



Community Development Department

**BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA**

August 2, 2018

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

1. Consider the minutes of the July 5, 2018 meeting of the Board of Adjustment.

REQUESTS / PUBLIC HEARING

2. **Variance from Section 14-04-06(9) of the City Code of Ordinances (R10 – Residential / Rear Yard)** – Lot 3, Block 3, County West XXVII (2001 Mesquite Loop | VAR2018-010

Owner / Applicant: Rick Slavik Construction Inc.

Board Action: ☐approve ☐continue ☐table ☐deny.....3

3. **Variance from Section 14-04-19(6) of the City Code of Ordinances (FP – Floodplain District)** – Lot 6, Block 1, Meledee Acres (7630 Dogwood Drive) | VAR2018-012

Owner / Applicant: Three Affiliated Tribes
Tobias Marman Construction LLC

Board Action: ☐approve ☐continue ☐table ☐deny.....8

4. **Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading)** – Lots 1-3, Block 33, Governor Pierce Addition (220 North 23rd Street) | VAR2018-013

Owner / Applicant: Soup Cafe
Mark Meier, Heavens Helpers

Board Action: ☐approve ☐continue ☐table ☐deny.....19



5. **Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading)** – Lot 2, Block 1, Metro Industrial Park Second Replat (4403 Centurion Drive) | VAR2018-011

Owner / Applicant: Rick Schock, R M Schock Properties LLP

Board Action: ☐approve ☐continue ☐table ☐deny.....29

OTHER BUSINESS

6. **None.** No other business.

ADJOURNMENT

7. **Adjournment.** The next regular meeting date is scheduled for September 6, 2018.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

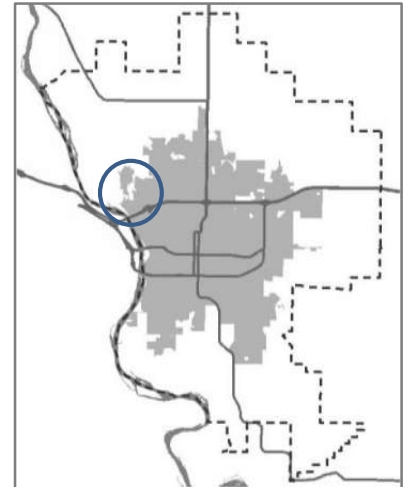
Agenda Item 2
August 2, 2018

Application for: Variance

TRAKiT Project ID: VAR2018-010

Project Summary

Title:	Lot 3, Block 3, Country West XXVII (2001 Mesquite Loop)
Status:	Board of Adjustment
Owner(s):	Rick Slavik Construction Inc.
Project Contact:	Rick Slavik
Location:	In northwest Bismarck, west of North Washington Street and north of Country West Road in the northeast quadrant of the intersection of Valley Drive and Mesquite Loop
Request:	Variance from Section 14-04-06(9) of the City Code of Ordinances (R10 – Residential / Rear Yard)



Staff Analysis

Rick Slavik is requesting a variance to reduce the required rear yard setback along the north side of his property from 20 feet to 17.4 feet in order to construct a single-family dwelling.

The property is located within the R10 – Residential zoning district and is currently vacant. The required rear yard setback for a property located within the this zoning district is 20 feet.

The property is also located on a corner lot, as such it has two front yards, adjacent to Valley Drive and Mesquite Loop. Due to the orientation of the proposed single-family dwelling indicated on the attached lot survey, the rear yard is located along the north side of the property and the side yard is located along the east side of the property.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular

hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”

Section 14-04-06(2) of the City Code of Ordinances (R10 – Residential / Rear Yard) states. “Each lot shall have a rear yard not less than twenty (20) feet in depth.” According to the lot survey submitted with the application, the proposed rear yard located along the north side of the property is 17.4 feet.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within R10 – Residential zoning district.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.

5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

1. Location Map
2. Lot Survey
3. Written Statement of Hardship

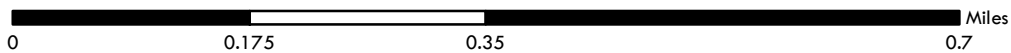
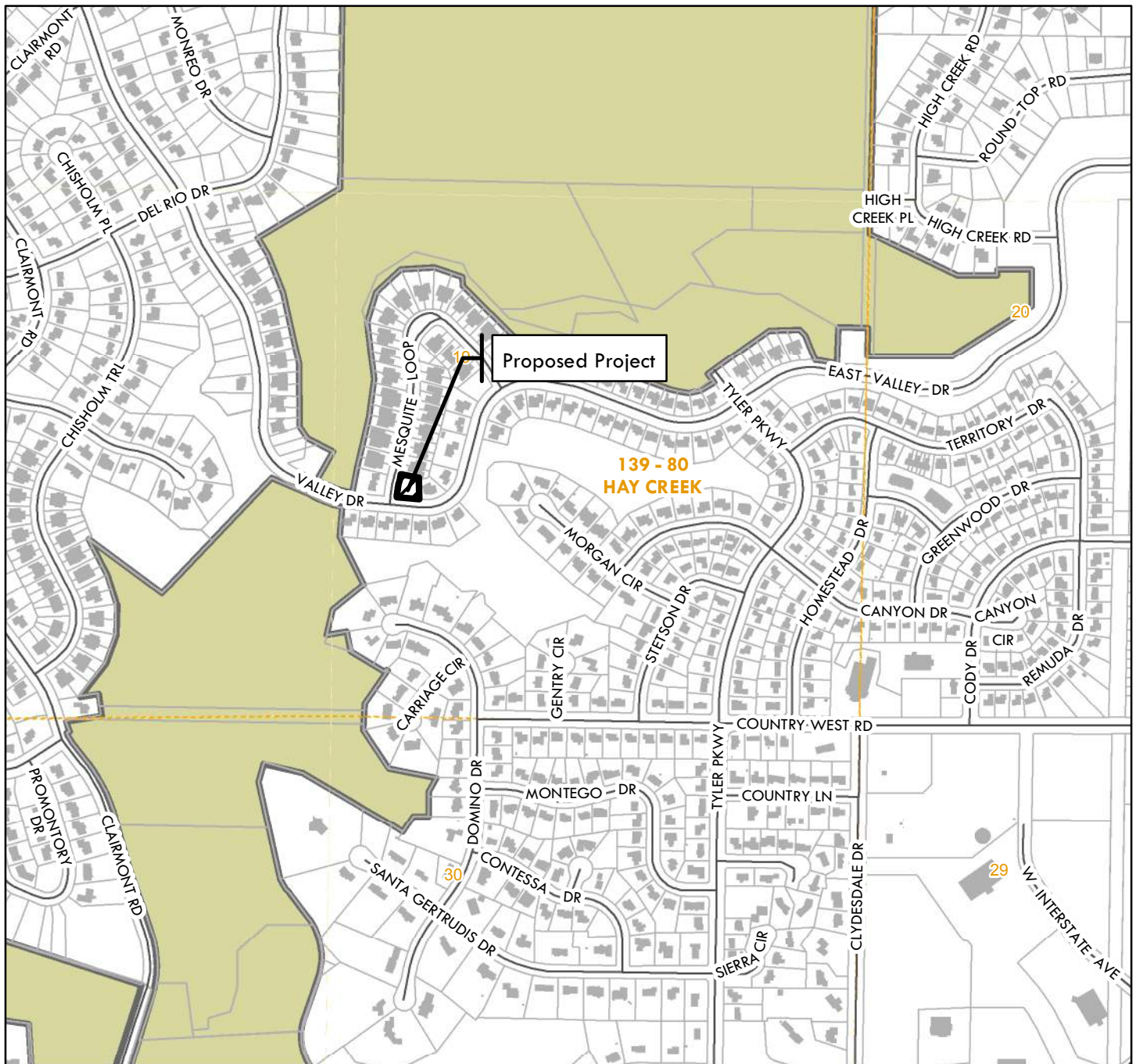
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance

Lot 3, Block 3, Country West XXVII

VAR2018-010

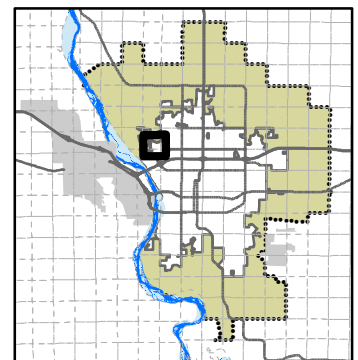


Section, township, and range indicated in orange



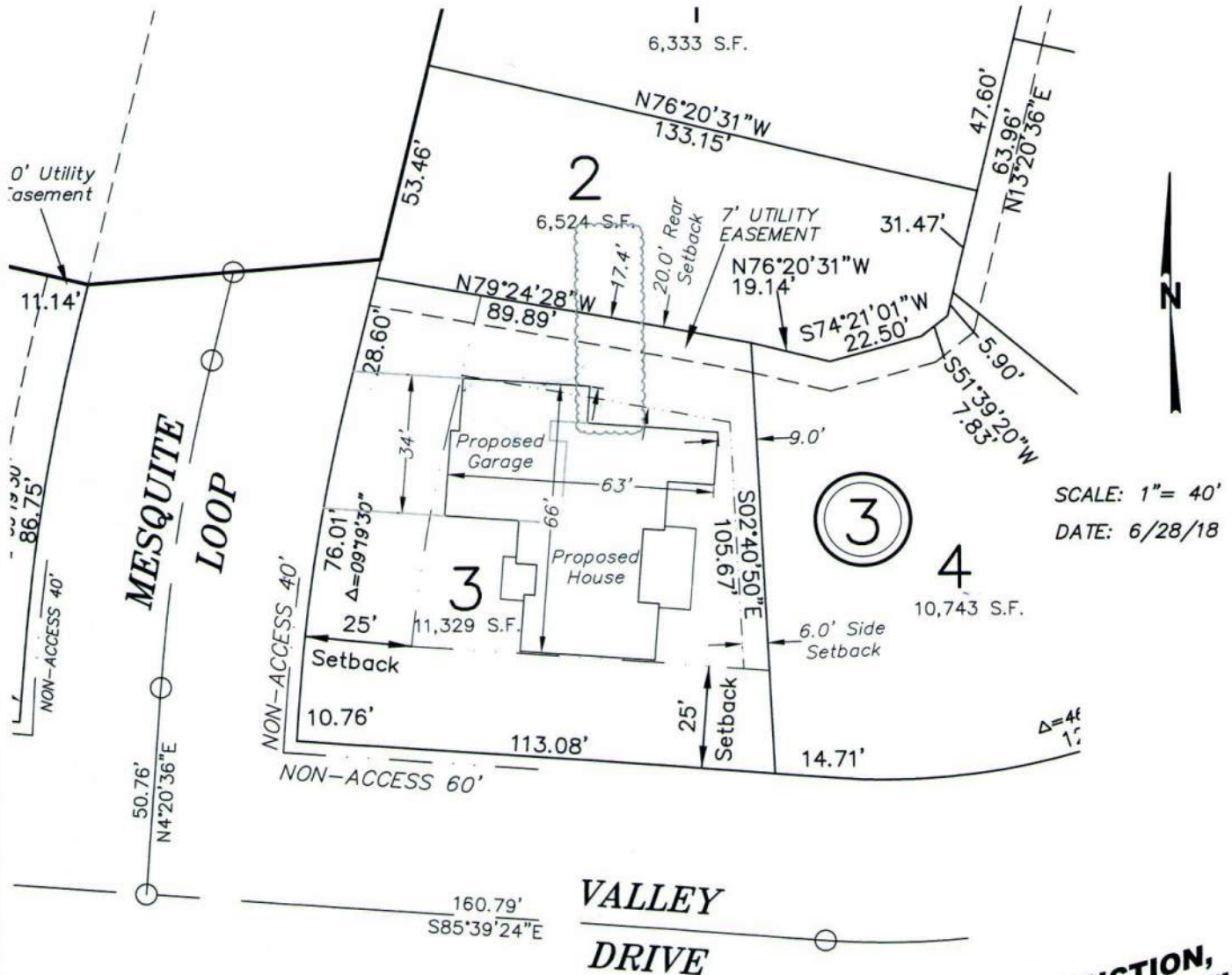
City of Bismarck
Community Development Department
Planning Division
July 2, 2018 (HLB)

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.
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LOT SURVEY EXHIBIT

LOT 3 BLOCK 3
 SUBDIVISION Country West 27th
 ADDRESS 2001 Mesquite Loop
 BUILDER Rick Slavik Construction



- FOUND MONUMENT
- SET MONUMENT
- BUILDING SETBACK OR NON-ACCESS STAKE

**PRELIMINARY-NOT FOR CONSTRUCTION,
 RECORDING PURPOSES OR IMPLEMENTATION**



SWENSON, HAGEN & COMPANY P.C.

