



*Community Development Department*

**BISMARCK PLANNING AND ZONING COMMISSION  
MEETING AGENDA  
April 25, 2018**

---

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

---

Item No.

Page No.

**MINUTES**

1. Consider approval of the minutes of the March 28, 2018 meeting of the Bismarck Planning & Zoning Commission.

**CONSENT AGENDA  
CONSIDERATION**

The following items are requests for a public hearing.

2. **Part of Block 2, Pinehurst 7<sup>th</sup> Addition/Touchmark on West Century (WH)**  
Major PUD Amendment | PUDA2018-001 ..... 1  
  
*Staff recommendation: schedule a hearing*    ☐ *schedule a hearing*    ☐ *continue*    ☐ *table*    ☐ *deny*
3. **Lots 2-5, Block 2, Imperial Valley Subdivision (JW)**  
Zoning Change | ZC2018-003..... 11  
  
*Staff recommendation: schedule a hearing*    ☐ *schedule a hearing*    ☐ *continue*    ☐ *table*    ☐ *deny*
4. **Auditor's Lot A of part of Blocks 27 & 28, Coffin Addition and part of the SE1/4 of Section 4, Lincoln Township/City Lands (JW)**  
Zoning Change (RMH and MA to RMH) | ZC2018-002 ..... 15  
  
*Staff recommendation: schedule a hearing*    ☐ *schedule a hearing*    ☐ *continue*    ☐ *table*    ☐ *deny*



## REGULAR AGENDA

### FINAL CONSIDERATION

The following item is a request for final action and forwarding to the City Commission

5. **Lots 1-2, Block 1, Cottonwood Parkview Addition (JW)**  
Annexation | ANNEX 2018-003.....19
- Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

### PUBLIC HEARINGS

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

6. **Hamburg Industrial Park Third Addition (WH)** .....25
- Annexation | ANNEX2017-008  
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
  - Zoning Change (A to MA) | ZC2017-029  
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
  - Final Plat | FPLT2018-002  
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
7. **Whispering Ridge 2<sup>nd</sup> Subdivision (DN)** .....33
- Hay Creek Township
- Zoning Change (A & RR to Conditional R5) | ZC2017-031  
Staff recommendation: continue ☐ approve ☐ continue ☐ table ☐ deny
  - Final Plat | FPLT2018-006  
Staff recommendation: continue ☐ approve ☐ continue ☐ table ☐ deny
8. **Christianson First Addition (JW) –**  
Minor Subdivision Final Plat | MPLT2017- 011 .....45
- Staff recommendation: continue ☐ approve ☐ continue ☐ table ☐ deny
9. **Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision (JW)**  
Zoning Change (R10 to Conditional RM10) | ZC2018-001 .....53
- Apple Creek Township
- Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
10. **SW1/4 of the SE1/4 of Section 21, T138N-R80W/Lincoln Township (DN)**  
Special Use Permit (Accessory Building) | SUP2018-001 .....61
- Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

11. **Lot 2 of Lot2A of Lot 2, Block 1, 43<sup>rd</sup> Avenue Commercial Park 2<sup>nd</sup> Addition (WH)**  
Special Use Permit (Auto-laundry (Carwash), Filling Station & Drive-through) |  
SUP2018-006 ..... 73

Staff recommendation: approve

☐ approve

☐ continue

☐ table

☐ deny

12. **DC and DF Zoning Districts – Downtown Design Review and Approval**  
Zoning Ordinance Text Amendment (WH) | ZOTA2018-001 ..... 83

Staff recommendation: approve

☐ approve

☐ continue

☐ table

☐ deny

## **OTHER BUSINESS**

13. **Other Business**

## **ADJOURNMENT**

14. **Adjourn.** The next regular meeting date is scheduled for **May 23, 2018.**

Enclosures: Meeting Minutes of March 28, 2018  
Building Permit Activity Month to Date Report for March 2018  
Building Permit Activity Year to Date Report for March 2018

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

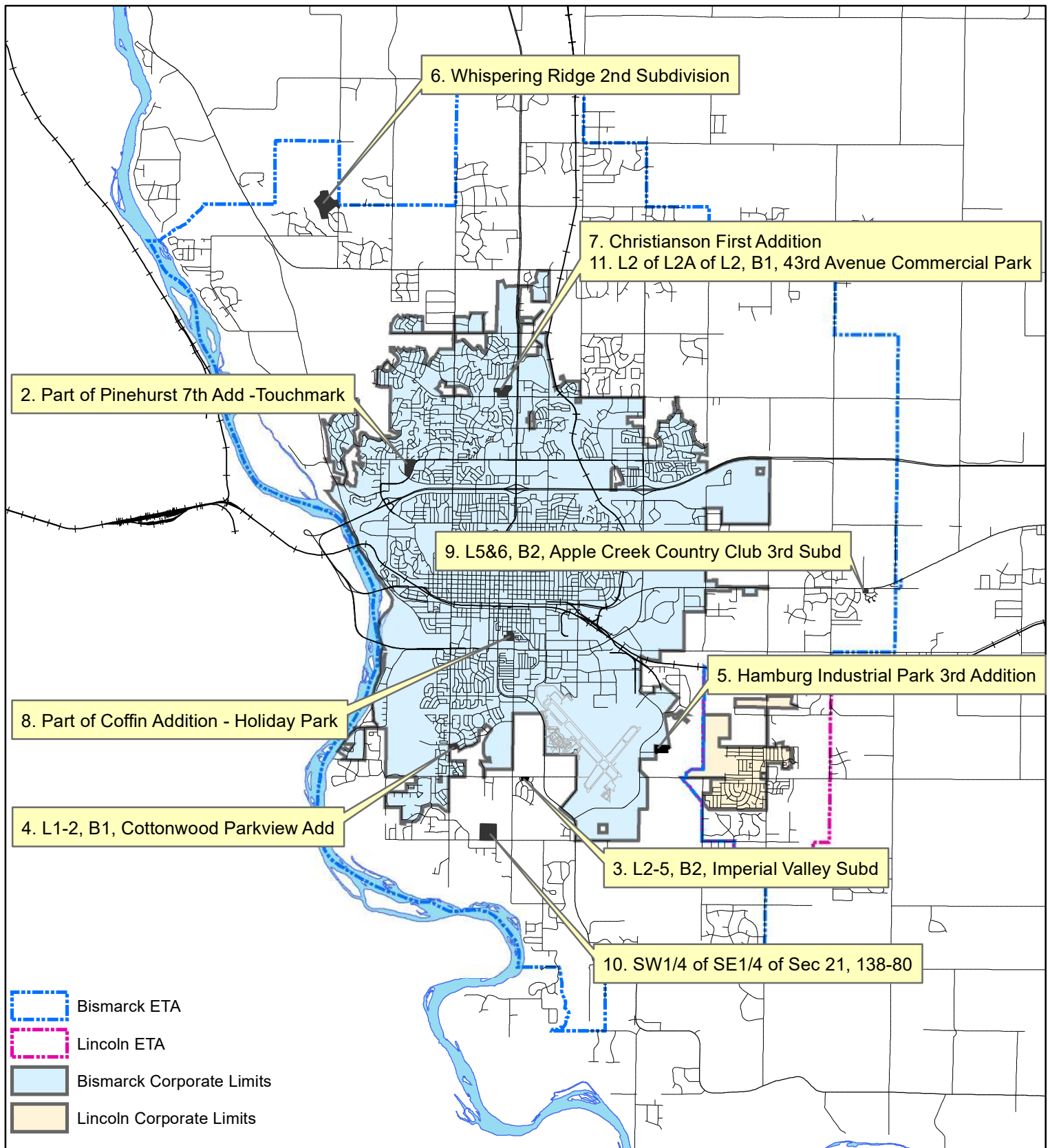
All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

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 - April 25, 2018



April 2018

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.



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 2

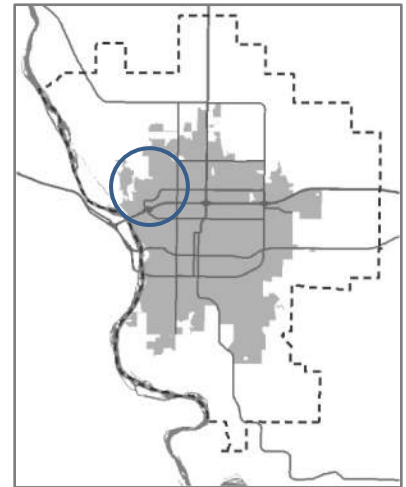
April 25, 2018

**Application for: Major Planned Unit Development (PUD) Amendment**

TRAKiT Project ID: PUDA2018-001

### Project Summary

<i>Title:</i>	Part of Block 2, Pinehurst Addition / Touchmark
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Waterford on West Century LLC
<i>Project Contact:</i>	Kendra Lackey, President of Development & Construction, Touchmark
<i>Location:</i>	In northwest Bismarck, along the north side of West Century Avenue between West Interstate Avenue and Country West Road
<i>Project Size:</i>	17.93 acres
<i>Request:</i>	To modify the existing Planned Unit Development to modify the configuration of cottages



### Site Information

#### Existing Conditions

<i>Number of Lots:</i>	2 parcels in 1 block
<i>Land Use:</i>	Assisted living facility, apartments, and residential cottages
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	PUD – Planned Unit Development
<i>Uses Allowed:</i>	PUD – Uses specified in PUD
<i>Max Density Allowed:</i>	PUD – Density specified in PUD

#### Proposed Conditions

<i>Number of Lots:</i>	2 parcels in 1 block
<i>Land Use:</i>	Assisted living facility, apartments, and residential cottages
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	PUD – Planned Unit Development
<i>Uses Allowed:</i>	PUD – Uses specified in PUD
<i>Max Density Allowed:</i>	PUD – Density specified in PUD

### Property History

<i>Zoned:</i>	6/1998 (PUD) 01/2007 (Amended) 05/2014 (Amended)	<i>Platted:</i>	09/1997 (Pinehurst 7th) 12/2002 (Replat)	<i>Annexed:</i>	05/1993
---------------	--	-----------------	---	-----------------	---------

### Staff Analysis

(continued)

Waterford on West Century is requesting approval of a Major Planned Unit Development (PUD) Amendment to modify the configuration of cottages.

Section 14-04-18 of the City Code of Ordinances (Planned Unit Development) indicates that the intent of the Planned Unit Development (PUD) district is, "to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space." A copy of this section is attached.

The proposed change would allow the developer more flexibility in the type of housing options they can provide for their clients. The master plan submitted with the PUD amendment in 2014 included a total of three additional duplex (6 units) residential cottages. The revised master plan submitted with application for this request includes a total of two duplex units and one single unit residential cottages (5 units). As proposed the density for this PUD would decrease by one unit.

Adjacent land uses include single family residential to the north across Country West Road, single-family residential and Centennial elementary school to the east across West Century Avenue, commercial development to the south across West Century Avenue and West Interstate Avenue, an office complex to the southwest (MDU) and undeveloped RT-residential zoned land to the west.

Staff-recommended changes to the draft PUD Amendment are addressed in attached document.

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

1. The proposed amendment is outside the area of Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed amendment is compatible with adjacent land uses and zoning;
3. The area is already annexed; therefore the City of Bismarck would be able to provide necessary public services, facilities and programs to serve any development allowed

by the proposed amendment at the time the property is developed;

4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
5. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
6. The amended planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways;
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated;
8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed amendment is consistent with the master plan, other adopted plans, policies and planning practice; and
11. The proposed amendment 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 major Planned Unit Development amendment for Lot 1 and Lots 2B and 2C of Lot 2, Block 2 and Lot 2A of Lot 2, Block 2, Replat of Lots 1 and 2, Block 2, Pinehurst 7th Addition, as outlined in the attached draft PUD amendment document.

**Attachments**

1. Draft PUD Amendment
2. Location Map

(continued)

3. Zoning and Plan Reference Map

4. Applicant Narrative

5. Revised Site Plan

6. Section 14-04-18 of the City Code of Ordinances

---

*Staff report prepared by:*

Will Hutchings, Planner

701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)

**PINEHURST 7<sup>TH</sup> ADDITION PLANNED UNIT DEVELOPMENT  
ORDINANCE NO. 4909 (Adopted June 9, 1998)  
MAJOR PUD AMENDMENT (Adopted January 24, 2007)  
MAJOR PUD AMENDMENT (Adopted May 28, 2014)  
MAJOR PUD AMENDMENT (Adopted \_\_\_\_\_)**

WHEREAS, Ordinance No. 4909 was adopted by the Board of City Commissioners on June 9, 1998; and

WHEREAS, the ordinance indicates that any change in the uses outlined in the ordinance requires an amendment to the PUD; and

WHEREAS, Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) outlines the requirements for amending a PUD; and

WHEREAS, Touchmark on West Century, LLC has requested an amendment to the Planned Unit Development for Pinehurst 7<sup>th</sup> Addition Replat.

NOW, THEREFORE, BE IT RESOLVED by the Bismarck Planning and Zoning Commission of the City of Bismarck, North Dakota, a municipal corporation, that the request to amend the Planned Unit Development for the following described property:

Lots 1 & 2, Block 1, Pinehurst 7<sup>th</sup> Addition Replat

is hereby approved and this PUD is now subject to the following development standards:

1. *Uses Permitted.* Uses permitted include a 3-story, 172-unit congregate care/assisted living facility; a 4-story, 62-unit apartment building; ~~2221~~ dwelling units within one, two and three-unit residential cottages; three 30-unit apartment buildings; and a maintenance building.
2. *Residential Development Standards.* The dwelling unit count would increase from 250 units to 350 units over the entire facility, which will increase the density from 13.94 units per acre to 19.52 units per acre. The maximum allowable density shall be 350 units with a density of 19.52 units per acre. The minimum building setback requirements at the perimeter of the PUD shall be a front yard setback of 25 feet along Century Avenue and West Interstate Avenue, a minimum rear yard setback of 20 feet, and a minimum side yard setback of 6 feet. Setbacks between buildings within the PUD shall be the minimum allowed under the City's building code.
3. *Design Standards.* All future building design and materials shall be complementary to the existing facilities.
4. *Parking.* Parking and Loading. Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. All off-

street parking spaces required 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 or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement.

5. *Landscaping and Screening.* Landscaping shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
6. *Screening of Mechanical Equipment and Solid Waste Collection Areas.* Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).
7. *Signage.* Signage for the development may be installed in accordance with the provisions of Sec14-03-05 (9) (Residential Area Identification Signs). Off-premise advertising signs (billboards) are specifically prohibited within this development.
8. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

**From:** [Kendra H. Lackey](#)  
**To:** [William Hutchings](#)  
**Cc:** [Kim Lee](#); [Hilary Balzum](#); [Jim A. Dunwell](#); [Serena L. DiPilato](#)  
**Subject:** RE: BND phase 3 Cottages - planning department  
**Date:** Friday, April 13, 2018 2:48:10 PM  
**Attachments:** [TBND 4 13 18 APPLICATION FOR PUD AMENDMENT - DUPLEXES.pdf](#)

---

William,

Please let this email serve as our written description of our request for the PUD amendment. I am getting the simplified site plan of the entire community including these homes sent to you by Jim Dunwell our in-house architect.

Attached is the development application. We will handle our payment process online. I am about to start travelling so want to send this to you electronically also in case our digital process does not go smoothly.

Touchmark at West Century, LLC requests the following modification to the PUD language of the Major PUD Amendment dated May 28, 104:

1. *Uses Permitted.* Uses permitted include a 3-story, 172-unit congregate care/assisted living facility; a 4-story, 62-unit apartment building; 22 dwelling units within two and three-unit residential cottages; three 30-unit apartment buildings; and a maintenance building.

Shall be changed to:

1. *Uses Permitted.* Uses permitted include a 3-story, 172-unit congregate care/assisted living facility; a 4-story, 62-unit apartment building; 22 dwelling units within one, two and three-unit residential cottages; three 30-unit apartment buildings; and a maintenance building.

The purpose for this request is because of site layout. We have completed the site plan for the last of our cottage development and do not have room for access for 3 duplexes (6 total units). Therefore, we wish to complete a plan including 2 duplexes and one single unit (5 total units).

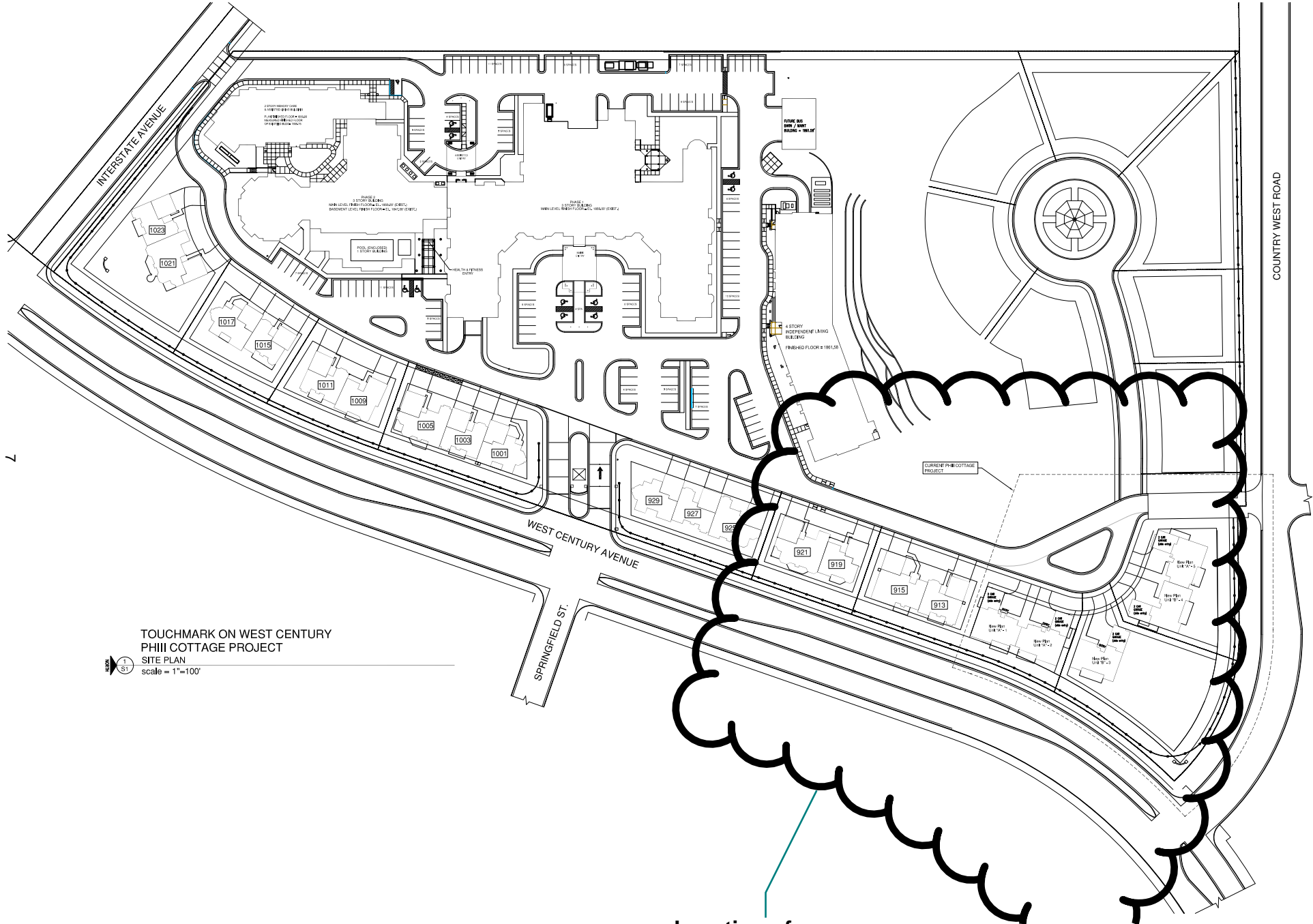
Site plan will be attached under separate cover.

Thank you,  
Kendra Lackey

Touchmark Logo



**Kendra H. Lackey | President of Development & Construction**  
Touchmark  
5150 SW Griffith Drive  
Beaverton, OR 97005-2935  
[REDACTED] office | [REDACTED] cell  
[REDACTED] | [Touchmark.com](http://Touchmark.com)



TOUCHMARK ON WEST CENTURY  
PHIII COTTAGE PROJECT

SITE PLAN  
scale = 1"=100'





14-04-18

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

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

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

- 1) The existing topographic character of the land;
- 2) Existing and proposed land uses;
- 3) The location of all existing and proposed buildings, structures and improvements;
- 4) The maximum height of all buildings;
- 5) The density and type of dwelling;
- 6) The internal traffic and circulation systems, off-street parking areas, and major points of access to public right-of-way;
- 7) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas;
- 8) Proposed interior buffer areas between uses;
- 9) Acreage of PUD;
- 10) Utility service plan showing existing utilities in place and all existing and proposed easements;
- 11) Landscape plan; and
- 12) Surrounding land uses, zoning and ownership.

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

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

- 2) An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches or elevations as may be required to described the objectives; and
    - 3) A copy of all proposed condominium agreements for common areas.
  - c. Architectural drawings - the following architectural drawings shall be submitted in sufficient detail to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door and window openings:
    - 1) Elevations of the front and one side of a typical structure.
    - 2) A perspective of a typical structure, unless waived by the planning department.
2. Review and approval.
  - a. All planned units shall be considered by the planning commission in the same manner as a zoning change. The planning commission may grant the proposed planned unit in whole or in part, with or without modifications and conditions, or deny it.
  - b. All approved site plans for planned units, including modifications or conditions shall be endorsed by the planning commission and filed with the Director of Community Development. The zoning district map shall indicate that a planned unit has been approved for the area included in the site plan.
3. Standards. The planning commission must be satisfied that the site plan for the planned unit has met each of the following criteria:
  - a. Proposal conforms to the comprehensive plan.
  - b. Buffer areas between noncompatible land uses may be required by the planning commission.
  - c. Preservation of natural features including trees and drainage areas should be accomplished.
  - d. The internal street circulation system must be designed for the type of traffic generated. Private internal streets may be permitted if they conform to this ordinance and are constructed in a manner agreeable to the city engineer.
  - e. The character and nature of the proposal contains a planned and coordinated land use or mix of land uses which are compatible and harmonious with adjacent land areas.
4. Changes.
  - a. Minor changes in the location, setting, or character of buildings and structures may be authorized by the Director of Community Development.
  - b. All other changes in the planned unit shall be initiated in the following manner:
    - 1) Application for Planned Development Amendment.

This page intentionally left blank.



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 3

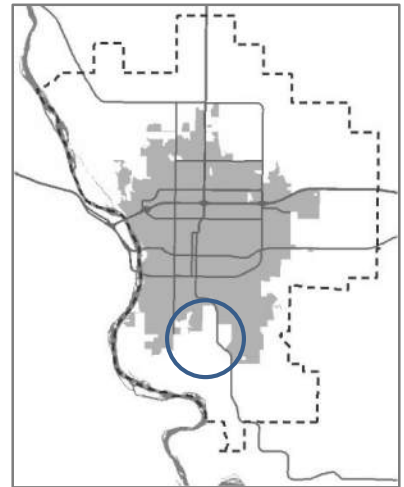
April 25, 2018

### Application for: Zoning Change

TRAKiT Project ID: ZC2018-003

#### Project Summary

Title:	Lots 2-5, Block 2, Imperial Valley Subdivision
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Trent Rittenbach
Project Contact:	Trent Rittenbach
Location:	South of Bismarck, south of East Burleigh Avenue between 12 <sup>th</sup> Street SE and University Drive, along the north side of East Princeton Avenue
Project Size:	2.37 acres
Request:	Rezone property for future single and two-family development



#### Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	4 lots in 1 block	Number of Lots:	4 lots in 1 block
Land Use:	Undeveloped	Land Use:	Single and two-family residential
Designated GMP	Low Density Residential	Designated GMP	Low Density Residential
Future Land Use:		Future Land Use:	
Zoning:	RM30 – Residential	Zoning:	R10 – Residential
Uses Allowed:	RM30 – Multi-family residential	Uses Allowed:	R10 – Single and two-family residential
Max Density Allowed:	RM30 – 30 units / acre	Max Density Allowed:	R10 – 10 units / acre

#### Property History

Zoned:	10/1973	Platted:	10/1973	Annexed:	N/A
--------	---------	----------	---------	----------	-----

#### Staff Analysis

Trent Rittenbach is requesting approval of a zoning change from the RM30 – Residential zoning district to the R10 – Residential zoning district for Lots 2-5, Block

2, Imperial Valley Subdivision to allow for single and two-family development.

(continued)

Adjacent uses include agriculturally zoned land to the north, existing and developing single and two-family residential to the east, south and west across recently vacated Empire Drive, and one RM30 – Residential lot immediately adjacent to the west.

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

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 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.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RM30 – Residential zoning district to the R10 – Residential zoning district for Lots 2-5, Block 2, Imperial Valley Subdivision.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map

---

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

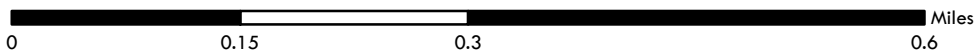
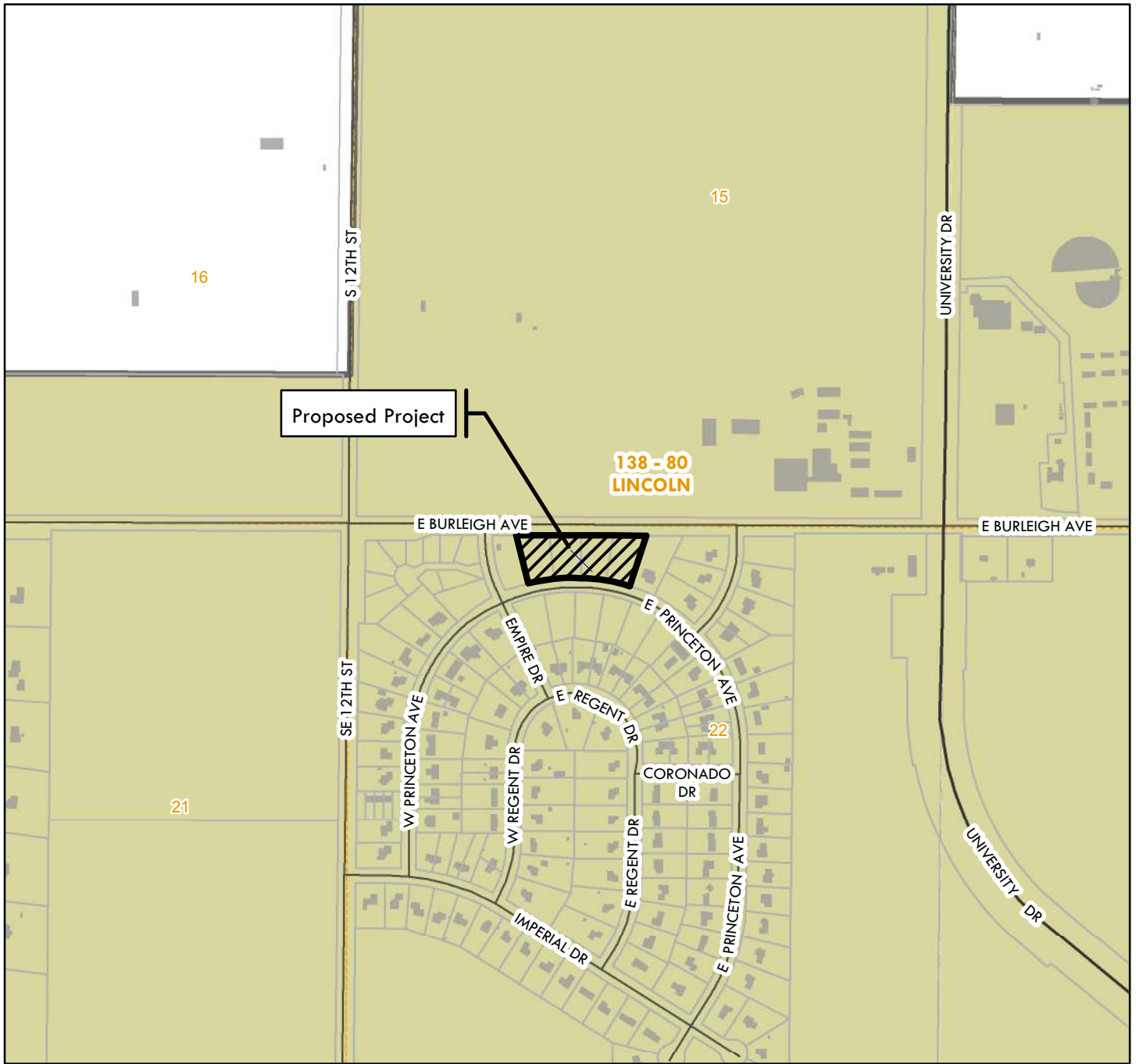




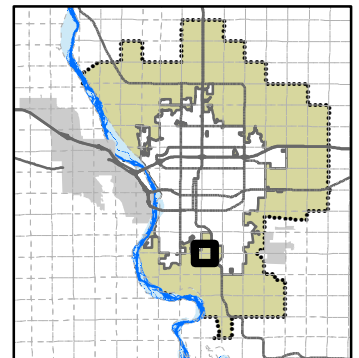
# Proposed Zoning Change

Lots 2-5, Block 2, Imperial Valley Subdivision

ZC2018-003



Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 13, 2018 (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.



