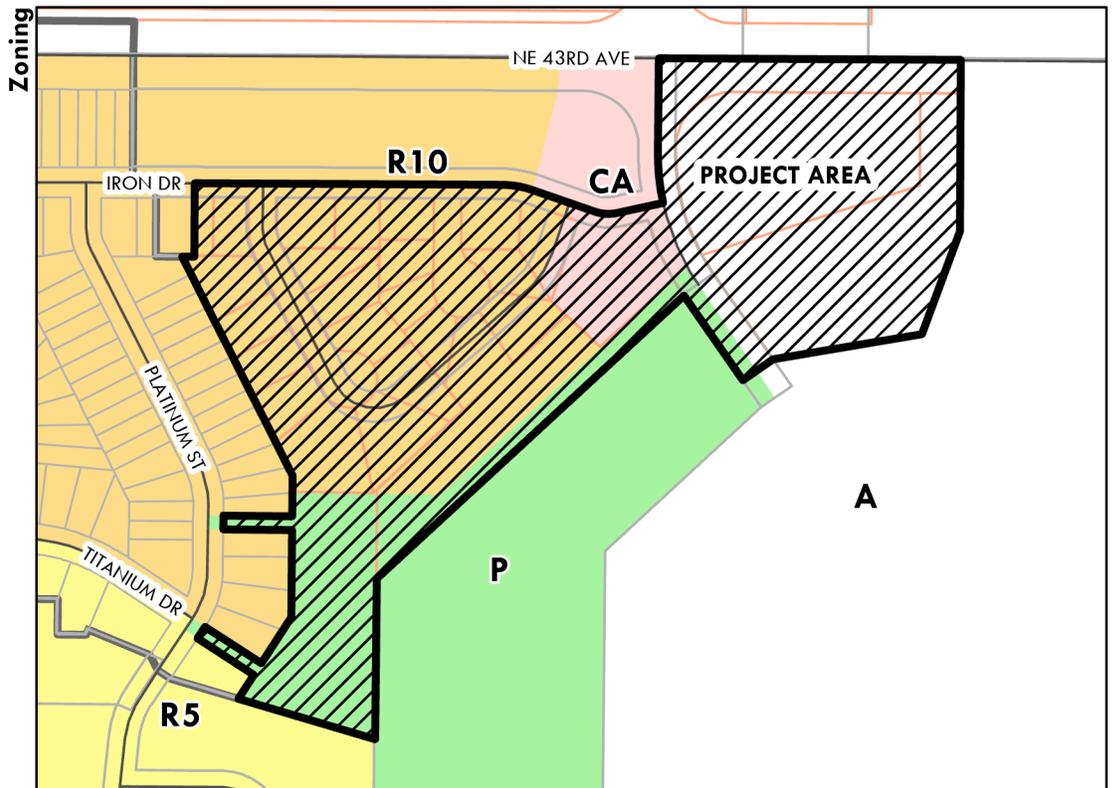
|            |   |
|------------|---|
| <b>A</b>   | Agriculture                                     |
| <b>RR</b>  | Rural   |
| <b>R5</b>  | Residential                                     |
| <b>RMH</b> | Residential<br>Manufactured<br>Home Residential |
| <b>R10</b> | Residential                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

### Future Land Use Plan

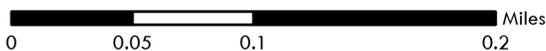
|                     |   |
|---------------------|---|
| <b>CONSRV</b>       | Conservation                                |
| <b>BP</b>           | Business Park                               |
| <b>C</b>            | Commercial                                  |
| <b>C/MU</b>         | Commercial/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