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

909 Basin Avenue
 Bismarck, North Dakota 58504
 shcng@swensonhagen.com
 Phone (701) 223-2600
 Fax (701) 223-2606

NOTES

PLS

THE BUILDING SETBACK LINES SHOWN ARE TYPICAL, THERE MAY BE OTHER BUILDING RESTRICTIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING SETBACKS AND BUILDING DIMENSIONS. DIMENSIONS ARE FROM PLAT. BUILDING AS SHOWN WAS NOT FIELD STAKED.

FAXED OR EMAILED TO:

DATED:

BUILDER OR OWNER



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description:
(Lot, Block, Addition/Subdivision)

2001 Mesquite Loop Lot 3 B/K3 C w 27

Location of Property:

☒ City of Bismarck

☐ ETA

Type of Variance Requested:

Rear yard

Applicable Zoning Ordinance:
(Chapter/Section)

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

Due to the size of this corner lot the restrictive covenants are difficult to meet. There is also a 90' non access clause on this lot so flipping the house does not work either.

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

Constructing a house on this lot to meet covenants would result in poor curb appeal + garage with minimal size for extra storage as this is a ranch style patio home

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

With the variance I am able to meet covenants + allow for some storage in the garage



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

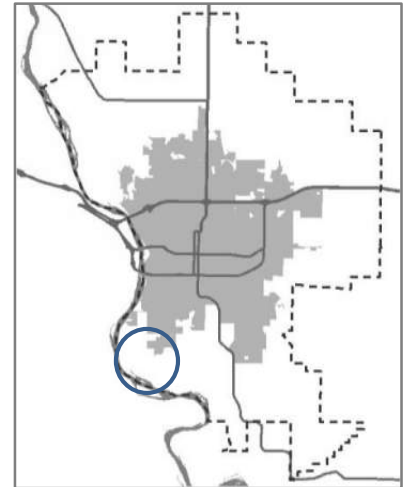
Agenda Item 3
August 2, 2018

Application for: Variance

TRAKiT Project ID: VAR2018-012

Project Summary

Title:	Lot 6, Block 1, Meledee Acres (7630 Dogwood Drive)
Status:	Board of Adjustment
Owner(s):	Three Affiliated Tribes
Project Contact:	Tobias Marman Construction LLC
Location:	South of Bismarck, south of 48 th Avenue SE and west of University Drive / US Highway 1804, along the north side of Dogwood Drive.
Request:	Variance from Section 14-04-19(6) of the City Code of Ordinances (FP – Floodplain District)



Staff Analysis

Three affiliated Tribes is requesting a variance to allow the construction of a 264 square foot addition to an existing single-family dwelling, which is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain, to be constructed below the required elevation of two feet above the Base Flood Elevation (BFE).

The existing single-family dwelling was constructed in 2005, and at the time of construction, the existing single-family dwelling complied with Section 14-04-19(6) of the City Code of Ordinances (FP – Floodplain District), which required a new structure to be elevated on fill and/or a permanent foundation to one foot above the BFE. This section of the ordinance was changed in 2009 to require all new structures to be elevated on fill and/or a permanent foundation to at least two feet above the BFE.

A building permit for the addition was obtained in 2017. The permit, required elevation certificate and floodplain development application indicated that the proposed addition would be built in compliance with current requirements. A copy of each are attached.

Before a building permit can be 'finalized' or the project closed, an as-built elevation certificate is required to be submitted and reviewed for compliance. After

reviewing the as-built elevation certificate, it was discovered that the proposed addition was not built in compliance with the ordinance and is actually constructed 3.6 inches above the BFE, not two feet above the BFE as originally indicated.

The proposed addition is not considered a substantial improvement, as it is not valued at equal to or greater than 50% of the market value of the existing dwelling. In addition, the dwelling is considered a post-FIRM building according to the zoning ordinance, as it was constructed after the initial Flood Insurance Rate Map (FIRM) was adopted for the City and its ETA in 1974.

The zoning ordinance makes provisions for the construction of additions to existing structures that are considered post-FIRM buildings and are not considered to be a substantial improvement to allow the construction of an addition at the same elevation as the existing structure, provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one foot above the BFE. According to the as-built elevation certificate, the single-family dwelling and addition are not located one foot above the BFE. Therefore the addition does not qualify for this provision of the ordinance.

The City of Bismarck including its Extraterritorial Area (ETA) is a participating community in the National Floodplain Insurance Program (NFIP) Community Rating

(continued)

System (CRS). The CRS is an incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates may be discounted for policy holders to reflect the reduced flood risk resulting from the City of Bismarck and its ETA meeting the goals of the CRS program.

Variances from the provisions outlined in the FP – Floodplain District in the Zoning Ordinance that would violate this rating and subsequent findings to support a variance are be subject to additional review by hazard program specialists within the NFIP. Variances may impact the City of Bismarck's and its ETA's status and eligibility for participation in the NFIP. By participating in the NFIP, residents of the City of Bismarck and its ETA are eligible for flood insurance. An approval of a variance from the provisions outlined in the FP – Floodplain District in the Zoning Ordinance that would violate this rating may result in the removal of the City of Bismarck and its ETA from the program, which may cause discounted insurance premiums to rise.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-09-19 (6)(b)(5) of the City Code of Ordinances (FP – Floodplain District / Additions to existing structures) states, "Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory building that is considered a post-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure, provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation. Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory building that is considered a pre-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure." According to the as-built elevation certificate the single-family dwelling and

addition are located 3.6 inches above BFE, not one foot above, and does not qualify for this provision of the ordinance.

Additional Consideration for Variances from Floodplain Provisions

1. In considering appeals and variance applications, and in addition to the requirements outlined in Section 14-06-02 of the City Code of Ordinances (Powers and Duties), the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the standards specified in this section, including:
 - a) The danger to life and property due to flooding or erosion damage;
 - b) The danger that materials may be swept onto other lands to the injury of others;
 - c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d) The importance of the services provided by the proposed facility to the community;
 - e) The necessity to the facility of a waterfront location, where applicable;
 - f) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion;
 - g) The compatibility of the proposed use with the existing and anticipated development;
 - h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities

(continued)

such as sewer, gas, electrical, and water systems, and streets and bridges.

Required Findings of Fact | Any Variance

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within RR – Residential zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Required Findings of Fact | Floodplain Variance

1. The proposed accessory building may increase flood levels during the base flood discharge.
2. The variance is not the minimum necessary, considering the flood hazard, to afford relief.

3. The applicant has not shown good and sufficient cause for granting the variance.
4. A failure to grant the variance would not result in exceptional hardship to the applicant.
5. The granting of the variance may result in increased flood heights, additional threats to public safety and conflict with existing local laws or ordinances. However, it is doubtful the granting of the variance would cause fraud or victimization of the public.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

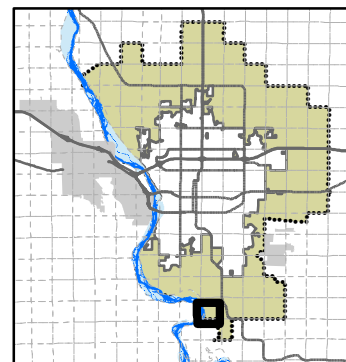
1. Location Map
2. Building Plans
3. Written Statement of Hardship
4. Pre-Construction Elevation Certificate
5. Floodplain Development Application
6. As-built Elevation Certificate

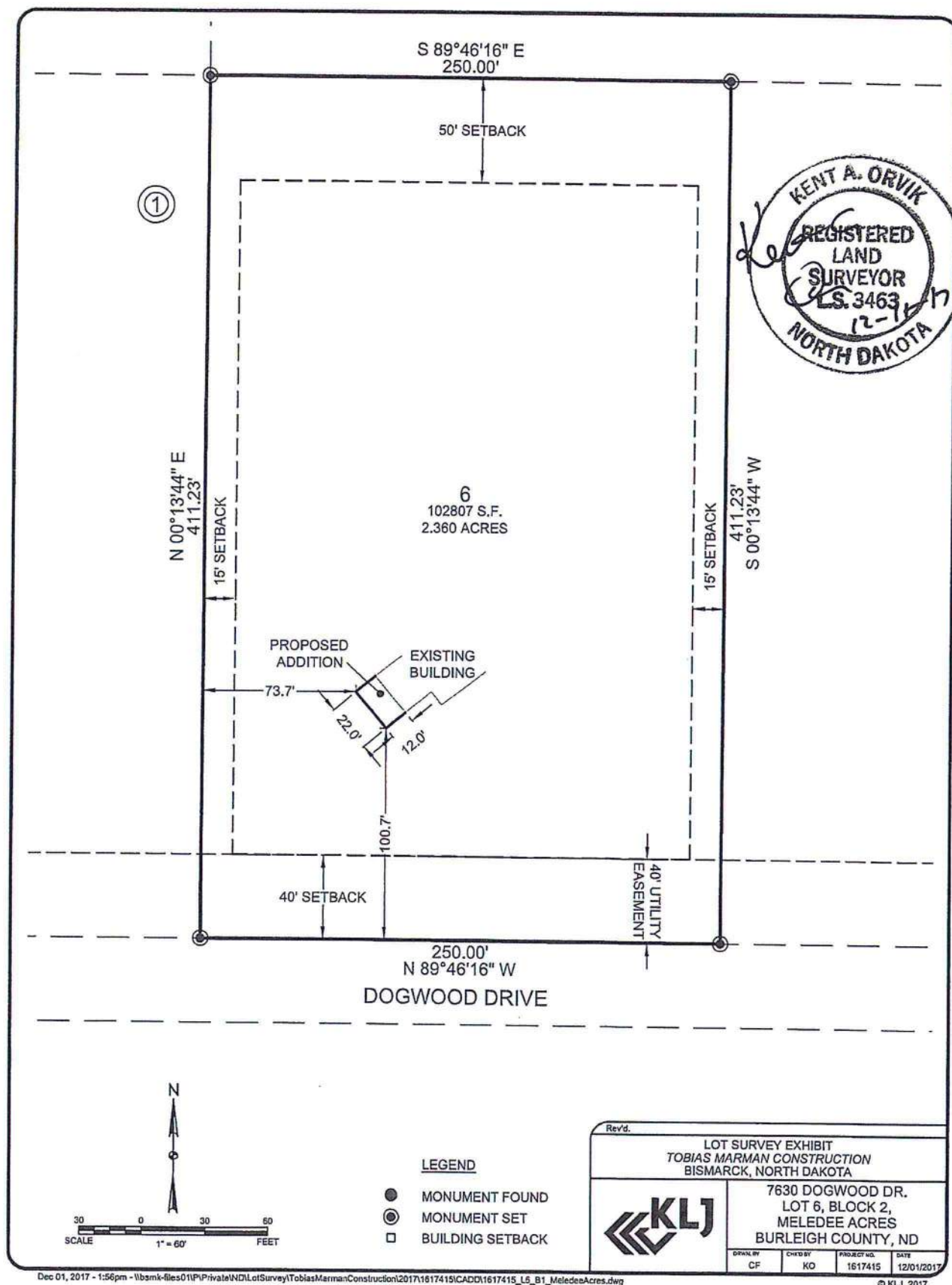
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