# Proposed Zoning Change

ZC2018-003

Lots 2-5, Block 2, Imperial Valley Subdivision

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

## Zoning Districts

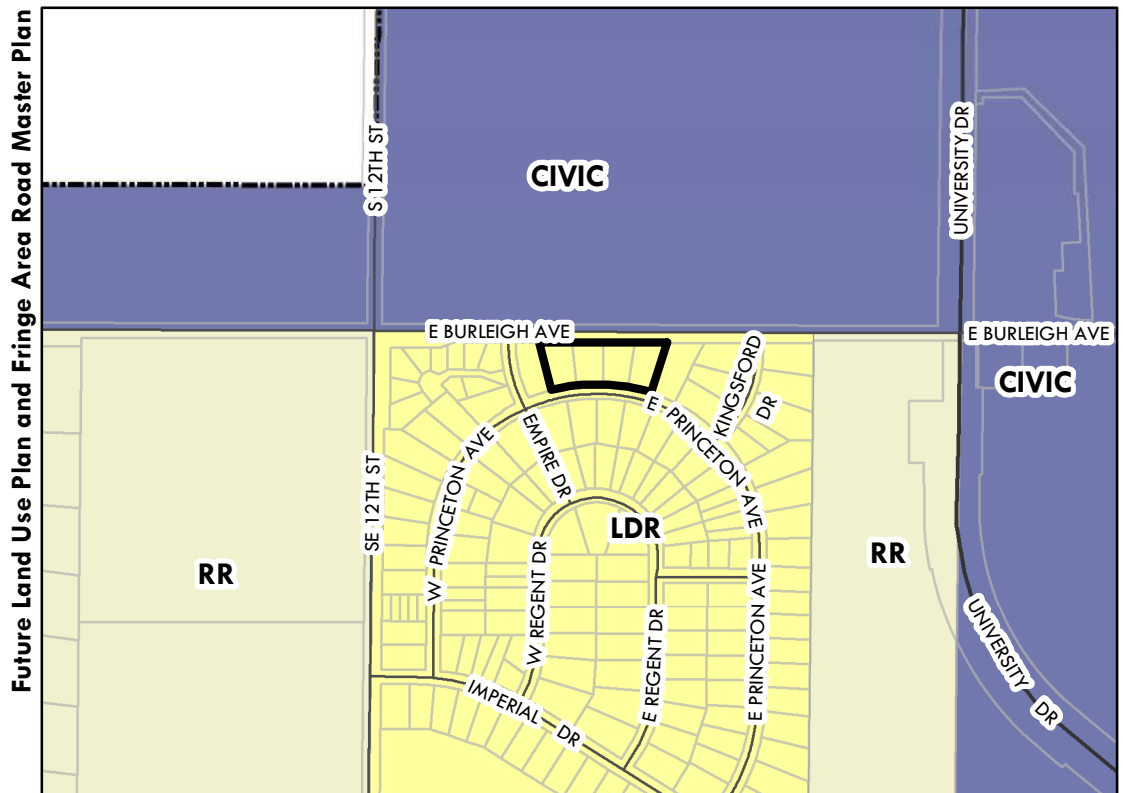
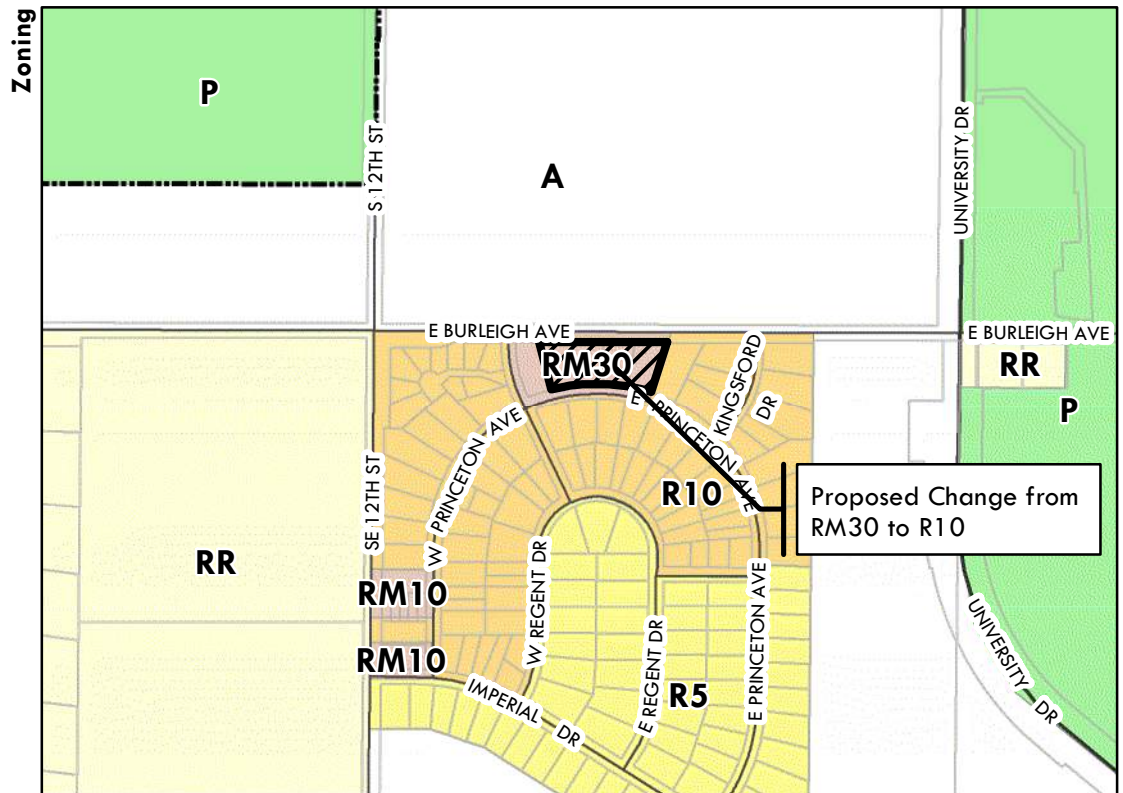
<b>A</b>	Agriculture
<b>RR</b>	Rural Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

## Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector



0 0.125 0.25 0.5 Miles

 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  
April 16, 2018



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 4

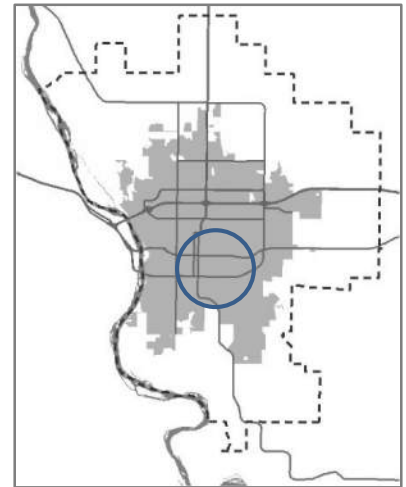
April 25, 2018

### Application for: Zoning Change

TRAKiT Project ID: ZC2018-002

### Project Summary

<b>Title:</b>	Auditor's Lot A of part of Blocks 27 & 28, Coffin Addition and part of the SE¼ of Section 4, Lincoln Township/City Lands
<b>Status:</b>	Planning & Zoning Commission – Consideration
<b>Owner(s):</b>	Terveen Manufactured Homes, LLC
<b>Project Contact:</b>	Landon Niemiller, Swenson Hagen & Company
<b>Location:</b>	In central Bismarck, east of South 9 <sup>th</sup> Street, between Michigan Avenue and East Arbor Avenue, along the west side of South 12 <sup>th</sup> Street
<b>Project Size:</b>	8.71 acres
<b>Request:</b>	Rezone exiting property so the entire property is located within one zoning district



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 parcel	<b>Number of Lots:</b>	1 parcel
<b>Land Use:</b>	Single-family residential	<b>Land Use:</b>	Single-family residential
<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>	RMH – Residential MA - Industrial	<b>Zoning:</b>	RMH – Residential
<b>Uses Allowed:</b>	RMH – Manufactured home parks	<b>Uses Allowed:</b>	RMH – Manufactured home parks
<b>Max Density Allowed:</b>	RMH – 7 units / acre	<b>Max Density Allowed:</b>	RMH – 7 units / acre

### Property History

<b>Zoned:</b>	Pre-1980	<b>Platted:</b>	02/1915 Part (Coffin Addition)	<b>Annexed:</b>	Pre-1980
---------------	----------	-----------------	-----------------------------------	-----------------	----------

### Staff Analysis

Terveen Manufactured Homes, LLC is requesting approval of a zoning change from the RMH –

Residential zoning and MA – Industrial zoning districts to the RMH - Residential zoning district for Auditor's Lot

(continued)



A of Part of Blocks 27 & 28, Coffin Addition and Part of the SE¼ of Section 4, Lincoln Township/City Lands.

A residential manufactured mobile home park is not permitted use within the MA – Industrial zoning district, although it was when this park was established. Currently the property is located in both the MA – Industrial zoning district and the RMH – Residential zoning district, while the remainder of the park is zoned RMH – Residential. In order to bring this property into conformance with the zoning ordinance, a zoning change to the RMH – Residential zoning district is necessary.

Adjacent uses include single and two-family residential to the north, another manufactured mobile home park to the east, industrial uses to the south and southwest and single-family residential uses to the west.

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

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 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.

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RMH – Residential and MA – Industrial zoning districts to the RMH – Residential zoning district for Auditor's Lot A of part of Blocks 27 & 28, Coffin Addition and part of the SE¼ of Section 4, Lincoln Township City Lands.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map

---

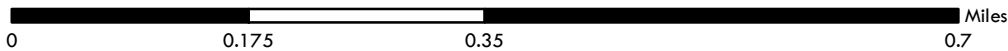
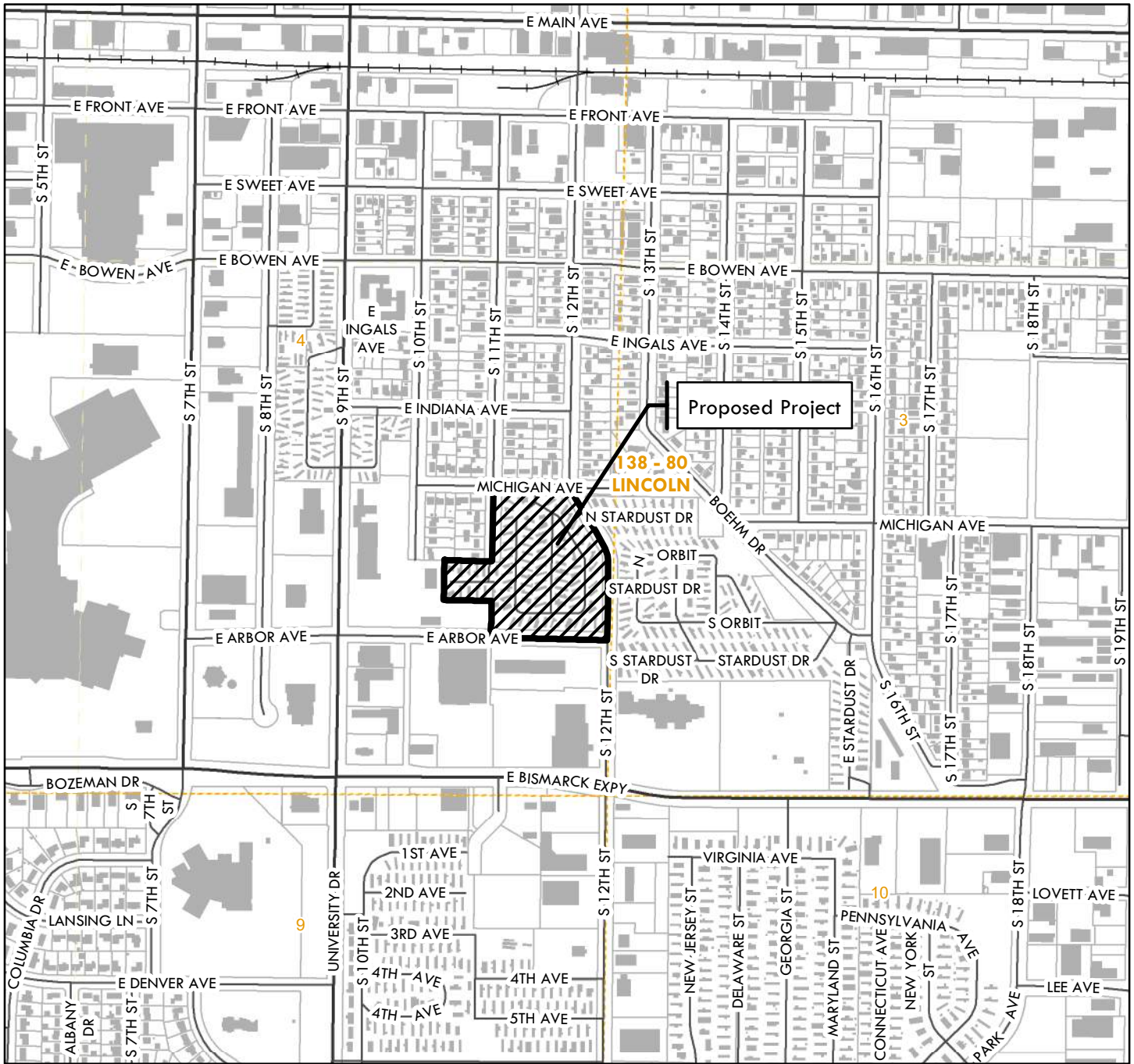
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



## Proposed Zoning Change (RMH and MA to RMH)

ZC2018-002

Auditor's Lot A of part of Blocks 27 & 28, Coffin Addition and part of the SE 1/4 of Section 4, Lincoln Township/City Lands

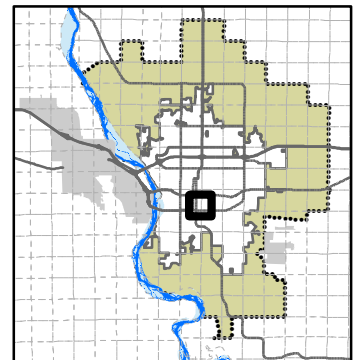


Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 19, 2018 (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.





# Proposed Zoning Change

Part of Coffin Addition / City Lands

ZC2018-002

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

## Zoning Districts

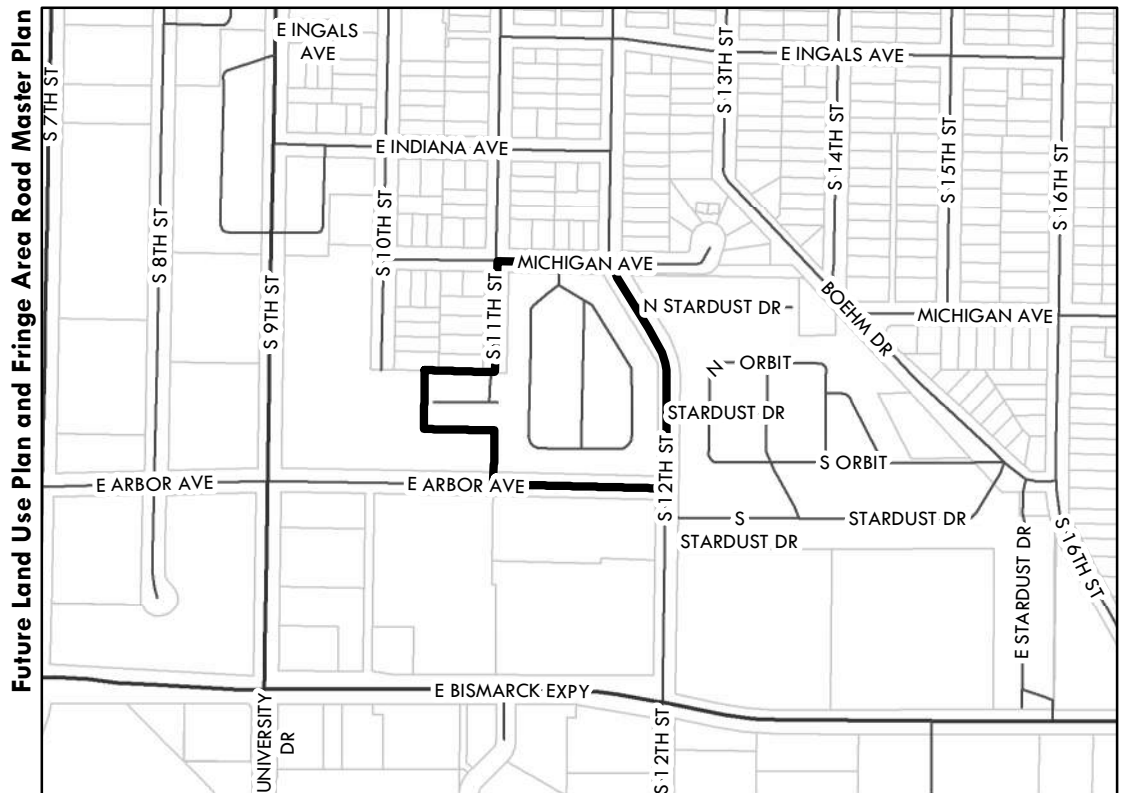
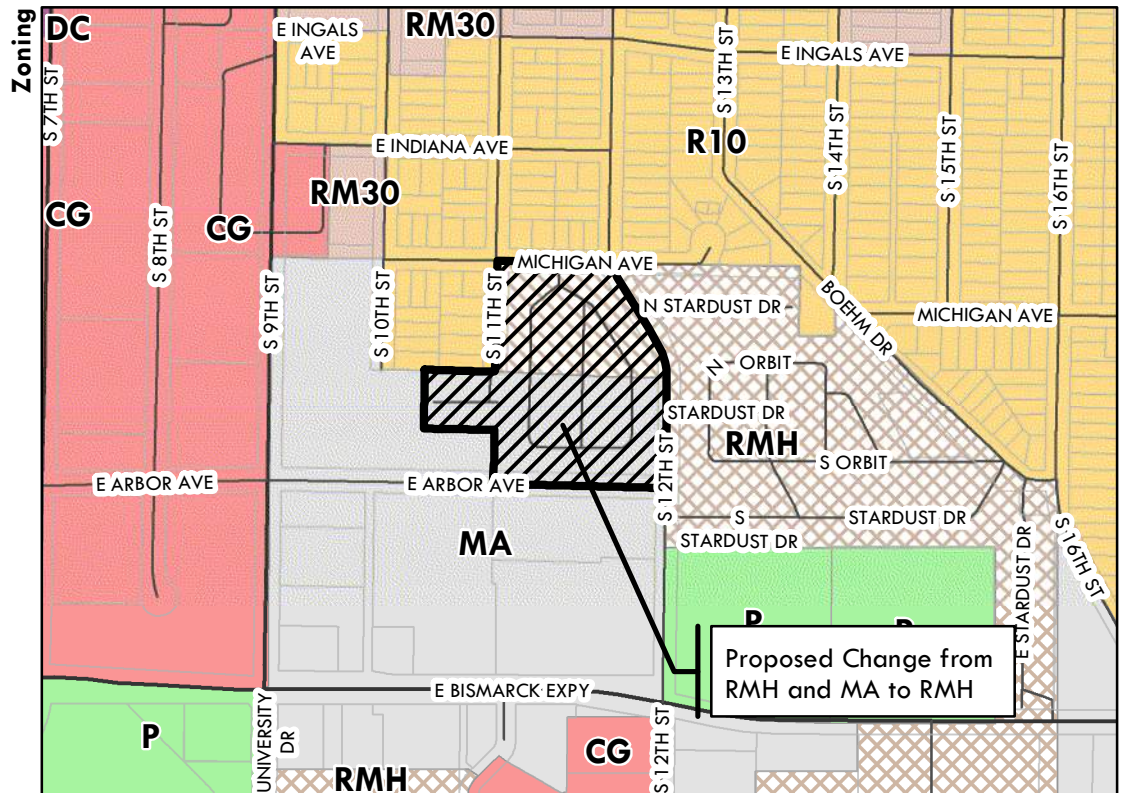
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

## Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector



0 0.1 0.2 0.4 Miles

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  
April 16, 2018





## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 5

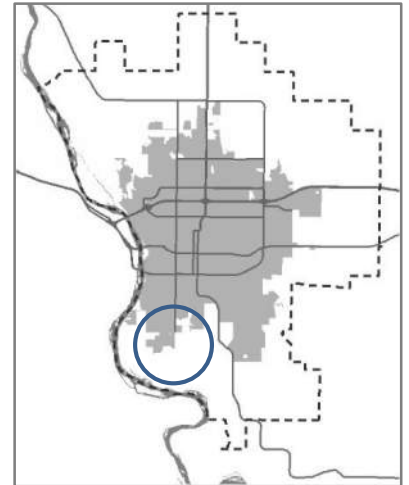
April 25, 2018

### Application for: Annexation

TRAKiT Project ID: ANNX2018-003

#### Project Summary

<i>Title:</i>	Lots 1-2, Block 1, Cottonwood Parkview Addition
<i>Status:</i>	Planning & Zoning Commission – Final Consideration
<i>Owner(s):</i>	Wachter Family Revocable Trust
<i>Project Contact:</i>	Michael Gunsch, PE, Houston Engineering
<i>Location:</i>	In south Bismarck, south of Santa Fe Avenue and north of East Burleigh Avenue, along the east side of South Washington Street
<i>Project Size:</i>	4.23 acres
<i>Request:</i>	Annex property for neighborhood commercial development



#### Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 lots in 1 block	<i>Number of Lots:</i>	2 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Commercial
<i>Designated GMP</i>	Low Density Residential	<i>Designated GMP</i>	Low Density Residential
<i>Future Land Use:</i>	Medium Density Residential/Mixed Use	<i>Future Land Use:</i>	Medium Density Residential/Mixed Use
<i>Zoning:</i>	R10 – Residential	<i>Zoning:</i>	Conditional CA - Commercial
<i>Uses Allowed:</i>	R10 – Single and two-family residential	<i>Uses Allowed:</i>	Conditional CA – Neighborhood Commercial
<i>Max Density Allowed:</i>	R10 – 10 units / acre	<i>Max Density Allowed:</i>	Conditional CA – 30 units / acre

#### Property History

<i>Zoned:</i>	Pre-1980	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
---------------	----------	-----------------	-----	-----------------	-----

#### Staff Analysis

Wachter Family Revocable Trust is requesting approval of a revised annexation to only include Lots 1 and 2,

Block 1, Cottonwood Parkview Addition for future neighborhood commercial development.

(continued)

The Planning and Zoning Commission, at their meeting on February 22, 2017, recommended approval of the final plat, zoning change and annexation of the entire plat of Cottonwood Parkview Addition, with a condition that a development agreement is finalized prior to forwarding the requests to the City Commission for final action. Staff is working to finalize the development agreement, which will reference the revised annexation.

The applicant has requested approval of a revised annexation to include only the lots proposed to be zoned Conditional CA - Commercial. These lots drain to the north and west and not into the proposed stormwater management pond, which would be constructed with future development of the subdivision.

#### *Stormwater Pond*

Cottonwood Parkview Addition includes a 13-acre stormwater pond. All remaining lots within the subdivision and lots within Meadow Village Addition, located south of this plat, will drain into the proposed stormwater pond.

#### *Development Agreement*

A development agreement clarifying development actions that would require the construction of the stormwater pond will be forwarded to the City Commission in conjunction with the annexation, zoning change and final plat for Cottonwood Parkview Addition.

The annexation, fringe area road masterplan amendment, zoning change and final plat of Meadow Village Addition will also be forwarded to the City

Commission for reconsideration in conjunction with request.

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

1. 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 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.

#### **Staff Recommendation**

Based on the above findings, staff recommends approval of the revised annexation to include only Lots 1 and 2, Block 1, Cottonwood Parkview Addition.

#### **Attachments**

1. Location Map
2. Zoning and Planning Reference Map
3. Final Plat – Cottonwood Parkview Addition

---

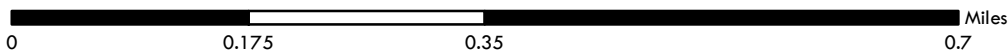
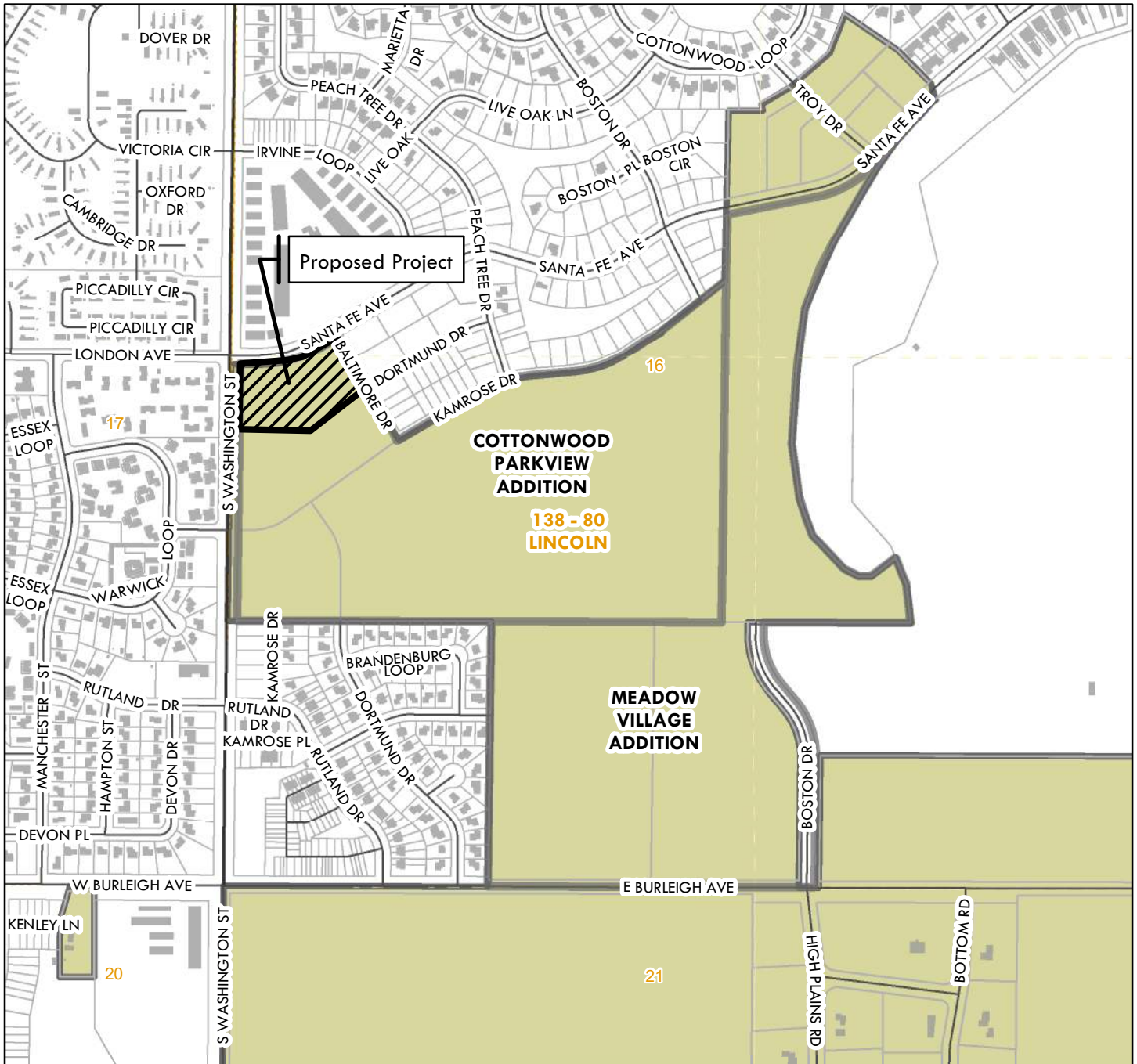
Staff report prepared by: Jenny Wollmuth, AICP, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)



## Proposed Annexation

Lots 1-2, Block 1, Cottonwood Parkview Addition

ANNX2018-003



City Limits



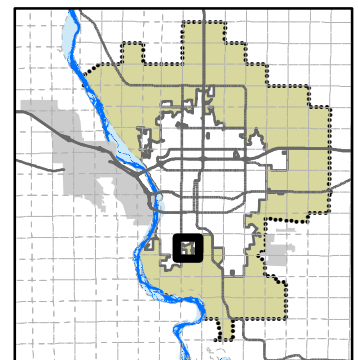
Bismarck ETA Jurisdiction

Section, township, and  
range indicated in orange



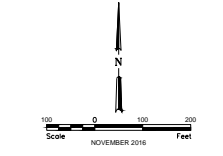
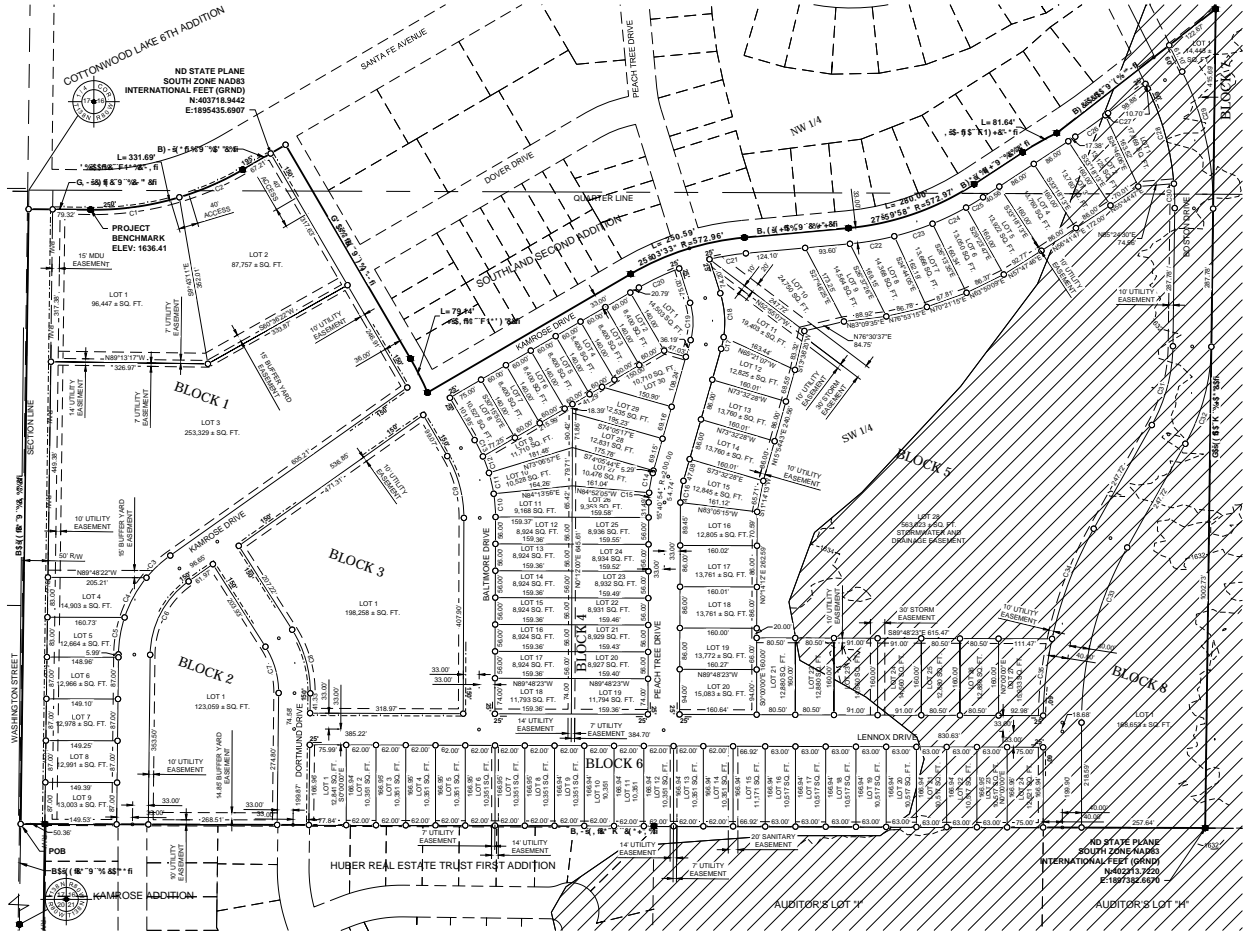
City of Bismarck  
Community Development Department  
Planning Division  
April 19, 2018 (HLB)

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.



# COTTONWOOD PARKVIEW ADDITION

A REPLAT OF AUDITOR'S LOT J OF THE NW 1/4 AND SW 1/4 AND AUDITOR'S LOT K OF THE SW 1/4 AND PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



**PLAT INFORMATION**  
LOT ACREAGE: 57.84 ACRES  
RIGHT OF WAY ACREAGE: 13.84 ACRES  
TOTAL ACREAGE: 71.74 ACRES  
NW1/4 ACREAGE: 2.54 ACRES  
SW1/4 ACREAGE: 69.24 ACRES  
BASIS OF BEARINGS: ND STATE PLANE SOUTH ZONE NAD83 (3302), ADJUSTMENT 1988, UNIT OF MEASURE IS INTERNATIONAL FEET  
CONTOUR VERTICAL DATUM: NAVD 88  
FLOODPLAIN VERTICAL DATUM: NAVD 88  
TOPOGRAPHIC CONTOURS ARE DERIVED FROM SURVEY

**BENCHMARK**  
N CORNER OF LOT 1 BLOCK 1  
ELEV. 1638.41 NAVD 88

**UNBUILDABLE LOTS**  
LOT 28 BLOCK 5 - STORMWATER AND DRAINAGE EASEMENT  
LOT 1 BLOCK 7  
LOT 1 BLOCK 8

**SURVEYOR'S NOTES**  
1. SANITARY SEWER EASEMENT DOCUMENT #68478 TO BE ELIMINATED BY THIS DOCUMENT.  
2. MDU EASEMENT TO BE ELIMINATED DOCUMENT #60026 BY CREATION OF A UTILITY EASEMENT.

**LEGEND**  
PLAT BOUNDARY  
LOT LINE  
EASEMENT  
NON ACCESS LINE  
IRON MONUMENT FOUND  
IRON MONUMENT SET  
MEASURED DISTANCE  
MEASURED BEARING  
FLOODPLAIN  
FLOODPLAIN - 100YR  
1634 (WEST) TO  
1633 (EAST)  
FEMA MAP NO. 38015C0705D  
REVISED AUGUST 4, 2014

Curve Table				Curve Table				Curve Table				Curve Table			
Curve #	Length	Radius	Data	Curve #	Length	Radius	Data	Curve #	Length	Radius	Data	Curve #	Length	Radius	Data
C1	187.38	812.98	17°30'13"	C11	44.87	319.77	8°00'13"	C21	78.79	539.07	8°08'52"	C31	171.68	344.79	28°31'40"
C2	144.43	812.98	12°29'59"	C12	38.58	319.77	6°33'18"	C22	93.89	605.96	8°52'37"	C32	211.51	424.79	28°31'40"
C3	68.02	256.00	15°13'29"	C13	38.20	319.77	6°50'43"	C23	83.92	605.96	7°56'05"	C33	381.07	748.12	29°16'40"
C4	95.03	256.00	21°18'09"	C14	41.71	228.82	10°28'37"	C24	77.58	605.96	7°20'09"	C34	246.21	826.12	17°04'33"
C5	78.37	256.00	17°32'25"	C15	20.14	251.07	4°36'47"	C25	41.32	605.96	3°54'26"	C35	181.28	826.12	11°11'03"
C6	179.18	190.00	54°02'02"	C16	45.71	167.00	15°40'54"	C26	78.95	1033.00	4°16'06"				
C7	101.57	175.69	33°07'25"	C17	24.89	200.73	7°06'14"	C27	7.12	1033.00	0°22'42"				
C8	139.72	241.69	33°07'25"	C18	92.54	200.73	26°24'47"	C28	206.69	548.53	21°35'21"				
C9	134.37	253.77	30°29'24"	C19	78.31	134.73	30°31'00"	C29	292.25	628.53	35°54'51"				
C10	48.57	319.77	8°42'11"	C20	92.97	539.96	9°51'57"	C30	257.87	548.53	28°54'51"				

A REPLAT OF AUDITOR'S LOT J OF THE NW 1/4 AND SW 1/4 AND AUDITOR'S LOT K OF THE SW 1/4 AND PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

A REPLAT OF AUDITOR'S LOT J OF THE NW 1/4 AND SW 1/4 AND AUDITOR'S LOT K OF THE SW 1/4 AND PART OF THE WEST HALF OF SECTION 16, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 71.71 ACRES, MORE OR LESS.

KNOW ALL MEN BY THESE PRESENTS THAT PAUL WACHTER and VALERIE WACHTER, WACHTER FAMILY REVOCABLE TRUST, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESIGNATED HEREON TO BE SURVEYED AND PLATTED AS "COTTONWOOD PARKVIEW ADDITION", TO THE CITY OF BISMARCK NORTH DAKOTA AND DOES SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SANITARY SEWER, WATER, CULVERTS, STORMWATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HERE ON OR NOT TO THE PUBLIC USE FOREVER.

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

THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND FOR STORMWATER DRAINAGE TO THE CITY OF BISMARCK FOR THE USE OF CHANNELLING STORM WATERS IN ACCORDANCE WITH THE CITY OF BISMARCK REQUIREMENTS. UNLESS APPROVED BY THE CITY OF BISMARCK, THESE AREAS SHALL REMAIN UNALTERED EXCEPT FOR REPAIRS AND MAINTENANCE AS DEDICATED HEREIN.

STATE OF NORTH DAKOTA )  
COUNTY OF \_\_\_\_\_ ) ss

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017, BEFORE ME PERSONALLY APPEARED PAUL WACHTER AND VALERIE WACHTER, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME ON BEHALF OF THE CORPORATION.