### Fringe Area Road Master Plan

- Future Arterial Road
- ■ ■ Future Collector Road



*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.*

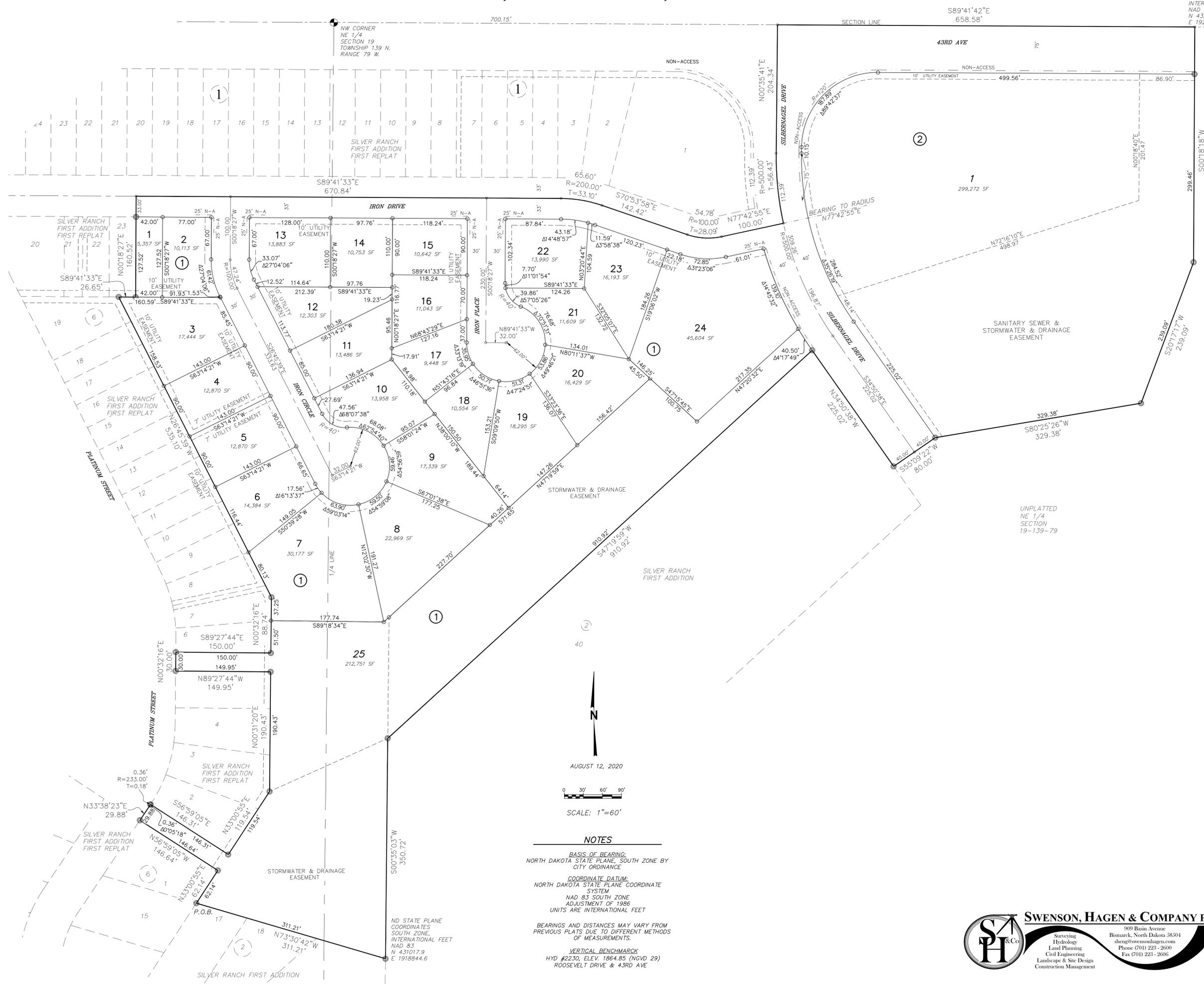


City of Bismarck  
Community Development Dept.  
Planning Division  
August 13, 2020

# SILVER RANCH SECOND ADDITION

BEING A REPLAT OF LOTS 24-49 BLOCK 6, LOTS 1-20 BLOCK 7,  
SILVER RANCH FIRST ADDITION FIRST REPLAT, ALL OF BRONZE LOOP RIGHT-OF-WAY,  
PART OF IRON DRIVE AND SILVER RANCH ROAD RIGHTS-OF-WAY,  
AND AUDITOR'S LOT D OF THE NE 1/4 OF  
SECTION 19, TOWNSHIP 139 NORTH, RANGE 79 WEST OF THE FIFTH PRINCIPAL MERIDIAN  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

ND STATE PLANE  
COORDINATES  
SOUTH ZONE,  
INTERNATIONAL FEET  
NAD 83  
N 432500.5  
E 1920121.9



**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**  
HYD #2230, ELEV. 1864.85 (NGVD 29)  
ROOSEVELT DRIVE & 43RD AVE

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

909 Basin Avenue  
Bismarck, North Dakota 58501  
sheng@swensonhagen.com  
Phone (701) 223-2600  
Civil Engineering  
Landscape & Site Design  
Construction Management