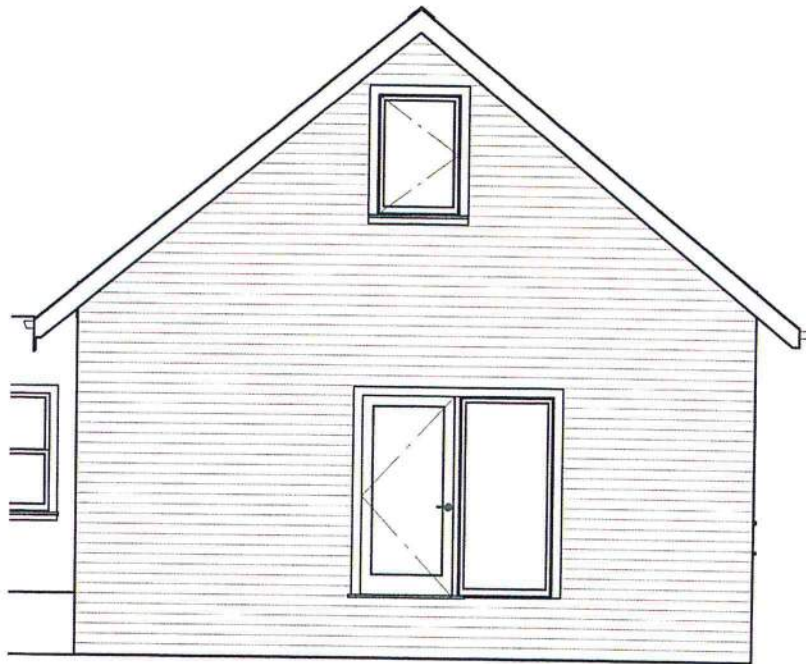


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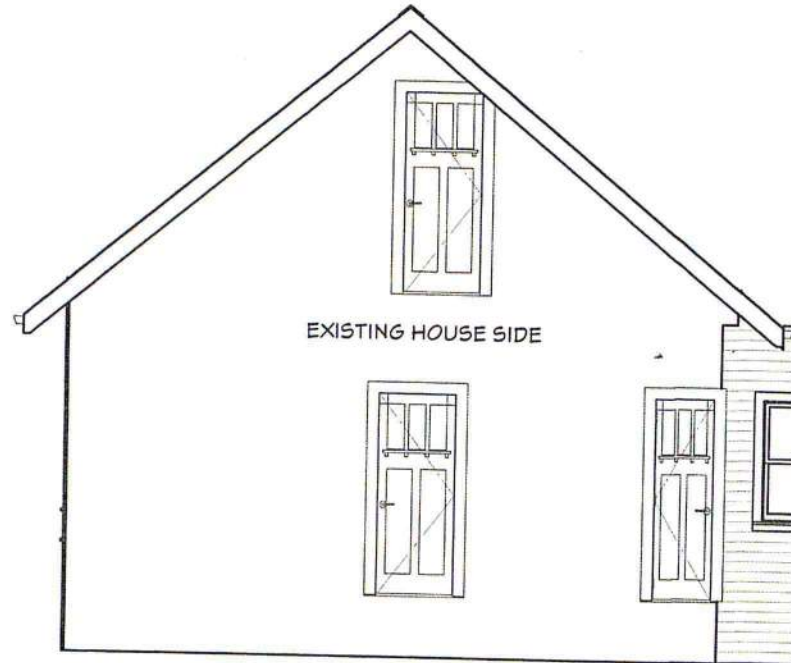
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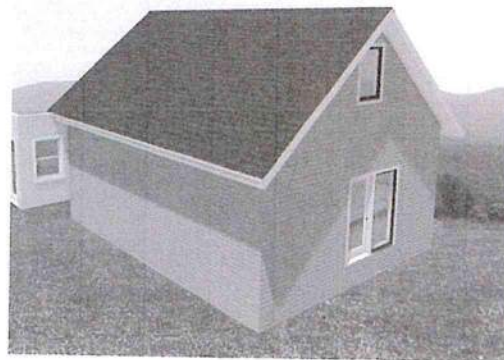




FOX FRONT ELEVATION
SCALE: 1/4" = 1'-0"



EXISTING SIDE ELEVATION
SCALE: 1/4" = 1'-0"



Final Plans
Lindsay Melvin - 12/6/17
Tobias Marman Construction LLC

NO.	DESCRIPTION	BY	DATE

SHEET TITLE:

PROJECT DESCRIPTION:
FOX ADDITION
7630 DOGWOOD DR,
Bismarck, ND

DRAWINGS PROVIDED BY:
Tobias Marman
Construction LLC

DATE:
11/30/2017
SCALE:
1/8" = 1'-0"
SHEET:
A-3



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

JUL 09 2018

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION	
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	Meledee Acres Block 01 Lot 6 697504
Location of Property:	<input type="checkbox"/> City of Bismarck <input checked="" type="checkbox"/> ETA
Type of Variance Requested:	Flood Plain Variance
Applicable Zoning Ordinance: (Chapter/Section)	14-04.19 (6) (b)
Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)	
Section 14-04-19 (6)(b)(5)(a) does not specifically address non substantial improvements to post firm structures built in compliance at the time of construction that due to new flood plain data are no longer 1' above the BFE. Based upon the wording of the ordinance, additions or any non substantial improvement would not be allowed and would limit the use of the property. In order to comply with the ordinance, the 22' x 12' (264 sf) addition would need to be elevated 1.8" above the existing structure. The result would be 3 steps in the master bedroom and master bathroom. The second floor shower would have to be removed in order to put 3 steps in its location to provide access to the bedroom. The addition would not cause a negative impact to the City's CRS rating because it is not considered a substantial improvement and is .2' above the BFE, which is above the minimum requirements for FEMA and the NFIP.	
Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.	
The limitations of the ordinance would deprive the owner of being able to make any addition that is considered a non substantial improvement to their home. The City Commission at the June 26th, 2018 meeting, item 6, unanimously approved a variance request for a larger addition that was at the BFE.	
Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.	
Keeping the additional at the same elevation as the existing home is the requested minimum. This non substantial addition would not have a negative impact to the City's CRS rating or to section 14-04-19(7)(d). The City's ordinance is more strict then the NFIP requirement which would allow this addition to be built.	

Pre-Construction

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 7630 DOGWOOD DRIVE			Policy Number:
City BISMARCK	State North Dakota	ZIP Code 58504	Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

- C1. Building elevations are based on: ☐ Construction Drawings* ☒ Building Under Construction* ☐ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

- C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: 1635.2 Vertical Datum: NAVD 1988

Indicate elevation datum used for the elevations in items a) through h) below.

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____

Datum used for building elevations must be the same as that used for the BFE.

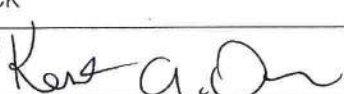
Check the measurement used.

- | | | |
|---|--------|--|
| a) Top of bottom floor (including basement, crawlspace, or enclosure floor) | 1637.7 | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| b) Top of the next higher floor | N/A | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| c) Bottom of the lowest horizontal structural member (V Zones only) | N/A | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| d) Attached garage (top of slab) | 1637.7 | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| e) Lowest elevation of machinery or equipment servicing the building
(Describe type of equipment and location in Comments) | N/A | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| f) Lowest adjacent (finished) grade next to building (LAG) | 1637.3 | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| g) Highest adjacent (finished) grade next to building (HAG) | 1637.4 | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support | N/A | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No ☐ Check here if attachments.

Certifier's Name KENT A. ORVIK	License Number 3463
Title REG. LAND SURVEYOR	
Company Name KADRMAS, LEE & JACKSON	
Address 4585 COLEMAN STREET; PO BOX 1157	
City BISMARCK	State North Dakota
	ZIP Code 58504
Signature 	Date 12/07/2017
	Telephone (701) 355-8400



Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)
NONE.



City of Bismarck
Community Development Department
Building Inspections Division
Phone: 701-355-1465 • FAX: 701-258-2073 • TDD: 711
PO Box 5503 • Bismarck, ND 58506-5503
buildinginspections@bismarcknd.gov

Last Revised: 1/23/2017

FLOODPLAIN DEVELOPMENT APPLICATION

PROPERTY INFORMATION

Address of Property: 7630 Dogwood Dr. Bismarck, ND

Legal Description: (lot, block, subdivision) Meledee Acres Block 01 Lot 697504

APPLICANT

Name: Tobias Norman Construction LLC

Company: "

Phone Number: 751-4330

Email: office@tnc-build.com

PROPERTY OWNER

Name: Mark Fox

Phone number: 421-4337

Mailing Address: 107 1st St. NE Parshall, ND 58770

TYPE OF DEVELOPMENT (CHECK ALL THAT APPLY)

Activity:

- ☐ New Structure
- ☒ Addition
- ☐ Alteration
- ☐ Replacement
- ☐ Removal/Development
- ☐ Remodel/Renovation
- ☐ Other (please specify)

Activity:

- ☒ Single-family residential
- ☐ Two-family residential
- ☐ Multi-family residential
- ☐ Manufactured Home
- ☐ Combine Use
- ☐ Non-residential
- ☐ Other (please specify)

Activity:

- ☒ Placement of fill
- ☐ Grading
- ☒ Excavation
- ☐ Installation of utilities
- ☐ Subdivision (new or expansion)
- ☐ Storm water/drainage improvement
- ☐ Other (please specify)

PROJECT DESCRIPTION:

Describe in detail work being done:

Addition To Home (See Attached Plans)

FLOODPLAIN DETERMINATION:**Development will occur in the following:**

- ☒ SFHA (100 year floodplain)
☐ Regulatory Floodway

Flood Insurance Rate Map (FIRM) Information:

Map Date: 08/04/2014

Map Number: 38015C0960

Flood Zone: AE

Base Flood Elevation (BFE) (1988 DATUM): 1634.9

Development will be elevated to (1988 DATUM): 1637.7

ADDITIONAL INFORMATION REQUIRED:

SUBMITTED

N/A

1. A site plan drawn to scale showing the nature, location, dimensions, and elevations of the area in question including 1-foot contour lines; existing or proposed structures, fill storage materials, drainage facilities and the delineation of SFHA, including floodway boundaries, flood zones, and BFE (required with all applications).

X

2. Certification by a registered professional engineering that the flood proofing methods for any non-residential structure meet the flood proofing criteria of the City Code of Ordinances (required with all applications involving flood proofing of non- residential buildings).

X

3. Certification by a registered professional engineer demonstrating that encroachments; including; fill, new construction, substantial improvements, and other development shall not result in any increase in flood levels during the occurrence of a base flood discharge or 100 year flood as required in the City Code of Ordinances (required for all applications for development located in the floodway).

X

4. Substantial Improvement Determination Form (required for an addition or alteration to an existing structure located within the SFHA)

X

5. FEMA Elevation Certificate (required for all development including a structure)

X

6. Certification of Fill Form (required when fill is placed within an identified SFHA, floodplain or floodway).

X

By signing this application, I certify that all information and statements provided on this application and all other documents submitted along with this application are true and correct. I further certify that all work will be done in compliance with all applicable law, codes, and ordinances of the City of Bismarck.

Andrew Melton-Tobias Norman

11/30/17

Applicant Signature

Construction

Date

Frank Blaskowski

Floodplain Administrator Signature



AS-built

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 7630 DOGWOOD DRIVE			Policy Number:
City BISMARCK	State North Dakota	ZIP Code 58504	Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☒ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: 1633.72 Vertical Datum: NAVD 1988

Indicate elevation datum used for the elevations in items a) through h) below.

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____

Datum used for building elevations must be the same as that used for the BFE.

Check the measurement used.

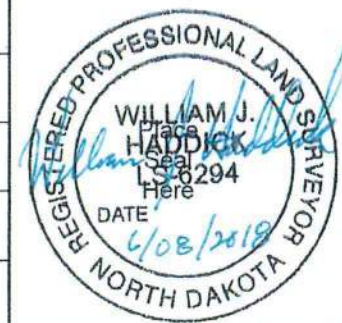
- a) Top of bottom floor (including basement, crawlspace, or enclosure floor) 1635.2 ☒ feet ☐ meters
- b) Top of the next higher floor N/A ☒ feet ☐ meters
- c) Bottom of the lowest horizontal structural member (V Zones only) N/A ☒ feet ☐ meters
- d) Attached garage (top of slab) 1635.2 ☒ feet ☐ meters
- e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments) N/A ☒ feet ☐ meters
- f) Lowest adjacent (finished) grade next to building (LAG) 1634.5 ☒ feet ☐ meters
- g) Highest adjacent (finished) grade next to building (HAG) 1634.9 ☒ feet ☐ meters
- h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support N/A ☒ feet ☐ meters

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No ☐ Check here if attachments.