\_\_\_\_\_, NOTARY PUBLIC  
\_\_\_\_\_, COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_, 20\_\_\_\_

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017, 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 ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK.

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED SUBDIVISION OF LAND AS SHOWN ON THE ANNEX PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "COTTONWOOD PARKVIEW ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

I, TODD MARSHALL, A REGISTERED 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 THE 4TH DAY OF AUGUST, 2016, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. MONUMENTS TO BE SET PRIOR TO PLAT RECORDATION.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH ) ss

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017 BEFORE ME PERSONALLY APPEARED TODD MARSHALL, 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 \_\_\_\_\_, 20\_\_\_\_







## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 6

April 25, 2018

**Application for: Major Subdivision Final Plat**

**Zoning Change**

**Annexation**

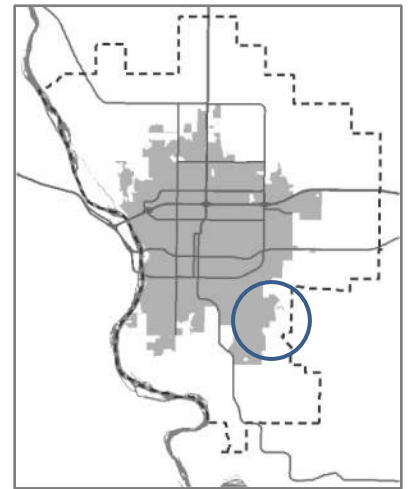
TRAKiT Project ID: FPLT2018-002

ZC2017-029

ANNX2017-008

### Project Summary

<b>Title:</b>	Hamburg Industrial Park Third Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing (continued)
<b>Owner(s):</b>	Lance Hagen
<b>Project Contact:</b>	Landon Niemiller, Swenson Hagen & Co.
<b>Location:</b>	Southeast of Bismarck, east of Yegen Road at the termination of Hagen Avenue (part of Auditor's Lot B and part of Auditor's Lot C of the SW 1/4 of Section 13, T138N-R80W)
<b>Project Size:</b>	13.57 acres
<b>Request:</b>	Rezone, plat and annex property for industrial use



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	Part of 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>	Industrial	<b>Designated GMP</b>	Industrial
<b>Future Land Use:</b>		<b>Future Land Use:</b>	
<b>Zoning:</b>	A – Agricultural	<b>Zoning:</b>	MA – Industrial
<b>Uses Allowed:</b>	A – Agriculture	<b>Uses Allowed:</b>	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres	<b>Max Density Allowed:</b>	MA – N/A

### Property History

<b>Zoned:</b>	N/A	<b>Platted:</b>	N/A	<b>Annexed:</b>	N/A
---------------	-----	-----------------	-----	-----------------	-----

**Staff Analysis**

Lance Hagen is requesting approval of a zoning change from the A-Agricultural zoning district to the MA-Industrial zoning district and a major subdivision final plat for Hamburg Industrial Park 3<sup>rd</sup> Addition.

The Planning and Zoning Commission tentatively approved the preliminary plat for Hamburg Industrial Park Third Addition on January 24<sup>th</sup>, 2018 and called for a public hearing for the zoning change from the A-Agricultural zoning district to the MA-Industrial zoning district.

The Planning and Zoning Commission held a public hearing on the major subdivision final plat, zoning change, and final consideration of the annexation request on March 28, 2018 and continued action until a stormwater management plan was submitted to the City Engineer for approval. A stormwater management plan has been submitted and approved by the City Engineer.

The applicant intends to zone, plat, and annex this area and may combine the proposed lot with the adjacent Lot 3, Block 1, Hamburg Industrial Park 2<sup>nd</sup> Addition for use as light industrial.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies this area as Industrial. The proposed zoning conforms to the Future Land Use Plan.

The proposed zoning change allows for light industrial, general commercial, warehouses, manufacturing and shop condos uses and would be compatible with adjacent land uses which include undeveloped land in all directions. Adjacent zoning is MA Industrial to the north and west of the proposed area and A-Agricultural to the south and east.

A waiver from subdivision design standards for the proposed cul-de-sac and block length has been submitted. Staff supports these waivers.

The proposed annexation request includes the entire area within the proposed subdivision. The annexation would be contiguous to existing corporate limits. Municipal water service is available for this area, however, municipal sanitary sewer is not.

This entire area is located with the SFHA (100-year floodplain). Development within this area must comply with Section 14-03-09 of the City Code of Ordinances (FP – Floodplain District). In addition, a Floodplain Development Permit must be obtained prior to any development.

This area also contains wetlands. These wetlands have been determined to not be US Army Corp of Engineer's jurisdictional.

The stormwater management plan identifies the creation of a stormwater pond. The proposed pond would be located within 10,000 feet of the operations area of the Bismarck Airport and is subject to the provisions of the FAA Advisory Circular 150/5200-33B Wildlife Hazards Assessment Attractants On or Near Airports. An Airport Wildlife Hazard Evaluation for the proposed plat has been received and reviewed by the Bismarck Airport. The findings in the Wildlife Hazard Evaluation indicate that the proposed stormwater facility would not significantly attract hazard birds or create any increased wildlife hazards for aircrafts. The Bismarck Airport concurs with the findings.

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

1. The City of Bismarck and other agencies would be able to provide most of the 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.

*(continued)*

*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 other agencies would be able to provide most of the 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.
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 most of the 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.

*Final Plat*

1. All technical requirements for consideration of a preliminary 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 stormwater management plan for the subdivision has been approved by the City 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;

**Staff Recommendation**

Based on the above findings, staff recommends approval of the annexation, the zoning change from the A – Agriculture zoning district to the MA – Industrial zoning district and the final plat for Hamburg Industrial Park Third Addition, including the granting of a waiver to allow the use of a cul-de-sac and exceed maximum allowable block length.

**Attachments**

1. Location Map

(continued)

2. Zoning and Plan Reference Map
3. Final Plat

4. Preliminary Plat

---

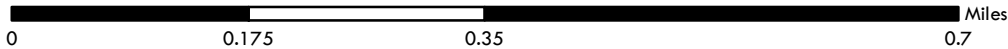
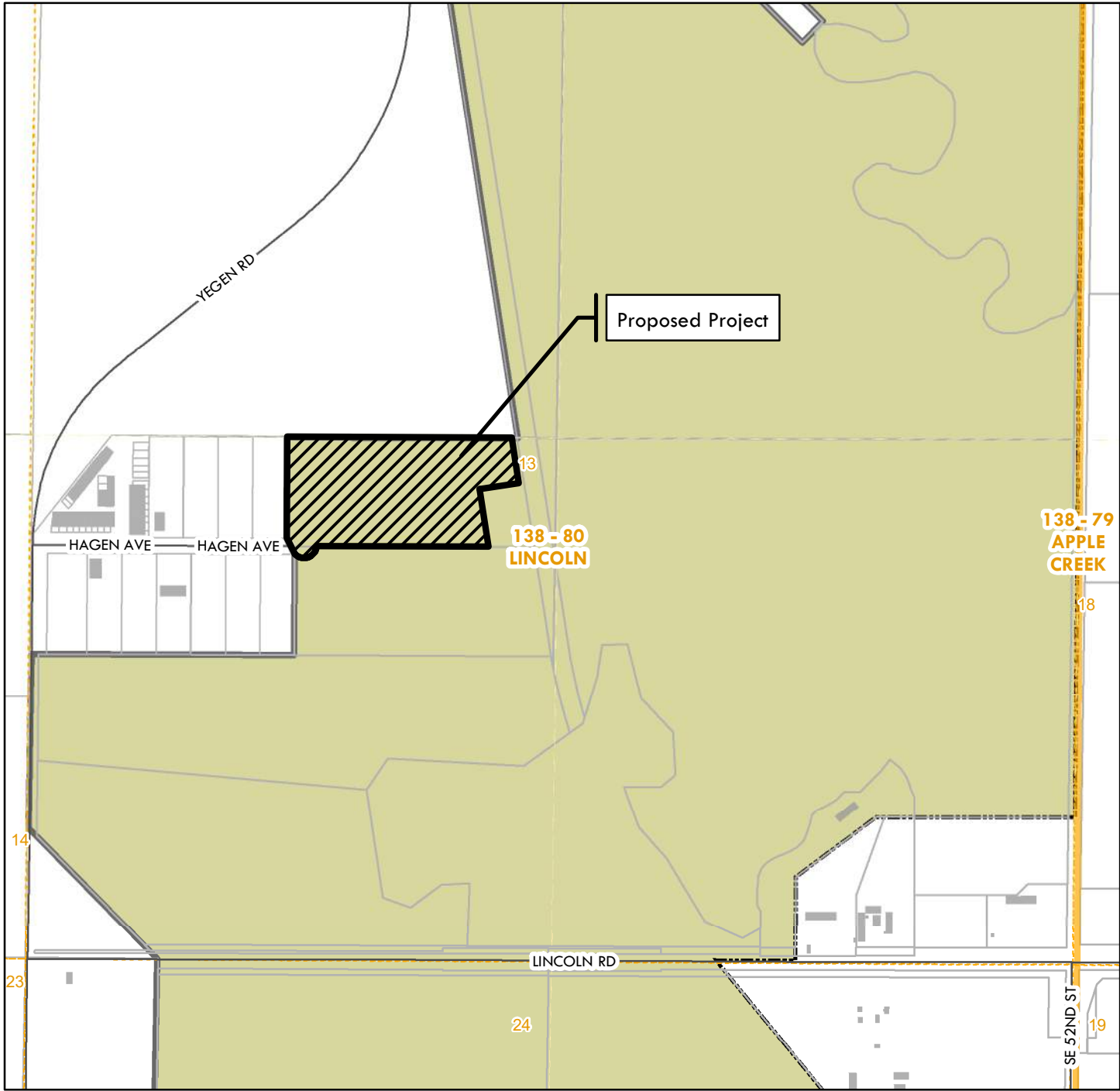
*Staff report prepared by:* Will Hutchings, Planner  
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



**Proposed Plat, Annexation and Zoning Change  
(A to MA)**

Hamburg Industrial Park Third Addition

Trakit Projects FPLT2018-002  
ANNX2017-008  
ZC2017-029  
Location Map



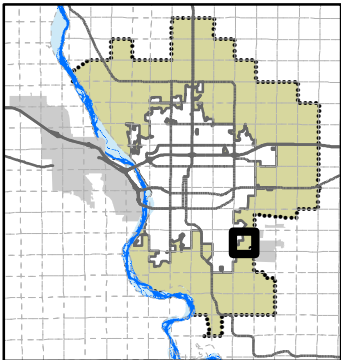
 City Limits     Bismarck ETA Jurisdiction

Section, township, and  
range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
March 20, 2018 (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.*







## Proposed Plat, Annexation and Zoning Change

Auditor's Lot B and part of Auditor's Lot C of the SW ¼ of Section 13, T138N-R80W

FPLT2018-002  
ANNX2017-008  
ZC2017-029

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

### Zoning Districts

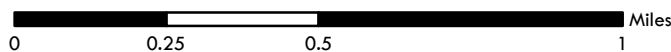
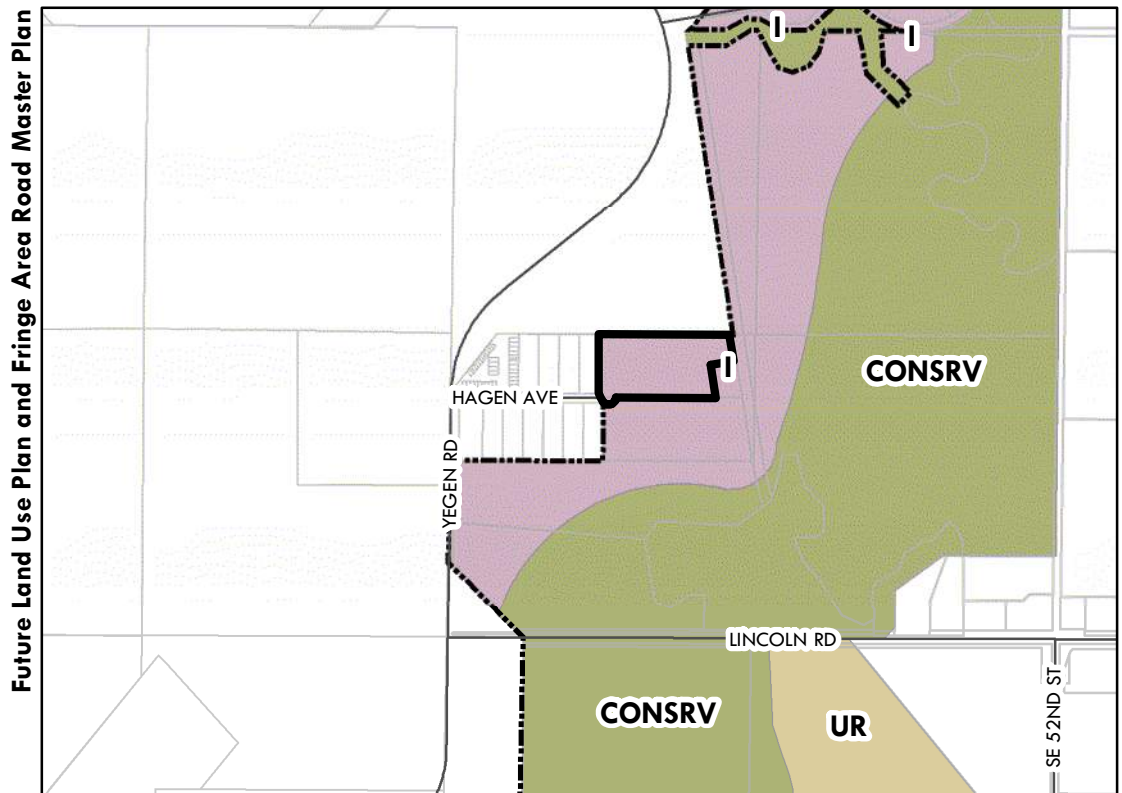
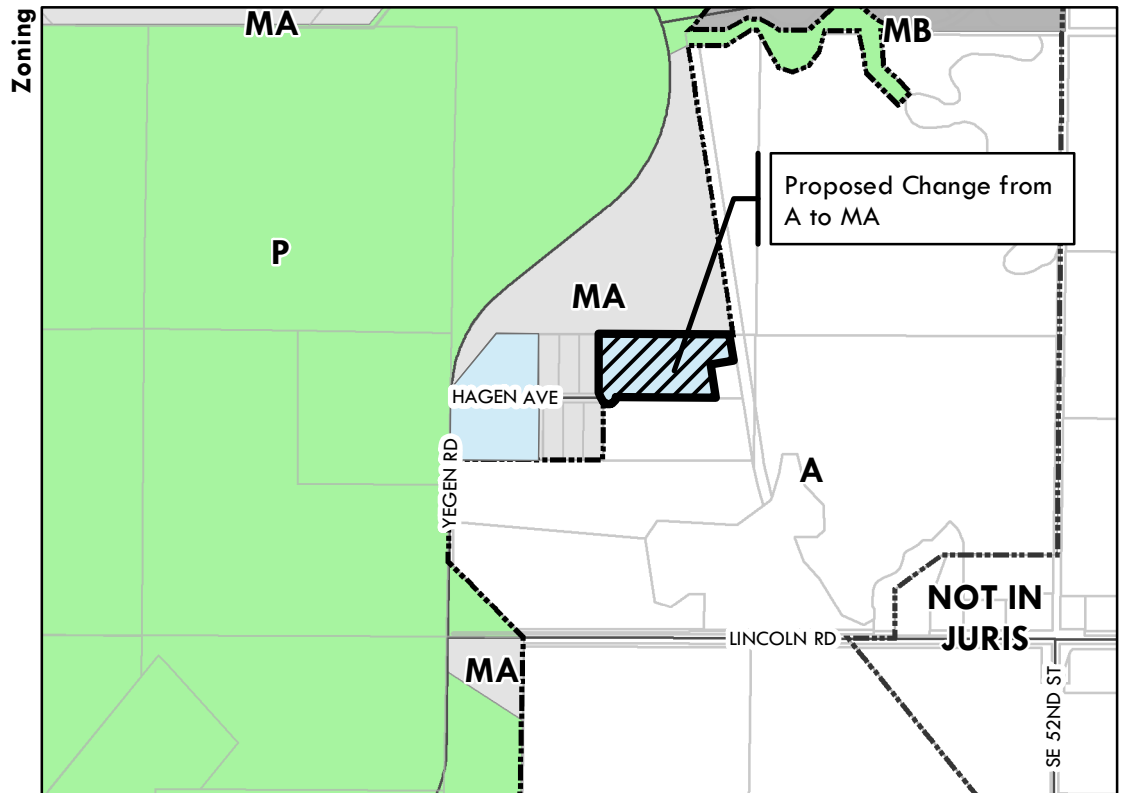
<b>A</b>	Agriculture
<b>RR</b>	Rural Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	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  
March 20, 2018

# HAMBURG INDUSTRIAL PARK THIRD ADDITION

BEING PART OF AUDITOR'S LOT B AND  
PART OF AUDITOR'S LOT C  
OF THE SW 1/4 OF  
SECTION 13, TOWNSHIP 138 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

## DESCRIPTION

BEING PART OF AUDITOR'S LOT B AND PART OF AUDITOR'S LOT C OF THE SW 1/4 OF SECTION 13, TOWNSHIP 138 NORTH, RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 3 BLOCK 1 HAMBURG INDUSTRIAL PARK SECOND ADDITION; THENCE SOUTH 89 DEGREES 44 MINUTES 46 SECONDS EAST, ALONG THE NORTH LINE OF SAID SW 1/4, A DISTANCE OF 1133.10 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 01 SECOND EAST, PARALLEL WITH THE EAST LINE OF AUDITOR'S LOT B, A DISTANCE OF 230.83 FEET; THENCE SOUTH 81 DEGREES 07 MINUTES 59 SECONDS WEST, PERPENDICULAR TO SAID EAST LINE, A DISTANCE OF 200.00 FEET; THENCE SOUTH 08 DEGREES 52 MINUTES 01 SECONDS EAST, PARALLEL TO SAID EAST LINE, A DISTANCE OF 294.09 FEET TO THE NORTH LINE OF AUDITOR'S LOT C; THENCE NORTH 89 DEGREES 44 MINUTES 46 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 869.37 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, ON A 62.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 89 DEGREES 45 MINUTES 02 SECONDS WEST, AN ARC LENGTH OF 151.31 FEET TO THE EAST LINE OF HAMBURG INDUSTRIAL PARK SECOND ADDITION; THENCE NORTH 36 DEGREES 21 MINUTES 59 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 89.48 FEET; THENCE NORTH 00 DEGREES 15 MINUTES 14 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 510.01 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 13.57 ACRES, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, MATTHEW M. STERN, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE PLAT SHOWN HEREON IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON 2018, 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 )

SWENSON, HAGEN & CO. P.C.  
909 BASIN AVENUE  
BISMARCK, NORTH DAKOTA  
58504

MATTHEW M. STERN  
REGISTERED LAND SURVEYOR  
N.D. REGISTRATION NO. 8299

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME PERSONALLY APPEARED MATTHEW 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  
MY COMMISSION EXPIRES \_\_\_\_\_

## APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT SHOWN HEREON HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 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.

DOUGLAS M. LEE - CHAIRMAN

CARL D. HOKENSTAD - 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 PLAT SHOWN HEREON, HAS ACCEPTED THE 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 \_\_\_\_\_, 2018.

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 "HAMBURG INDUSTRIAL PARK THIRD ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE PLAT SHOWN HEREON.

GABRIEL J. SCHELL  
CITY ENGINEER

## OWNER'S CERTIFICATE & DEDICATION

I, LANCE HAGEN, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON, HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "HAMBURG INDUSTRIAL PARK THIRD ADDITION", BISMARCK, NORTH DAKOTA, AND DO SO 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.

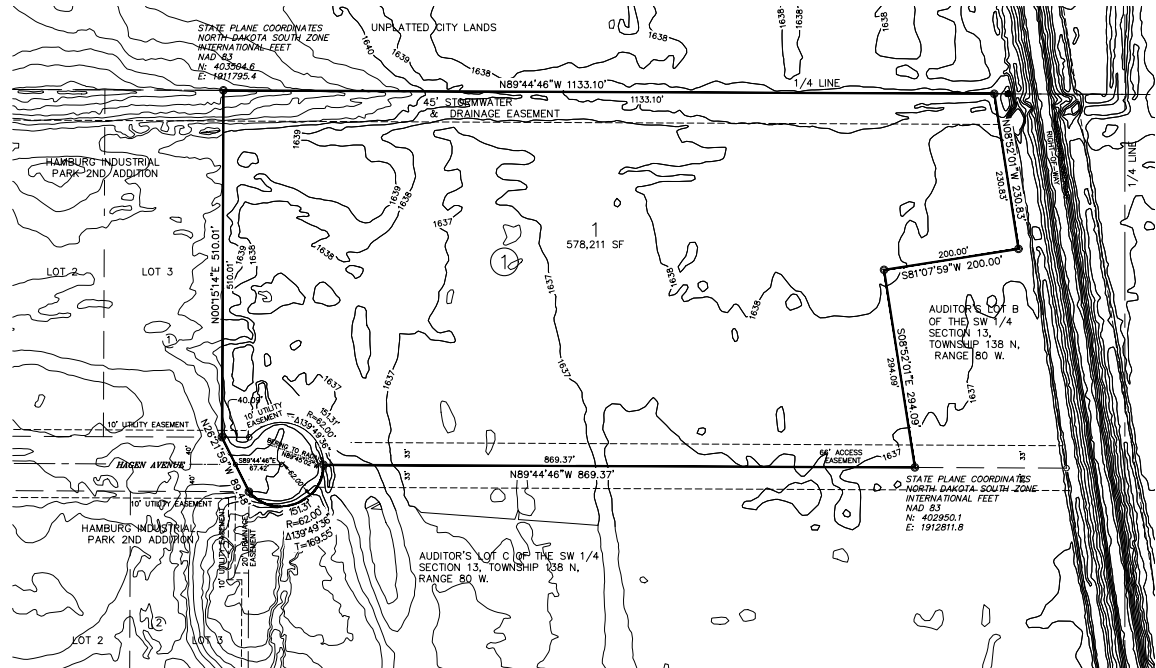
THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

LANCE HAGEN  
5118 LINCOLN ROAD  
BISMARCK, N.D. 58504

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME PERSONALLY APPEARED LANCE HAGEN, 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 \_\_\_\_\_



SCALE: 1"=80'  
MARCH 13, 2018

○ MONUMENT TO BE SET  
● MONUMENT IN PLACE

## 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:  
HYDRANT #3306  
HAGEN AVENUE 3RD EAST OF YEGEN ROAD  
ELEV: 1645.17 (NAVD 83)

## FLOOD PLAIN

FIRM MAP PANEL NUMBER: 38015C08150  
100 YR. FLOOD PLAIN ELEVATION: 1641.8 (NAVD 88)

## AREA DATA

LOTS	578,211 SF	13.27 ACRES
STREETS	15,879 SF	0.36 ACRES
TOTAL	594,090 SF	13.63 ACRES



SWENSON, HAGEN & COMPANY P.C.

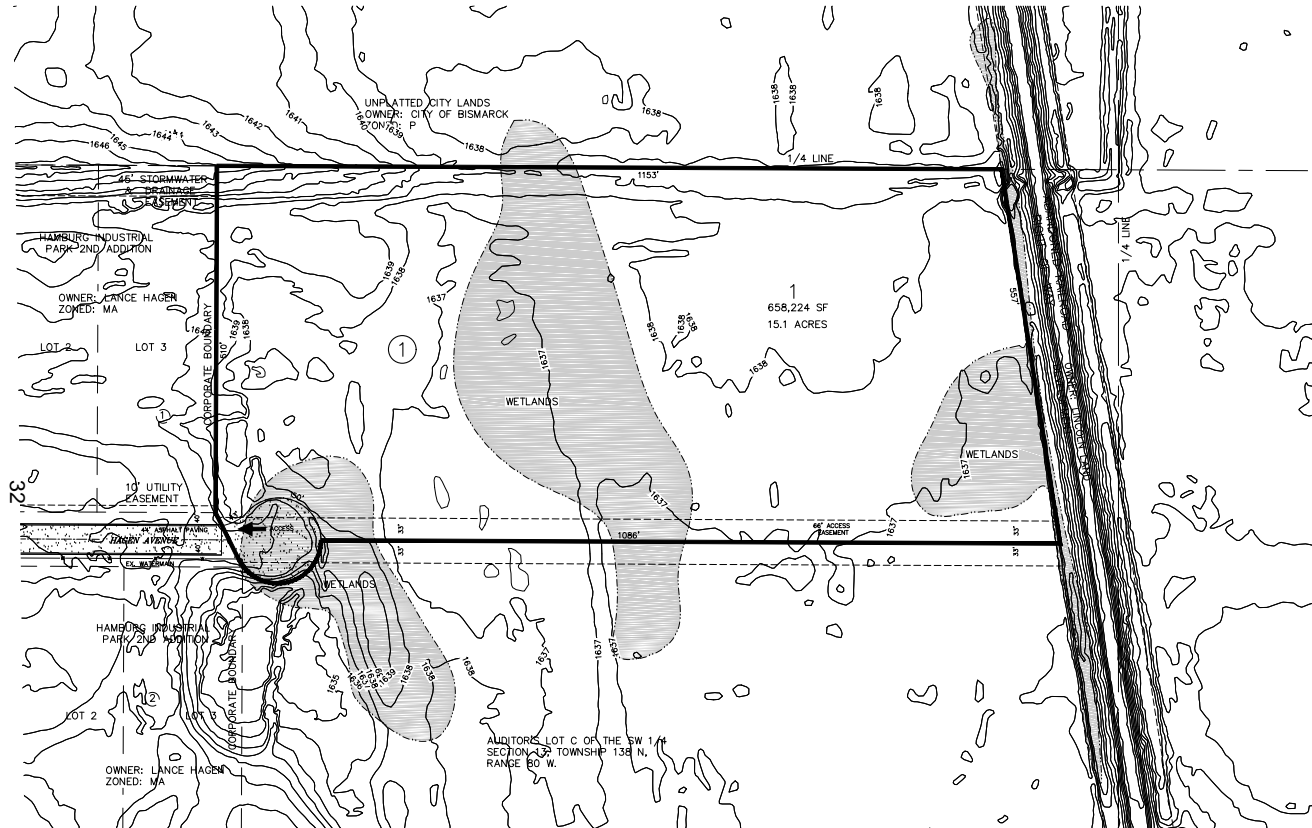
Surveying  
Hydrology  
Land Planning  
Civil Engineering  
Landscape & Site Design  
Construction Management

909 Basin Avenue  
Bismarck, North Dakota 58504  
sheng@swensonhagen.com  
Phone (701) 223-7600  
Fax (701) 223-7600



# HAMBURG INDUSTRIAL PARK THIRD ADDITION

BEING AUDITOR'S LOT B AND PART OF AUDITOR'S LOT C  
OF THE SW 1/4 OF  
SECTION 13, TOWNSHIP 138 NORTH, RANGE 80 WEST  
BISMARCK, NORTH DAKOTA



LOCATION MAP

15.3 ACRES  
PROPOSED ZONING: MA  
1 LOT

OWNER: LANCE HAGEN  
ADDRESS: 5180 Lincoln Road #134  
Lincoln, ND 58504

FIRM MAP:  
38015C0815D  
AUGUST 4, 2014

BFE: 1641.8 (NAVD 88)



0 40' 80'  
SCALE - 1" = 80'

VERTICAL DATUM: NAVD 88

DECEMBER 21, 2017



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 7

April 25, 2018

**Application for: Zoning Change**

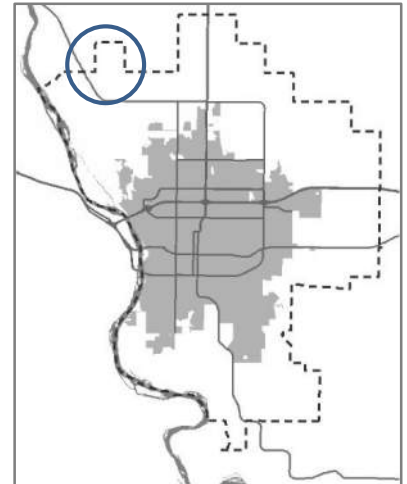
**Major Subdivision Final Plat**

TRAKiT Project ID: ZC2017-031

FPLT2018-006

### Project Summary

<b>Title:</b>	Whispering Ridge 2 <sup>nd</sup> Subdivision
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Burnt Creek Group, LLC
<b>Project Contact:</b>	Harvey Schneider, PE, Toman Engineering
<b>Location:</b>	Northwest of Bismarck, north of Burnt Creek Drive and west of 28 <sup>th</sup> Street NW (part of Whispering Ridge 1 <sup>st</sup> Subdivision and parts of Section 1, T139N-R81W/West Hay Creek Township and Section 36, T140N-R81W/Riverview Township)
<b>Project Size:</b>	51.13 acres
<b>Request:</b>	Plat and zone land for development of urban density single-family homes in a rural cluster setting



### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	2 lots and undeveloped land	<b>Number of Lots:</b>	40 lots in 1 Block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Single Family Residential
<b>Designated GMP Future Land Use:</b>	Clustered Rural Residential	<b>Designated GMP Future Land Use:</b>	Clustered Rural Residential
<b>Zoning:</b>	A – Agricultural RR – Residential	<b>Zoning:</b>	Conditional R5 – Residential
<b>Uses Allowed:</b>	A – Agriculture RR – Large lot single-family residential and limited agriculture	<b>Uses Allowed:</b>	R5 – Single-family residential
<b>Max Density Allowed:</b>	A – 1 unit / 40 acres RR – 1 unit per 65,000 square feet	<b>Max Density Allowed:</b>	Conditional R5 – 1 unit per 20,000 square feet

### Property History

<b>Zoned:</b>	A – Pre-1980 RR – 9/2012 (Whispering Ridge 1 <sup>st</sup> )	<b>Platted:</b>	9/2013 (Whispering Ridge 1 <sup>st</sup> )	<b>Annexed:</b>	N/A
---------------	--	-----------------	---	-----------------	-----

(continued)

## Staff Analysis

Burnt Creek Group, LLC is requesting approval of a zoning change from the A – Agricultural and RR – Residential zoning districts to the Conditional R5 – Residential zoning district and a major subdivision final plat for Whispering Ridge 2<sup>nd</sup> Addition.

### *Conditions from Preliminary Plat Approval*

The Planning and Zoning Commission considered this request at their meeting of January 24, 2018 and called for a public hearing on this zoning change and tentatively approved the preliminary plat, with the following conditions:

1. The County Engineer and the Bismarck Rural Fire Chief consents to a waiver of the cul-de-sac length requirements.
2. A street name is selected for the northern street that is approved by the Bismarck-Burleigh Combined Communications office.
3. The Hay Creek Township supplies a resolution regarding the proposed plat and zoning change.

Each of these conditions have been met. The Rural Fire Chief, Michael Voigt, and the Burleigh County Engineer, Marcus Hall, have consented to the waiver of the cul-de-sac length requirements in Whispering Ridge 2<sup>nd</sup> Addition. The street name, Norman Place, was chosen for the new street on the north side of the plat, and this street name has been approved by the Central Dakota Communications Center. Finally, Hay Creek Township has passed a resolution in support of the plat. The resolution is also conditioned upon consent from the Rural Fire Chief, which has been met.

The only significant change between the preliminary and final plat is that the alignment for the arterial 28<sup>th</sup> Street NW was straightened at the request of the City Traffic Engineer. This result in alterations to several lot lines and the addition of two lots into the plat. Additionally, a small portion of a lot in the preliminary plat was within the Special Flood Hazard Area, but this area has been removed from the final plat.

### *Proposed Zoning District*

The proposed Conditional R5 – Residential zoning district would mirror similar zoning districts used in the area around the Hawktree golf course. It would specifically require:

1. Minimum lot size of 20,000 square feet
2. Minimum lot width of 80 feet, measured along a straight line approximately parallel to and forty (40) feet back from the front property line.
3. Minimum side yard setback of 15 feet
4. Minimum rear yard setback of 30 feet
5. Minimum front yard setback of 30 feet
6. All other development standards shall be as outlined in Section 14-04-03 of the City Code of Ordinances (R5- Residential District)

Adjacent uses include undeveloped land to the north and east, developing rural residential to the south, and the Hawktree golf course to the west.

### *Future Land Use Plan*

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies this land as Rural Residential – Cluster. This development block is defined as a low-density development that conserves sensitive land and concentrates development on land more suitable for this purpose. The overall density is expected to be approximately one unit per acre of land. The proposed plat conforms to the plan. Land within the coulees and with steep slopes is protected from development, and the overall density of the development is 0.77 units per acre.

### *Roadways and Access*

The Fringe Area Roadway Master Plan (FARMP) shows 28<sup>th</sup> Street NW continuing to the north as a future arterial roadway. The proposed plat conforms to this plan. The right-of-way for 28<sup>th</sup> Street NW is dedicated with a sufficient 150 feet of width. Due to topography, the right-of-way jogs off of the section line, as recommended in the FARMP.

(continued)

The plat contains two cul-de-sacs that each have a length that is in excess of the maximum 750 feet in Section 14-09-05(1)(n) in the City Code of Ordinances (Streets and Alleys/Cul-de-Sacs). The applicant has requested a waiver to allow cul-de-sacs and a waiver from the maximum required length of the cul-de-sacs. Due to topographical constraints, staff recommends granting the waiver to allow cul-de-sacs. Because the waiver is supported by the Rural Fire Chief and the Burleigh County Highway Engineer, staff also supports the waiver from the cul-de-sac length requirements.