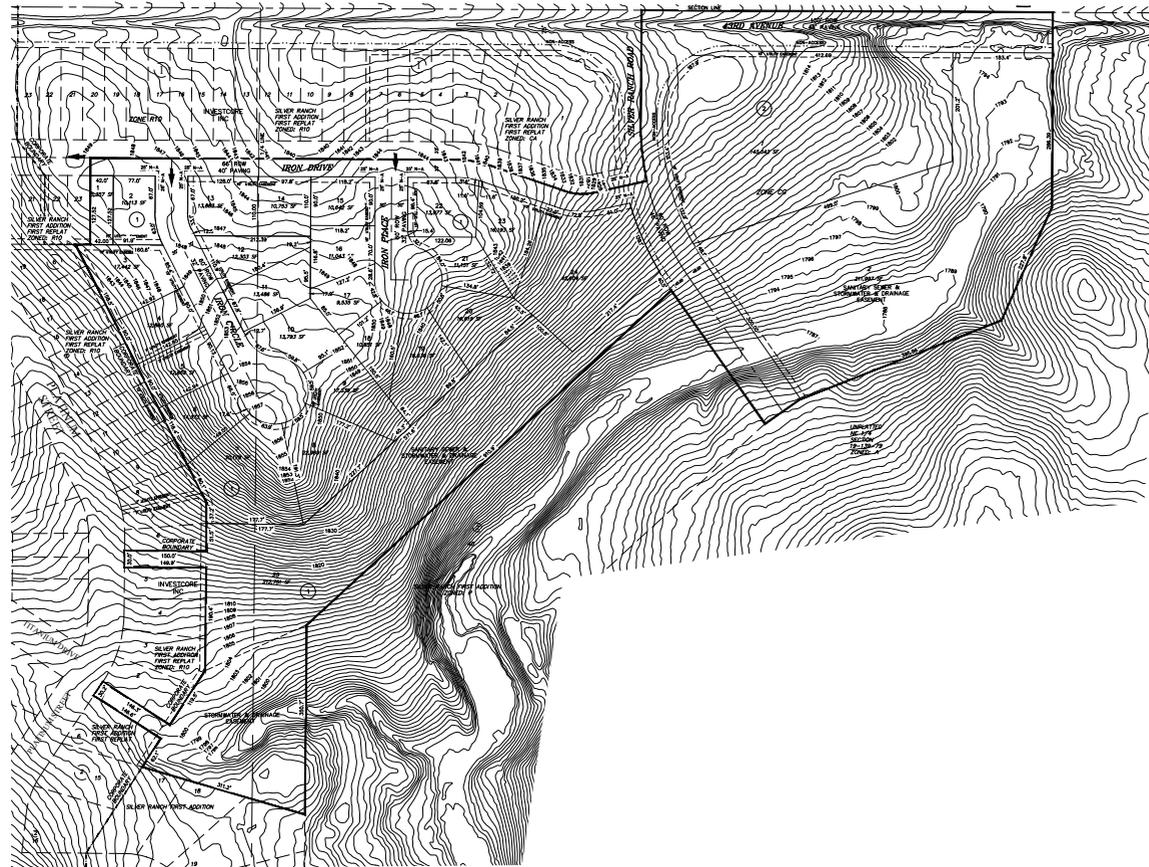
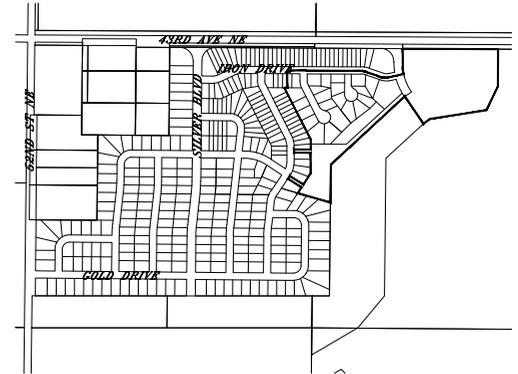


# SILVER RANCH SECOND ADDITION

REPLAT OF LOTS 24-49 BLOCK 6 LOTS 1-20 BLOCK 7  
SILVER RANCH FIRST ADDITION FIRST REPLAT AND  
PART OF THE NE 1/4 OF  
SECTION 19, TOWNSHIP 139 NORTH, RANGE 79 WEST

**BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA**

LOCATION MAP



**26.20 ACRES**  
**EXISTING ZONING: R10 ,CA, & A**  
**27 LOTS**  
**PROPOSED ZONING: R10, CA & CG**

**OWNER: SILVER RANCH 19 LLLP**  
**ADDRESS: 1117 N 3RD ST**  
**BISMARCK, ND 58501**



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

VERTICAL DATUM: NGVD 29

MAY 22, 2020