Certifier's Name WILLIAM J. HADDICK	License Number 6294
Title REG. LAND SURVEYOR	
Company Name KADRMAS, LEE & JACKSON	
Address 4585 COLEMAN STREET; PO BOX 1157	
City BISMARCK	State North Dakota
	ZIP Code 58502
Signature <i>William J. Haddick</i>	Date 06/08/2018
	Telephone (701) 355-8400



Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)
NONE.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

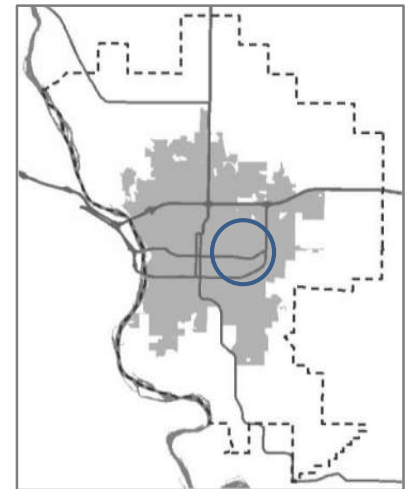
Agenda Item 4
August 2, 2018

Application for: Variance

TRAKiT Project ID: VAR2018-013

Project Summary

Title:	Lots 1-3, Block 33, Governor Pierce Addition (220 North 23 rd Street)
Status:	Board of Adjustment
Owner(s):	Soup Cafe
Project Contact:	Mark Meier, Heavens Helpers
Location:	In central Bismarck, north of East Main Avenue in the southwest quadrant of the intersection of East Thayer Avenue and North 23 rd Street.
Request:	Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading)



Staff Analysis

Mark Meier is requesting a variance to reduce the required amount of off-street parking spaces from 16 to 10 spaces for the purpose of expanding the services associated with the existing soup kitchen.

A variance to reduce the required off-street parking spaces from 47 spaces to 10 spaces for the operation of a soup kitchen was approved by the Board of Adjustment on October 6, 2016. At that time the applicant indicated that only a portion of the 5,000 square foot building would be utilized as a soup kitchen and there were no immediate plans for the remaining 1,785 square feet. However, it was indicated that in the future it could be used as a free clothing area. A copy of the minutes is attached.

According to the information submitted with the application, the applicant is proposing to complete an alteration of the existing building to utilize the remaining unoccupied portion of the building (Phase 2).

Phase 2 would include adding a handicap roll-in shower, a small laundry room, computer area, fellowship area, all season room with baptismal, a larger pantry for food storage, and freezers on the main floor. The second floor would include a large meeting area and two offices. These areas would be used by patrons already utilizing the existing soup

kitchen. A copy of the proposed building plan is attached.

The zoning ordinance does not specify parking requirements for the proposed uses in Phase 2 but makes provisions for staff to utilize similar uses to assign required parking. As such, staff has determined that a ratio of one space for every 300 square feet of gross floor area for the previously vacant portions of the building would be an appropriate parking requirement for the uses identified. This would require an additional 6 off-street parking spaces.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-03-10(3) of the City Code of Ordinances (Off-street parking / uses not specifically listed) states, "For uses not specifically listed above, off-street parking requirements shall be determined by the Zoning Administrator on the same bases as required for the most similar listed uses." According to the

(continued)

information submitted with the application, the Zoning Administrator has determined the similar use to be office uses which require one off-street parking space for every 300 square feet of gross floor area. Thus requiring an additional 6 off-street parking spaces for the previously vacant portions of the existing building.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within CG – Commercial district.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.

5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

1. Location Map
2. Building Plans
3. Written Statement of Hardship
4. October 6, 2016 Meeting Minutes

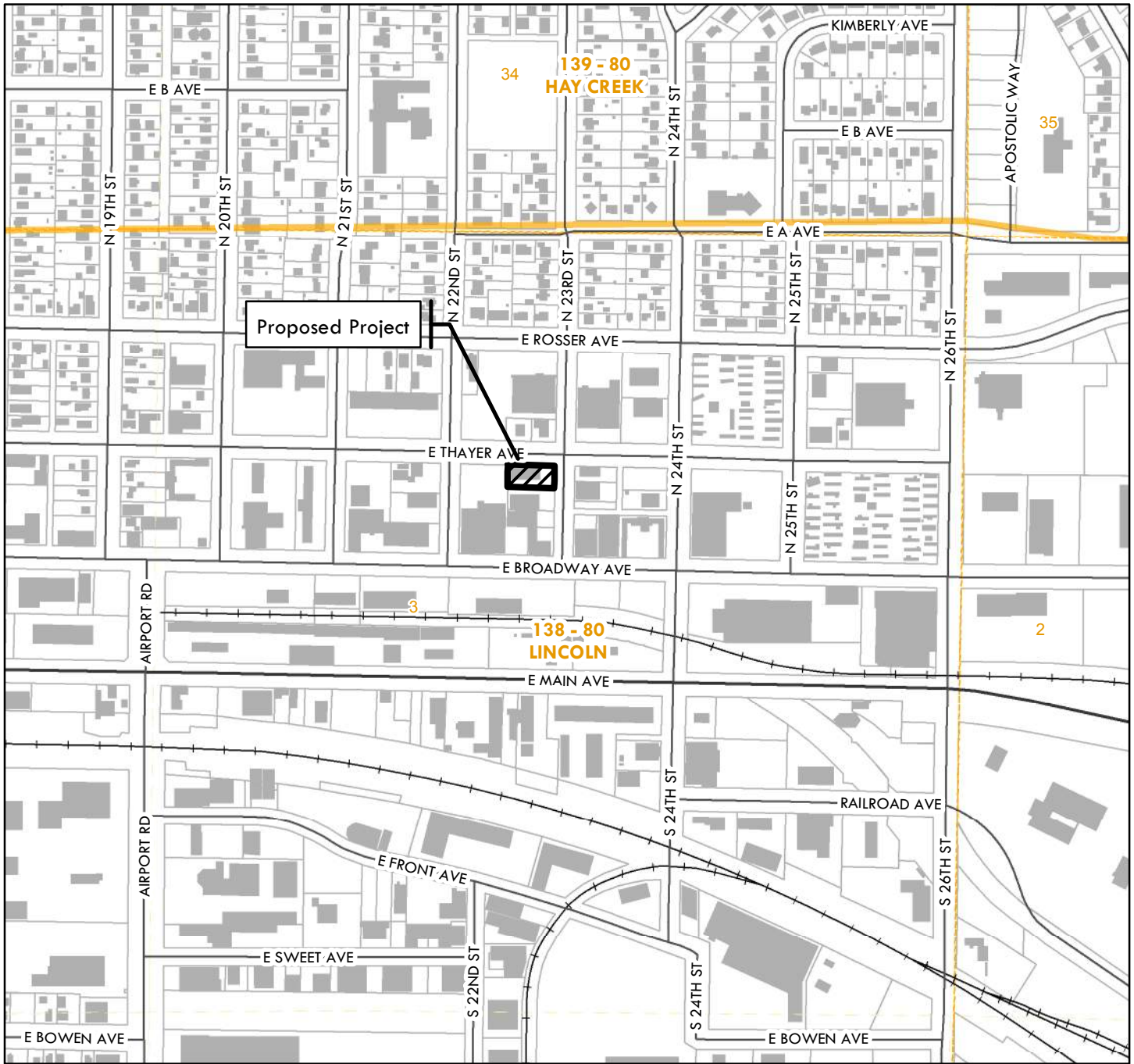
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance

VAR2018-013

Lots 1-3, Block 33, Governor Pierce Addition



0 0.125 0.25 0.5 Miles



City Limits



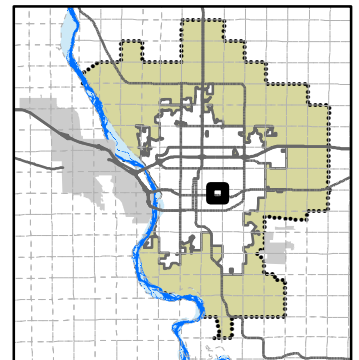
Bismarck ETA Jurisdiction

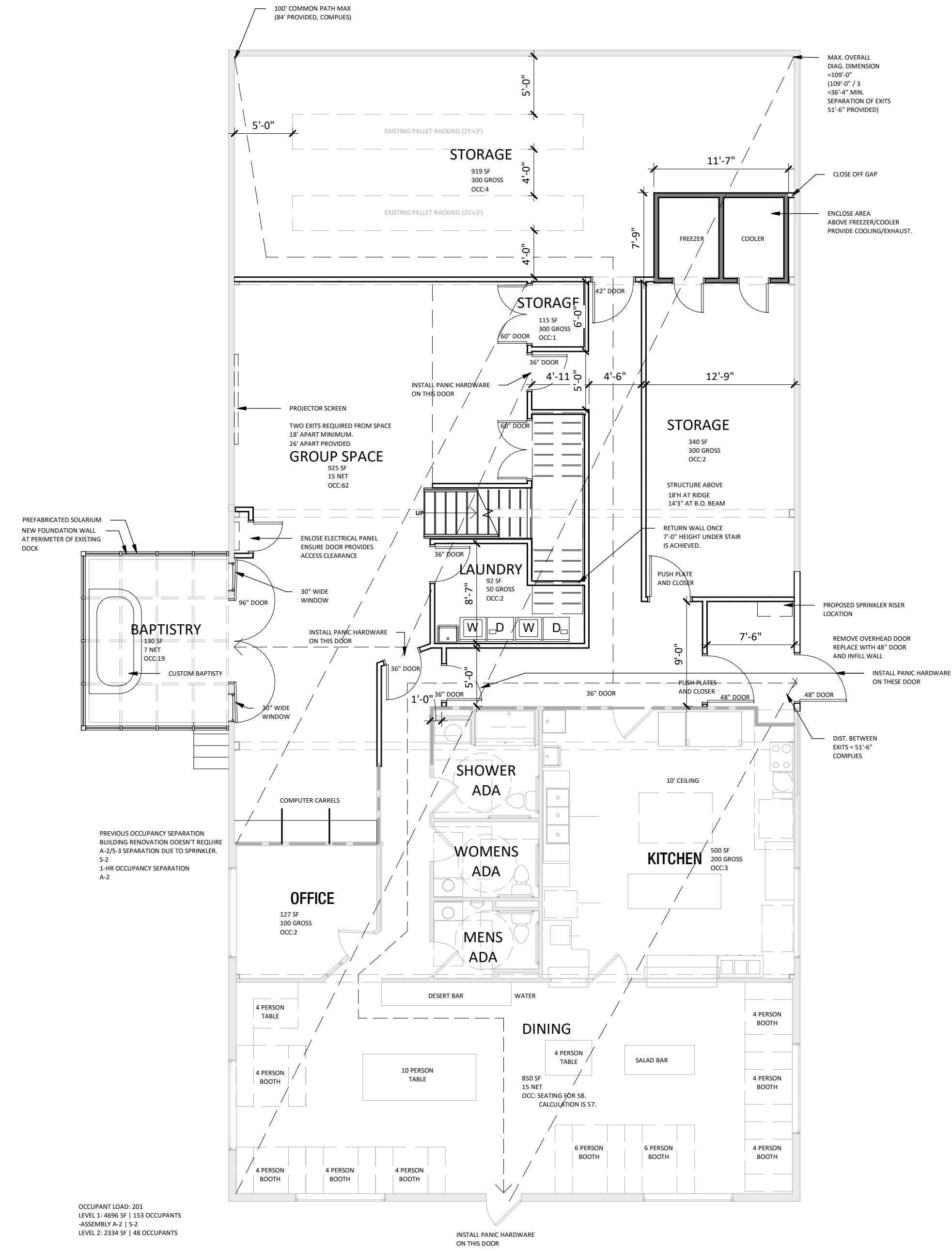
Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
July 18, 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.
Page 21 of 42