Lot 30, Block 1 does not have direct access to a public right of way, and the lot will be restricted by easement from development. Facilities for the sanitary sewer system will be located on this lot. It will be accessible by a gravel maintenance road, which will also be used to service the Hawktree Golf Course to the west. The existing maintenance road will be moved, and the exact location has not been determined yet. The owner of the land to the north of the plat will grant an easement for a 20-foot roadway corridor in a non-specific location through the parcel.

#### *Common Areas and Open Space*

The subdivision contains one common lot, Lot 30, Block 1, that would be owned in common by all lot owners in the subdivision and governed by an association. A central sanitary sewer system would be installed within this lot to serve all lots in the subdivision.

Steep slopes exist on most of lots, and these areas would be protected by an easement described on the plat that prohibits construction, grading or irrigation, and preserves the land as open space. These easement areas would also be utilized for the sanitary sewer system and stormwater system.

#### *Other Issues*

The proposed plat crosses the line between two townships, the Hay Creek Township and the unorganized River View Township. In order to facilitate administration of the County's tax collection responsibilities, the Burleigh County Auditor has requested that no lots straddle the township line. This is the reason for the irregularity of many of the lot sizes.

However, all of the lots would still meet the dimensional standards of the zoning ordinance.

#### **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, Burleigh County, 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 Hay Creek Township Board of Supervisors has recommended approval of the proposed zoning change. River View Township is unorganized;
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 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; and
9. 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;

(continued)

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The City Engineer has not yet 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. Hay Creek Township Board of Supervisors has recommended approval of the proposed final plat; River View Township is unorganized.
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 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. 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;
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; and
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

#### **Staff Recommendation**

Based on the above findings, staff recommends continuation of the zoning change from the A - Agricultural and RR – Residential zoning districts to the Conditional R5 – Residential zoning district and approval of the final plat for Whispering Ridge 2<sup>nd</sup> Subdivision, on the following conditions:

1. An access easement is granted for use of a future maintenance road for Lot 30, Block 1 prior to recordation of the final plat.

However, if conditional approval the Construction Stormwater Management Permit (PCSMP) is obtained from the City Engineer prior to the meeting, staff changes its recommendation to approval.

#### **Attachments**

1. Location Map
2. Zoning and Plan Reference Map
3. Final Plat
4. Preliminary Plat
5. Resolution from Hay Creek Township
6. Draft conditional zoning ordinance

---

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

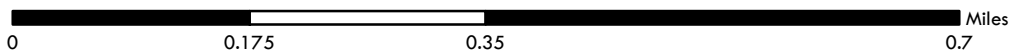
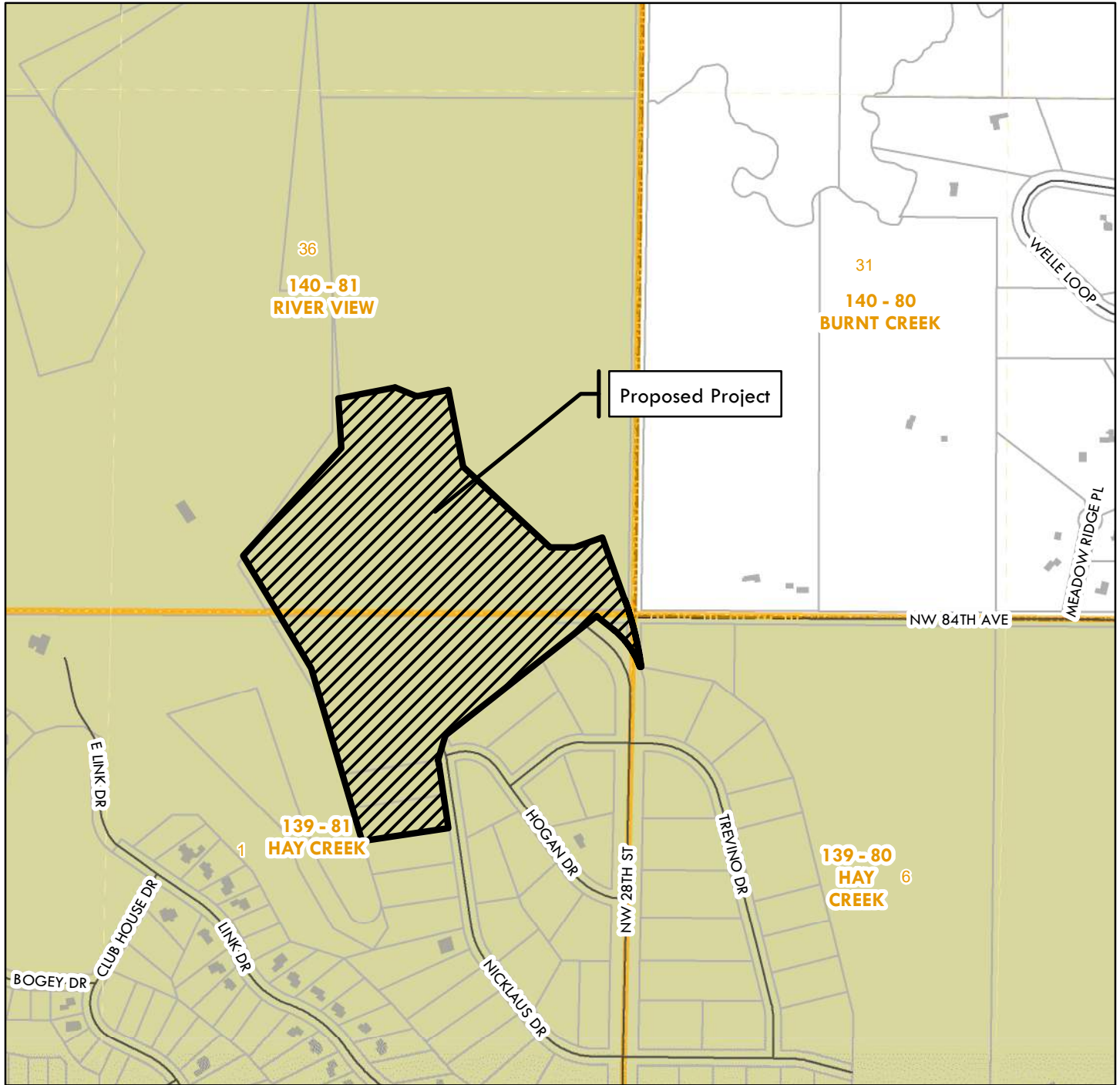


# Proposed Plat and Zoning Change (A & RR to C-R5)

Whispering Ridge 2nd Subdivision

FPLT2018-0006

ZC2017-031

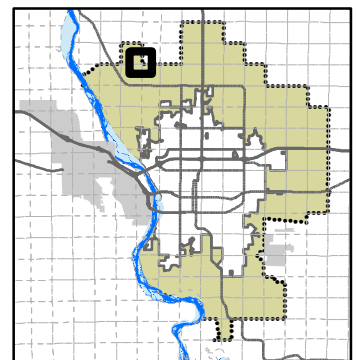


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
April 16, 2018 (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.





# Proposed Plat and Zoning Change (A & RR to C-R5)

Whispering Ridge 2nd Subdivision

FPLT2018-006  
ZC2017-031

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

## Zoning Districts

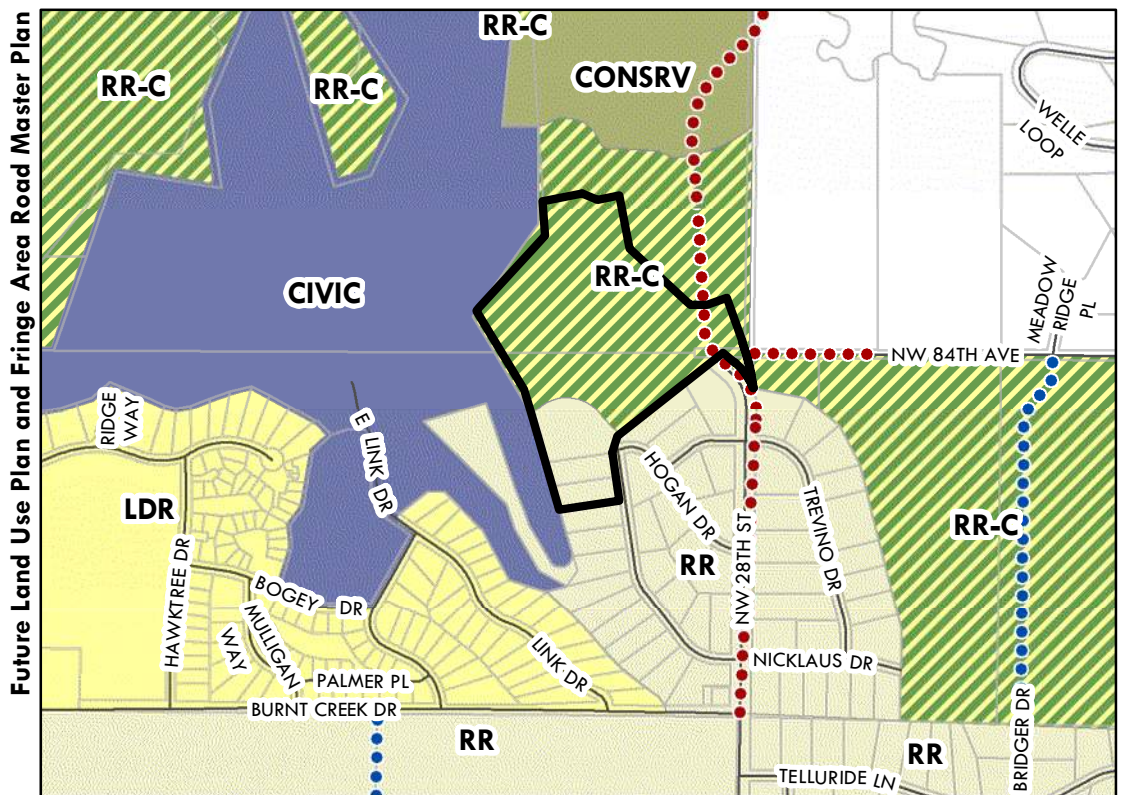
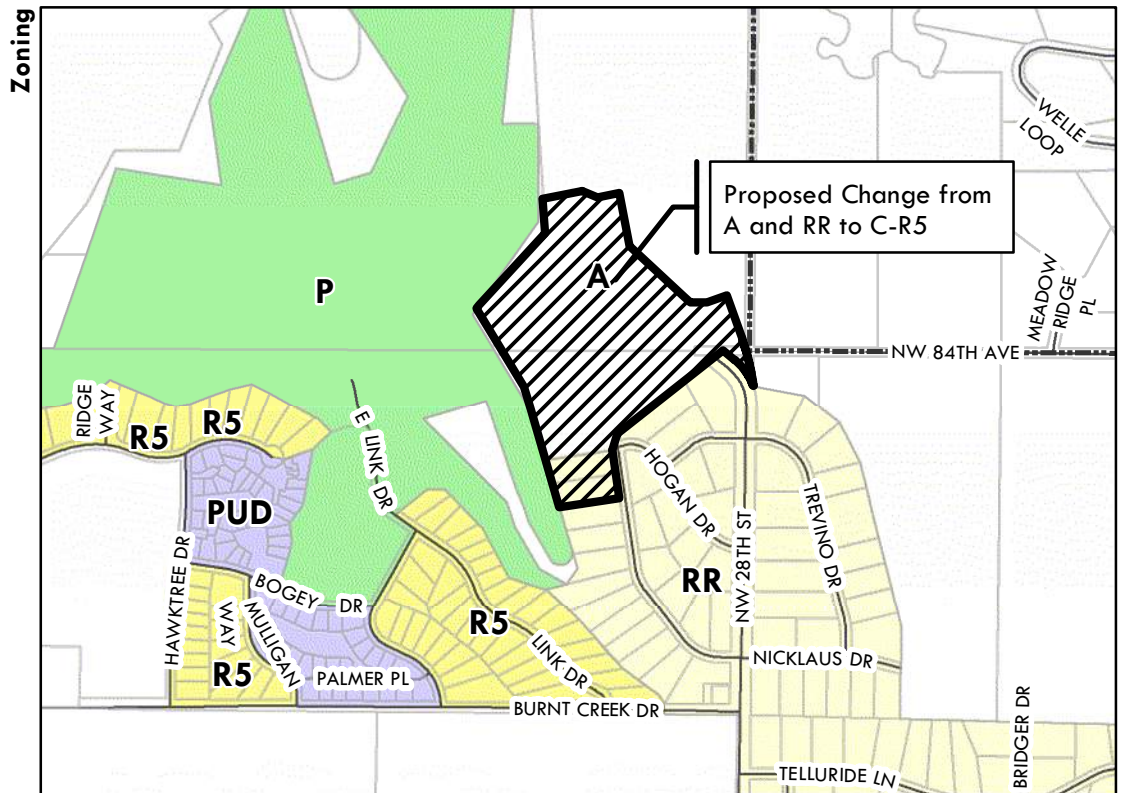
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

## Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



0 0.2 0.4 0.8 Miles

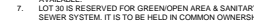


This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck  
Community Development Dept.  
Planning Division  
April 16, 2018

ALL OF LOTS 1 & 2, BLOCK 1, WHISPERING RIDGE 1ST SUBDIVISION, PART OF AUDITOR'S LOT "A" OF NE1/4 SEC. 1,  
T139N-R81W, PART OF GOVERNMENT LOT 4, SECTION 6, T139N-R80W, HAY CREEK TOWNSHIP, AND PART OF  
AUDITOR'S LOT "D" OF SE1/4 SEC. 36, T140N-R81W, RIVerview TOWNSHIP - ALL WITHIN THE CITY OF BISMARCK  
EXTRA-TERRITORIAL JURISDICTION



# WHISPERING RIDGE 2ND SUBDIVISION

OF BURLEIGH COUNTY, NORTH DAKOTA

ALL OF LOTS 1 & 2, BLOCK 1, WHISPERING RIDGE 1ST SUBDIVISION, PART OF AUDITOR'S LOT "A" OF NE1/4 SEC. 1, T139N-R81W, PART OF GOVERNMENT LOT 4, SECTION 6, T139N-R80W, HAY CREEK TOWNSHIP, AND PART OF AUDITOR'S LOT "D" OF SE1/4 SEC. 36, T140N-R81W, RIVERVIEW TOWNSHIP - ALL WITHIN THE CITY OF BISMARCK EXTRA-TERRITORIAL JURISDICTION

## DESCRIPTION OF PROPERTY

A TRACT OF LAND BEING ALL OF LOTS 1 & 2, BLOCK 1, WHISPERING RIDGE 1ST SUBDIVISION, PART OF AUDITOR'S LOT "A" OF THE NE1/4 OF SECTION 1, TOWNSHIP 139 NORTH, RANGE 81 WEST, PART OF GOVERNMENT LOT 4 OF SECTION 6, TOWNSHIP 140 NORTH, RANGE 80 WEST, HAY CREEK TOWNSHIP, AND PART OF AUDITOR'S LOT "D" OF THE SE1/4 OF SECTION 36, TOWNSHIP 140 NORTH, RANGE 81 WEST, RIVERVIEW TOWNSHIP - ALL WITHIN THE CITY OF BISMARCK EXTRA-TERRITORIAL JURISDICTION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NE1/4 OF SECTION 1, T139N-R81W; THENCE NORTH 11°11'17" EAST ALONG THE EAST BOUNDARY LINE OF SAID SECTION 1 FOR 238.60 FEET; THENCE SOUTH 88°46'43" EAST FOR 47.21 FEET TO A POINT ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 425.00 FEET, SAID POINT ALSO BEING ON THE NORTHERLY BOUNDARY LINE OF WHISPERING RIDGE 1ST SUBDIVISION; THENCE ALONG SAID NORTHERLY BOUNDARY LINE THE FOLLOWING FOUR (4) COURSES; THENCE ALONG SAID CURVE TO THE LEFT (THE CHORD OF WHICH BEARS NORTH 30°19'23" WEST, 228.75 FEET) AN ARC LENGTH OF 241.60 FEET TO THE P.T. (POINT OF TANGENCY) OF SAID CURVE TO THE LEFT; THENCE NORTH 51°02'59" WEST FOR 110.87 FEET; THENCE SOUTH 51°42'48" WEST FOR 97.22 FEET; THENCE SOUTH 10°38'10" WEST FOR 128.91 FEET TO A POINT ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 310.00 FEET, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF MODULUS DRIVE; THENCE ALONG SAID CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS SOUTH 10°37'28" EAST, 24.45 FEET) AN ARC LENGTH OF 24.45 FEET TO THE P.T. OF SAID CURVE TO THE RIGHT; THENCE SOUTH 82°12'18" EAST CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE FOR 325.57 FEET TO THE NORTHEAST CORNER OF LOT 3, BLOCK 1 OF SAID WHISPERING RIDGE 1ST SUBDIVISION; THENCE SOUTH 81°38'00" WEST ALONG THE NORTH BOUNDARY LINE OF SAID LOT 3 FOR 442.43 FEET TO THE NORTHWEST CORNER OF SAID LOT 3, SAID POINT ALSO BEING ON THE WEST BOUNDARY LINE OF AUDITOR'S LOT "A" OF THE NE1/4, SECTION 1, T139N-R81W; THENCE NORTH 18°20'01" WEST ALONG SAID WEST BOUNDARY LINE FOR 911.14 FEET; THENCE NORTH 31°14'34" WEST CONTINUING ALONG SAID WEST BOUNDARY LINE FOR 330.88 FEET TO THE SOUTHWEST CORNER OF AUDITOR'S LOT "D" OF THE SE1/4 OF SECTION 36, T140N-R81W; THENCE ALONG THE WEST BOUNDARY LINE OF SAID AUDITOR'S LOT "D" THE FOLLOWING THREE (3) COURSES; THENCE NORTH 31°15'34" WEST FOR 335.80 FEET; THENCE NORTH 42°20'24" EAST FOR 139.28 FEET; THENCE NORTH 3°22'28" WEST FOR 262.34 FEET; THENCE NORTH 79°09'15" EAST FOR 291.34 FEET; THENCE SOUTH 88°24'25" EAST FOR 120.12 FEET; THENCE NORTH 79°09'15" EAST FOR 162.74 FEET; THENCE SOUTH 10°40'40" EAST FOR 388.08 FEET; THENCE SOUTH 47°02'05" EAST FOR 600.00 FEET; THENCE NORTH 80°00'00" EAST FOR 125.01 FEET; THENCE NORTH 70°00'00" EAST FOR 150.00 FEET; THENCE SOUTH 19°52'52" EAST FOR 331.93 FEET TO THE P.C. (POINT OF CURVATURE) OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1070.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT (THE CHORD OF WHICH BEARS SOUTH 15°48'52" EAST, 354.17 FEET) AN ARC LENGTH OF 358.04 FEET; THENCE NORTH 79°12'02" WEST FOR 7.61 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINS 91.13 ACRES, MORE OR LESS.

## SURVEYOR'S CERTIFICATE

I, ANDRA L. MARQUARDT, NORTH DAKOTA REGISTERED LAND SURVEYOR NO. 4623, HEREBY CERTIFY THAT I HAVE CAUSED TO BE SURVEYED BY MY FORCES UNDER MY SUPERVISION THE PROPERTY DESCRIBED HEREON AND I HAVE PREPARED THE ACCOMPANYING PLAT. FURTHER, THAT DISTANCES INDICATED HEREON ARE IN FEET AND HUNDRETHS THEREOF, AND BEARINGS ARE INDICATED IN QUADRANTS AND DEGREES, MINUTES, AND SECONDS THEREOF. FURTHER, THAT SAID PLAT DOES TRULY SHOW THE SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ANDRA L. MARQUARDT, RLS 4623

STATE OF NORTH DAKOTA )

COUNTY OF MORTON )

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018, THERE APPEARED BEFORE ME ANDRA L. MARQUARDT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE ABOVE CERTIFICATE AND DID ACKNOWLEDGE TO ME THAT SHE EXECUTED THE SAME AS HER OWN FREE ACT AND DEED.

HARVEY SCHNEIDER  
NOTARY PUBLIC, NORTH DAKOTA

## OWNER'S CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT BURNT CREEK GROUP, LLC, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "WHISPERING RIDGE 2ND SUBDIVISION", BISMARCK, NORTH DAKOTA.

THEY ALSO DEDICATE ALL THE RIGHT-OF-WAY IDENTIFIED HEREIN TO THE PUBLIC USE POWER, AND 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, WATER, SANITARY SEWER, STORM SEWER, DRAINAGE, AND STORM WATER EASEMENTS.

RON KNUTSON, PRESIDENT  
BURNT CREEK GROUP, LLC

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: \_\_\_\_\_  
COUNTY: \_\_\_\_\_

## APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

DOUGLAS M. LEE - CHAIRMAN \_\_\_\_\_ CARL D. HOKENSTAD - 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 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 THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

ATTEST  
KEITH J. HUNKLE - CITY ADMINISTRATOR

## APPROVAL OF BOARD OF COUNTY COMMISSIONERS

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

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

JIM PELLISO - CHAIRMAN \_\_\_\_\_ KEVIN J. GLATT, COUNTY AUDITOR \_\_\_\_\_

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER FOR THE CITY OF BISMARCK, NORTH DAKOTA HEREBY APPROVES "LAST CHANCE SUBDIVISION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

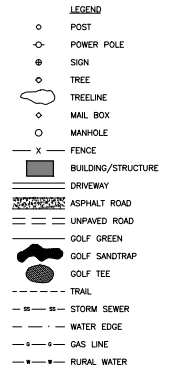
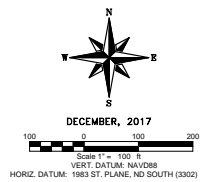
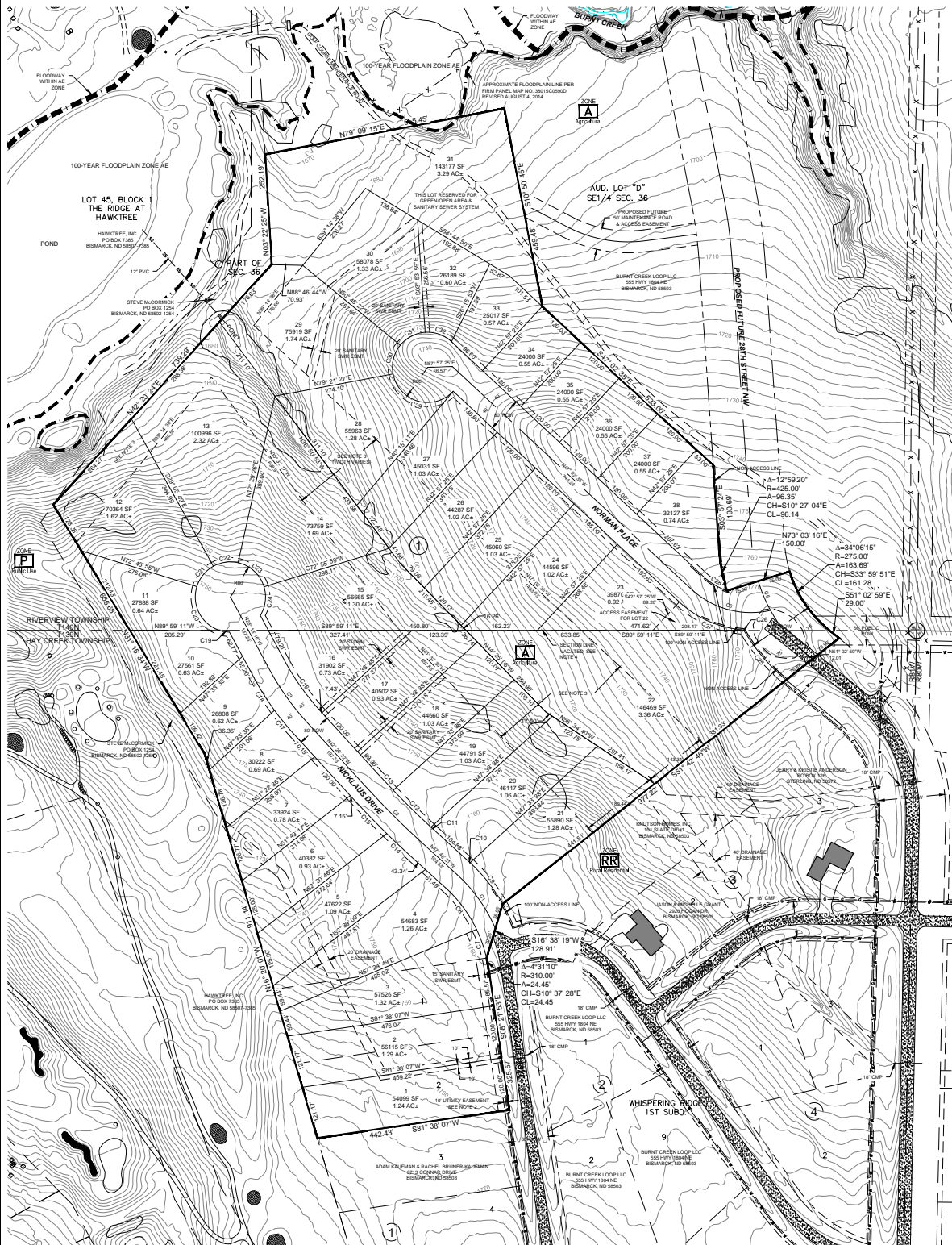
GABRIEL J. SCHELL - CITY ENGINEER



# PRELIMINARY PLAT OF WHISPERING RIDGE 2ND SUBDIVISION

OF BURLEIGH COUNTY, NORTH DAKOTA

ALL OF LOTS 1 & 2, BLOCK 1, WHISPERING RIDGE 1ST SUBDIVISION, PART OF AUDITOR'S LOT "A" OF NE1/4 SEC. 1, T139N-R81W, HAY CREEK TOWNSHIP AND PART OF AUDITOR'S LOT "D" OF SE1/4 SEC. 36, T140N-R81W, RIVERVIEW TOWNSHIP - ALL WITHIN THE CITY OF BISMARCK EXTRA-TERRITORIAL JURISDICTION



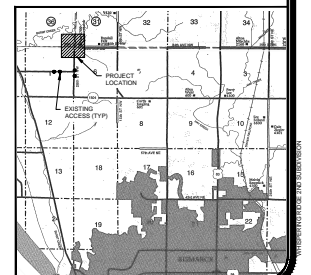
CURVE #	DELTA	BEARING	LENGTH	CHORD BEARING	CHORD LENGTH
C1	24°49'50"	260.00	151.60	N30° 21' 33"W	150.90
C2	9°20'00"	2000.00	186.20	N45° 06' 28"W	186.19
C3	14°09'00"	800.00	148.00	N30° 22' 10"W	147.80
C4	22°11'00"	1600.00	126.71	N30° 50' 00"W	126.66
C5	11°52'00"	1600.00	72.52	N20° 52' 50"W	72.30
C6	55°50'00"	2000.00	134.90	S74° 57' 38"E	137.28

CURVE #	DELTA	BEARING	LENGTH	CHORD BEARING	CHORD LENGTH
C7	12°49'50"	310.00	69.43	N10° 18' 00"W	69.28
C8	22°03'34"	310.00	119.30	N30° 44' 44"W	119.62
C9	17°38'52"	380.00	120.24	N30° 25' 54"W	119.76
C10	9°20'00"	380.00	3.48	N45° 31' 10"W	3.48
C11	9°20'00"	1600.00	12.31	N45° 30' 49"W	12.31
C12	9°20'00"	1600.00	120.31	N45° 30' 41"W	120.19
C13	12°52'30"	1600.00	50.11	N45° 10' 10"W	50.11
C14	2°09'50"	2040.00	77.09	N45° 41' 30"W	77.06
C15	3°10'18"	2040.00	112.91	N44° 01' 30"W	112.80
C16	14°09'00"	1600.00	118.71	N30° 22' 10"W	117.80
C17	9°15'40"	800.00	50.98	N30° 18' 20"W	50.97
C18	7°12'20"	840.00	97.93	N30° 14' 20"W	97.86
C19	16°11'30"	80.00	22.61	N30° 12' 20"W	22.54
C20	89°20'42"	80.00	124.70	S27° 26' 10"E	112.49
C21	43°40'00"	80.00	60.97	S30° 04' 00"E	58.91
C22	43°40'00"	80.00	118.71	S30° 04' 00"E	117.80
C23	89°20'42"	80.00	64.38	N45° 17' 10"W	65.51
C24	45°40'40"	80.00	68.09	N7° 18' 51"E	68.00
C25	20°03'44"	420.00	148.81	S40° 27' 30"E	148.86
C26	0°14'40"	420.00	1.82	S30° 18' 17"E	1.82
C27	38°59'52"	240.00	143.14	S68° 31' 01"E	140.02
C28	22°03'34"	1600.00	16.48	S68° 24' 11"E	63.36
C29	128°24'52"	80.00	176.49	S75° 50' 54"E	142.81
C30	49°53'12"	80.00	69.65	S14° 18' 02"W	67.48
C31	49°53'12"	80.00	65.42	S62° 40' 20"W	63.62
C32	49°53'12"	80.00	65.42	N20° 28' 17"W	63.62

OWNERS  
BURNT CREEK GROUP, LLC  
555 HWY 1804 NE  
BISMARCK, ND 58503

BASIS OF BEARING: NORTH BOUNDARY LINE OF THE NE1/4, SECTION 1, T139N-R81W SOUTH 89° 59' 11" WEST.

- NOTES:
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
  - ALL UTILITY EASEMENTS 10' WIDE UNLESS OTHERWISE NOTED.
  - DRAINAGE: SANITARY SEWER, STORM SEWER & GREEN AREA EASEMENT. THE LAND WITHIN THE EASEMENT SHALL REMAIN UNDISTURBED EXCEPT FOR TO MAINTAIN DRAINAGE, SANITARY SEWER, AND STORM SEWER SYSTEMS. MORE RESTRICTIONS WILL BE DETAILED ON THE FINAL PLAT AND COVENANTS.
  - SECTION LINE WAS VACATED THROUGH SUBDIVISION ON 10/02/2017. A PORTION OF THIS SUBDIVISION LIES WITHIN THE 100-YEAR FLOODPLAIN (ZONE AE) PER FEMA FIRM PANEL MAP NO. 38050C060, REVISED AUGUST 4, 2014.
  - TOTAL LOT ACRES: 43.62
  - TOTAL ROAD ACRES: 4.87
  - TOTAL ACRES: 48.49



RESOLUTION

*Hay Creek*

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF TOWNSHIP,  
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE  
PROPOSED PLAT AND ZONING CHANGE FROM THE A-AGRICULTURAL  
ZONING DISTRICT TO THE RR-RESIDENTIAL ZONING DISTRICT FOR  
WHISPERING RIDGE 2<sup>ND</sup> SUBDIVISION AND HEREBY RECOMMEND TO THE  
BOARD OF CITY COMMISSIONERS THAT SAID PLAT AND ZONING CHANGE  
BE (APPROVED)(DENIED). WE FURTHER RECOMMEND ACCEPTANCE OF  
THE RIGHTS-OF-WAY SHOWN ON SAID PLAT BY THE BURLEIGH COUNTY  
BOARD OF COUNTY COMMISSIONERS ON OUR BEHALF.

(PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S ACTION.)

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

Until resolution of cul de sac length (from 750 -  
1000) is resolved with Rural fire.  
\* Possible Addendum to maintenance agreement  
for long term service by township

*D. Pearce*  
CHAIRMAN, TOWNSHIP BOARD

*Adam Mein*  
ATTEST: TOWNSHIP CLERK

**ORDINANCE NO.**

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

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

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

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

The following described property shall be excluded from the A – Agricultural and RR – Residential zoning districts and included within the Conditional R5 – Residential zoning district.

Lots 1- 40, Block 1, Whispering Ridge 2<sup>nd</sup> Subdivision

This Conditional R5 – Residential zoning district is subject to the following standards:

1. Uses Permitted. The uses permitted shall be as outlined in Section 14-04-03 (R5 – Residential District) of the City Code of Ordinances
2. Development Standards
  - a. The minimum lot size is 20,000 square feet
  - b. The minimum lot width is 80 feet
  - c. The minimum side yard setback is 15 feet
  - d. The minimum rear yard setback is 30 feet
  - e. The minimum front yard setback is 30 feet
  - f. All other development standards shall be as outlined in Section 14-04-03 (R5 – Residential District) of the City Code of Ordinances



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

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

DRAFT



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 8

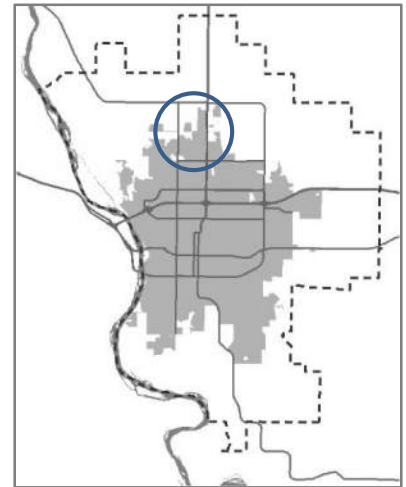
April 25, 2018

### Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2017-011

#### Project Summary

<b>Title:</b>	Christianson First Addition
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	The Shoppes at Osgood, LLC State Street Developers, Inc.
<b>Project Contact:</b>	Ken Nysether, PE, SEH
<b>Location:</b>	North Bismarck, along the north side of 43 <sup>rd</sup> Avenue NE, between Coleman Street and Ottawa Street (a replat of Lots 1 and 2 of Lot 2A of Lot 2 and Lots 6 and 7, Block 1, 43 <sup>rd</sup> Avenue Commercial Park 2 <sup>nd</sup> Addition and adjacent rights-of-ways)
<b>Project Size:</b>	17.84 acres
<b>Request:</b>	Replat property for commercial development



#### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	4 parcels in 1 block	<b>Number of Lots:</b>	3 lots in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	General 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>	08/2007	<b>Platted:</b>	08/2007 43 <sup>rd</sup> Avenue Commercial Park 03/2012 43 <sup>rd</sup> Avenue Commercial Park 2 <sup>nd</sup> Addition	<b>Annexed:</b>	08/2007
---------------	---------	-----------------	---	-----------------	---------

**Staff Analysis**

The Shoppes at Osgood, LLC and State Street Developers, Inc. are requesting approval of a minor subdivision final plat titled Christianson First Addition.