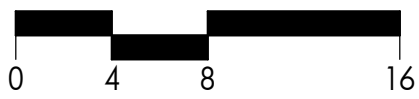


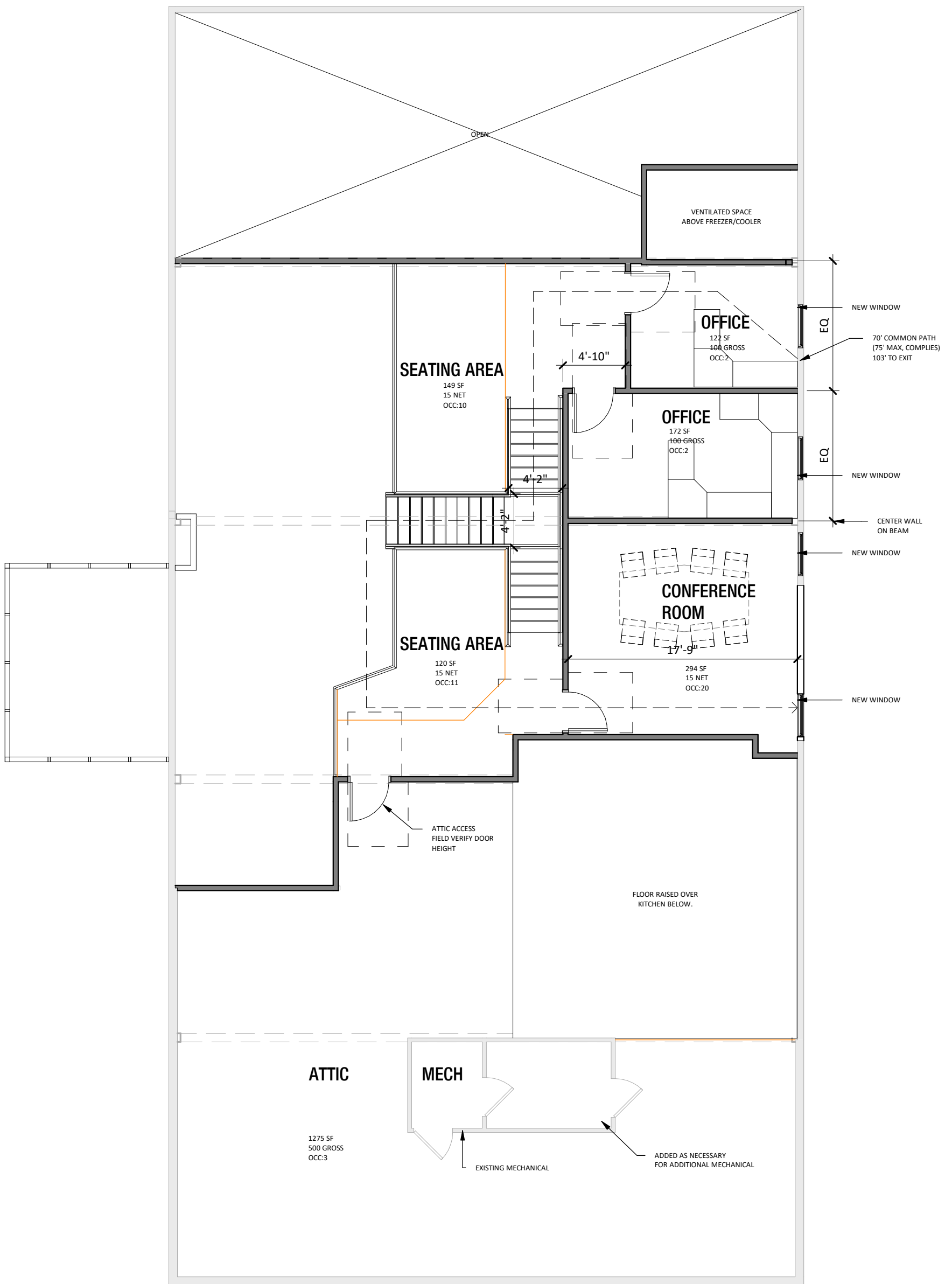


HEAVENS HELPERS PHASE 2

FIRST FLOOR PLAN

07/14/2018 | JLG 18063 | © 2017 JLG ARCHITECTS



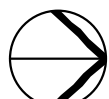
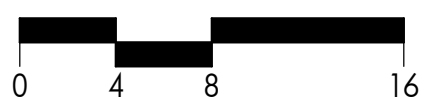


OCCUPANT LOAD: 201
LEVEL 1: 4696 SF | 153 OCCUPANTS
-ASSEMBLY A-2 | S-2
LEVEL 2: 2334 SF | 48 OCCUPANTS

HEAVENS HELPERS PHASE 2

UPPER LEVEL PLAN

07/16/18 | JLG 18063 | © 2017 JLG ARCHITECTS





City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

JUL 17 2018

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description:
(Lot, Block, Addition/Subdivision)

220 N 23rd St | lots 2-3, Block 33, Gov Aline

Location of Property:

☒ City of Bismarck

☐ ETA

Type of Variance Requested:

Applicable Zoning Ordinance:
(Chapter/Section)

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

Phase two for the Heavens Helpers Soup Cafe would be adding a handicap roll in shower for patrons to shower. Small laundry room for patrons to wash their clothes. Computer area for patrons to find employment. Fellowship area for patrons to relax and participate in bible studies. All seasons room with baptismal for baptisms. Larger pantry area to store food and freezers. Second level is one large meeting area and two offices for job skills, resume writing, addiction counseling etc to help our patrons.

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

If we cannot expand our services this will only hurt our patrons for receiving the basic necessities for a better life with a new start. A hot meal, warm shower, clean clothes, computers to find employment and life skills. This is all vital for a new start.

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

All phase two aspects will be used by existing patrons who are already eating at the Soup Cafe causing no parking issues. The shower, laundry, computer and Fellowship area will have to be reserved and Soup Cafe Bucks will need to be redeemed in order to use these new areas. No additional parking will be necessary for phase two. Any other uses for fellowship areas will be used when soup cafe is closed. There will not be simultaneous usage for phase two areas.

closer to the alley than the existing one and the driveway being short enough to not allow for blockage of the alley. The motion was seconded by Mr. Hoff and with Board Members Clark, Heier, Hoff, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was granted.

**VARIANCE FROM SECTION 14-03-10 OF THE CITY CODE OF ORDINANCES
(OFF-STREET PARKING AND LOADING) – LOTS 1-3, BLOCK 33,
GOVERNOR PIERCE ADDITION (220 NORTH 23RD STREET)**

Vice Chairman Clark stated the applicant, Mark Meier, is requesting a variance to reduce the number of off-street parking spaces required for the operation of a soup kitchen.

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

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the CG-Commercial zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Vice Chairman Clark asked what type of use would be able to comply without a variance given the available amount of parking. Ms. Wollmuth said with there only being ten parking spots, very few uses would comply.

Mr. Meier said his clientele is not the typical restaurant clientele and that most will come to the facility via transit, bike or on foot. He said they would also be within walking distance of the Ruth Meiers shelter which would be very convenient.

Vice Chairman Clark asked if there is anything similar to this use in town and what their parking arrangements are. Mr. Meier said there is not another year round location like this one anywhere in Bismarck so there is not anything to compare to. He said they had six spaces at their previous location and that was always adequate and this would be the same operation as at that location.

Mr. Hoff asked why they left their previous location. Mr. Meier said the owner wanted to try and sell the property and felt the tenant needed to change before he could do that. He said this proposed location is convenient and the square footage is adequate, as is the facility. He said their operation is purely donation based and receives no federal or state funds or grants and all of their services are free.

Mr. Hoff asked what the hours of operation would be. Mr. Meier said they will be open from 11-7 Monday through Saturday, so traffic will be more spread out, rather than just at concentrated lunch and dinner times. He said they would be closed on Thanksgiving but open on Christmas as they did at their previous location.

Mr. Hoff asked if he has had experiences with issues of people living on the property at the other location. Mr. Meier said the owner was not tolerant of that and there was not really any space or shelter for that to happen anyways.

Mr. Seifert asked if there is a plan in the near future for the open space in the building. Mr. Meier said they have plans in phases for potential shower and laundry spaces as well as things like a computer area to aid with job searching.

Vice Chairman Clark asked if another variance would be needed for those additional uses and if more parking would be needed. Mr. Blaskowski said they could add that to this request or wait since there is not a specified ordinance for this unique use, but it could classify as a homeless day center which are usually located downtown and have no parking requirements.

Mr. Hoff said the building to the south looks limited on parking as well. Mr. Wohl asked if the parking would be parallel or perpendicular to the property.

Mr. Meier said it would be perpendicular as there is a shared driveway.

Vice Chairman Clark asked if the loading dock is needed or if that could be removed to add more parking. Mr. Meier said they have already accounted for one space being added where that concrete is, but they do need the loading dock for deliveries.

Vice Chairman Clark opened the public hearing.

Jeff Neuberger, current owner of this building, said he averages 26 customers a day and has never had an issue and there is also plenty of street parking in this area. He said there is plenty of room for access, but they could probably do without the loading dock. He said he is only moving his business to another location because he needs more interior space and he already has storage space at his other property so he is moving his business there.

Jaci Hall, Executive Director – Ruth Meiers Hospitality House, said they neither oppose nor support this use in this location, but she wants Mr. Meier to be educated on the services and needs. Information provided by Ms. Hall is attached as Exhibit A.

Mr. Heier asked if Ms. Hall has had experiences with law enforcement having to remove people from the property for either sleeping on the property or in their vehicles nearby. Ms. Hall said those vehicles that are removed are usually abandoned or have been used for sleeping in.

Steven Schnibley, 216 North 23rd Street, said his building consists of offices, Rock 30 Games, an oil company and Bismarck Online. He said they use the parking lot and park on the street if they need to and do use the same access to get to their spaces, so this occupant would do the same. He said removing the loading dock would not add enough spaces and he supports what Mr. Meier wants to do. He said it is a good cause and the issue needs to be the variance from the parking requirements, not what the use will be. He pointed out that the notice he received in the mail showed there being eight parking spaces, but now there seems to have been two added.

Ms. Wollmuth said the applicant was able to add two more parking spaces after those notices were sent out. She stated the parking configuration would be looked at with a site plan review when the change of occupancy is requested.

Matt Wetsch, Skeels Electric, said his business tried to get a variance and they were denied, so they have to park in the street or their fenced area or wherever else they can.

Ron Plante, 2222 East Thayer Avenue, said he owns the painting business at this location and he is more concerned about the proposed use of the building than anything. He said he does not want to see people living in their vehicles there or coming across other properties during business hours. He said other businesses nearby are already lacking in parking as it is.

Mike Walsh said he owns the nearby laundromat and car wash and he wants the focus here to be on the parking needs, but asked that the surrounding businesses and their hours be considered. He then asked if the new use would be closed on Sundays.

Mr. Meier said they would be open briefly on Sunday mornings for some church services. Mr. Walsh said people cannot be allowed to linger around during other businesses open hours.

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

Vice Chairman Clark said staff has asked to include a reference to the change in use and that the focus needs to be on the dynamics of the soup kitchen, not the potential future uses at this time.

Mr. Heier said he feels reducing the parking from the required 47 down to 10 is too great of a difference.

MOTION: A motion was made by Mr. Heier to deny the variance to reduce the number of off-street parking spaces required for the operation of a soup kitchen on Lots 1-3, Block 33, Governor Pierce Addition (220 North 23rd Street). Due to a lack of a second to the motion, the motion failed.

Mr. Seifert said he has concerns of too many vehicles being towed and having more traffic than the originally expected.

Mr. Hoff made a motion to call the question and those present were advised by Mr. Hammes that a roll call must be taken on the request to call the question.

MOTION: A motion was made by Mr. Hoff to call the question with Board Members Hoff and Seifert voting in favor of the motion and Board Members Clark, Heier and Wohl opposing the motion, the motion failed due to a lack of a majority vote.

Mr. Wohl asked if the required number of parking spaces granted by this variance would stay the same if the use changes in the future.

Ms. Wollmuth said a condition can be put on the motion requesting that a change of use other than a soup kitchen or new occupant would need to request a new variance from the parking requirements.

Mr. Heier said he has feelings of this being controversial and it might not be the responsibility of this board to regulate soup kitchens.

MOTION: A motion was made by Mr. Seifert to approve the variance to reduce the number of off-street parking spaces required for the operation of a soup kitchen on Lots 1-3, Block 33, Governor Pierce Addition (220 North 23rd Street), based on the lot being too small for other allowable uses, that a change of occupancy and use approval is required, with the condition that any other future use would have to meet the existing parking requirements outlined in the City Code of Ordinances. The motion was seconded by Mr. Hoff and with Board Members Clark, Heier, Hoff, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was granted.

OTHER BUSINESS

There was no other business to discuss at this time.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

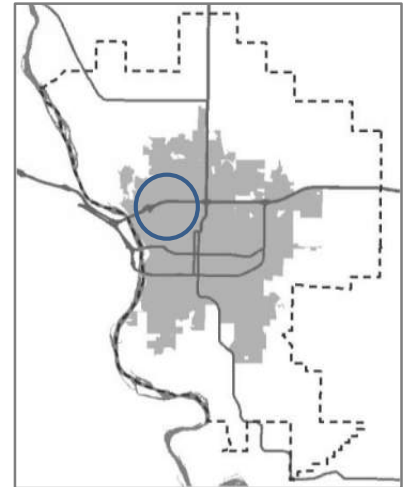
Agenda Item 5
August 2, 2018

Application for: Variance

TRAKiT Project ID: VAR2018-011

Project Summary

Title:	Lot 2, Block 1, Metro Industrial Park Second Replat (4403 Centurion Drive)
Status:	Board of Adjustment
Owner(s):	Rick Schock, R M Schock Properties LLP
Project Contact:	Ray Morrell, Premier Homes Brian Zuroff, Mountain Plains Engineering
Location:	In south Bismarck, north of 48 th Avenue SE and west of University Drive along the east side of Centurion Drive
Request:	Variance from Section 14-03-10 of City Code of Ordinances (Off-street Parking and Loading)



Staff Analysis

Rick Schock, R M Properties LLP is requesting a variance to reduce the required off-street parking spaces from 32 off-street parking spaces to 22 off-street parking spaces in conjunction with the construction of a 9,600 square foot building.