The proposed plat would be compatible with adjacent land uses. Adjacent uses include office uses to the north, multi-tenant commercial uses to the east across Ottawa Street, multi-family residential east and west, and multifamily residential and a fire station to the south across 43<sup>rd</sup> Avenue NE.

The proposed plat would include a grocery store, gas station with carwash and a drive-through coffee shop on Lot 2 and other commercial uses on Lots 1 and 3 that have not yet been determined.

The proposed plat would have access directly from Ottawa Drive and Coleman Street. The applicant is also proposing to modify the existing continuous non-access line along the south side of the plat, adjacent to 43<sup>rd</sup> Avenue NE, to allow a 50-foot opening for additional access to Lot 2.

A traffic impact study was completed for the proposed plat. After review of the study, it was determined by City staff that a 'right-in, right-out' access point along 43<sup>rd</sup> Avenue NE would be acceptable for a period of 10 years. After such time, the access point shall be reevaluated by the City of Bismarck and, if required, removed. The access point would be allowed with the understanding that a development agreement between the owner and the City of Bismarck to mitigate anticipated traffic is prepared and approved by the City Commission.

The proposed plat will not be forwarded to the City Commission for consideration until the development agreement has been finalized and mutually agreed to by the City of Bismarck and the developer(s).

**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 not yet 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 continuation of the minor subdivision final plat for Christianson First Addition with the following conditions;

1. The proposed plat will not be forwarded to the City Commission for consideration until the development agreement has been finalized and mutually agreed to by the City of Bismarck and the developer(s).

However, if conditional approval of the Post Construction Stormwater Management Permit (PCSMP) is obtained from the City Engineer prior to the meeting, staff changes its recommendation to approval.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map
3. Final Plat
4. 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)

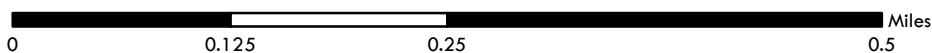
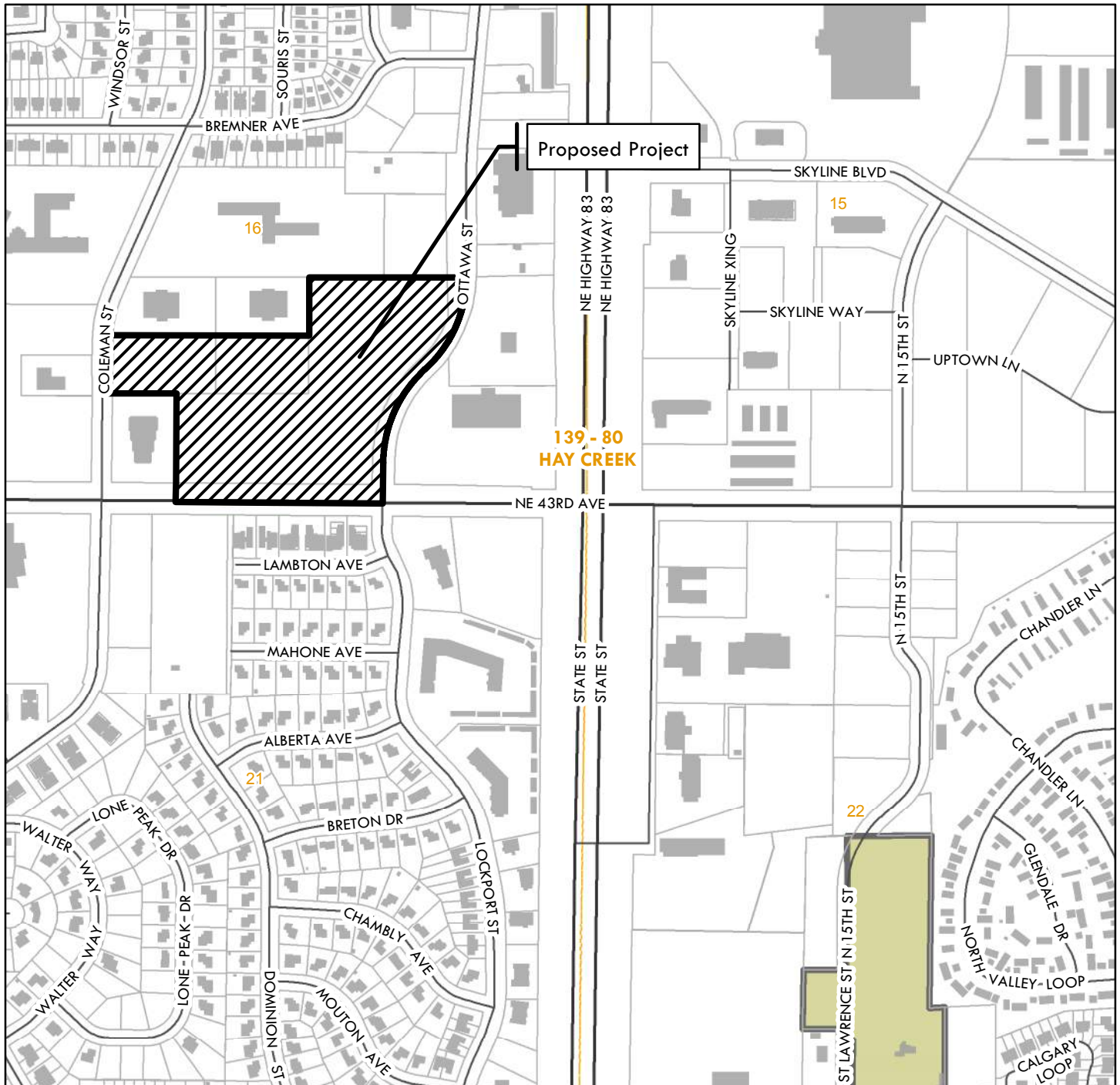


## Proposed Minor Plat

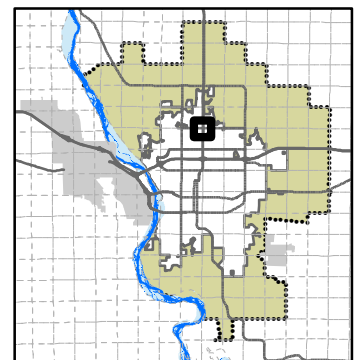
Christianson 1st Addition

Trakit Project MPLT2017-011

Location Map



Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
September 1, 2017 (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 herein.



# Proposed Minor Subdivision Final Plat

Christianson 1st Addition

MPLT2017-011

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

## Zoning Districts

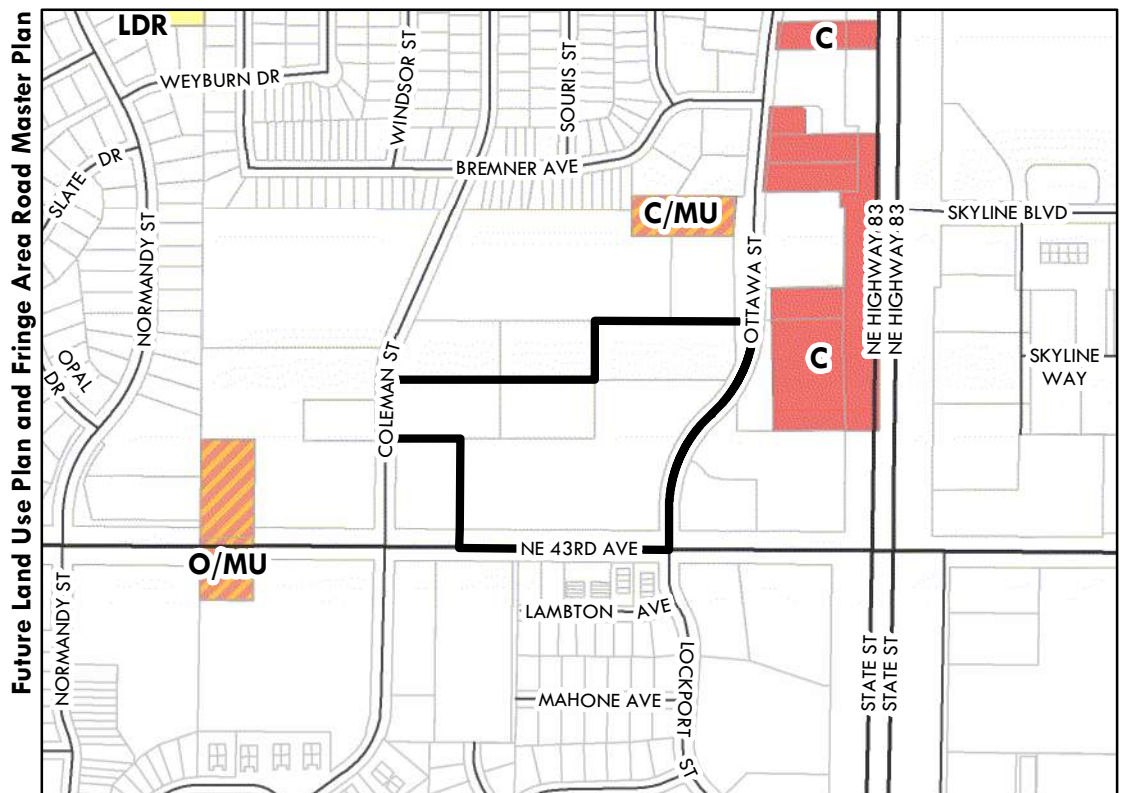
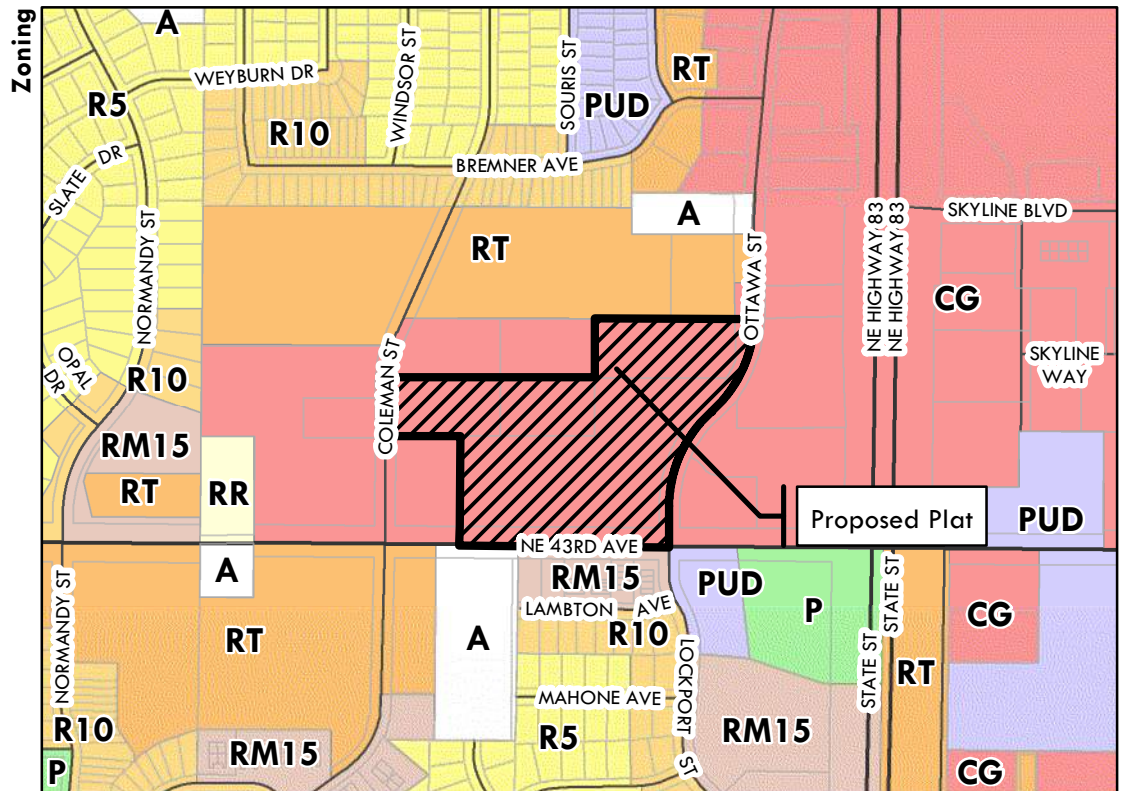
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

## Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector



0 0.1 0.2 0.4 Miles



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.

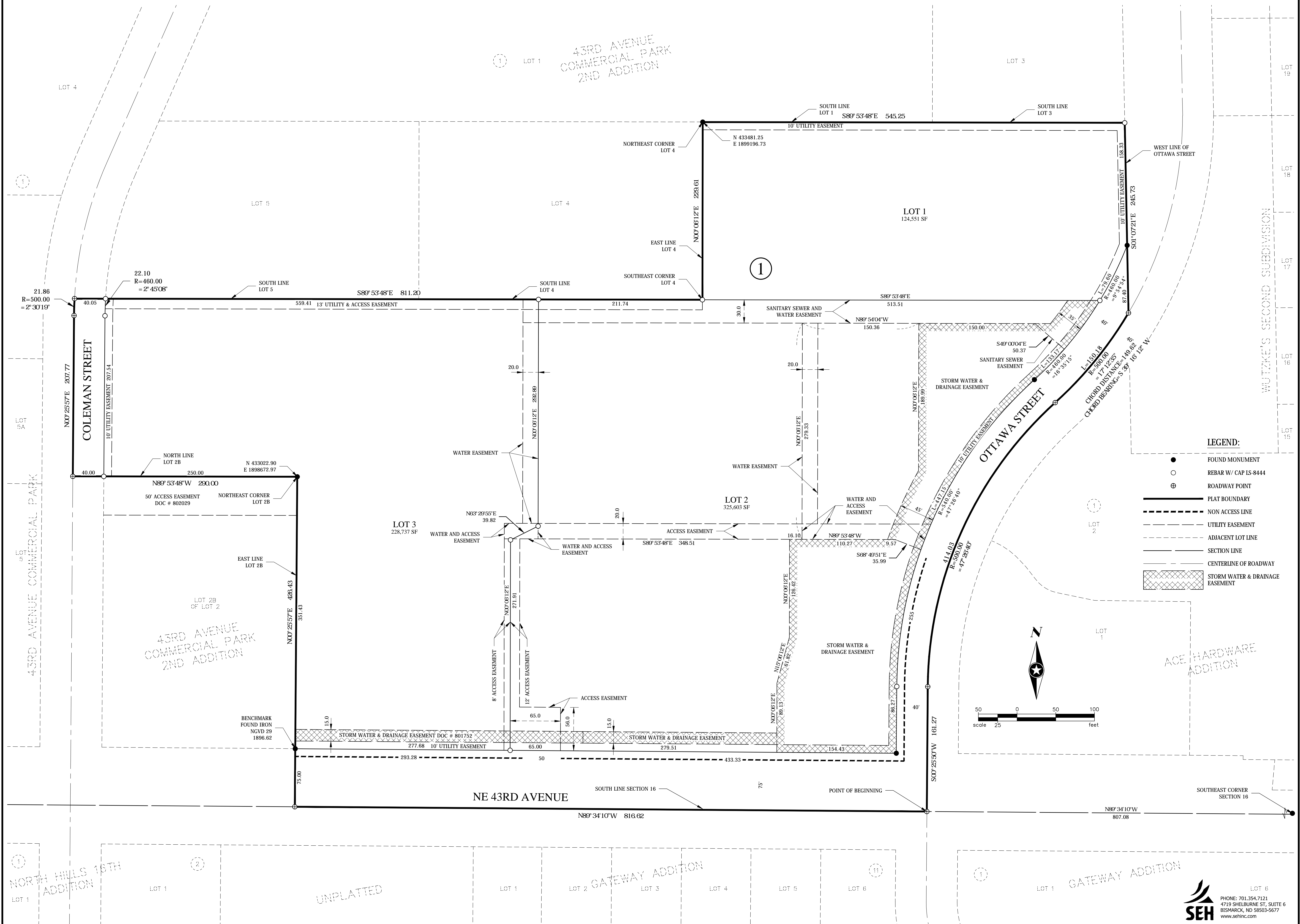


City of Bismarck  
Community Development Dept.  
Planning Division  
April 17, 2018



# CHRISTIANSON FIRST ADDITION

Being a replat of Lots 1 and 2 of Lot 2A of Lot 2, and Lots 6 and 7, Block 1 of 43rd Avenue Commercial Park 2nd Addition and adjacent right of ways located in the Southeast Quarter of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota



DATE: 3/27/18



Being a replat of Lots 1 and 2 of Lot 2A of Lot 2, and Lots 6 and 7, Block 1 of 43rd Avenue Commercial Park 2nd Addition and adjacent right of ways located in the Southeast Quarter of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, City of Bismarck, Burleigh County, North Dakota



Subject to all prior conveyances, easements and rights of way of record.

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

PHONE: 701.354.7121  
4719 SHELBURNE ST, SUITE 6  
BISMARCK, ND 58503-5677  
www.sehinc.com







## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 9

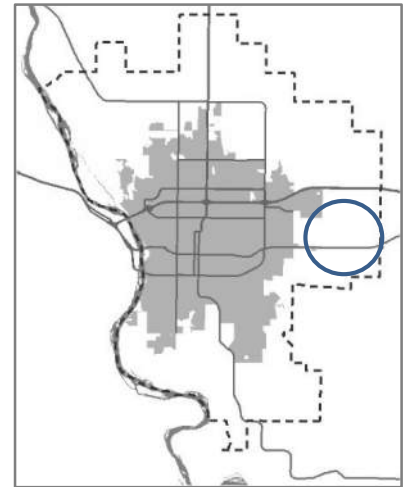
April 25, 2018

### Application for: Zoning Change

TRAKiT Project ID: ZC2018-001

#### Project Summary

<b>Title:</b>	Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	Jim Laducer, Apple Creek Country Club, Inc. (owner) Chad Wachter, Investcore, Inc. (applicant)
<b>Project Contact:</b>	Ken Nysether, PE, SEH
<b>Location:</b>	East of Bismarck, south of County Highway 10, along the westerly extension of Range Place
<b>Project Size:</b>	2.15 acres
<b>Request:</b>	Rezone property for multi-family residential development



#### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	2 lots in 1 block	<b>Number of Lots:</b>	2 lots in 1 block
<b>Land Use:</b>	Residential	<b>Land Use:</b>	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>	R10 – Residential	<b>Zoning:</b>	Conditional RM10 – Residential
<b>Uses Allowed:</b>	R10 – Single and two-family residential	<b>Uses Allowed:</b>	Conditional RM10 – multi-family units in groups not more than 8 or less than 2 constructed as part of an overall row house development with at least 3 buildings and no more than 2 stories in height.
<b>Max Density Allowed:</b>	R10 – 10 units / acre	<b>Max Density Allowed:</b>	RM10 – 10 units / acre

#### Property History

<b>Zoned:</b>	11/1999	<b>Platted:</b>	11/1999	<b>Annexed:</b>	N/A
---------------	---------	-----------------	---------	-----------------	-----

#### Staff Analysis

(continued)

Apple Creek Country Club, Inc. and Investcore, Inc. are requesting approval of a zoning change from the R10 – Residential zoning district to the Conditional RM10 – Residential zoning district for Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision.

The Planning and Zoning Commission, at its meeting of February 28, 2018 continued the public hearing on the proposed zoning change to allow the applicant and adjacent property owners an additional month to meet and discuss the proposed zoning change.

Approval of the proposed zoning would allow for the construction of multi-family units in groups of not more than eight or less than two dwelling units when constructed as part of an overall row house development with at least three buildings with a height limit of two-stories or forty feet.

Adjacent uses include undeveloped A - Agriculture zoned property to the north across County Highway 10, undeveloped R10 – Residential zoned property to the east, developed single-family residential to the south and developed rural residential to the west.

#### *Future Land Use Plan (FLUP)*

The property is located in an area identified as Rural Residential (RR) in the Future Land Use Plan in the 2014 Growth Management Plan, as amended. Staff has reviewed this area and the Growth Management Plan and has determined that the RR classification should be revised. Properties within this general area have been or will be developed at urban densities with rural water and a centralized sewer system and should be classified as Low Density Residential (LDR). Similar subdivisions (Imperial Valley and The Ridge at Hawktree) are also identified as LDR. Staff is proposing to include this amendment with future updates to the FLUP.

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

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, if amended by staff as proposed;

2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck, Burleigh County and 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 Apple Creek Township Board of Supervisors has 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 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; and
9. The proposed zoning change 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 R10 – Residential zoning district to the Conditional RM10 – Residential zoning district for Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision as outlined in the attached draft ordinance.

#### **Attachments**

1. Location Map
2. Zoning and Plan Reference Map
3. Draft Ordinance

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

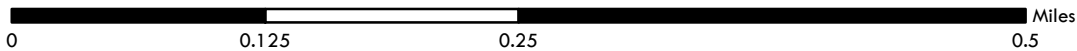
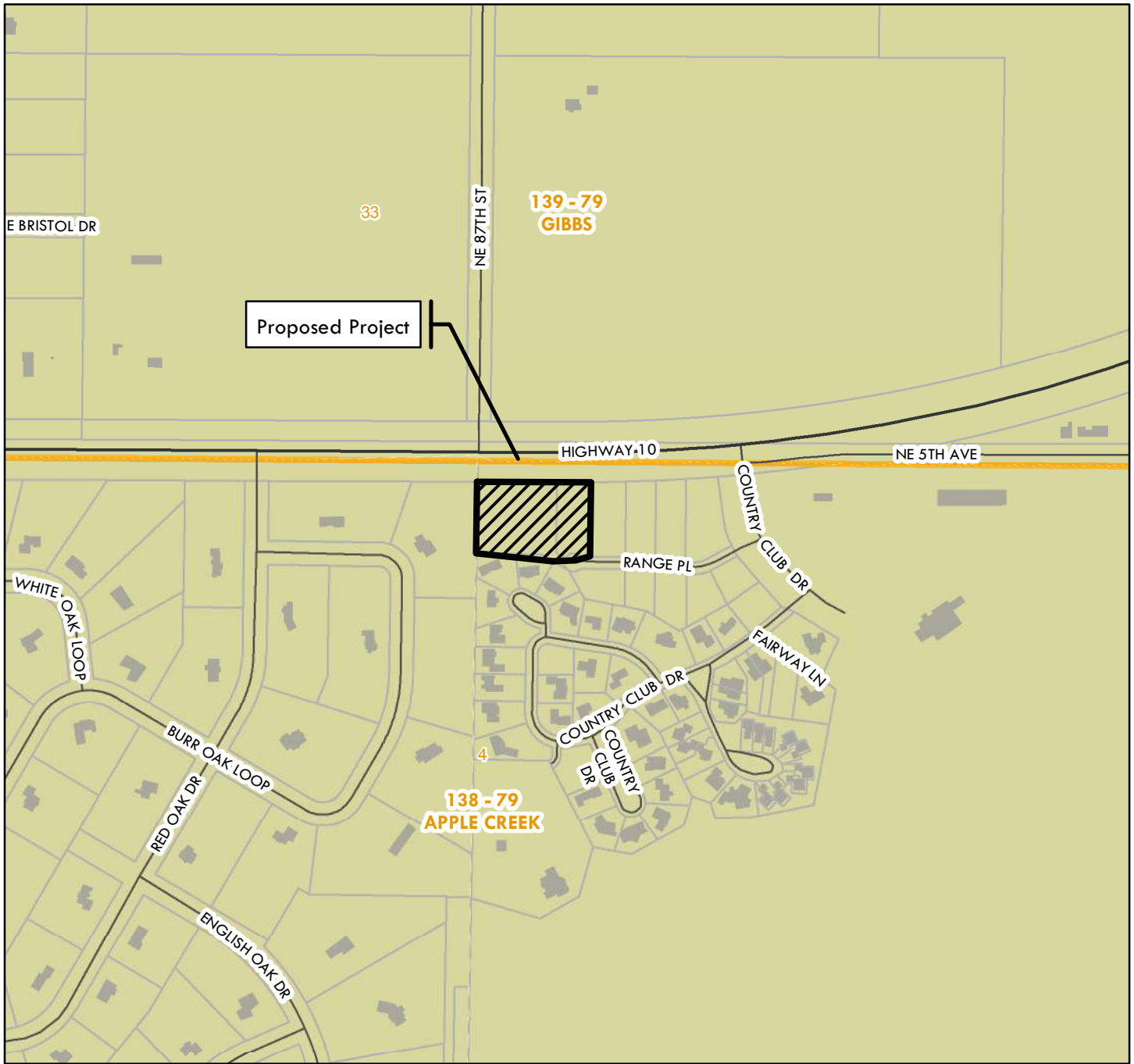




# Proposed Zoning Change (R10 to Conditional RM10)

ZC2018-001

Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision



City Limits



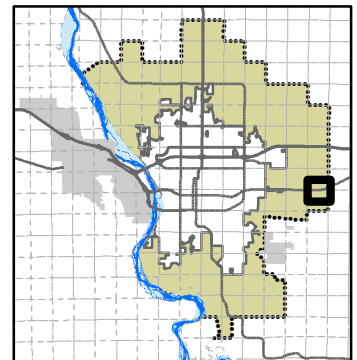
Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
February 20, 2018 (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.







## Proposed Zoning Change (R10 to Conditional RM10)

ZC2018-001

Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision

 Project Area - No Change Proposed

 Zoning or Plan Change Proposed

### Zoning Districts

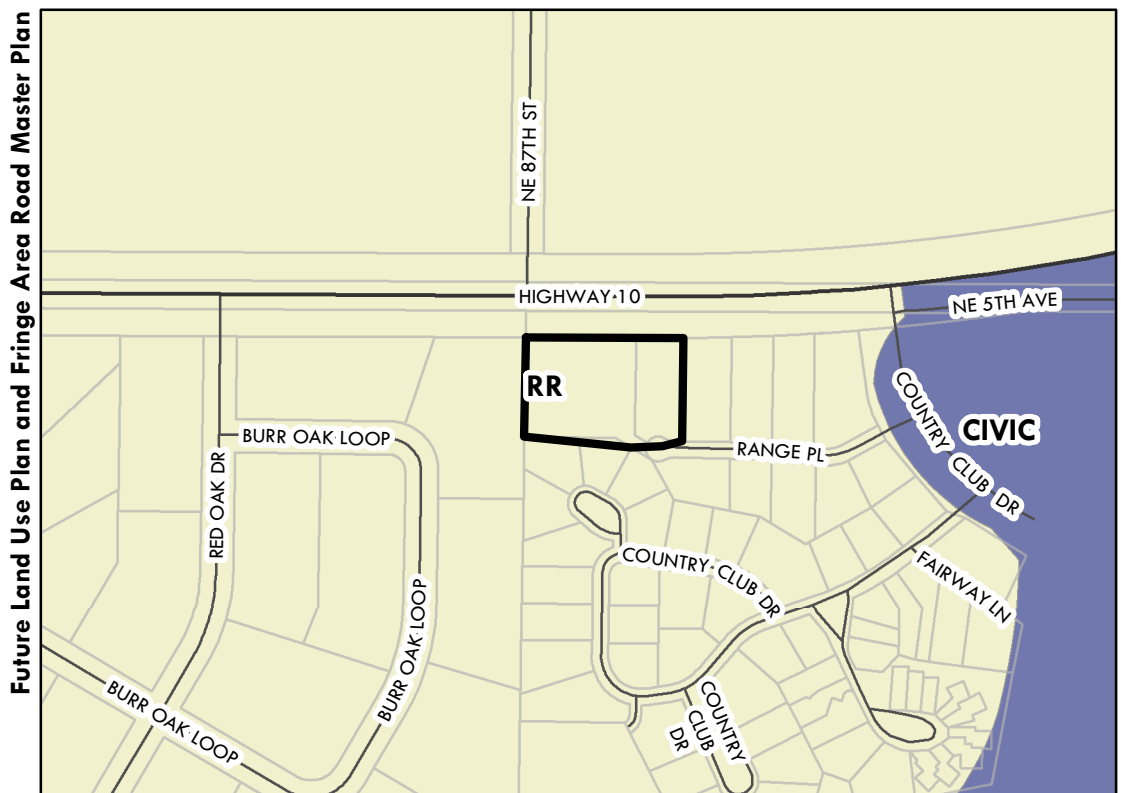
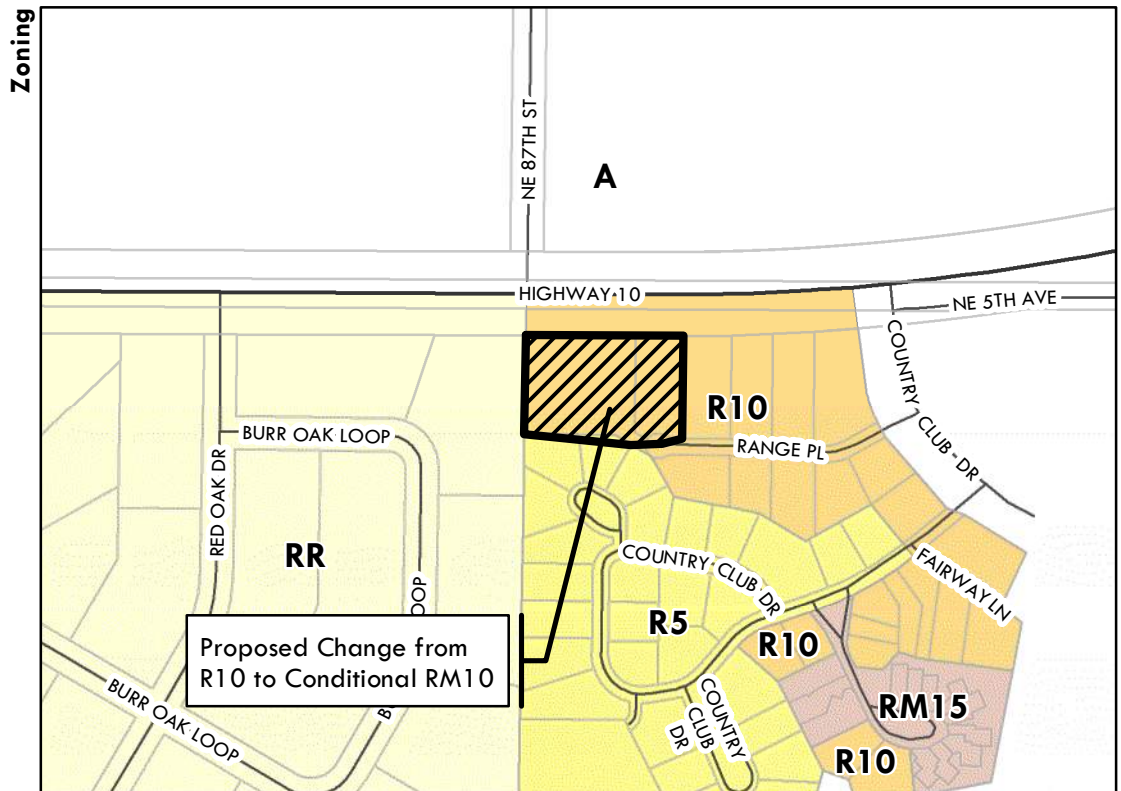
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

### Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector



0 0.05 0.1 0.2 Miles

 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  
February 20, 2018

**ORDINANCE NO.**

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

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

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

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

The following described property shall be excluded from the R10 - Residential zoning district and included in the Conditional RM10 – Residential zoning district:

Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision

This Conditional RM10 – Residential zoning district is subject to the following standards:

1. *Uses permitted.* The following uses are permitted.
  - a. ~~Multifamily dwelling.~~
  - b. Group dwelling.
  - c. Education group.
  - d. Public recreation group.
  - e. Row houses. Attached single-family dwelling ~~in groups of not more than eight (8) or less than three (3) dwelling units in one building, or~~ in groups of not more than eight (8) or less than two (2) dwelling units when constructed as part of an overall row house development with at least three (3) buildings.

1) Density. The maximum allowable density per acre shall be as stipulated in the underlying zoning district 10-units.

2) Lot and Yard Requirements.

Each attached single-family dwelling hereafter erected shall conform to the following minimum lot area and yard requirements:

	Interior	End	Corners
Lot area in square feet	2,300	3,220	3,795
Lot width of front building line in feet	20	28	33
Depth of lot in front	115	115	115
Width of side yard in feet		10	25
Depth of rear yard in feet	20	20	20

3) Height regulations. The maximum height of any principal building shall be forty (40) feet.

4) Safety provision. Row houses shall have wall separations between each dwelling unit of at least a two-hour fire-rated wall which shall extend from the footing to and through the roof at least thirty (30) inches except as may be allowed by the city building code pertaining to area separation walls.

5) Off-street parking. Off-street parking spaces shall be provided for each dwelling unit in compliance with Section 14 03 10 hereof.

6) Regulations Imposed on Overall Structure. The lot coverage requirements and the minimum front, side and rear yard setbacks shall be imposed on the overall structure rather than on each individual unit.

2. *Development standards.*

a. No principal building shall be more than two-stories in height.

b. All other development standards shall be as outlined in Section 14-04-07, RM – Residential District, of the City Code of Ordinances.

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

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

DRAFT



# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item #10

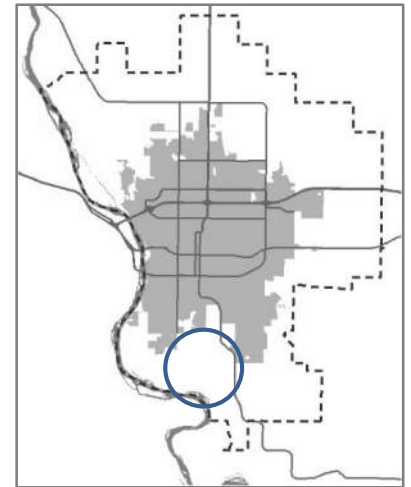
April 25, 2018

## Application for: Special Use Permit

TRAKiT Project ID: SUP2018-005

### Project Summary

<i>Title:</i>	SW ¼ of the SE ¼ of Section 21, Lincoln Township (600 48 <sup>th</sup> Avenue SE)
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Whispering Pines, LLP
<i>Project Contact:</i>	Ron Koch
<i>Location:</i>	South of Bismarck, along the north side of 48th Avenue SE, between Glenwood Drive and 12th Street SE
<i>Project Size:</i>	40 acres
<i>Request:</i>	Approve an accessory dwelling unit within an existing accessory structure



### Site Information

#### Existing Conditions

<i>Number of Lots:</i>	1 parcel
<i>Land Use:</i>	Rural Residential Dwelling
<i>Designated GMP Future Land Use:</i>	Conventional Rural Residential
<i>Zoning:</i>	RR – Residential
<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture
<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet

#### Proposed Conditions

<i>Number of Lots:</i>	1 parcel
<i>Land Use:</i>	Rural Residential Dwelling with Accessory Dwelling Unit
<i>Designated GMP Future Land Use:</i>	Conventional Rural Residential
<i>Zoning:</i>	RR – Residential
<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture
<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet

### Property History

<i>Zoned:</i>	12/1976	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
---------------	---------	-----------------	-----	-----------------	-----

### Staff Analysis

Ron Koch, Whispering Pines, LLP, is requesting approval of a special use permit to allow an accessory dwelling

unit (ADU) on the property of SW ¼ of the SE ¼, Section 21, T138N-R79W/Lincoln Township.



Adjacent uses include rural residential to the south and west, and unplatted property to the north and east.

The applicant intends to use a portion of an existing accessory structure that was completed in 2017 as an ADU.

The proposed ADU meets all provisions of Section 14-03-08(4)(y) (Special Use Permits – Permanent Uses – Accessory Dwelling Units), including the following:

- No more than one ADU is proposed for the property.
- The accessory structure meets all setback and dimensional requirements for accessory structures.
- The required one off-street parking space is provided.
- The ADU is 1,160 square feet on two floors, less than the maximum allowable area of 1,200 square feet on lots of 5 acres or greater. The ADU has no more than one bedroom.
- The applicant has been approved for a separate septic system for the unit.
- The structure was built to meet all requirements of the Residential Building Code.
- The ADU will be owner-occupied. Although the parcel is owned by Whispering Pines, LLC, this entity is owned exclusively by the Koch family, and two of the three managing partners, Ron and Barbara Koch, will be living on the parcel. The applicant has submitted this statement in writing.

This section of the ordinance is attached.

**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 to allow an accessory dwelling unit on the SW ¼ of the SE ¼, Section 21, Lincoln Township with the following condition:

1. The principal or accessory dwelling unit on the property must be owner-occupied and meets all other requirements of Section 14-03-08(4)(y) (Special Use Permits – Permanent Uses – Accessory Dwelling Units).

**Attachments**

1. Location Map
2. Site Plan
3. Floor Plan and Elevations
4. Section 14-03-08(4)(y)

---

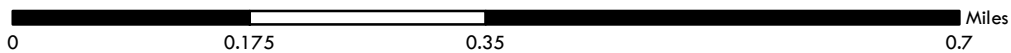
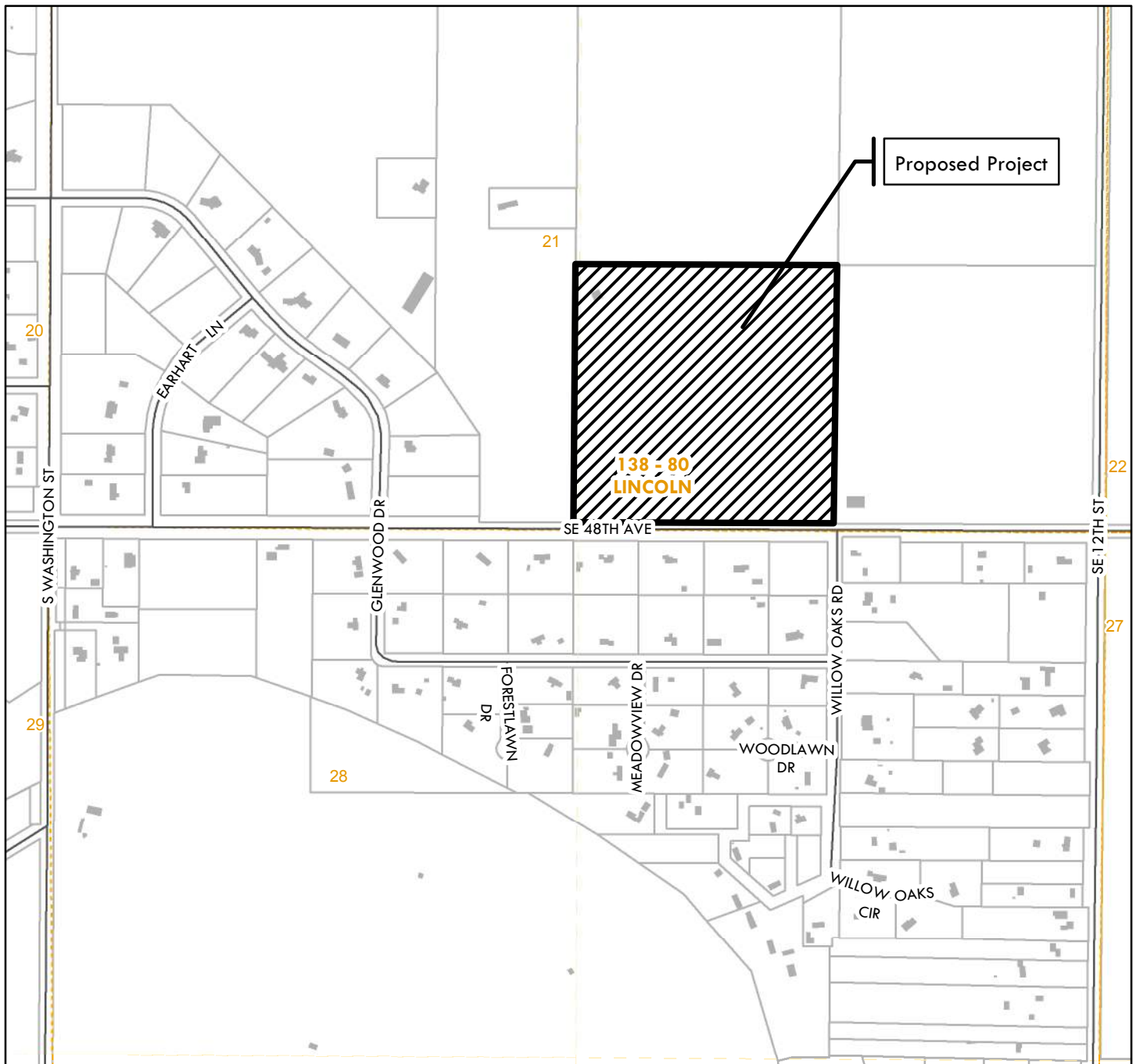
*Staff report prepared by:* Daniel Nairn, AICP  
701-355-1854 | [dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)



# Proposed Special Use Permit

SUP2018-005

SW 1/4 SE 1/4, Section 21, T138N-R80W/Lincoln Township

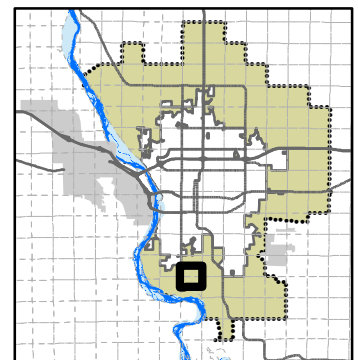


Section, township, and range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
March 23, 2018 (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.





## Proposed Special Use Permit

SUP2018-005

SW 1/4 of the SE 1/4, Section 21, Lincoln Township

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

### Zoning Districts

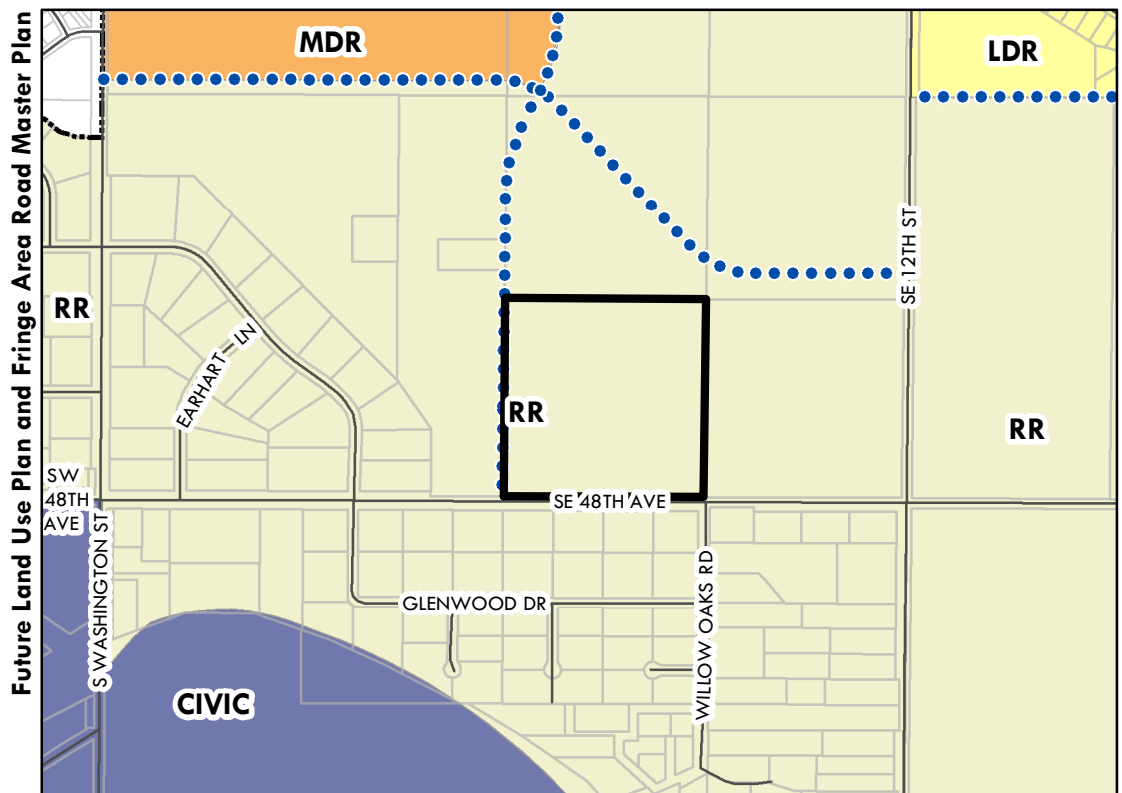
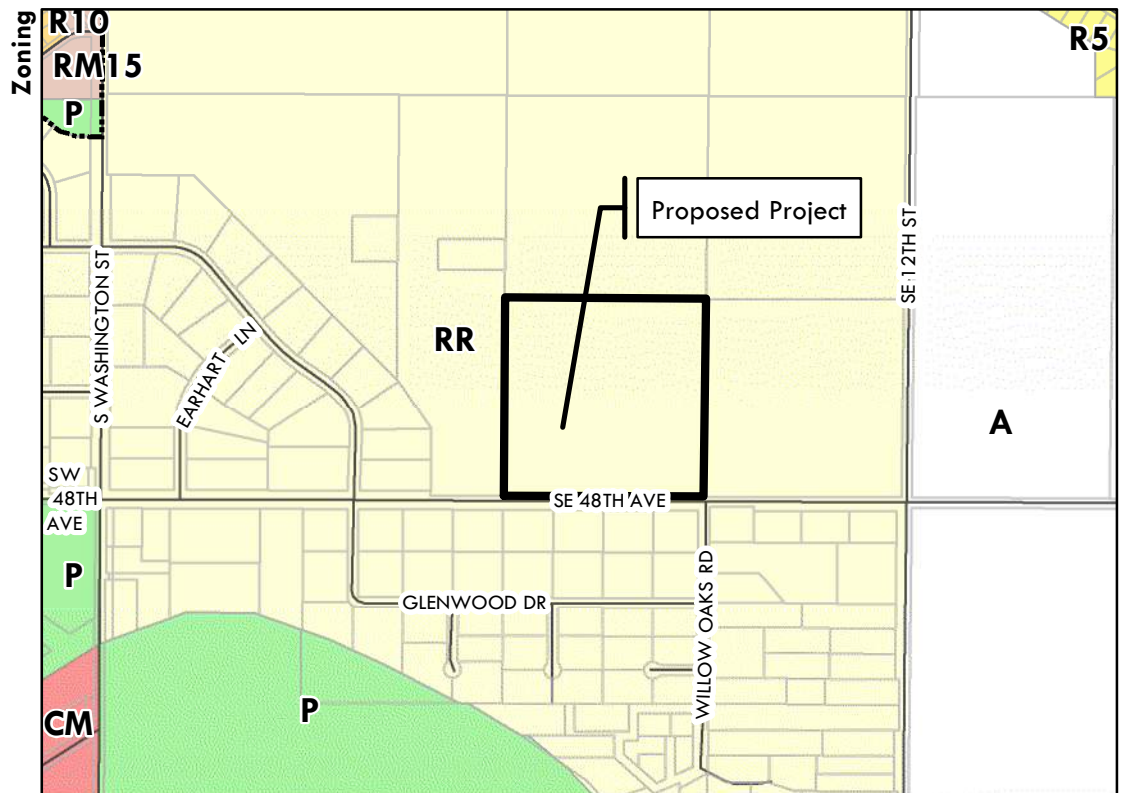
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

### Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



0 0.175 0.35 0.7 Miles



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.

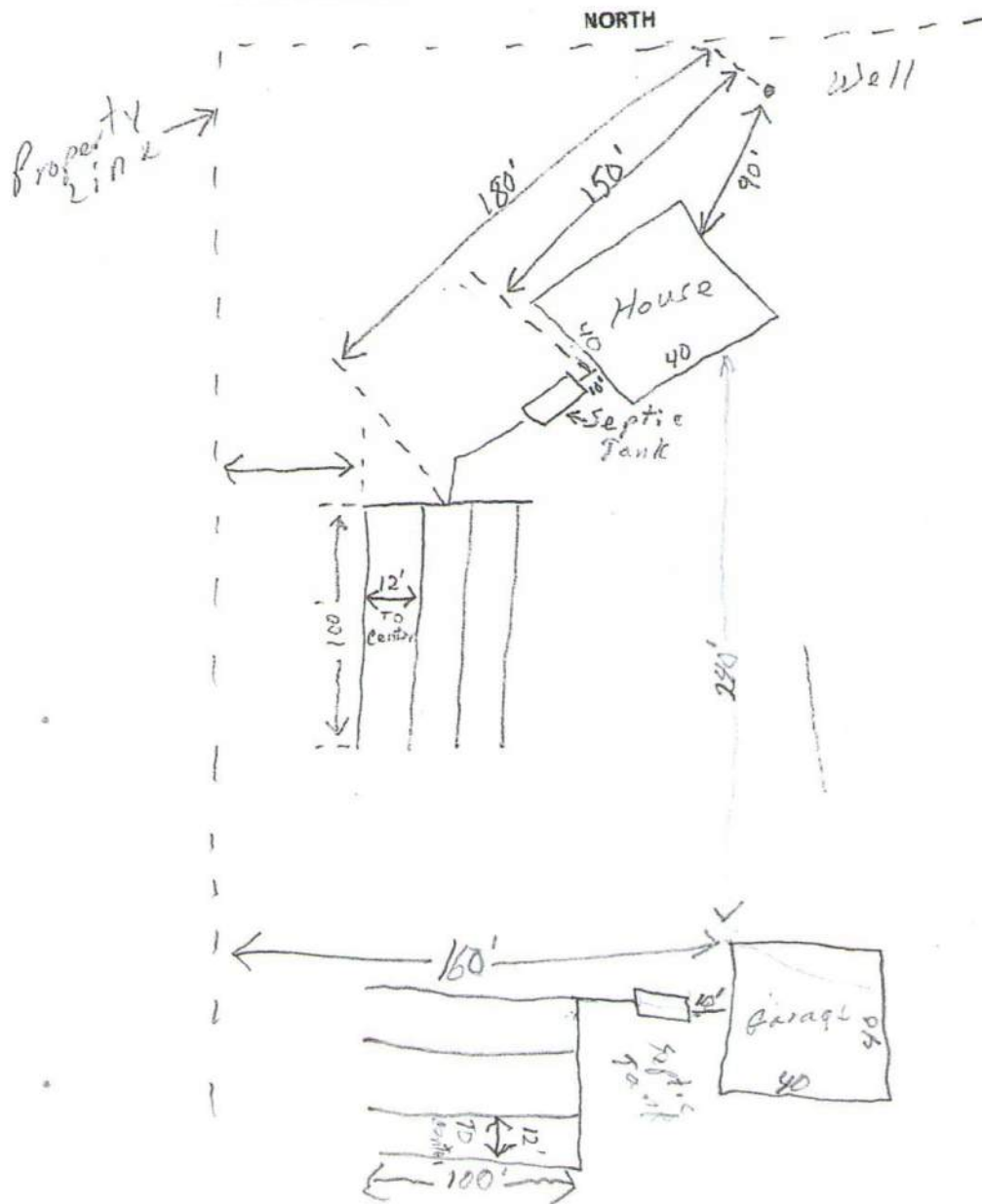


City of Bismarck  
Community Development Dept.  
Planning Division  
April 16, 2018

Ron Koch UDA Special Use App

11-14-17

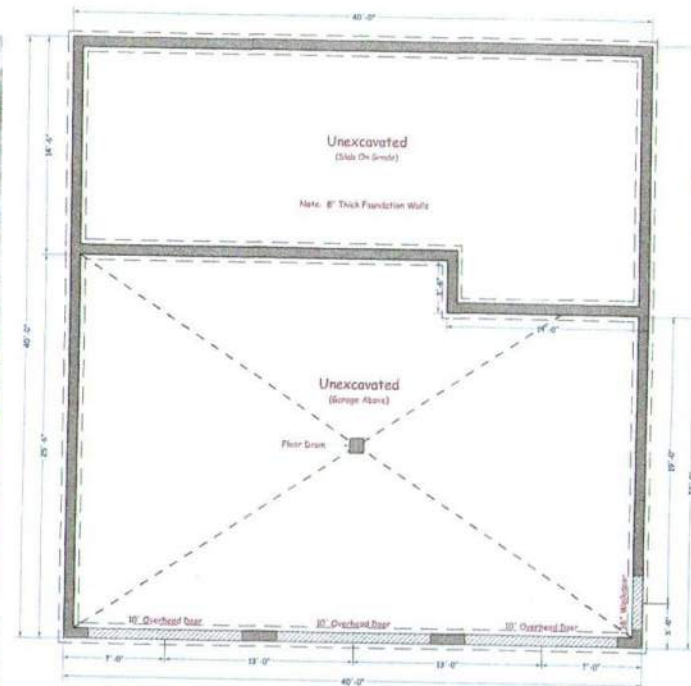
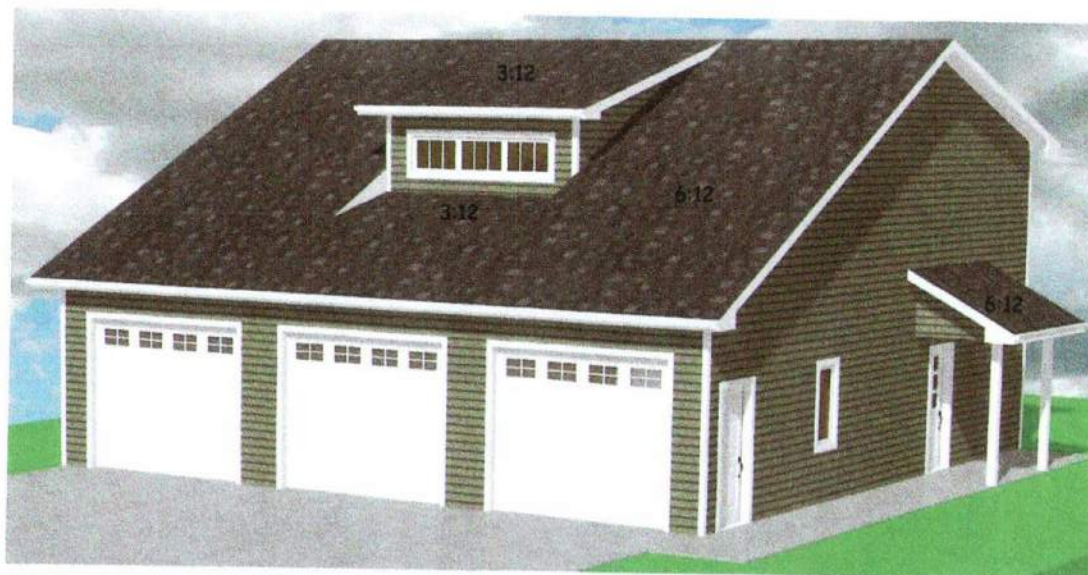
Well Location: Show Detail, Dimensions. and Distances



Received Date: Fixed



RECEIVED  
NOV 14 2017




## Foundation Plan

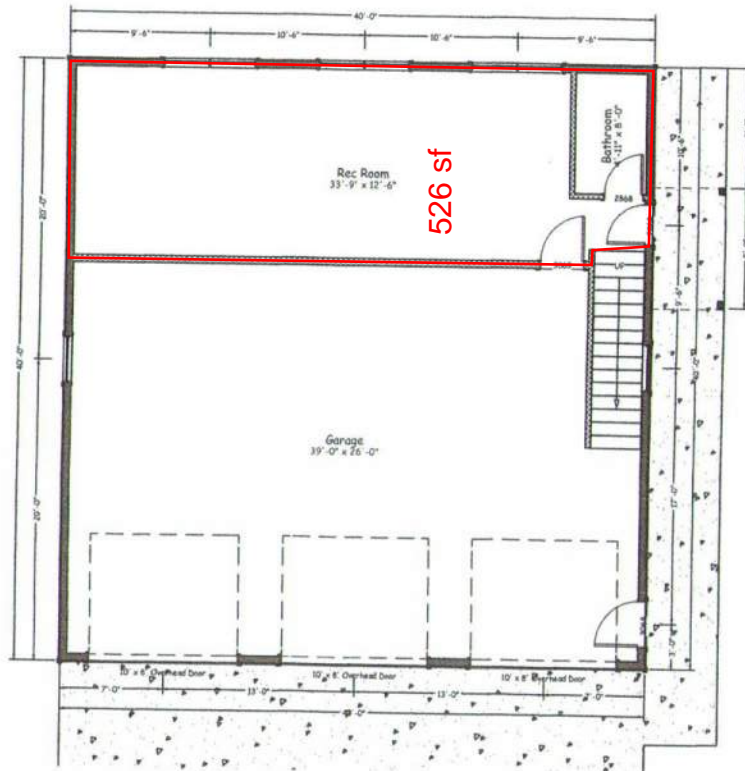
Scale: 1/8"=1'-0"

## Perspective Views

Not To Scale

 <b>Inline Designs Inc.</b> 701-214-3311	Inline Designs, Inc. Shawn Whitney (Owner) Bismarck, North Dakota (email) inline@shawn.com www.InlineDesignsInc.com (cell) 701-214-3311
<b>Ron Koch Detached Garage</b> Plans Drawn For: <b>Bismarck Lumber, Inc</b>	
Drawn By: SRW	The plans and elevations are only conceptual and give the client an example of what is to be built. A contractor or an Architect is responsible for verifying the dimensions and other information on these plans. Inline designs cannot be held responsible for inaccurate information that may lead to additional cost for the owner or a delay in the project.
Date: 4/9/2015	





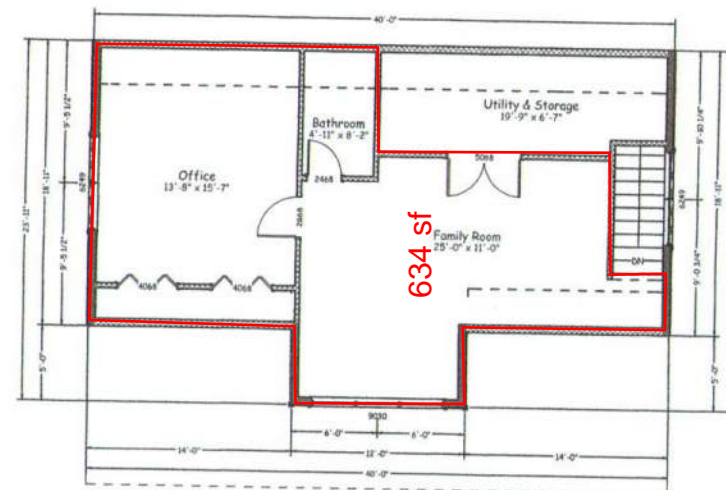
## Main Floor Plan

Scale: 1/8"=1'-0"

### Main Floor:

All Exterior Dimensions Are From Outside Of Framing To Outside Of Framing.  
All Interior Dimensions Are From Edge Of Framing To Edge Of Framing.  
Door Labels Are Specified By 3068 Which Translates To 3'-0" x 6'-8".  
Window Labels Are Specified By 2040 Which Translates To 2'-0" x 4'-0".

**Second Floor:**  
All Exterior Dimensions Are From Outside Of Framing To Outside Of Framing.  
All Interior Dimensions Are From Edge Of Framing To Edge Of Framing.  
Door Labels Are Specified By 3068 Which Translates To 3'-0" x 6'-8".  
Window Labels Are Specified By 2040 Which Translates To 2'-0" x 4'-0".



## Second Floor Plan

Scale: 1/8"=1'-0"

 <b>Inline Designs Inc.</b> 701-214-3311		Inline Designs, Inc. Shawn Whitney (Owner) Bismarck, North Dakota (email) inline@designinc.com www.InlineDesignsInc.com (cell) 701-214-3311
<b>Ron Koch Detached Garage</b> <b>Plans Drawn For:</b> <b>Bismarck Lumber, Inc</b>		
Drawn By: SRW	The plans and elevations are only conceptual and give the client an example of what is to be built. A contractor or an Architect is responsible for verifying the dimensions and other information on these plans. Inline designs cannot be held responsible for inaccurate information that may lead to additional cost for the owner or a delay in the project.	
Date: 10/20/2017		

y. Accessory Dwelling Units:

1. Intent: Provide for a broader range of housing options, efficiently utilize existing infrastructure and housing stock, and preserve the character of existing single-family neighborhoods.

2. Applicability: An accessory dwelling unit to a single-family dwelling is permitted as a special use within any R5 – Residential, R10 – Residential, RM – Residential, RR – Rural Residential, RR5 – Rural Residential, and A – Agricultural zoning district subject to all requirements of the City of Bismarck Code of Ordinances, unless otherwise stated within this section.

3. Requirements for All Accessory Dwelling Units. Prior to receiving a special use permit an applicant shall demonstrate that the following requirements will be met:

a. No more than one accessory dwelling unit may be permitted on each lot or parcel.

b. An accessory dwelling unit must be contained completely within the principal structure on the lot or parcel, or contained within an accessory structure that meets all requirements of this Code, including size and setback requirements of the underlying zoning district. However, the height of any accessory dwelling unit may be up to twenty (20) feet or the height of the principal structure on the lot, whichever is less.

c. The principal or accessory dwelling unit must be occupied by the owner of the subject parcel as a legal residence for more than six (6) months of any given year. The home may not be owned by a corporation, but the owner-occupant may be a benefited person in a private trust or life estate. The owner-occupancy requirement applies to the applicant as well as all subsequent owners of the property.

d. At least one off-street parking space shall be provided for an accessory dwelling, in addition to any parking required for the principal dwelling unit on the lot. However, in such cases where existing conditions render additional parking infeasible, the applicant may submit a parking plan to demonstrate how on-street facilities or other methods are sufficient to meet anticipated parking demand, such as the dwelling unit being reserved for a class or individual who does not need to store a personal vehicle on-site.

e. Size requirements.

1. No accessory dwelling unit may include more than one (1) bedroom.

2. Units within Principal Structure: The floor area of an accessory dwelling unit may not exceed forty percent (40%) of the gross floor area of the principal structure, excluding any attached garage, and may not be greater than 800 square feet or less than 300 square feet.

3. Units within Accessory Structure: The floor area of an accessory dwelling unit may not be greater than 800 square feet or less than 300 square feet on any lot or parcel five (5) acres in area or less. The floor area of an accessory dwelling unit may be up to 1,200 square feet on any lot or parcel that is greater than five (5) acres in area.

f. An accessory dwelling unit on any lot or parcel that does not conform to the minimum lot size requirement of the underlying zoning district may only be permitted inside the principal building.

g. No part of any rooftop deck or balcony on an accessory dwelling unit may be located within twenty five (25) feet of a side or rear property line.

h. An accessory dwelling unit must be connected to public utilities if available on the lot or parcel. If the lot is serviced by an on-site sewage treatment facility, the applicant must show that sufficient sewage treatment capacity will be available to meet anticipated needs.

i. An accessory dwelling unit must comply with all residential building code requirements outlined in Title 4 of the Bismarck Code of Ordinances.

j. An accessory dwelling unit may be occupied by no more than one family, as defined by Title 14 of the Bismarck Code of Ordinances.

4. Methods of Creation. A new accessory dwelling unit may be created in any of the following ways:

a. Conversion of a portion of an existing principal or accessory structure into a separate accessory dwelling unit.

b. Expansion of an existing structure that is in compliance with all setback, lot coverage, and height requirements of the underlying zoning district.

c. Construction of a new structure containing a single family dwelling unit with an internal accessory dwelling unit.

d. Construction of a new detached accessory structure containing a dwelling unit on a lot with an existing principal structure.

e. Reuse of a non-conforming second dwelling unit within a residence that has ceased to be continuously utilized as a dwelling unit and thus does not qualify as a non-conforming use under Section of 14-03-09 of the Bismarck Code of Ordinances.

5. Special Use Permit Submittal Requirements. The following documents shall be submitted with any application for a special use permit to allow an accessory dwelling unit:

a. A building plan that demonstrates compliance with all requirements of the residential building code.

b. For all new construction of an accessory structure, a site plan is required. The site plan must show, to scale, the location and dimensions of the building, all required setbacks, and any easements on the property.

c. For all accessory dwelling units that would not comply with required parking, a parking plan as detailed in Subsection 3.d of this Section is required.

d. For all accessory dwelling units that would be served by an on-site sewage treatment facility, sufficient evidence to assure compliance with Subsection 4.f of this Section to the satisfaction of the Building Official is required.

This page intentionally left blank.



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

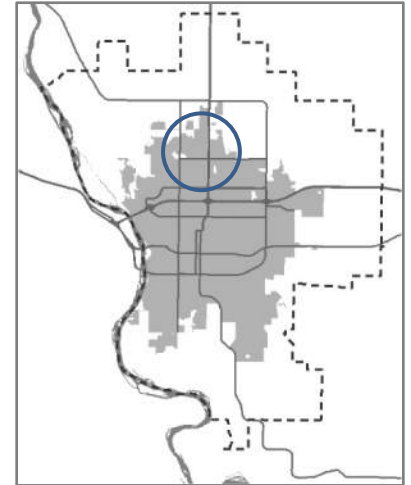
Agenda Item #11  
April 25, 2018

### Application for: Special Use Permit

TRAKiT Project ID: SUP2018-006

#### Project Summary

<b>Title:</b>	Lot 2 of Lot 2A of Lot 2, Block 1, 43 <sup>rd</sup> Avenue Commercial Park 2 <sup>nd</sup> Addition (4400 Ottawa Street) (being replatted as Lot 2, Block 1 Christianson's 1 <sup>st</sup> Addition)
<b>Status:</b>	Planning & Zoning Commission – Public Hearing
<b>Owner(s):</b>	The Shoppes at Osgood, LLC (owner) Paces Lodging (applicant)
<b>Project Contact:</b>	Tom Bruce, Rice Companies
<b>Location:</b>	In north Bismarck, along the north side of 43 <sup>rd</sup> Avenue NE, along the west side of Ottawa Street.
<b>Project Size:</b>	8.65 acres
<b>Request:</b>	Approval of a special use permit for an auto laundry-car wash, filling station and drive-through in conjunction with a coffee shop



#### Site Information

Existing Conditions		Proposed Conditions	
<b>Number of Lots:</b>	1 lot in 1 block	<b>Number of Lots:</b>	1 lot in 1 block
<b>Land Use:</b>	Undeveloped	<b>Land Use:</b>	Retail
<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>	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>	3/2012	<b>Platted:</b>	5/2012	<b>Annexed:</b>	8/2007
---------------	--------	-----------------	--------	-----------------	--------

#### Staff Analysis



The Shoppes at Osgood, LLC is requesting approval of a special use permits to allow an auto laundry (car wash), filling station (gas station) and drive-through in conjunction with a service establishment (coffee shop). These proposed special uses would accompany a proposed grocery store at this location.