According to the information submitted with the application, the proposed building would contain both commercial and Industrial uses, each having office space, which would require 26 off-street parking spaces.

Prior to obtaining a building permit for the proposed building, a site plan must be approved by the City of Bismarck. The applicant has submitted two site plans for this property for review and approval. One with the required 32 off-street parking spaces and one with the proposed 22 off-street parking spaces.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular

hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading) requires 32 off-street parking spaces to be provided based on the following calculations:

Office: 1: 250
1,640sf @ 250 = 7 spaces
Sport/fitness: 1:300
5,842sf @ 300 = 20 spaces
Shop/storage area: 1: 600
2,120sf @ 600 = 4 spaces
Total = 32 spaces

According to the site plan submitted with the application, a total of 22 off-street parking spaces would be provided if the variance is approved as proposed.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within MA – Industrial zoning district.

2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

1. Location Map
2. Site plan with required off-street parking
3. Site plan with proposed off-street parking
4. Written Statement of Hardship

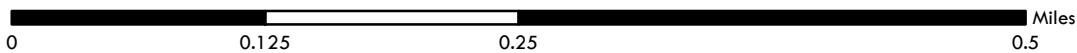
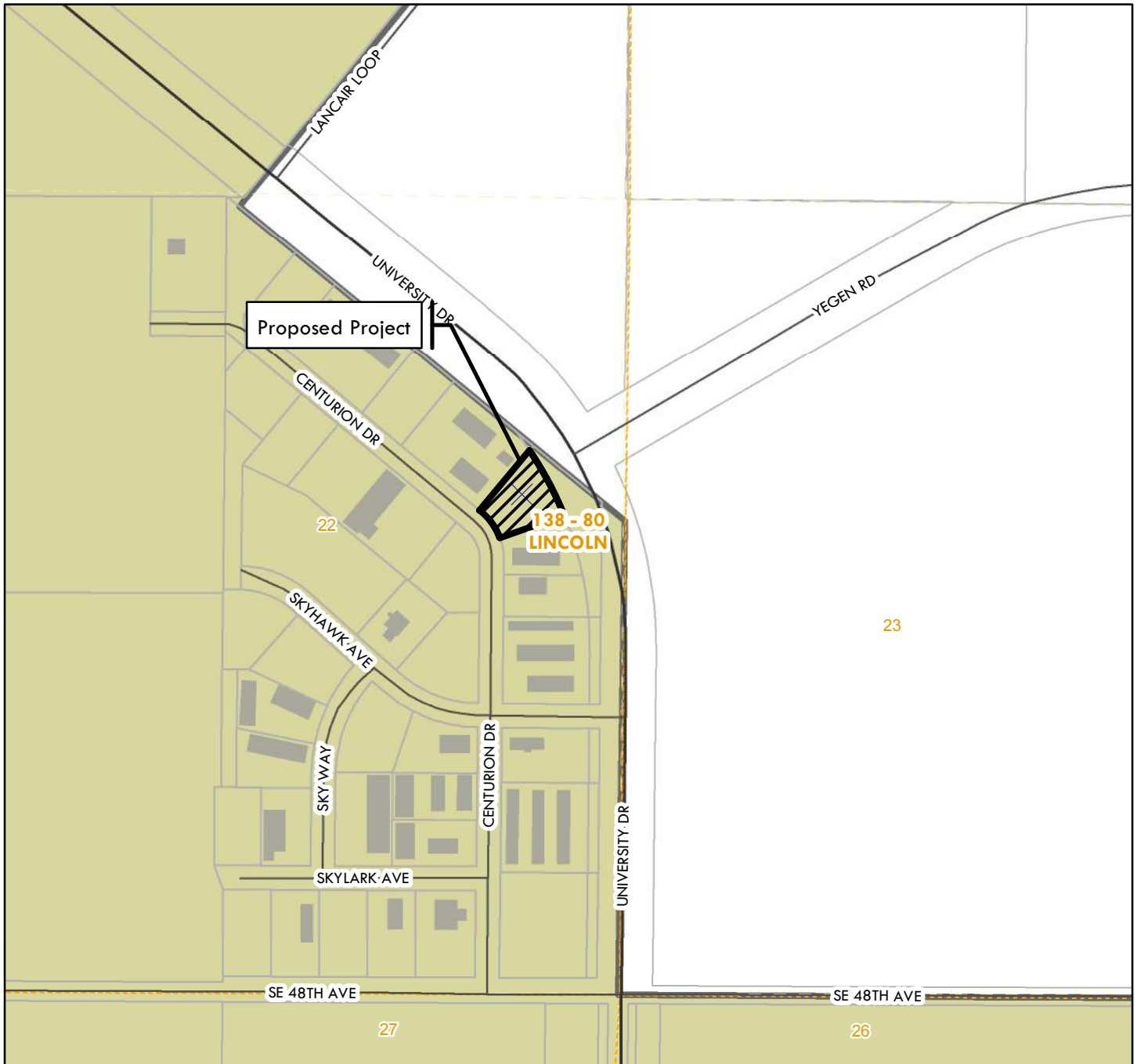
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance

Lot 2, Block 1, Metro Industrial Park 2nd Replat

VAR2018-011

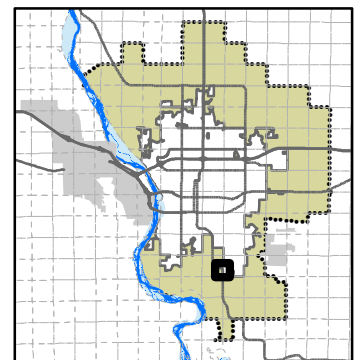


City Limits



Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
July 10, 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.
Page 31 of 42

PAVING PLAN QUANTITIES

ITEM	DESCRIPTION	UNIT	QUANTITY
1	6-IN CONCRETE	SY	1768
2	4-IN SIDEWALK CONCRETE	SY	75
3	OUTFLOW CURB	LF	127
4	CLASS 3 AGGREGATE BASE COURSE	CY	500
5	12-IN SCURRY & RECOMPACT SUBGRADE	SY	2224
6	STRIPING & SIGNING	LSUM	1

LANDSCAPE PLAN QUANTITIES

ITEM	DESCRIPTION	UNIT	QUANTITY
1	SEEDING CLASS II	SY	2020
2	PIVOT ROCK	SY	1/150
3	TREE / SHRUB MULCHING	EA	36
4	DECIDUOUS SHADE TREE	EA	7
5	LARGE CONIFEROUS TREE	EA	6
6	SHRUB	EA	30
7	IRRIGATION SYSTEM	LSUM	1

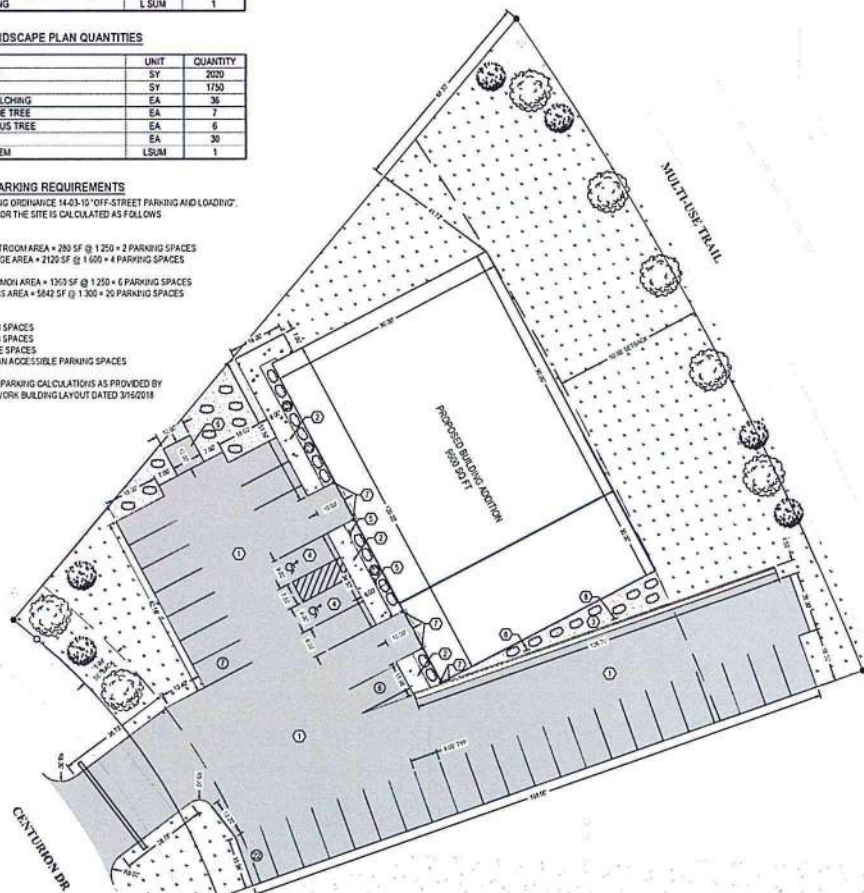
PARKING REQUIREMENTS

PER CITY OF BISMARCK 2018 ORDINANCE 14-03-10 "OFF-STREET PARKING AND LOADING"
OFF-STREET PARKING FOR THE SITE IS CALCULATED AS FOLLOWS:

- SHOP/CONDO
OFFICE & RESTROOM AREA = 280 SF @ 1,250 = 2 PARKING SPACES
SHOP/STORAGE AREA = 210 SF @ 1,000 = 4 PARKING SPACES
- SPORTS AREA
OFFICE & COMMON AREA = 190 SF @ 1,250 = 6 PARKING SPACES
SPORT/FITNESS AREA = 542 SF @ 1,300 = 20 PARKING SPACES

TOTALS
32 REQUIRED TOTAL PARKING SPACES
35 PROVIDED TOTAL PARKING SPACES
33 STANDARD VEHICLE SPACES
2 ADA COMPLIANT VAN ACCESSIBLE PARKING SPACES

*NOTE: BUILDING AREAS FOR PARKING CALCULATIONS AS PROVIDED BY
FRONT STREET MILL WORK BUILDING LAYOUT DATED 3/16/2018



PAVING PLAN LEGEND

- ① 6-IN CONCRETE S.D. 34643
- ② 4-IN CONCRETE S.D. 34643
- ③ 4-IN OUTFLOW CURB S.D. 34643
- ④ ACCESSIBLE PARKING S.D. 34643
- ⑤ ACCESSIBILITY SIGN S.D. 34643
- ⑥ OUTSIDE ENVELOPE S.D. 34643
- ⑦ CONCRETE ENVELOPE S.D. 34643
- ⑧ PRELIME SIGN S.D. 34643
- ⑨ PARKING COUNCIL
- ⑩ 6-IN CURB
- ⑪ 4-IN CONCRETE
- ⑫ 4-IN CONCRETE SIDEWALK

LANDSCAPE PLAN LEGEND

- ① SHRUB S.D. 34643
- ② DECIDUOUS TREE S.D. 34643
- ③ CONIFEROUS TREE S.D. 34643
- ④ CLASS II GRASS (40) GRASS
- ⑤ PIVOT ROCK

GENERAL NOTES

- ALL EXISTING AND NEW PAVING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BISMARCK SPECIFICATIONS.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF BISMARCK.
- FOR THE LAYOUT OF THE PAVING, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF BISMARCK.
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SITE PLAN NOTES

- ALL SITE WORK, INCLUDING PAVING AND STRIPING, SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BISMARCK SPECIFICATIONS.
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LANDSCAPE PLAN NOTES