The proposed special uses are permitted use in the CG-Commercial zoning district, provided specific conditions are met. The proposed facility would meet all requirements outlined in Sections 14-03-08(4)(e), 14-03-08(4)(g) and 14-03-08(4)(m) of the City Code of Ordinances (Special Uses) and meets the vehicle stacking requirements outlined in Section 14-03-10(4) of the City Code of Ordinances (Off-Street Parking and Loading). Copies of these sections of the ordinance are attached.

The proposed special uses would be compatible with adjacent land uses, which include offices to the north, multi-tenant commercial to the east across Ottawa Street, multifamily residential to the south across 43<sup>rd</sup> Avenue NE, and multi-tenant commercial to the west.

**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 permits to allow the operation of an auto laundry-car wash, filling station and drive-through in conjunction with a service establishment for Lot 2 of Lot 2A of Lot 2, Block 1, 43<sup>rd</sup> Avenue Commercial Park 2<sup>nd</sup> Addition (being replatted as Lot 2, Block 1 Christianson's 1<sup>st</sup> Addition) with the following condition:

1. The development of the site must generally conform to the site plan submitted with the application.

**Attachments**

1. Location Map
2. Zoning and Plan Reference Map
3. Site Plan
4. Section 14-03-08(4)(e)
5. Section 14-03-08(4)(g)
6. Section 14-03-08(4)(m)
7. Section 14-03-10(4)

---

Staff report prepared by: Will Hutchings, Planner

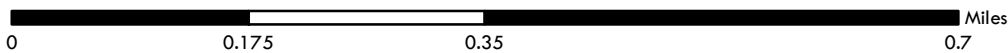
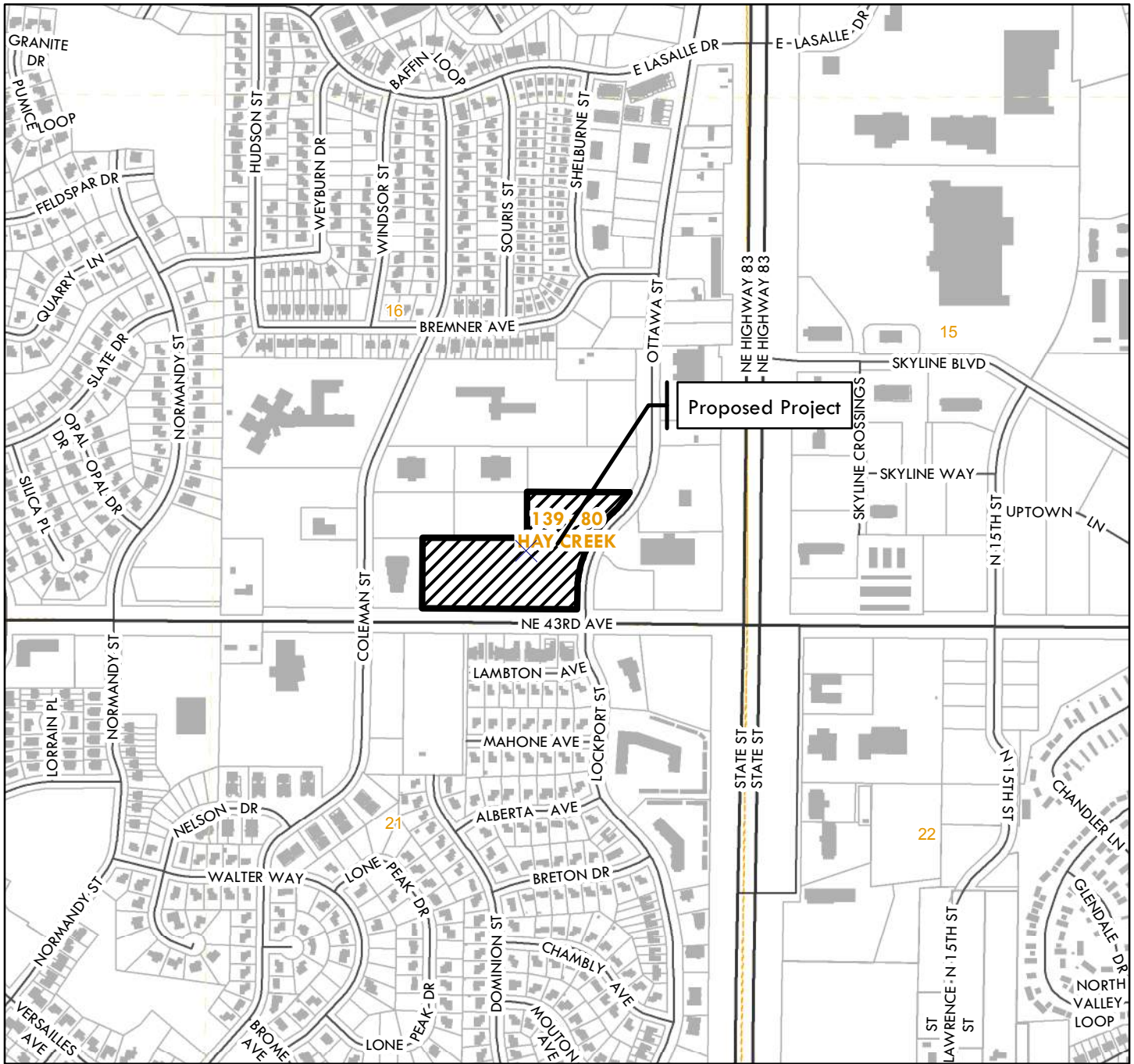
701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)



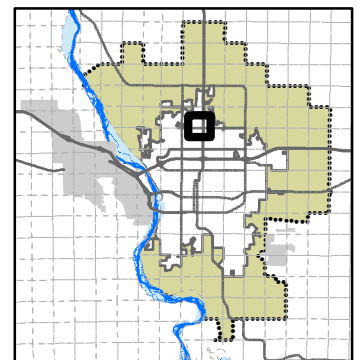
## Proposed Special Use Permit

SUP2018-006

Lot 2 of Lot 2A of Lot 2, Block 1, 43rd Avenue Commercial Park 2nd Addition



Section, township, and  
range indicated in orange



City of Bismarck  
Community Development Department  
Planning Division  
March 23, 2018 (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.



## Proposed Special Use Permit

SUP2018-006

Lot 2 of Lot 2A of Lot 2, Block 1, 43rd Avenue Commercial Park 2nd Addition

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

### Zoning Districts

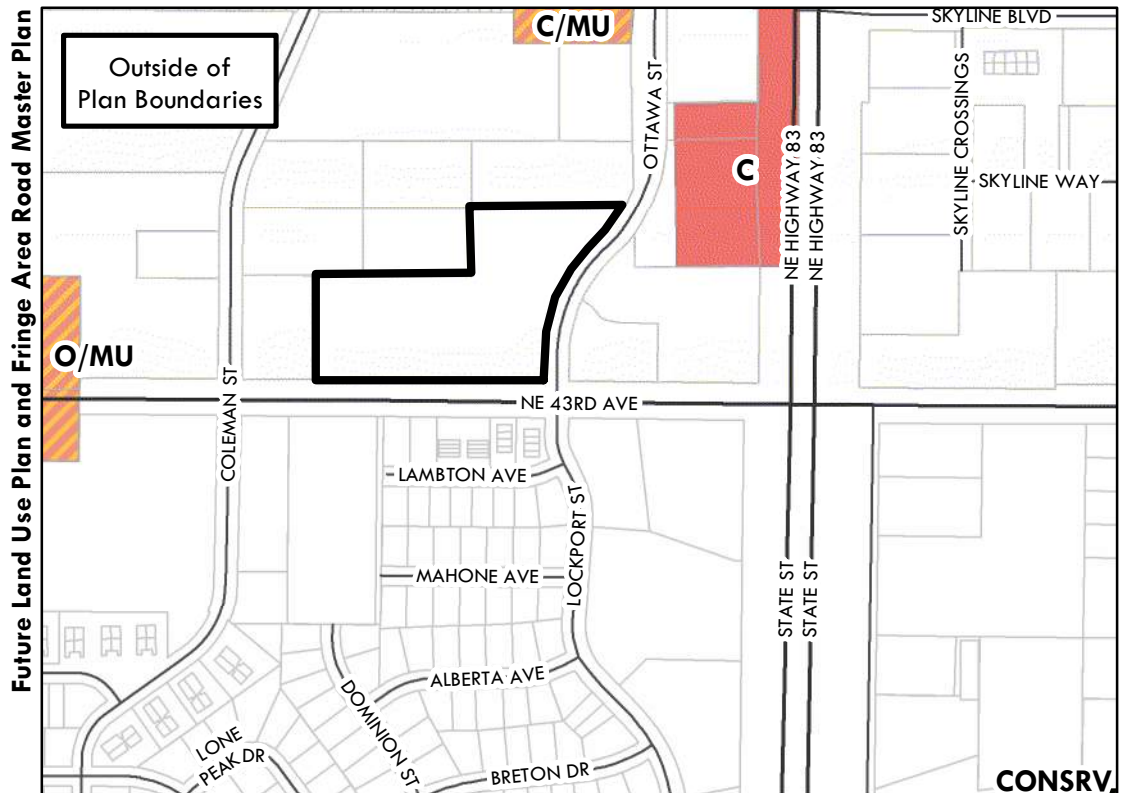
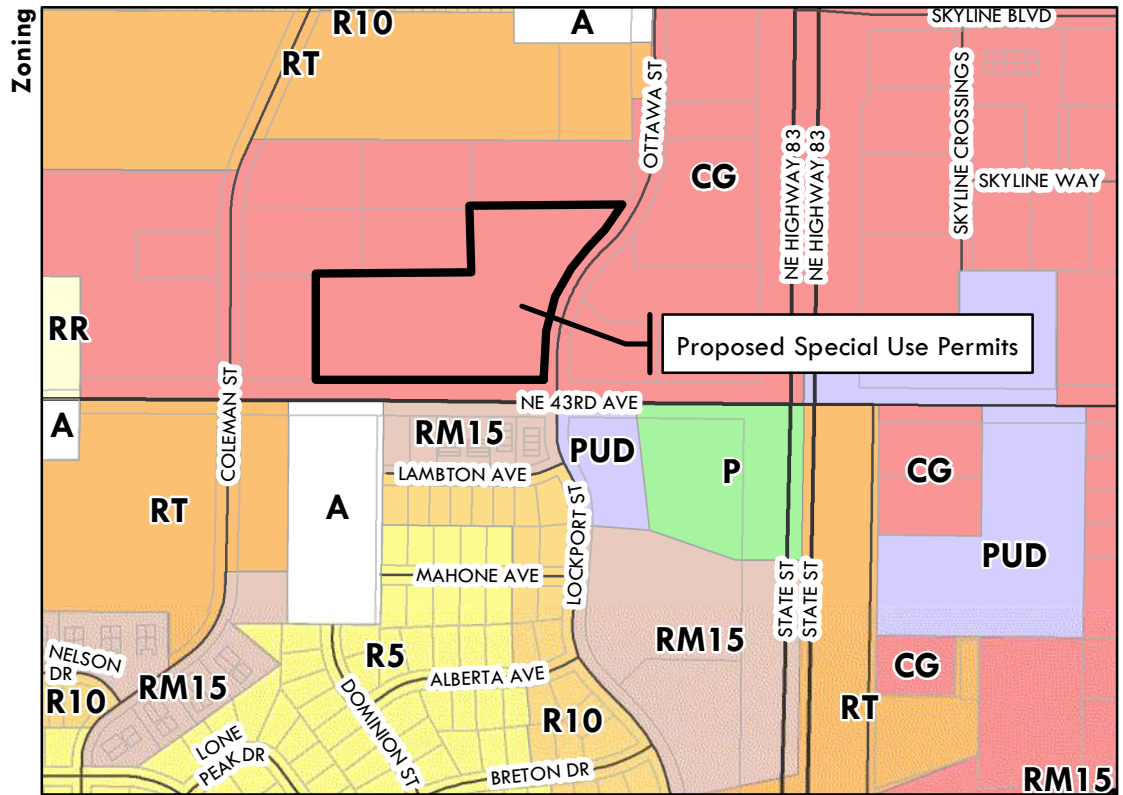
<b>A</b>	Agriculture
<b>RR</b>	Rural
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit 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/Mixed Use
<b>CIVIC</b>	Civic
<b>HDR</b>	High Density Residential
<b>I</b>	Industrial
<b>LDR</b>	Low Density Residential
<b>MDR</b>	Medium Density Residential
<b>MDR-/MU</b>	Medium Density Residential/Mixed Use
<b>MU</b>	Mixed Use
<b>O/MU</b>	Office/Mixed Use
<b>RR-C</b>	Clustered Rural Residential
<b>RR</b>	Standard Rural Residential
<b>UR</b>	Urban Reserve

### Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector



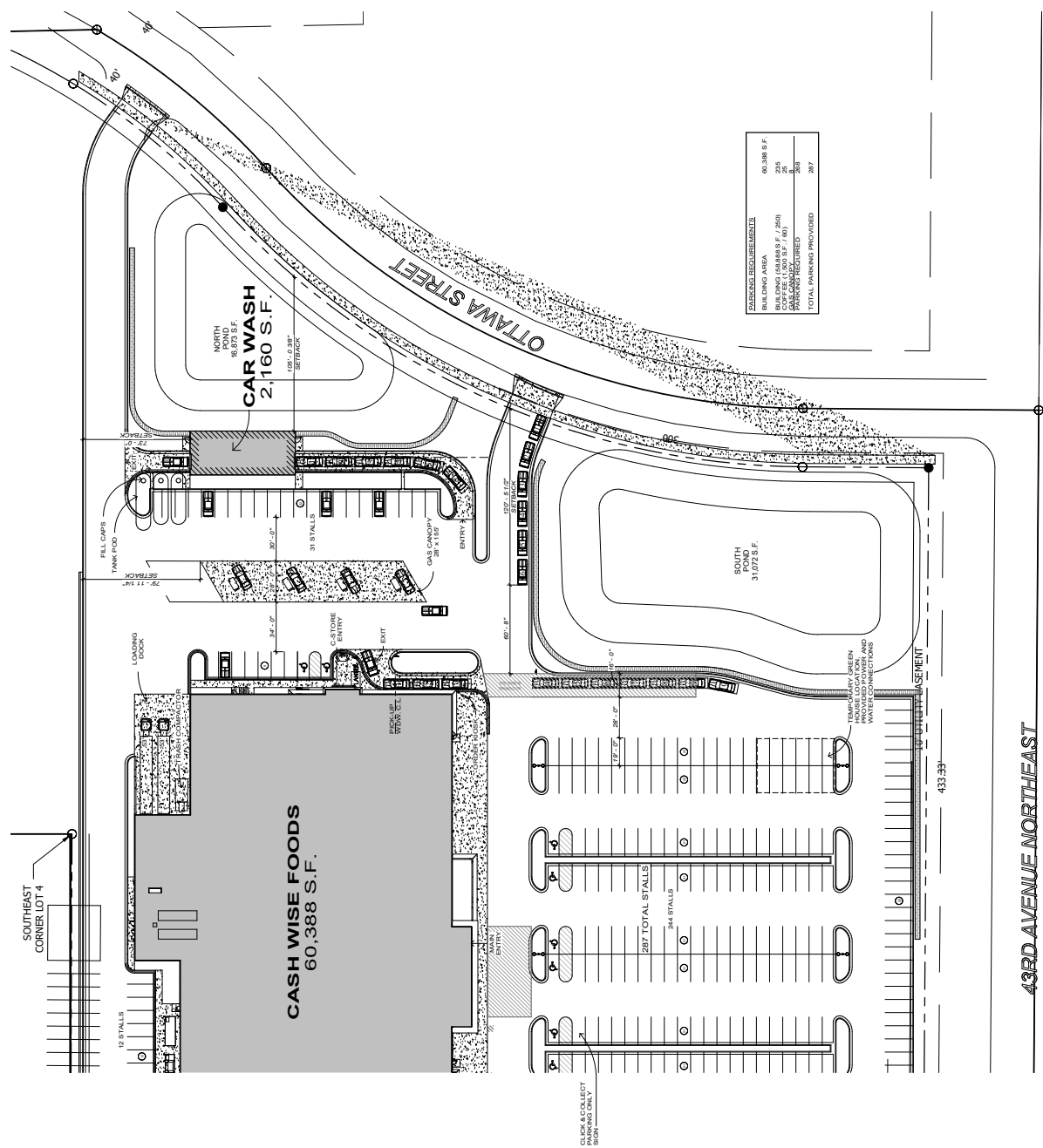
0 0.1 0.2 0.4 Miles

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 herein.



City of Bismarck  
Community Development Dept.  
Planning Division  
April 16, 2018



**1** **SITE PLAN**  
1" = 30'-0"



EXISTING GROCERY STORE  
WEST FARGO, ND



# CASH WISE FOODS

## 2018 GROCERY STORE

### BISMARCK, ND

VICINITY MAP



PROJECT INFORMATION

PROJECT DIRECTORY

SHEET INDEX

**GENERAL CONTRACTOR**  
RICE COMPANY, INC.  
1818 DIXON STREET, SUITE 100  
ST. CLOUD, MN 56301  
TELEPHONE: (320) 353-4333  
FAX: (320) 353-4334  
CONTACT: Chad Brown

**ARCHITECT**  
RICE COMPANY, INC.  
1818 DIXON STREET, SUITE 100  
ST. CLOUD, MN 56301  
TELEPHONE: (320) 353-4333  
FAX: (320) 353-4334  
CONTACT: Chad Brown

**OWNER**  
CASH WISE FOODS, INC.  
101 COLUMBIA BLVD.  
ST. CLOUD, MN 56301  
TELEPHONE: (320) 353-4333  
FAX: (320) 353-4334  
CONTACT: Chad Brown

**CIVIL**  
MORRIS ENGINEERING, INC.  
803 10TH AVENUE, SUITE 200  
WEST FARGO, ND 58103  
TELEPHONE: (701) 332-4444

**STRUCTURAL**  
DANIEL TRUSS ENGINEERS  
2100 W. ST. JOSEPH, SUITE 400  
ST. CLOUD, MN 56301  
TELEPHONE: (320) 311-1511  
FAX: (320) 311-1511  
CONTACT: Joseph A. Melchior, PE



1818 DIXON STREET, SUITE 100  
ST. CLOUD, MN 56301  
TELEPHONE: (320) 353-4333  
FAX: (320) 353-4334

CASH WISE FOODS  
2018 GROCERY STORE  
BISMARCK, ND

SHEET NO.  
**A001**

14-03-08(4)(g)

g. Drive-in/drive-through retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in/drive-through facility, including, but not limited to drive-in/drive-through restaurants, banks or other drive-in/drive-through facilities, exclusive of theatres, may be permitted in a CG, CR, MA or HM district (drive-in/drive-through facilities for banks and drive-in/drive-through windows for pharmacies as an ancillary use to a medical office/clinic only may also be permitted in a CA district) as a special use provided:

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



14-03-08(4)(e)

e. Filling stations. A filling station may be permitted in a CA, CB, CG, CR, or MA district as a special use provided:

1. The minimum total area of the premises shall be at least twenty-one thousand (21,000) square feet with minimum lot dimensions of one hundred forty (140) feet in width and length.
2. Pump dispensers shall have a setback of at least fourteen (14) feet from the property line.
3. The filling station building shall have a fifty (50) foot setback from property lines adjacent to public streets.
4. A filling station may front on only one arterial or collector street and may also be adjacent to a local street.
5. 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 intersecting street corner on local streets.
6. All repair areas, grease and wash racks shall be maintained within the principal building.
7. Rubbish bins and storage racks shall be maintained within a screened area only.
8. Adequate off-street parking must be provided for all operator equipment and at least one space for each two employees and at least five (5) spaces for each service stall or bay on the premises.
9. No storing or parking of wrecked or partially disassembled automobiles or trucks for periods of greater than ninety-six (96) hours shall be allowed.
10. Above-ground storage of petroleum products may be allowed only in MA-Industrial District subject to prior written approval of the Fire Department and adherence to the requirements of subsection p of this section.

14-03-08(4)(m)

m. Auto laundry-car wash. An auto laundry or car wash may be permitted in a CG, CR, MA or MB district as a special use, provided:

1. The lot area, lot width, front yard, side yards, rear yards, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located except that the minimum front yard setback shall be twenty-five (25) feet.
2. Access to and egress from an auto laundry facility 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. 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.
3. 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 streets.
4. An auto laundry-car wash may front on only one arterial or collector street and may also be adjacent to a local 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. All curb cuts, widths, and other specifications shall comply with the standards established by the city engineer.
6. No fence, wall, terrace, structure, shrubbery or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the front ten (10) feet of any lot except a sign pole of two (2) feet or less in any dimension.
7. No automobile shall be parked in the first fifteen feet of a required setback area.

14-03-10(4)

4. 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 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



## STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 12  
April 25, 2018

### Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2018-001

#### Project Summary

Title:	Downtown Design Review and Approval
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Will Hutchings, Planner
Sections Amended:	Section 14-04-21.1(4)(b) – DC- Downtown Core District - Design Standards Section 14-04-21.2(4)(b) – DF- Downtown Core District - Design Standards
Request:	Amend the zoning ordinance to allow administrative review and approval for signs in the downtown zoning district

#### Staff Analysis

Community Development Department – Planning Division staff is initiating a zoning ordinance text amendment to allow administrative review and approval for signs in the downtown zoning districts.

At the February 26, 2018 special meeting of the Renaissance Zone Authority, staff was directed to draft ordinance revisions that give the Renaissance Zone Authority, acting as the Downtown Design Review Committee, the ability to delegate sign application review and approval to the City's Building Official for signs located in the DC-Downtown Core and DF-Downtown Fringe zoning districts.

At the March 8, 2018 regular meeting of the Renaissance Zone Authority, a draft version of the requested amendments was presented for review. The attached draft amendments reflect feedback received from that meeting as well as additional changes noted by the City Attorney.

The Planning and Zoning Commission tentatively approved the draft amendments on March 28, 2018 and called for a public hearing.

The attached revised draft amendment language was presented to the Renaissance Zone Authority April 12, 2018.

The proposed changes would allow the City's Downtown Design Review Committee to delegate design review related tasks to Community Development staff. The City's Building Official may approve or deny any sign that does not meet requirements outlined in Title 4 of the City Code of Ordinances (Building Regulations). A denial by the City Building Official may be appealed to the Renaissance Zone Authority upon request of the applicant.

Companion changes shown below to Section 04-04-09(15)(a) of the City Code of Ordinances (Building Regulations) will be presented to the City Commission along with the proposed changes to Title 14.

- a) Any application for a sign permit shall be forwarded to the Downtown Design Review Committee for their review within thirty (30) days of the application submittal. The City's Downtown Design Review Committee may delegate sign permit application review and approval to the Building Official.

**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 of Section 14-04-21.1(4)(b) (DC- Downtown Core District - Design Standards) and Section 14-04-21.2(4)(b) (DF- Downtown Core District - Design Standards), as presented in the draft ordinance attached to the staff report.

**Attachments**

1. Draft zoning ordinance text amendment
- 

Staff report prepared by: Will Hutchings, Planner

701-355-1850 | [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)

# **CITY OF BISMARCK**

## **Ordinance No. XXXX**

<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 SECTIONS 14-04-21.1 and 14-04-21.2 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO THE DC DOWNTOWN CORE DISTRICT, THE DF DOWNTOWN FRINGE DISTRICT, AND DESIGN STANDARDS REVIEW AND APPROVAL.

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

Section 1. Amendment. Section 14-04-21.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Downtown Core District.

14-04-21.1 DC Downtown Core District.

\* \* \* \* \*

**4. Design Standards.** All development within the Downtown Core District is subject to the following design standards:

\* \* \* \* \*

**b. Review and Approval.** All new buildings, building additions, facade alterations (both structural and non-structural), demolition of existing buildings, signage, streetscape installation or modification, fences, lighting and improvements within the public right-of-way within the Downtown Core District shall be subject to the City's downtown design review procedures and guidelines established in the Downtown Design Guidelines document and must be approved prior to issuance of any permits. The City's Renaissance Zone Authority is authorized to act as the Downtown Design Review Committee and shall review project applications for conformance with the Downtown Design Guidelines. After review, the Renaissance Zone Authority may approve an application, deny the application or ask for project



modification before approval. The City's Downtown Design Review Committee may delegate design review related tasks to Community Development staff. The building official is authorized by the Downtown Design Review Committee to review sign project applications for design compliance and grant permits to sign applications that meet design standards in the ordinance. Any sign application that is denied because it does not meet design standards in the ordinance may be appealed to the Renaissance Zone Authority acting as the Downtown Design Review Committee upon the request of the applicant. A decision by the Renaissance Zone Authority, acting as the Downtown Design Review Committee regarding the application of the design guidelines, may be appealed to the Board of City Commissioners pursuant to the process outlined in Section 14-06-03(3) of the City Code of Ordinances (Appeal to the Board of City Commissioners).

\* \* \* \* \*

Section 2. Amendment. Section 14-04-21.2 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Downtown Fringe District.

14-04-21.2 DF Downtown Fringe District.

\* \* \* \* \*

**4. Design Standards.** All development within the Downtown Core District is subject to the following design standards:

\* \* \* \* \*

**b. Review and Approval.** All new buildings, building additions, facade alterations (both structural and non-structural), demolition of existing buildings, signage, streetscape installation or modification, fences, lighting and improvements within the public right-of-way within the Downtown Core District shall be subject to the City's downtown design review procedures and guidelines established in the Downtown Design Guidelines document and must be approved prior to issuance of any permits. The City's Renaissance Zone Authority is authorized to act as the Downtown Design Review Committee and shall review project applications for conformance with the Downtown Design Guidelines. After review, the Renaissance Zone Authority may approve

an application, deny the application or ask for project modification before approval. The City's Downtown Design Review Committee may delegate design review related tasks to Community Development staff. The building official is authorized by the Downtown Design Review Committee to review sign project applications for design compliance and grant permits to sign applications that meet design standards in the ordinance. Any sign application that is denied because it does not meet design standards in the ordinance may be appealed to the Renaissance Zone Authority acting as the Downtown Design Review Committee upon the request of the applicant. A decision by the Renaissance Zone Authority, acting as the Downtown Design Review Committee regarding the application of the design guidelines, may be appealed to the Board of City Commissioners pursuant to the process outlined in Section 14-06-03(3) of the City Code of Ordinances (Appeal to the Board of City Commissioners).

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

This page intentionally left blank.

**BISMARCK PLANNING & ZONING COMMISSION  
MEETING MINUTES  
March 28, 2018**

The Bismarck Planning & Zoning Commission met on March 28, 2018, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Lee presided.

Commissioners present were Tom Atkinson, Susan Axvig, Mike Donahue, Vernon Laning, Doug Lee, Kevin Martin, Gabe Schell, Mike Schwartz and Wendy Van Duyne.

Commissioners Brian Bitner and Mike Seminary were absent.

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

**INTRODUCTION OF NEW COMMISSIONERS**

Chairman Lee introduced Wendy Van Duyne and Kevin Martin as the new Bismarck Planning and Zoning Commissioners.

**MINUTES**

Chairman Lee called for consideration of the minutes of the February 28, 2018 meeting.

**MOTION:** Commissioner Laning made a motion to approve the minutes of the February 28, 2018 meeting, as presented. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

**CONSIDERATION**

**A. DC AND DF ZONING DISTRICTS – DOWNTOWN DESIGN REVIEW AND APPROVAL – ZONING ORDINANCE TEXT AMENDMENT**

Chairman Lee called for consideration of the following consent agenda item:

**A. DC and DF Zoning Districts – Downtown Design Review and Approval – Zoning Ordinance Text Amendment**

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve consent agenda item A, calling for a public hearing on the item as recommended by staff. Commissioner Laning seconded the

motion and it was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION  
AUDITOR’S LOT 1B OF LOT 1, BLOCK 2, NORTHERN SKY ADDITION**

Chairman Lee called for final consideration of the annexation of Auditor’s Lot 1B of Lot 1, Block 2, Northern Sky Addition. The property is located in northwest Bismarck, north of Ash Coulee Drive and west of North Washington Street, in the southwest quadrant of the intersection of Northern Sky Drive and Durango Drive.

Ms. Wollmuth said the parcel included in this request is located adjacent to existing roadways, Durango Drive to the north and Northern Sky Drive to the east, and utilities are in place and can be extended to serve this property.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. 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 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.

Ms. Wollmuth said, based on the above findings, staff recommends approval of the annexation of Auditor’s Lot 1B of Lot 1, Block 2, Northern Sky Addition.

Commissioner Laning asked, since it is platted, why the southern portion of the lot is not also being annexed, as this seems like it would not completely close the donut hole within City limits.

Ms. Wollmuth said the consultant is here and can speak to the reasoning behind the partial annexation, adding that much of the intent has to do with the timing of the development plans of the owner.

Lon Romsaas, Swenson, Hagen & Co., said the owner wishes to only annex Auditor's Lot 1B of Lot 1 at this time because there is not a buyer in place for the development of Auditor's Lot 1A of Lot 1. He said the lot to the south of this location is also not annexed.

Commissioner Laning said if the intent is for the development of residential homes, he feels it should all be annexed now.

Mr. Romsaas said that annexation of all of Lot 1 would incur more costs on the current owner, which he feels would be unnecessary as there are not any development plans in place for the southern portion of Lot 1 (Auditor's Lot 1A of Lot 1) right now. He said the current zoning of RT-Residential allows for offices and the intent is to develop this property as medical offices, not residential development.

Chairman Lee said he is opposed to leaving donut holes in city limits and if the rest of Lot 1 is not annexed at this time, the City picks up the improvement costs associated with the remaining portion of Lot 1 which, in turn, are paid by the citizens of Bismarck.

Commissioner Schell asked what the rest of the process would be if this request is either approved or denied now.

Ms. Wollmuth said if the request is denied, the applicant can appeal the denial to the City Commission. She said if it is approved, it would be forwarded to the City Commission for consideration and potentially a call for a public hearing and final decision.

Commissioner Atkinson asked if there are any other options at this time, such as requiring the owner to annex the entire lot.

Ms. Lee said the Planning and Zoning Commission has not historically required that in the past, but it is possible that the City Commission would.

Commissioner Laning asked if street improvements are assessed, what happens to those special assessments.

Commissioner Schell said nearby improvements can be held in abeyance by the City and paid when the property is annexed. He said the costs incurred would be transferred to the property at that time.

Mr. Romsaas said the developer has already paid sewer and street improvement costs for improvement adjacent to this property, adding that the area to the south does not currently have improvements in place, but the developer fully intends to incur those costs when the time comes.

**MOTION:** Based on the findings contained in the staff report, Commissioner Laning made a motion to deny the request for the annexation of Auditor's Lot 1B of Lot 1, Block 2, Northern Sky Addition. Commissioner Donahue seconded the motion and the request was denied with Commissioners Axvig, Donahue,



Laning, Lee and Martin voting in favor of the motion. Commissioners Atkinson, Schell, Schwartz and Van Duyne opposed the motion.

**FINAL CONSIDERATION - ANNEXATION  
PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT  
SILVER RANCH FIRST ADDITION FIRST REPLAT**

Chairman Lee called for final consideration of the annexation of part of Silver Ranch First Addition First Replat and the public hearings on the zoning change from the R5-Residential, R10-Residential, RT-Residential, CA-Commercial and P-Public zoning districts to the R5-Residential, R10-Residential, CA-Commercial and P-Public zoning districts and final plat for Silver Ranch First Addition First Replat. The proposed plat is 180 lots in seven blocks on 50.91 acres and is located northeast of Bismarck, along the south side of 43rd Avenue NE and the east side of future Silver Boulevard (a replat of Blocks 1, 5, 6, and 7, and parts of Blocks 2, 9, and 10, Silver Ranch First Addition).

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 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 then gave the 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 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.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn 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 requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District because a neighborhood park will be provided with the initial subdivision.
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.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of the annexation of parts of Lots 34 - 36, Block 1, Lots 5-8 and 13-14, Block 2, and Lots 3 and 8, Block 3, Silver Ranch First Addition First Replat, the zoning change from the from the R5 – Residential, R10 – Residential, RT – Residential, CA – Commercial, and P – Public zoning districts to the R5 – Residential, R10 – Residential, CA – Commercial and P – Public zoning districts and approval of the final plat for Silver Ranch First Addition First Replat, with the understanding that:

1. The plat for Silver Ranch First Addition and the accompanying annexation are recorded prior to forwarding this request to the City Commission for final action.

Commissioner Laning asked if there is a reason why the plat of Silver Ranch First Addition has not been recorded yet.

Mr. Nairn replied it was approved in November, although there was an extended period of time prior to it being forwarded for consideration by the City Commission, to allow time for the development agreement to be completed. He said the items needed for recordation have not been provided by the applicant to City Planning yet.

Chairman Lee opened the public hearing.