- THE CONTRACTOR SHALL PROVIDE A ONE YEAR GUARANTEE ON ALL PLANTS AND MATERIALS. THE GUARANTEE BEGINS ON THE DATE OF THE ENGINEER'S WRITTEN ACCEPTANCE OF THE FINAL PLANTING. REPLACEMENT MATERIALS SHALL ALSO HAVE A ONE YEAR GUARANTEE COMMENCING UPON PLANTING.
- ALL PLANTS TO BE INSTALLED ARE TO BE NORTHWESTERN HARDY, AND INSTALLED PER STANDARD PLANTING PRACTICES.
- USE LUMBER AND COMPOSITE MATERIALS FOR ALL STRUCTURES.
- THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL UTILITIES PRIOR TO THE INSTALLATION OF PLANTS.
- PRUNE PLANTS AS NECESSARY - PER STANDARD NURSERY PRACTICE.
- CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTENANCE ONLY AFTER ACCEPTANCE OF THE WORK BY THE ENGINEER.
- PLANTS SHALL BE BACNETS PLANTED UPON ARRIVAL AT SITE. TEMPORARILY IN A NURSERY OR STORAGE AREA.
- PLANTING BEDS FOR PLANTS SHALL HAVE UNLINED BARRIER FABRIC AND 6-IN TO 8-IN OF 3/4" SIZED HARDWOOD MULCH.
- PRUNE TO MAINTAIN A MINIMUM OF 1/4" ABOVE THE TOP OF THE TRUNK AND SHALL BE FREE OF DISEASE AND OTHER DAMAGE.
- THE CONTRACTOR SHALL MAINTAIN THE NUMBER OF PLANTS TO BE INSTALLED BY THE ENGINEER. THE CONTRACTOR SHALL MAINTAIN THE NUMBER OF PLANTS TO BE INSTALLED BY THE ENGINEER.
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DATE: July 9, 2018
BY: JME
PROJECT NO: 001437
SHEET NO: C3.0
SHEET TITLE: PAVING & LANDSCAPING

THIS DOCUMENT HAS BEEN PREPARED BY MOUNTAIN PLAINS LLC FOR THE CITY OF BISMARCK. IT IS THE PROPERTY OF MOUNTAIN PLAINS LLC AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF MOUNTAIN PLAINS LLC.

AIRPORT SHOP
PREMIER HOMES
4403 CENTURION DRIVE
BISMARCK, ND 58504



DATE: July 9, 2018
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PAVING PLAN QUANTITIES

ITEM	DESCRIPTION	UNIT	QUANTITY
1	6-IN CONCRETE	SY	1256
2	4-IN SIDEWALK CONCRETE	SY	75
3	CLASS 5 AGGREGATE BASE COURSE	CY	225
4	12-IN SUBGRAD & RECOMPACT SUBGRADE	SY	1331
5	STRIPING & SIGNING	LSUM	1

LANDSCAPE PLAN QUANTITIES

ITEM	DESCRIPTION	UNIT	QUANTITY
1	SEEDING CLASS II	SY	2532
2	RIVER ROCK	SY	1730
3	TREE / SHRUB MULCHING	EA	36
4	DECIDUOUS SHADE TREE	EA	7
5	LARGE CONIFEROUS TREE	EA	6
6	SHRUB	EA	30
7	IRRIGATION SYSTEM	LSUM	1

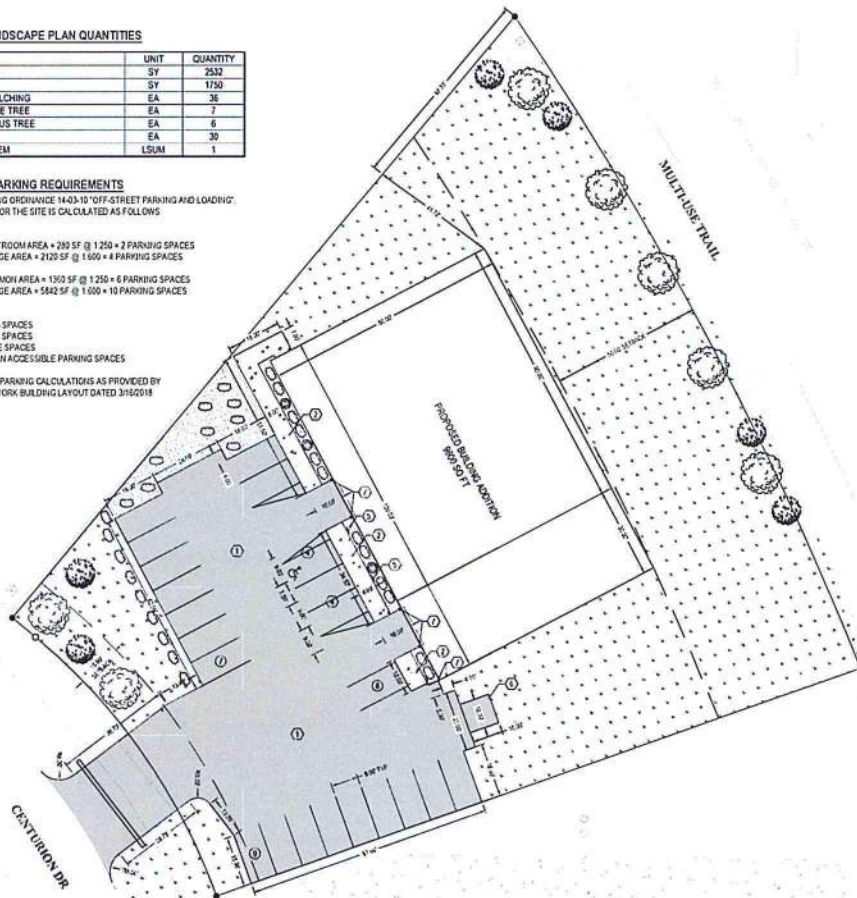
PARKING REQUIREMENTS

PER CITY OF BISMARCK ZONING ORDINANCE 14-03-10 "OFF-STREET PARKING AND LOADING", OFF-STREET PARKING FOR THE SITE IS CALCULATED AS FOLLOWS:

- SHOP COMBO
OFFICE & RESTROOM AREA + 280 SF @ 1,250 = 2 PARKING SPACES
SHOP / STORAGE AREA + 2120 SF @ 1,000 = 8 PARKING SPACES
- SPORTS AREA
OFFICE & COMMON AREA + 1350 SF @ 1,250 = 6 PARKING SPACES
SHOP / STORAGE AREA + 5842 SF @ 1,000 = 10 PARKING SPACES

TOTALS
22 REQUIRED TOTAL PARKING SPACES
22 PROVIDED TOTAL PARKING SPACES
21 STANDARD VEHICLE SPACES
1 ADA COMPLIANT VAN ACCESSIBLE PARKING SPACE

*NOTE: BUILDING AREAS FOR PARKING CALCULATIONS AS PROVIDED BY FRONT STREET MILL WORK BUILDING LAYOUT DATED 3/16/2018



PAVING PLAN LEGEND

1. 6-IN CONCRETE S.D. 3-INCHES
2. 4-IN CONCRETE S.D. 3-INCHES
3. 4-IN SIDEWALK CONCRETE S.D. 3-INCHES
4. ACCESSIBLE PARKING S.D. 3-INCHES
5. ACCESSIBLE SIDEWALK S.D. 3-INCHES
6. GARAGE ENVELOPE S.D. 3-INCHES
7. CONCRETE BOLLARD S.D. 3-INCHES
8. PARKING COAT
9. 6-IN CONCRETE
10. 6-IN CONCRETE SIDEWALK

LANDSCAPE PLAN LEGEND

1. SHRUB S.D. 3-INCHES
2. DECIDUOUS TREE 3-INCHES
3. CONIFEROUS TREE 3-INCHES
4. CLASS 5 RUNNY MIX GRASS
5. RIVER ROCK

GENERAL NOTES

1. ALL EXISTING TREES AND SHRUBS SHALL BE PRESERVED AND MAINTAINED.
2. THE USE OF CONTRACTOR SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
3. IF THE CONTRACTOR IS REQUIRED TO REMOVE ANY EXISTING TREES OR SHRUBS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACING THEM WITH NEW TREES OF EQUAL OR GREATER SIZE AND SPECIES.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF BISMARCK.
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SITE PLAN NOTES

1. ALL SITE LAYOUT, DESIGN, AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF BISMARCK ZONING ORDINANCE 14-03-10.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF BISMARCK.
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PAVING PLAN NOTES

1. MATERIALS AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF BISMARCK ZONING ORDINANCE 14-03-10.
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LANDSCAPE PLAN NOTES

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2. ALL PLANTS TO BE INSTALLED SHALL BE OF THE SPECIES AND VARIETY SPECIFIED IN THE PLANTING PLAN. PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BISMARCK ZONING ORDINANCE 14-03-10.
3. USE A MINIMUM 6-IN CONCRETE SIDEWALK.
4. THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL UTILITIES PRIOR TO THE INSTALLATION OF PLANTS.
5. PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BISMARCK ZONING ORDINANCE 14-03-10.
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AIRPORT SHOP
PREMIER HOMES
4403 CENTURION DRIVE
BISMARCK, ND 58504



DATE	July 8, 2018
DESIGNED BY	JME
CHECKED BY	BLZ
PROJECT NO.	001457
SHEET NO.	C3.1
SHEET TITLE	PAVING & LANDSCAPING VARIANCE ALTERNATIVE



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION	
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	Lot 2, Block 1, Metro Industrial Park Second Replat
Location of Property:	<input type="checkbox"/> City of Bismarck <input checked="" type="checkbox"/> ETA
Type of Variance Requested:	Reduction of Paved Parking
Applicable Zoning Ordinance: (Chapter/Section)	14-03-10.3 - Off-street Parking
Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)	
<p>The owner of the proposed shop building has a proposed tenant requesting the installation of a basketball court for private individual and small group sports/athletic lessons. For this use under current city ordinances, the area is classified as "Sports and fitness clubs", requiring a 1:300 hard surfaced parking ratio. This requirement ultimately would provide 32 hard surfaced parking spaces for the site. At the current facility location, a maximum of 8 parking spaces are utilized for a similar site layout at any given time as the training is primarily for elementary, junior high, and early high school students (i.e. non-drivers) and parents typically pick-up and drop-off for lessons. Given the historical use of the proposed tenant's parking at their current location, we feel it would be prudent to consider a 1:600 hard surfaced parking ratio for the facility (in addition to the 1:250 ratio utilized for office and common area space), effectively providing the site with 22 dedicated hard surfaced parking spaces.</p>	
Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.	
<p>While the proposed immediate usage for the area includes a basketball court, in the event that the proposed tenant vacates the property, the property would then be marketed towards use as shop/warehouse/storage, as that is the style of building/structure being installed. If the 1:300 parking ratio is utilized, the owner and proposed tenant feel that it would remain mostly un-utilized and reduce the aesthetics of not only their property, but surrounding properties as well. Snow storage during winter months also becomes challenging with the reduction in green space, requiring the owner to either stockpile in the additional spaces (thereby rendering the additional spaces useless for up to 6 months a year), or hauling snow off-site.</p>	
Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.	
See Attached Memorandum	

Memorandum

To: City of Bismarck
Board of Adjustment

From: Brian J. Zuroff, PE
Civil Engineer

Date: 9-Jul-18

Re: Written Statement of Hardship
Airport Shop – Premier Homes

Below is the requested description required in the "Written Statement of Hardship" form.

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

With the maximum usage for parking stalls being 14 (8, plus the 6 required for the attached shop-condo), and the current city ordinances requiring 32 parking spaces, we feel that classifying the space, and providing parking for, "Shop/Storage" and providing parking at a 1:250 parking ratio for office space, and a 1:600 parking ratio for the remainder, where an effective 22 parking spaces is a fair, reasonable compromise to the amount of parking provided on site. The reduction in required hard surfaced parking not only provides additional green space (as the area will be topsoiled and seeded) and increased aesthetics to the property, reduces heat-island effects of the parking lot to the adjacent property, and provides adequate snow storage, as well.

In the rare event that over-flow parking may be required, the property attached to the south is owned by the same owner, who is willing to grant an access easement between properties. The said access easement would allow the parking lot for the property to the south to be utilized as overflow parking for the proposed building. The southerly property is accessed via the same fence/gate that the property in question is (i.e. properties are immediately neighboring, with no fence, building, or structure separating the parking areas). The lessons will be taking place primarily after work hours (5PM-9PM), when the property to the south is not utilizing their parking, thereby not placing an undue burden on the property to the south. As a prudent businessman, the Owner would not simply grant an easement if he feels it would hinder his current business and operations.

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
July 5, 2018**

The Bismarck Board of Adjustment met on July 5, 2018, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Marback presided.