Chad Wachter, Investcore, Inc., said the reason the plat has not been submitted for recordation is that they wanted to wait and see what would come of the new utility fees, because of the large impact it would have on that subdivision.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Axvig made a motion to recommend approval of the annexation of parts of Lots 34 - 36, Block 1, Lots 5-8 and 13-14, Block 2, and Lots 3 and 8, Block 3, Silver Ranch First Addition First Replat, the zoning change from the from the R5 – Residential, R10 – Residential, RT – Residential, CA – Commercial, and P – Public zoning districts to the R5 – Residential, R10 – Residential, CA – Commercial and P – Public zoning districts and approval of the final plat for Silver Ranch First Addition First Replat, with the understanding that the plat for Silver Ranch First Addition and the accompanying annexation are recorded prior to forwarding this request to the City Commission for final

action. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Schell, Schwartz and Van Duyne voting in favor of the motion. Commissioner Martin abstained.

**FINAL CONSIDERATION - ANNEXATION  
PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT  
HAMBURG INDUSTRIAL PARK THIRD ADDITION**

Chairman Lee called for final consideration of the annexation of Hamburg Industrial Park Third Addition and the public hearings on the zoning change from the A-Agricultural zoning district to the MA-Industrial zoning district and final plat of Hamburg Industrial Park Third Addition. The proposed plat is one lot in one block on 13.57 acres and is located southeast of Bismarck, east of Yegen Road at the termination of Hagen Avenue (part of Auditor's Lot B and part of Auditor's Lot C of the SW ¼ of Section 13, T138N-R80W).

Mr. Hutchings noted that the proposed stormwater management plan also contained a potential stormwater pond and this plat and the proposed stormwater pond are within 10,000 of the Bismarck Airport. He said that because of this, the plat is subject to a Federal Aviation Administration Advisory Circular titled Wildlife Hazards Assessment. He added that this is to ensure that any proposed body of water near the airport does create a wildlife attractant. He said staff did notify the project applicant of this requirement in February. Mr. Hutchings then added that staff received a copy of a Wildlife Evaluation on March 23<sup>rd</sup>, which was forwarded to the Bismarck Airport staff for review. He said knowing this item was scheduled for a public hearing at this meeting, Bismarck Airport staff was able to accommodate an expedited review of the Wildlife Hazards Evaluation and the finding from that review is that they concur with the Wildlife Hazards Evaluation in which the proposed stormwater pond is unlikely to create an airport wildlife hazard. Mr. Hutchings then said due to the fact that the required stormwater management plan has not been approved by the City Engineer, staff is recommending that the public hearings on the requests be held, but for final action to be continued to the March meeting of the Planning and Zoning Commission.

Mr. Hutchings gave an overview of the request, including the following findings related to land use for the annexation:

1. 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 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. Hutchings then gave the 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 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.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Hutchings then gave the findings related to land use for the final plat:

1. 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 storm water management plan for the subdivision has not been approved by the City 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 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 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.

Mr. Hutchings said, based on the above findings, staff recommends holding a public hearing but continuing action on the request for the annexation, the zoning change from the A – Agriculture zoning district to the MA – Industrial zoning district and the final plat for Hamburg Industrial Park Third Addition, until the following item is submitted and approved:

1. A stormwater management plan.

Commissioner Laning asked if, since the annexation is contiguous to the City of Bismarck, would it benefit Bismarck or the City of Lincoln.

Mr. Hutchings said it would be part of, and benefit, the City of Bismarck.

Chairman Lee opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said the stormwater management plan has not been approved by the City Engineer; however, it is hinging on information to be provided by the Corps of Engineers and they are still reviewing it. He said assuming that information will be in place by the time it is to be considered by the City Commission, he would like to see the requests move forward so as to save a month and allow for a speedier land transfer.



Chairman Lee asked what the practice in a situation like this has been in the past. Mr. Hokenstad said both options of either continuing the requests to the next meeting of the Planning and Zoning Commission and forwarding them in anticipation of having the information needed in time for the next City Commission meeting have happened in the past. He said they can continue it now or approve it and wait and forward it only if the plan is received and approved in time.

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

Ms. Lee said even if the requests are approved, they would not be forwarded for consideration by the City Commission until the City Engineer approves the stormwater management plan.

**MOTION:** Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the annexation, the zoning change from the A – Agriculture zoning district to the MA – Industrial zoning district and the final plat for Hamburg Industrial Park Third Addition. Commissioner Donahue seconded the motion.

Commissioner Schell said typically it is ideal that all items be together prior to being scheduled for this meeting. He said it was scheduled for this meeting with the staff recommendation as it is with the hope the plan would be in place by now. He said he is hesitant to support approval of the requests at this time and set a precedent of requests not being ready, but still trying to move them forward through the process.

Commissioner Donahue withdrew his second to the motion and the motion then failed for lack of a second.

**MOTION:** Based on the findings contained in the staff report, Commissioner Schell made a motion to continue the requests to the next regularly scheduled Planning and Zoning Commission meeting for the annexation, the zoning change from the A – Agriculture zoning district to the MA – Industrial zoning district and the final plat for Hamburg Industrial Park Third Addition, until the required stormwater management plan is submitted and approved. Commissioner Martin seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

### **PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT TRIANGLE SQUARE 3<sup>RD</sup> SUBDIVISION**

Chairman Lee called for the public hearing on the zoning change from the A-Agriculture and RR-Residential zoning districts to the RR-Residential zoning district and final plat for Triangle Square 3<sup>rd</sup> Subdivision. The proposed plat is two lots in one block on 7.3 acres and is located northeast of Bismarck, between 52nd Street NE and 66th Street NE, along the

north side of 57th Avenue NE (a replat of Triangle Square 2nd Subdivision and a portion of the SW¼ of Section 7, T139N-R79W/Gibbs Township).

Ms. Wollmuth gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change does not conform to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, which identifies a 40-acre area including this parcel as Commercial Mixed Use (CMU). However, as the proposed lot already exists as a separate parcel, it seems reasonable to allow replatting of this property and the continuation of the two existing rural residences on an interim basis. As the City grows and reaches this area, the parcel could be absorbed into a larger commercial mixed use development.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck, Burleigh County and 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 Gibbs Township Board of Supervisors has recommended approval of 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 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 not consistent with the master plan, other adopted plans, policies and accepted planning practice, however it seems reasonable to allow rezoning of this property and the continuation of the two existing rural residences on an interim basis. As the City grows and reaches this area, the parcel could be absorbed into a larger commercial mixed use development.
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. A stormwater management plan waiver for the subdivision has been approved by the City Engineer with written concurrence from the County Engineer.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. 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.
5. 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.
6. The Gibbs Township Board of Supervisors has recommended approval of the proposed final plat.
7. The City of Bismarck, Burleigh County 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 general intent and purpose of the zoning ordinance.
11. The proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice, however, it seems reasonable to allow the parcel to be platted with one rural residence on an interim basis until the City expands into this area.
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the above findings, staff recommends approval of the zoning change from the A – Agriculture and RR – Residential zoning districts to the RR – Residential zoning district and final plat for Triangle Square 3<sup>rd</sup> Subdivision.

Commissioner Martin asked what the recommendation from Gibbs Township was. Ms. Wollmuth said the resolution was received signed just prior to the meeting and they did recommend approval of the requests.

Chairman Lee opened the public hearing.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the zoning change from the A – Agriculture and RR – Residential zoning districts to the RR – Residential zoning district and final plat for Triangle Square 3<sup>rd</sup> Subdivision. Commissioner Axvig seconded the motion and the requests were unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyn voting in favor of the motion.

### **PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT TRIANGLE SQUARE 4<sup>th</sup> SUBDIVISION**

Chairman Lee called for the public hearing on the final plat and the zoning change from the A-Agriculture zoning district to the RR-Residential zoning district for Triangle Square 4<sup>th</sup> Subdivision. The proposed plat is one lot in one block on 2.5 acres and is located northeast of Bismarck, in the northeast quadrant of the intersection of 52nd Street NE and 57<sup>th</sup> Avenue NE (part of the SW¼ of Section 7, T139N-R79W/Gibbs Township).

Ms. Wollmuth gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change does not conform to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, which identifies a 40-acre area including this parcel as Commercial Mixed Use (CMU). However, as the proposed lot already exists as a separate parcel, it seems reasonable to allow the rezoning of this one parcel as a single rural residence on an interim basis. As the City grows and reaches this area, the parcel could be absorbed into a larger commercial mixed use development.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck, Burleigh County and 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 Gibbs Township Board of Supervisors has recommended approval of 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 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 not consistent with the master plan, other adopted plans, policies and accepted planning practice, however it seems reasonable to allow rezoning of this property and the continuation of the two existing rural residences on an interim basis. As the City grows and reaches this area, the parcel could be absorbed into a larger commercial mixed use development.
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. A stormwater management plan waiver for the subdivision has been approved by the City Engineer with written concurrence from the County Engineer.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. 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.
5. 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.
6. The Gibbs Township Board of Supervisors has recommended approval of the proposed final plat.
7. The City of Bismarck, Burleigh County 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 zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice, however, it seems reasonable to allow the parcel to be platted with one rural residence on an interim basis until the City expands into this area.

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

Ms. Wollmuth said, based on the above findings, staff recommends approval of the zoning change from the A – Agriculture zoning district to the RR – Residential zoning district and final plat for Triangle Square 4<sup>th</sup> Subdivision.

Commissioner Laning asked if the subdivision is being done for commercial or mixed use purposes. Ms. Wollmuth said the applicant is selling it as single-family rural residential property.

Chairman Lee asked if there is a house on the property now. Ms. Wollmuth replied there is not.

Commissioner Schell asked if there would be non-access lines on 52<sup>nd</sup> Street NE and 57<sup>th</sup> Avenue NE. Ms. Wollmuth said they would be on the west side of the property, adjacent to 57<sup>th</sup> Avenue NE running the length of the subdivision and also along the south side of the property, with the exception of a 40-foot wide access point at the eastern edge, which was coordinated with the Burleigh County Highway Department.

Chairman Lee opened the public hearing.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the zoning change from the A – Agriculture zoning districts to the RR – Residential zoning district and final plat for Triangle Square 4<sup>th</sup> Subdivision. Commissioner Donahue seconded the motion and the requests were unanimously approved Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

#### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT HERITAGE PARK ADDITION FIRST REPLAT**

Chairman Lee called for the public hearing on the minor subdivision final plat for Heritage Park Addition First Replat. The proposed plat is 15 lots on 4.39 acres and is located in northwest Bismarck, north of 57<sup>th</sup> Avenue NW and on the east side of Sonora Way (replat of Lots 1-12 and 15-18, Block 8, Heritage Park Addition).

Mr. Nairn pointed out that there was an error on the face of the plat that has been corrected since the agenda packets were distributed. He said a segment of Colony Loop has been changed to Colony Point at the request of Combined Communications. He added that those streets will also be private roadways.



Commissioner Atkinson asked how many units would be allowed with the subdivision as it is without the replat. Mr. Nairn said it would have allowed 16 units and the replat would reduce the density to allow 15 units.

Mr. Nairn 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. Nairn said, based on the findings contained in the staff report, staff recommends approval of the minor subdivision final plat for Heritage Park Addition First Replat. Chairman Lee opened the public hearing.

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

**MOTION:** Commissioner Axvig made a motion to approve the minor subdivision final plat for Heritage Park Addition First Replat. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

#### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT HUNTINGTON COTTAGES FIRST ADDITION**

Chairman Lee called for the public hearing on the minor subdivision final plat for Huntington Cottages First Addition. The proposed plat is 27 lots on 5.74 acres and is located in northwest Bismarck, west of North Washington Street, along the south side of Buckskin Avenue (replat of Lot 7, Block 3, KMK Estates).

Mr. Hutchings said, since the time the agenda packet was distributed, detention easements have been added to lots on the north side of the plat.

Commissioner Martin said the packet indicates the Post-Construction Stormwater Management Permit was conditionally approved by the City Engineer but is highlighted. Mr.

Hutchings said that was a compilation error and they were waiting for approval at the time the packet was assembled, which has since been received.

Chairman Lee asked if no parking on the private streets would be enforced by the City. Ms. Lee said it can only be enforced by the City if it is signed as a fire lane.

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 Huntington Cottages First Addition with the following conditions:

1. Fire lane signs restricting on-street parking be posted on both sides of the private street in accordance with requirements of the International Fire Code; and
2. A petition for roadway improvements for Buckskin Avenue is submitted prior to final approval.

Chairman Lee opened the public hearing.

Vivian Lang, 125 Buckskin Avenue, said she does not have any objections to the request, but she lives right next to it and did not receive any notification that it was happening until two days ago. She said she believes people move because of developments like this and she has gotten notifications for other public hearings in the past, but not for this one.

Mr. Hokenstad said the address listed in the adjacent property owner notification research is one in Mandan.

Ms. Lee said those addresses are populated based on the tax assessing mailing address. Ms. Lang said she has tried to have the mailing address changed in the past and does not have any objections, but would like to be notified.

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

**MOTION:** Commissioner Laning made a motion to approve the minor subdivision final plat for Huntington Cottages First Addition with the following conditions: 1. Fire lane signs restricting on-street parking be posted on both sides of the private street in accordance with requirements of the International Fire Code; and 2. A petition for roadway improvements for Buckskin Avenue is submitted prior to final approval. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Dyne voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE  
LOTS 5 AND 6, BLOCK 1, APPLE CREEK COUNTRY CLUB THIRD  
SUBDIVISION**

Chairman Lee called for a public hearing on a zoning change from the R10-Residential zoning district to the Conditional RM10-Residential zoning district for Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision. The property is located east of Bismarck, south of County Highway 10, along the westerly extension of Range Place.

Ms. Wollmuth explained that the property is located in an area identified as Rural Residential (RR) in the Future Land Use Plan in the 2014 Growth Management Plan, as amended, and staff has reviewed this area and the Future Land Use Plan and has determined that the RR classification should be revised. She said properties within this general area have been or will be developed at urban densities with rural water and a centralized sewer system and should be classified as Low Density Residential (LDR). She added that similar subdivisions (Imperial Valley and The Ridge at Hawktree) are also identified as LDR and staff is proposing to include this amendment with future updates to the FLUP.

Ms. Wollmuth then gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, if amended by staff as proposed.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck, Burleigh County and 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 Apple Creek Township Board of Supervisors has not yet made a recommendation on 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 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 said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the R10 – Residential zoning district to the Conditional RM10 – Residential zoning district for Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision as outlined in the draft ordinance attached to the staff report.

Chairman Lee asked if this request was fast-tracked, as stated in a comment received from an adjacent property owner. Ms. Wollmuth said it was not and has followed the same process as all other zoning change requests.

Commission Atkinson asked if Apple Creek Township has given a recommendation on the request yet. Ms. Wollmuth said they were in touch with Planning staff today and did state their support of the staff recommendation to approve the request.

Chairman Lee opened the public hearing.

Chad Wachter, Investcore, Inc., said he would like to withdraw his zoning change request at this time and will reapply at a later date.

Don Mortega, Apple Creek Country Club Homeowners Association, said he would still like to voice the general concerns involved with this zoning change request. He said there is a large number of people who have issues with the request and he did speak with Mr. Wachter regarding his decision to withdraw his application. He said he would like to meet with him further and discuss a better development plan and he would be happy to see the request postponed. He said he was told that this area would probably never be developed and if it would be it would be duplexes. He said the existing green space is enjoyable and this request is not ready to be approved. He said many surrounding property owners feel the same way especially since they do not know exactly what would be built or what it would look like.

Commissioner Atkinson asked if there has been any communication with Apple Creek Country Club Homeowners Association and Apple Creek Township. Mr. Mortega said they eluded to having had some discussion with Mr. Wachter, but none of that information was

relayed to the homeowners and they just want to be involved and be given the opportunity to discuss it.

Mr. Wachter said if it is going to be discussed this much, which he did not think it would be, then he asks that the request be continued or tabled instead of withdrawn. He said he feels like the entirety of future development plans are going to be held ransom by the two lots in question for the zoning change.

Ms. Lee said the difference between the request being tabled versus continued is if it is tabled, then the Planning and Zoning Commission has to take it off the table and forward it to a date specific meeting. She said if Mr. Wachter does withdraw his request and reapply at a later date, then Planning staff would renotify the adjacent property owners and readvertise the public hearing.

Mr. Wachter said the lots would be situated for twinhomes and if it is preferred that the request be continued to do that. He said they are just trying to turn two twinhome lots into one four-unit lot and avoid having to tear some of the existing trees down.

Written comments in opposition to this request are attached as Exhibit A.

There being no further comments, Chairman Lee stated the public hearing would remain open until the next meeting.

**MOTION:** Commissioner Laning made a motion to continue the public hearing on the request for a zoning change from the R10 – Residential zoning district to the Conditional RM10 – Residential zoning district for Lots 5 and 6, Block 1, Apple Creek Country Club Third Subdivision as outlined in the draft ordinance attached to the staff report to the April 25<sup>th</sup> meeting of the Bismarck Planning and Zoning Commission. Commissioner Donahue seconded the motion and the motion was approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Schell, Schwartz and Van Duyne voting in favor of the motion. Commissioner Martin abstained.

**CONTINUED PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING)  
LOT 1, BLOCK 1, LAYN SUBDIVISION (6825 CENTENNIAL ROAD)**

Chairman Lee called for the continued public hearing on a request for a special use permit to increase the total area of accessory buildings located on the property to 3,092 square feet by constructing a 1,400 square foot addition onto the existing accessory building on Lot 1, Block 1, Layn Subdivision (6825 Centennial Road). The property is located north of Bismarck, along the east side of Centennial Road, between 57<sup>th</sup> Avenue NE and 71<sup>st</sup> Avenue NE.

Ms. Wollmuth explained that the Planning and Zoning Commission, at its meeting of February 28, 2018, held a public hearing and continued action on the proposed special use

permit at staff's request due to an error calculating the existing area of accessory buildings on the property. She said Leon Sabot is requesting approval of a special use permit to increase the total square footage of accessory buildings located on his property to 3,092 square feet by constructing a 1,400 square foot addition to the existing 1,500 square foot accessory building, and stated there is an existing 192 square foot accessory building located on the property that was not included in the original calculation.

Ms. Wollmuth 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 Hay Creek Township Board of Supervisors has recommended approval, pending any objection from neighbors of the proposed special use.
4. 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.
5. Adequate public facilities and services are in place or would be provided at the time of development.
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
7. 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.
8. The proposed special use permit is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed special use 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 special use permit to increase the total area of accessory buildings located on the property to 3,092 square feet by constructing a 1,400 square foot addition onto the existing accessory building on Lot 1, Block 1, Layn Subdivision with the following condition:

1. The accessory building is used for rural residential uses; commercial uses will not be permitted.



Chairman Lee said he did receive an email earlier today from Dave Pearce, Hay Creek Township Supervisor, stating their support of the staff recommendation to approve the request.

Chairman Lee opened the public hearing.

Commissioner Laning asked if there is a concern that the structure will be used for the owner's commercial business. Mr. Sabot replied that is not his intent, nor his interest, at all for having the building constructed.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Martin made a motion to approve the request for a special use permit to increase the total area of accessory buildings located on the property to 3,092 square feet by constructing a 1,400 square foot addition onto the existing accessory building on Lot 1, Block 1, Layn Subdivision with the following condition: 1. The accessory building is used for rural residential uses; commercial uses will not be permitted. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (DRIVE-THROUGH)  
LOT 1, BLOCK 1, GRANDVIEW HEIGHTS COMMERCIAL PARK REPLAT OF  
LOT A OF LOT 1, BLOCK 1 (1615 BURNT BOAT DRIVE)**

Chairman Lee called for the public hearing on a request for a special use permit to allow the operation of a drive-through in conjunction with a financial institution on Lot 1, Block 1, Grandview Heights Commercial Park Replat of Lot A of Lot 1, Block 1 (1615 Burnt Boat Drive). The property is located in west central Bismarck, north of I-94 and west of Tyler Parkway, along the south side of Burnt Boat Drive.

Mr. Hutchings 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 permit 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. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow the operation of a drive-through in conjunction with a financial institution on Lot 1, Block 1, Grandview Heights Commercial Park Replat of Lot A of Lot 1, Block 1 with the following condition:

1. The development of the site must generally conform to the site plan submitted with the application.

Chairman Lee opened the public hearing.

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

**MOTION:** Based on the information provided by staff, Commissioner Schwartz made a motion to approve the request for a special use permit to allow the operation of a drive-through in conjunction with a financial institution on Lot 1, Block 1, Grandview Heights Commercial Park Replat of Lot A of Lot 1, Block 1 with the following condition: 1. The development of the site must generally conform to the site plan submitted with the application. Commissioner Axvig seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Donahue, Laning, Lee, Martin, Schell, Schwartz and Van Duyne voting in favor of the motion.

## **OTHER BUSINESS**

### **UPDATE ON PUDA FOR LOT 1, BLOCK 1, CAPITOL VIEW ADDITION; LOT 1, BLOCK 1, CAPITAL PLACE; AND LOTS 5-10, BLOCK 8, FISHER ADDITION**

Mr. Hutchings explained that a two-part request from First International Bank and Trust was considered at the February 28<sup>th</sup> meeting of the Bismarck Planning and Zoning Commission, with one portion of the request being for modifications to signage and the other part being for a microbrewery in conjunction with a restaurant use. He said the microbrewery portion was approved and the signage portion was continued to this meeting. He said the applicant no

longer wishes to proceed with the signage changes, so that portion of the request has been withdrawn.

Chairman Lee said only the microbrewery portion of the request would remain approved at this time. Mr. Hutchings said that is correct.

Chairman Lee stated he will not be able to be present for the next meeting to be held on April 25<sup>th</sup> and that Vice Chairman Mike Schwartz would be chairing the meeting.

## **ADJOURNMENT**

There being no further business, Chairman Lee declared the Bismarck Planning & Zoning Commission adjourned at 6:02 p.m. to meet again on April 25, 2018.

Respectfully submitted,

---

Hilary Balzum  
Recording Secretary

---

Douglas Lee  
Chairman

March 26, 2018

To: Bismarck Planning and Zoning Commission:

Re: CZ2018-001

This letter supports a delay of any action at the public hearing scheduled for Wednesday, March 28, 2018 regarding a proposed zoning change requested by Apple Creek Country Club {ACCC} and Investcore, Inc. for lots 5 and 6 of Block 1 Apple Creek Country Club Third Subdivision. This hearing is being held with little or no time for the residents of the Apple Creek Country Club Subdivisions as well as other nearby property owners to study and provide vital comment regarding the requested change. We suggest the hearing be delayed until June to afford area property owners an opportunity to provide meaningful input. Having lived in ACCC First Subdivision since 1988 your letter dated March 16, 2018 is the first we learned of this zoning change request. It appears that this issue has been placed on some type of fast track due to your letter dated and sent March 16 and the meeting to decide established for March 28, only 12 days later. It appears this is an attempt to avoid any coordinated opposition as well as ensuring many area residents not participate as they spend the winter out of state. We did not receive your letter until Saturday, March 24 and neither ACCC or Investcore, Inc. has ever contacted us regarding their project or to solicit our support.

There was no mention of any potential multi-family construction or requests for zoning changes at the Country Club Cooperative annual meeting held in October, 2017. It would seem that would have been an appropriate place to present this type of information. Is the Cooperative expected to provide water and sewer services to these proposed units? Will easements be required and have they been obtained as well as any other required documents? Will the construction meet all Cooperative covenants or will waivers be required such as height restrictions or materials used?

Your letter references a web site to gain additional information by searching for project number ZC2018-001. We connected to the web site and it is difficult to locate the pertinent information. If we understand the staff recommendation correctly they support the change and believe up to 10 family units per acre qualifies as low density. Since many of the homes in the area are single family and occupy at least ½ acre, we don't agree. We purchased our lot and built a single family home with the knowledge that row housing or apartment like construction would not be permitted. We assume many other neighbors did the same. Now Bismarck is exerting its influence even though this area is not within city limits and provides little or no services to the existing residents. The streets are owned and maintained by Country Club Cooperative along with the sewer system and sewage lagoons, police protection is provided by the Burleigh County Sheriff, and fire protection by the Rural Fire Department.

Until your letter it was our understanding that Bismarck's influence stopped at 80<sup>th</sup> Street. What changed and why were we not notified? Has this proposed project received the same scrutiny and attention that a project located within Bismarck city limits would receive? What is Burleigh County's role in this proposal and it would seem prudent to wait for their input before making any decisions.

Have public safety issues been addressed including is there a need for another access to old highway 10 to provide appropriate emergency response and has it been determined if there will be any traffic concerns? Other development projects have been denied when there are not two egresses. Has staff conducted an actual test of water pressure to ensure the hydrants will effectively operate in case of a fire? Currently on warm summer days when water use is significant we often do not have enough water pressure to shower. Will the addition of multi-family units using the system improve our pressure? What is the plan for the trees which parallel the highway and currently provide both a visual and acoustical buffer for many of the residents? While trees sometimes need to be removed, will they be affected by this proposed project?

In short, in our opinion this proposed zoning change may not be in the best interests of the majority of the area property owners but they need adequate time to voice their thoughts before a decision is rendered. Zoning changes should be difficult to accomplish as they affect many people who depend on consistency and fairness when purchasing real property. Vast sums of money are at stake and zoning changes such as this proposal should require the overwhelming support of nearby property owners. This requested change is not for the public good but simply an opportunity to enrich a select few individuals at the expense of many, many families. Current residents should not have to be concerned about reduced property values and a possible negative impact on lifestyle enjoyment. While multi-family units may be the current rage it appears to be more beneficial to areas starting development by increasing density and of little economic sense for areas such as Apple Creek where infrastructure is already in place and the money has been spent by the property owners.

Several years ago a zoning change was completed that allowed for a triplex to be constructed on Fairway Court. The developer discussed the issue with area residents and revealed detailed plans. He received strong support and the change was approved. Perhaps ACCC and Investcore, Inc. should emulate that developer and begin discussions with nearby property owners in an attempt to solicit their support. So far we have had no contact from them.

Due to a long standing previous commitment on March 28 we will be unable to attend the meeting. Please acknowledge receipt of this correspondence and share our thoughts with all members of the Commission.

Regards,

David and Kathleen Mangskau  
Block 1; Lot 23 Apple Creek Country Club First Subdivision  
98 Country Club Drive, Bismarck

**PERMIT ACTIVITY REPORT - MTD**  
**DATE SELECTION 3/2018**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2018</b>		<b>3/2017</b>		<b>3/2018</b>		<b>3/2017</b>	
<b>Census Code</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
SINGLE FAMILY DETACHED	2	\$359,562.73	14	\$3,445,889.25	2	\$810,124.15	2	\$498,087.00
AMUSEMENT & RECREATION	1	\$350,000.00	0	\$0.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	1	\$7,500.00	1	\$2,500,000.00	0	\$0.00	0	\$0.00
HOSPITALS & INSTITUTIONAL	1	\$2,775,000.00	0	\$0.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	2	\$211,200.00	0	\$0.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	0	\$0.00	0	\$0.00	1	\$8,515.00	0	\$0.00
RETAIL SALES	3	\$419,800.00	0	\$0.00	0	\$0.00	0	\$0.00
OTHER NEW	0	\$0.00	1	\$900,000.00	0	\$0.00	0	\$0.00
RESIDENTIAL GARAGES	2	\$15,549.00	2	\$5,632.00	0	\$0.00	2	\$27,520.00
DECKS PORCHES & COVERED PATIOS	4	\$7,770.00	9	\$21,570.00	1	\$2,196.00	2	\$6,840.00
OTHER	3	\$107,532.21	7	\$127,758.00	2	\$19,000.00	3	\$285,110.08
HOME OCCUPATION	0	\$0.00	0	\$0.00	1	\$0.00	0	\$0.00
BASEMENT FINISH	19	\$163,186.25	16	\$69,929.50	5	\$48,405.00	3	\$14,335.50
COMMERCIAL BUILDINGS	14	\$2,456,659.00	12	\$1,902,595.00	0	\$0.00	0	\$0.00
OFFICE BUILDINGS	3	\$268,000.00	0	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	8	\$55,940.00	14	\$72,226.89	0	\$0.00	0	\$0.00
<b>Total</b>	<b>63</b>	<b>\$7,197,699.19</b>	<b>76</b>	<b>\$9,045,600.64</b>	<b>12</b>	<b>\$888,240.15</b>	<b>12</b>	<b>\$831,892.58</b>

**PERMIT ACTIVITY REPORT - MTD  
DATE SELECTION 3/2018**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2018</b>		<b>3/2017</b>		<b>3/2018</b>		<b>3/2017</b>	
<b>Trade Permit Type</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
BUILDING ELECTRIC	62	\$2,500.00	63	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	95	\$593,668.19	141	\$799,666.70	15	\$63,625.50	18	\$170,492.89
BUILDING PLUMBING	17	\$326,286.00	19	\$146,080.00	3	\$30,800.00	2	\$19,000.00
<b>Total</b>	<b>174</b>	<b>\$922,454.19</b>	<b>223</b>	<b>\$945,746.70</b>	<b>18</b>	<b>\$94,425.50</b>	<b>20</b>	<b>\$189,492.89</b>



**PERMIT ACTIVITY REPORT - MTD**  
**DATE SELECTION 3/2018**

	*****City*****		*****ETA*****	
	<b>3/2018</b>	<b>3/2017</b>	<b>3/2018</b>	<b>3/2017</b>
<b>Living Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>
OTHER NEW	0	0	0	0
SINGLE FAMILY DETACHED	2	14	2	2
<b>Total</b>	<b>2</b>	<b>14</b>	<b>2</b>	<b>2</b>

This page intentionally left blank.

**PERMIT ACTIVITY REPORT - YTD**  
**DATE SELECTION 3/2018**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2018</b>		<b>3/2017</b>		<b>3/2018</b>		<b>3/2017</b>	
<b>Census Code</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
SINGLE FAMILY DETACHED	4	\$885,392.97	20	\$4,736,582.25	2	\$810,124.15	2	\$498,087.00
MANUFACTURED HOMES	1	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	0	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
AMUSEMENT & RECREATION	1	\$350,000.00	0	\$0.00	0	\$0.00	0	\$0.00
HOSPITALS & INSTITUTIONAL	2	\$2,843,000.00	0	\$0.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	5	\$531,100.00	1	\$70,565.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	0	\$0.00	0	\$0.00	2	\$37,615.00	0	\$0.00
RETAIL SALES	4	\$480,800.00	0	\$0.00	0	\$0.00	0	\$0.00
OTHER NEW	1	\$295,108.00	3	\$3,077,983.00	0	\$0.00	0	\$0.00
ROOM ADDITIONS	1	\$13,000.00	4	\$88,854.50	0	\$0.00	1	\$58,989.00
RESIDENTIAL GARAGES	6	\$60,093.00	2	\$5,632.00	1	\$42,924.00	2	\$27,520.00
DECKS PORCHES & COVERED PATIOS	8	\$18,138.00	12	\$34,590.00	1	\$2,196.00	2	\$6,840.00
OTHER	9	\$394,165.21	13	\$434,058.00	1	\$2,500.00	4	\$287,610.08
HOME OCCUPATION	2	\$0.00	4	\$0.00	1	\$0.00	0	\$0.00
BASEMENT FINISH	48	\$406,116.00	45	\$199,029.25	11	\$86,093.25	16	\$127,881.50
INDUSTRIAL BUILDINGS	3	\$16,430.00	1	\$2,500,000.00	6	\$41,000.00	0	\$0.00
COMMERCIAL BUILDINGS	31	\$4,351,859.00	42	\$4,106,610.00	4	\$277,813.37	0	\$0.00
OFFICE BUILDINGS	5	\$693,000.00	0	\$0.00	0	\$0.00	0	\$0.00
PUBLIC BUILDING	1	\$20,000.00	0	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL	0	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	1	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	38	\$240,598.07	23	\$149,525.38	0	\$0.00	0	\$0.00

**PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 3/2018**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2018</b>		<b>3/2017</b>		<b>3/2018</b>		<b>3/2017</b>	
<b>Census Code</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
SIGN ALTERATION	5	\$39,284.00	0	\$0.00	0	\$0.00	0	\$0.00
<b>Total</b>	<b>176</b>	<b>\$11,638,084.25</b>	<b>178</b>	<b>\$15,403,429.38</b>	<b>29</b>	<b>\$1,300,265.77</b>	<b>27</b>	<b>\$1,006,927.58</b>

**PERMIT ACTIVITY REPORT - YTD**  
**DATE SELECTION 3/2018**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2018</b>		<b>3/2017</b>		<b>3/2018</b>		<b>3/2017</b>	
<b>Permit Type</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>	<b>Permits</b>	<b>Valuations</b>
BUILDING ELECTRIC	181	\$302,500.00	205	\$2,600.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	361	\$7,417,537.41	377	\$2,307,799.81	33	\$194,878.00	43	\$407,073.17
BUILDING PLUMBING	39	\$2,829,382.00	50	\$1,093,124.00	2	\$20,300.00	3	\$19,300.00
<b>Total</b>	<b>581</b>	<b>\$10,549,419.41</b>	<b>632</b>	<b>\$3,403,523.81</b>	<b>35</b>	<b>\$215,178.00</b>	<b>46</b>	<b>\$426,373.17</b>

**PERMIT ACTIVITY REPORT - YTD  
DATE SELECTION 3/2018**

\*\*\*\*\*City\*\*\*\*\*

\*\*\*\*\*ETA\*\*\*\*\*

	<b>3/2018</b>	<b>3/2017</b>	<b>3/2018</b>	<b>3/2017</b>
	<b>Units</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>
<b>Living Units</b>				
OTHER NEW	0	0	0	0
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	1	2	0	0
SINGLE FAMILY DETACHED	4	20	2	2
<b>Total</b>	<b>5</b>	<b>22</b>	<b>2</b>	<b>2</b>