Members present were Ken Hoff, Chris Seifert, Curtis Janssen, Jennifer Clark, Rick Wohl and Michael Marback.

Staff members present were Jenny Wollmuth – Planner, Brady Blaskowski – Building Official, Jannelle Combs – City Attorney, Anton Sattler – Environmental Health Administrator and Hilary Balzum – Community Development Administrative Assistant.

Mr. Hoff asked if an agreement between McCabe United Methodist Church and Bismarck Public Schools allowing the use of their play space for the child care has been obtained.

Ms. Wollmuth said she did check on that item, and as of yet, the required documentation has not yet been submitted to our office from Bismarck Public Schools allowing McCabe United Methodist Church to use the playground.

MINUTES:

Chairman Marback called for approval of the minutes of the June 7, 2018 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Seifert and seconded by Mr. Hoff to approve the minutes of the June 7, 2018 meeting, as presented. With Board Members Clark, Hoff, Janssen, Marback, Wohl and Seifert voting in favor, the minutes were approved.

**APPEAL OF NOTICE AND ORDER – AUDITOR’S LOT 3 OF THE SE1/4,
SECTION 28, T138N-R80W/LINCOLN TOWNSHIP (6020 12TH STREET SE)**

Chairman Marback stated the applicant, Jonathan Hinkel, is appealing a notice and order requiring the removal or storage in an enclosed building of prohibited items.

Ms. Wollmuth said Jonathan Hinkel is appealing a notice and order requiring him to remove or store inside an enclosed building hazardous wastes, scrap metals, used or scrap lumber, household appliances, machinery, farm machinery, commercial equipment, new or used building materials, construction or demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items within his property as required in Section

14-05-05.1 of the City Code of Ordinances (Accumulation of Certain Items Prohibited). She said according to City records, the Environmental Health Division and Building Inspection Division have been working to resolve violations for this property since 2012 and had been working with the previous property owner. Ms. Wollmuth then explained that a code case was opened by the Building Inspections Division on August 9, 2017 to address structural concerns of the existing building on site at the request of the Environmental Health Division and a copy of the code case and inspection notes are attached to the staff report. She went on to say another code case was opened by the Environmental Health Division on August 15, 2017 to address the accumulation of prohibited items on the property and a copy of the code case and inspection notes are also attached to the staff report.

Ms. Wollmuth added that the property owner submitted a clean-up plan to the Building Inspections Division on August 19, 2017 and this plan details the history of the site, violations and clean-up of the property. She said a copy of the clean-up plan is attached to the staff report. Ms. Wollmuth then explained that after processing the two code cases, a notice of violation letter was sent to the property owner on April 25, 2018 and the purpose of the letter was to request the property owner to provide the Environmental Health Division, in writing, any corrective action they have taken or intend to take to resolve the existing violations and a date in which all corrective action will be completed. She said a written action plan was submitted to the Environmental Health Division by the property owner on May 7, 2017 and a copy of the notice of violation letter and action plan are attached to the staff report.

Ms. Wollmuth stated a notice and order was sent by the City of Bismarck Environmental Health Division on May 11, 2018 and a copy of the notice and order is attached to the staff report. She explained that a notice and order is a formal request by the City of Bismarck to comply with regulations outlined in the City Code of Ordinances; in this case specifically, Section 14-05-05.1 (Accumulation of Certain Items Prohibited).

Ms. Wollmuth closed by saying the property owner submitted an appeal to the notice and order to the Planning Division on May 31, 2018, a copy of which is attached to the staff report.

Ms. Wollmuth said staff recommends reviewing the attached information and rendering a decision regarding the appeal of the notice and order.

Mr. Hinkel said he recently experienced an injury and is a bit unorganized today. He said he does recall being asked for a timeframe in which he could get the necessary cleanup completed, but the efforts he has already made to do so are not defined anywhere. He said in 1958 three of his uncles purchased 21 acres of land in order to develop it. He said the property has changed hands since then and some changes have been made. He said there was great deal of accumulation of items by his uncles and others, and his whole family spent time there. He added that the property was rezoned in 1961 to rural residential and his father withdrew from ownership of the property in the early 1970's.

He said during the depression era his family saved and salvaged just about everything. He added that his brother and mother stayed on the property and mostly used the back "40 acres" for garbage and salvage items. He explained that in 2013, Ray Ziegler, the previous City Building Official, wrote to his brother and sister, who were acting as representatives of the property at the time, and they had a written agreement as to the condition of the property with Environmental Health and Mr. Ziegler at that time. Mr. Hinkel said his sister obtained a restraining order on him and he lived out of town until 2010, visiting every now and then and watching the accumulation of items worsen. He said he did try to clean up and organize some items but the flood hindered that in 2011, so his focus became saving the existing accessory building. He said he received a threatening letter from Mr. Ziegler afterwards and did have a salvage person lined up, but could not make any formal agreements for cleanup because he was not a representative of the property at that time. He said he was out of the loop until a deed of distribution was granted to him in 2014, at which time he was under the impression that the title of the property was clear until he found out none of the issues had been resolved and he was in fact deeded a property that was in violation of codes and ordinances. Mr. Hinkel said he takes issue with City staff trespassing on his property, adding that he does not want his privacy invaded and also did not want to be liable in the event someone were to be injured while on his property. He added that at the last meeting he had with City staff, he was informed that City employees are insured in order to be able to come onto peoples' properties and he feels his attempts to work with people have been ignored.

Mr. Hinkel said he would like to bring the property up to required standards and is doing as much as possible. He said there is a lot of deadfall on the property and he is spending time in the yard, but he just does not know how to make a timeline of when everything would be addressed. He said he only has this property value and his social security to live off of and disposal of items is not free. He said he currently is trying to sort through and organize things and does anticipate keeping the existing quonset, which is also full of items.

Mr. Hoff asked Mr. Hinkel when his mother passed away. Mr. Hinkel said she passed away in 2012 and he obtained the deed in 2014.

Mr. Hoff asked how many acres the entire property is. Mr. Hinkel said it is 2.97 acres.

Mr. Hoff asked what types of changes were made from 2014 to 2017. Mr. Hinkel said he put roadways in to access the property.

Mr. Hoff then asked if it is an option to sell the property and avoid the issues that have been had with the siblings involved. Mr. Hinkel said he wants to keep the property if at all possible. He said his sister was a representative of the property at the time things were made complicated, but he is the one who made the request to appear before the Board.

Mr. Hoff said he was not able to access the property in order to assess the severity of the accumulation, but was able to see from the road that many items in the yard has not been mowed in quite some time.

Mr. Hinkel said he was unaware that so many people were involved with the issue, but he did get the accessory building empty first and did what he originally said he would do, even though there was no acceptance given to that plan.

Chairman Marback said he did not access the property, but his concern is of a plan and agreement being needed between the owner and the Environmental Health Division. He said this is not something that can be remedied in 30 days as stated in the notice and order.

Mr. Hinkel said pictures provided that were taken in 2013 show the extreme condition of the property that he inherited. He said he does want it cleaned up and usable so it can be developed, and has asked for guidance on that from the beginning. He said there is value to some of the items and he would prefer to keep those. He said he has no experience with this process but does need more time.

Mr. Janssen said his concern is that the property has been this way for a long time, and where does the accountability of the siblings lie. He said he probably has neighbors wondering when their property values are going to increase and a salvage company needs to get involved or this could drag on for several years.

Mr. Hinkel said he saw the property as a retirement plan but feels he is being pressured and does not see how the condition of the property is hurting anybody.

MOTION: A motion was made by Mr. Hoff to limit any further discussion on the appeal of the notice and order to an additional three minutes. The motion failed for a lack of a second.

MOTION: A motion was made by Mr. Hoff to limit any further discussion on the appeal of the notice and order to an additional five minutes. The motion was seconded by Mr. Wohl and with Board Members Clark, Hoff, Janssen, Marback, Wohl and Seifert voting in favor of the motion, the motion was approved.

Mr. Hinkel said one of the last comments he received from Mr. Ziegler was that there are three generations of accumulation on the property and he would anticipate a cleanup that size to take at least two years. He said he did not receive the letter that was issued back in 2013, as he was not included at that time, and so, was unaware of the non-compliance.

There being no further comments, Chairman Marback closed the discussion.

Chairman Marback opened the public hearing.

Comments in opposition to this request are attached as Exhibit A.

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

Chairman Marback asked if some staff guidance can be given on how to proceed, as this is an issue 60 years in the making and will not be a quick fix.

Anton Sattler, Environmental Health Division, said his intention was for Mr. Hinkel to devise a plan. He said a violation notice was issued and a timeframe of corrective action was requested as well. He said Mr. Hinkel delivered a letter to his office and the recommendation to meet on site was proposed to assess things and see if any progress was being made. He said Mr. Hinkel agreed to that, but the next day called and said not to come on the property. He said the next step was then to issue the notice and order.

Mr. Seifert asked if City staff has been on the property at all. Mr. Sattler said in 2013 some pictures were taken of the property by accessing it through the south portion of neighboring lot with permission from Mr. Hinkel's sibling.

Mr. Hoff asked what types of items were seen at that time. Mr. Hoff said from 12th Street SE, there is scrap materials, lumber and machinery viewable.

Ms. Clark asked if there is anything that can be done now to verify if any progress is being made.

Mr. Sattler said that would be to allow City staff onto the property to see what has been done, create a plan and possibly extend the deadline on the Notice and Order. He said it would be a good idea for Mr. Hinkel to also keep inventory of the items as they are removed to show progress is being made.

Ms. Clark asked if there are any suggestions as to charitable services for cases like this.

Mr. Sattler said he is not aware of any, but that United Way could be consulted with as well as local salvage dealers.

Chairman Marback said Gerda Metals Recycling has an operation for salvaging items and asked Mr. Hinkel if he would allow Mr. Sattler and the necessary City staff onto the property so they can assess it and make a plan.

Mr. Hinkel said if he has to and is able to get an extension on the notice and order of some kind, he would be open to that, adding he would have to consult with legal counsel, but does feel positive about that idea. He said seeing how much is there could be both a positive and a negative.

Chairman Marback said cooperation is needed here as well as willingness from the owner to work with Mr. Sattler on moving forward. Mr. Hinkel said he did come to meet with Mr. Sattler and was just told to keep track of his progress and allow property visits. He said his siblings advised him against allowing City staff onto the property because of the liability involved.

Ms. Clark said this is a unique appeal and asked what the options are as far as upholding the notice and order or anything else.

Ms. Combs said they can reverse the notice an order, amend it or affirm it. She said procedurally, if it is amended, it could be appealed to the City Commission.

Mr. Hoff asked what a reasonable amount of time might be to put on amending or affirming it rather than extending it.

Mr. Sattler said if he wants to sort through items or fix them and save them, it might be two or three years. He said if a salvage company were allowed to come in and help with the process it might only take a year, which would be acceptable. He just needs to see progress being made.

Ms. Clark said this is a tough situation for City employees but she does have faith in them and their processes.

Mr. Wohl asked if they should put an expiration date on the amendment of the notice and order. He said he was on the property in 2013, as a previous Building Inspector, and there were a lot of items at that time, so much that he does not see it being cleaned up in one years' time. He said there was agreement to get it cleaned up and he saw no progress made. He said in six years nothing appears to have changed and he would not support an amendment to the notice and order without a deadline.

Chairman Marback said he understands that the motion is to have a timeline within the next 30 days that is acceptable to the Environmental Health Division and he is confident that this will not be allowed to drag on for another 10 years.

Ms. Clark said she has faith that staff would stay on top of that and the issue is being taken seriously. She said she does oppose micromanaging the motion because it does need to be worked out with Mr. Sattler.

Chairman Marback said the owner would be in violation again if a plan is not made within the next 30 days.

MOTION: A motion was made by Ms. Clark to affirm and amend the notice and order issued on May 11, 2018, for the property located at 6020 12th Street SE (Auditor's Lot 3 of the SE1/4 of Section 28 / Lincoln Township), to include the following requirements: 1. The property will allow the necessary City of

Bismarck employees on the premises to further assess the conditions of the property within 30 days of the date of this letter; and 2. An acceptable action plan for the clean-up of the property and timeline will be established between the property owner and City staff within 30 days of the date of this letter. The motion was seconded by Mr. Hoff and with Board Members Clark, Janssen, Marback, Wohl and Seifert voting in favor of the motion, the motion was approved and the variance was granted. Mr. Hoff opposed the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 6:01 p.m. to meet again on August 2, 2018.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman