



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamediaaccess.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

January 8, 2025

1. Roll Call
2. Election of Officers
3. Approval of the December 11, 2024 Meeting Minutes
4. Consent Agenda *(The following item(s) are request(s) for a public hearing)*

There are no items on the Consent Agenda

5. Public Hearing Agenda
 - 4-1 RRH Subdivision and Zoning Change
6. Other Business:
7. Adjourn – Next Meeting – February 12, 2025

Agenda Item 4-1

Application for RRH Subdivision

Project Summary		RRH Subdivision & Zoning Change
Public Hearing		Love's Travel Stops & Country Stores Inc.
Petitioner/Developer		CEI Engineering – Dallas TX
Engineer		Moore Engineering – Bismarck, ND
Location:		Sterling Township, Section 21, PT SW ¼ Lot 'A' Irregular Plat #291-884
		4-1-1 Location Map
Project Size:	19 Acres more or less	
Petitioners Request:	Approve final plat and zoning change from A-Agricultural to C-Commercial	
Project Description:	Fuel Station and Restaurant	
Notification Dates:	Bismarck Tribune 12/31/24 & 1/6/2024 Bur. Co Website 12/27/24 Surrounding Properties 12/26/2024	

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING
COMMISSION

January 8, 2025

History/Description

Burleigh County has been working with Sterling Township regarding the Love's Travel Stops & Country Store for several months. Sterling Township was approached by Loves Travel Stops in placing a fuel station on a property located on I-94. Sterling Township Board has recommended approval of the construction of the store and fuel station. Burleigh County had received multiple calls from contractors regarding the permitting and inspection requirements for the site.

Beginning in September, Building, Planning and Zoning staff has had conversations with Sterling Township regarding development standards required by the State of North Dakota and Burleigh County. After several discussions with Lucas Lang, Supervisor Chair for Sterling Township, Burleigh County received a request from Sterling Township to conduct all permitting, inspections and recordkeeping for the site.

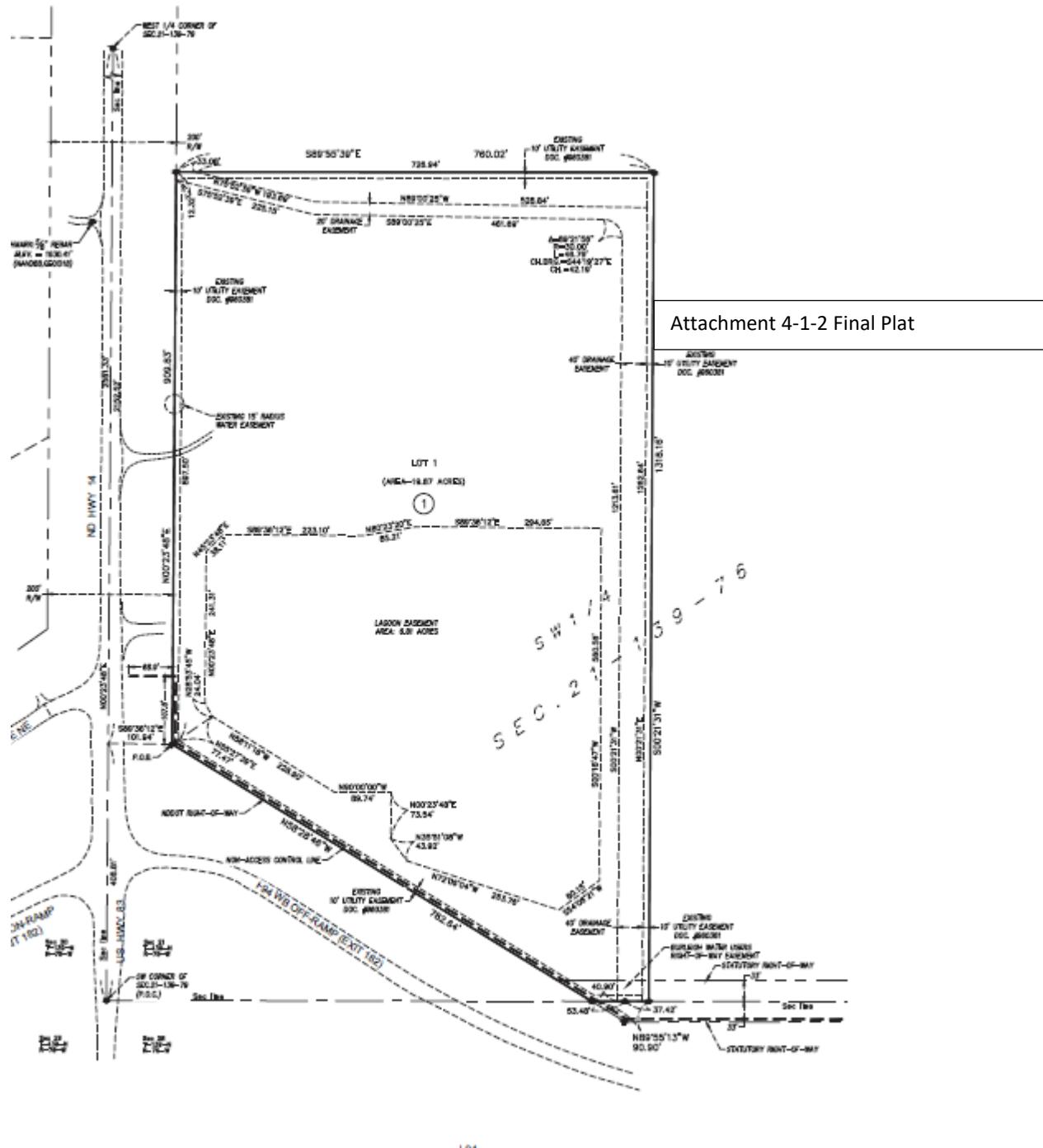
Staff reviewed the proposed development plans for an 8,125 sq./ft. convenience store with attached 2,789 sf restaurant, 5 MPDS and associated parking, truck scale, landscaping and utilities. Burleigh County Staff requested to the owner's representatives that the property be platted. The property consists of 19 acres more or less. A preliminary plat review meeting was held on October 17th. The plat was approved for a public hearing by the Burleigh Planning and Zoning Commission on November 13. The Stormwater Management Plan has been approved.

The zoning change from A-Agricultural to C-Commercial was a condition of the final plat. Petitioners were requested to submit a zoning change prior to the plat approval by the Board of Burleigh County Commissioners. Sterling Township has zoning jurisdiction. Sterling Township has asked Burleigh County to conduct the zoning change for them. The zoning change was recommended for a public hearing at the December 11, 2024 meeting of the Burleigh County Planning and Zoning Commission.



PLANNING AND ZONING
COMMISSION

January 8, 2025

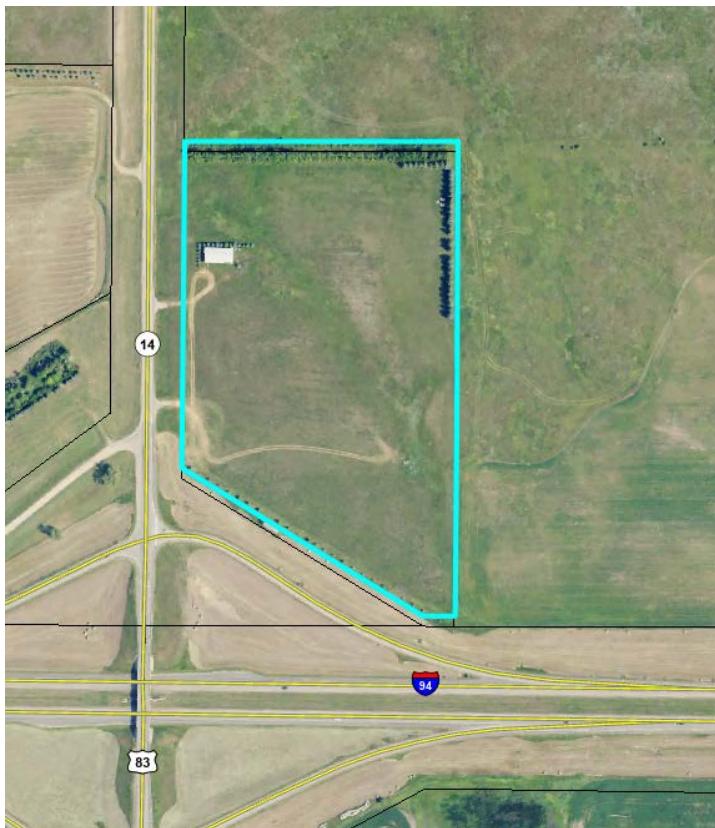


104



PLANNING AND ZONING
COMMISSION

January 8, 2025



Attachment 4-1-3 Site Map

Staff Findings – Final & Zoning Change

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A Stormwater Management Plan has been approved
3. The final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
4. A zoning change from A-Agricultural to C-Commercial has been requested.
5. The zoning change fulfills the requirements of Article 16 of the Burleigh County Zoning Ordinance.
6. This subdivision meets the requirements of the Burleigh County Comprehensive Plan
Article 2 – Government “Increase the effectiveness of government decisions in order to improve the County’s physical, social and economic environment”



PLANNING AND ZONING
COMMISSION

January 8, 2025

- Objective 2 – Promote cooperation among township, city, county and state meetings.
- Objective 3 Emphasize sound planning process as a means of managing future county growth in the most rational efficient manner possible

Article 6 - Business and Industry "Maintain a balanced and sustained growth of commercial industrial and manufacturing development in the County"

- Objective 1 - Enhance and diversify Burleigh County's economy
- Objective 2 - Promote the quality growth of commercial uses

Staff Findings

The petition for a "Do Pass" recommendation for the RRH Subdivision and the zoning change from A-Agricultural to C-Commercial meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the final plat and zoning change.

Planning Commission Action

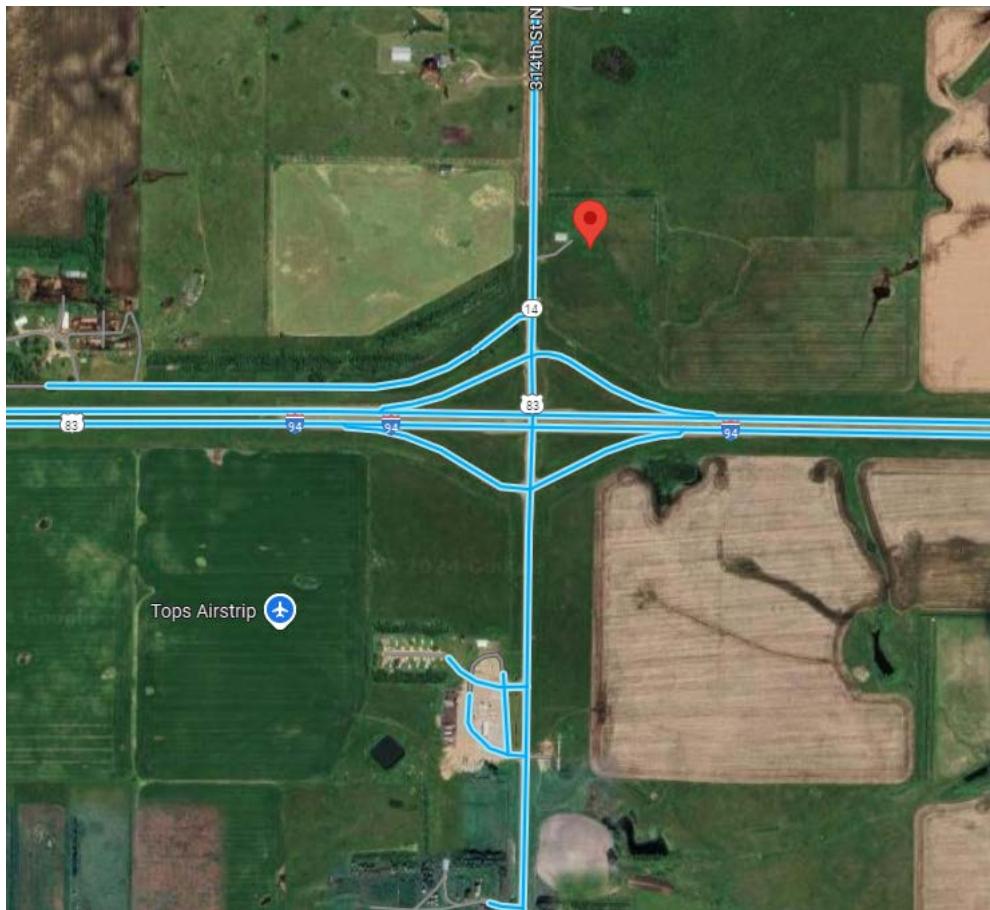
The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and/or zoning change giving a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
2. Approve the final plat and/or zoning change with conditions and give a "Do Pass" recommendation after all conditions have been completed.
3. Deny the final plat and/or zoning change with reason.
4. Table the final plat and/or zoning change for more information.

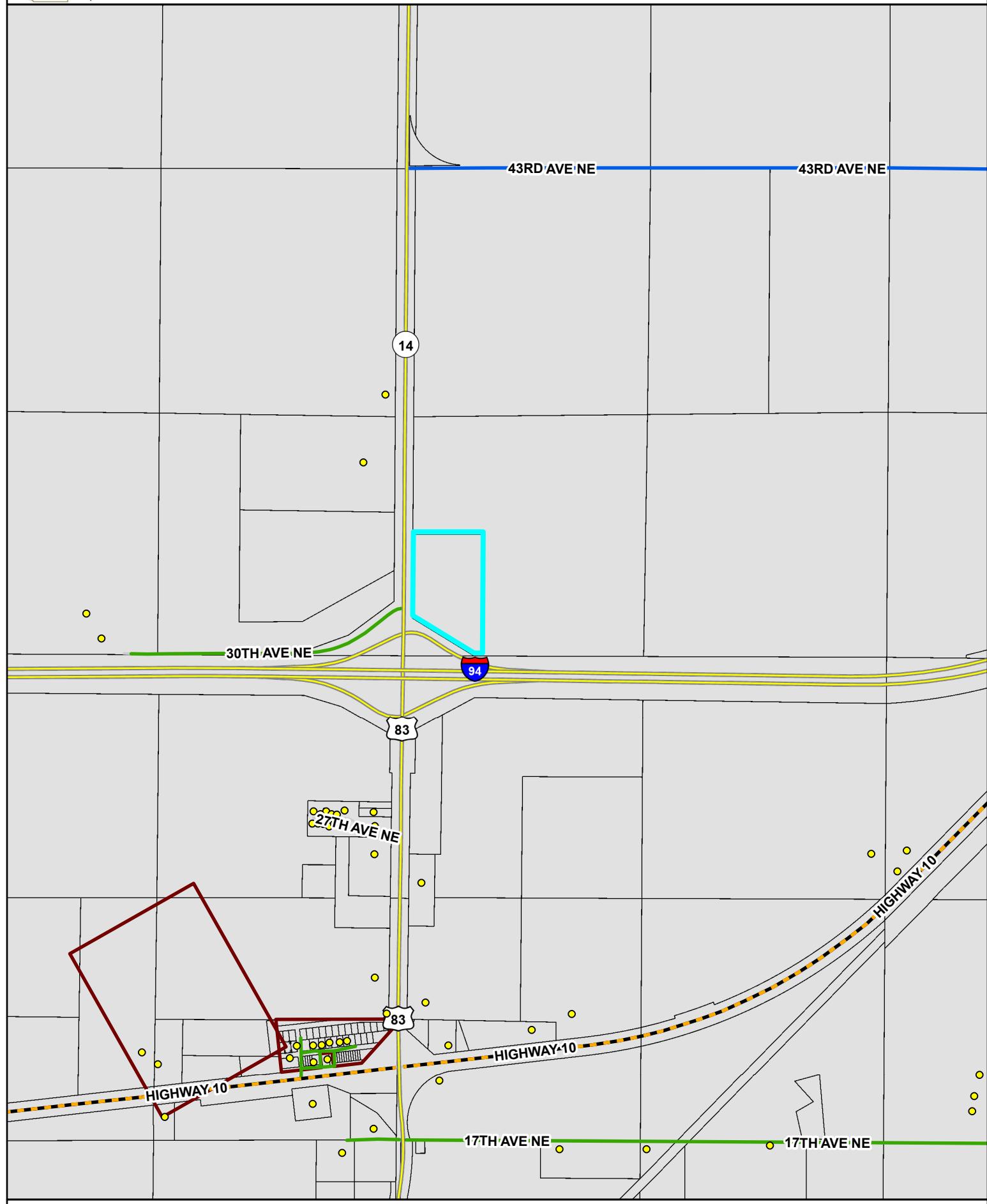


PLANNING AND ZONING
COMMISSION

January 8, 2025



Google Satellite View



**PLAT OF
RRH SUBDIVISION
A PART OF THE SOUTHWEST 1/4 OF
SECTION 21, TOWNSHIP 139 NORTH, RANGE 76 WEST, BURLEIGH COUNTY, NORTH DAKOTA**

PERIMETER METES & BOUNDS DESCRIPTION

Part of the Southwest Quarter of Section 21, Township 139 North, Range 76 West, of the 5th Principal Meridian, Burleigh County, North Dakota, described as follows:

Commencing at the southwest corner of said section 21, thence N 0 deg. 23 min. 48 sec. E along the west line of section 21 a distance of 408.81 feet; thence S 89 deg. 36 min. 12 sec. E a distance of 101.94 feet to the point of beginning; thence N 0 deg. 23 min. 48 sec. E a distance of 909.83 feet; thence S 89 deg. 55 min. 39 sec. E a distance of 760.02 feet; thence S 0 deg. 21 min. 31 sec. W a distance of 1318.16 feet to the south line of said section 21; thence N 89 deg. 55 min. 13 sec. W along the south line of said section 21 a distance of 90.90 feet to the northerly NDDOT right of way line along Interstate highway no. I-94; thence N 58 deg. 28 min. 46 sec. W along said NDDOT right of way line a distance of 782.64 feet to the point of beginning.

Said tract contains 19.87 acres, more or less.

DRAINAGE EASEMENT DESCRIPTION

Beginning at the northwest corner of Lot 1, Block 1 of RRH Subdivision, thence S 0 deg. 23 min. 48 sec. W along the west line of said Lot 1 a distance of 12.32 feet; thence S 75 deg. 52 min. 39 sec. E a distance of 225.15 feet; thence S 89 deg. 00 min. 25 sec. E a distance of 461.69 feet to the beginning of a tangent curve, concave to the right (southwesterly), having a radius of 30.00 feet; thence easterly along said curve 46.79 feet through a central angle of 89 deg. 21 min. 56 sec. to the end of the curve; thence S 89 deg. 21 min. 31 sec. W a distance of 1213.61 feet to the south line of said Lot 1; thence S 89 deg. 55 min. 13 sec. E along the south line of said Lot 1 a distance of 40.00 feet; thence N 0 deg. 21 min. 34 sec. E a distance of 128.84 feet; thence N 89 deg. 00 min. 25 sec. W a distance of 528.84 feet; thence N 75 deg. 52 min. 39 sec. W a distance of 193.69 feet to the north line of said Lot 1; thence N 89 deg. 35 min. 39 sec. W along the north line of said Lot 1 a distance of 33.08 feet to the point of beginning.

Said easement contains 1.49 acres, more or less.

LAGOON EASEMENT DESCRIPTION

Beginning at the southwest corner of Lot 1, Block 1 of RRH Subdivision, thence N 55 deg. 27 min. 38 sec. E a distance of 77.47 feet to the point of beginning; thence N 28 deg. 53 min. 27 sec. W a distance of 24.04 feet; thence N 0 deg. 23 min. 48 sec. E a distance of 241.31 feet; thence N 45 deg. 23 min. 48 sec. E a distance of 38.11 feet; thence S 89 deg. 36 min. 12 sec. E a distance of 223.10 feet; thence N 80 deg. 23 min. 20 sec. E a distance of 85.21 feet; thence S 89 deg. 36 min. 12 sec. E a distance of 294.65 feet; thence S 0 deg. 18 min. 47 sec. W a distance of 560.56 feet; thence S 54 deg. 06 min. 21 sec. W a distance of 80.15 feet; thence N 72 deg. 06 min. 04 sec. W a distance of 253.76 feet; thence N 35 deg. 51 min. 08 sec. W a distance of 43.92 feet; thence N 00 deg. 23 min. 48 sec. E a distance of 73.54 feet; thence N 90 deg. 00 min. 00 sec. W a distance of 89.74 feet; thence N 58 deg. 11 min. 18 sec. W a distance of 228.90 feet to the point of beginning.

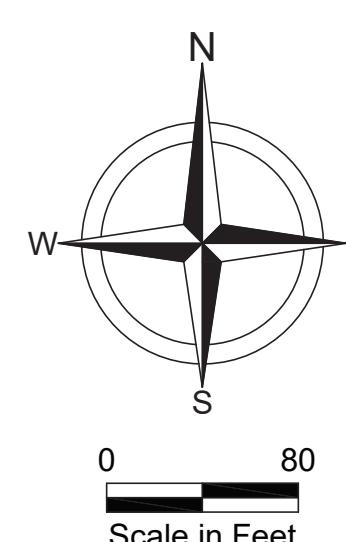
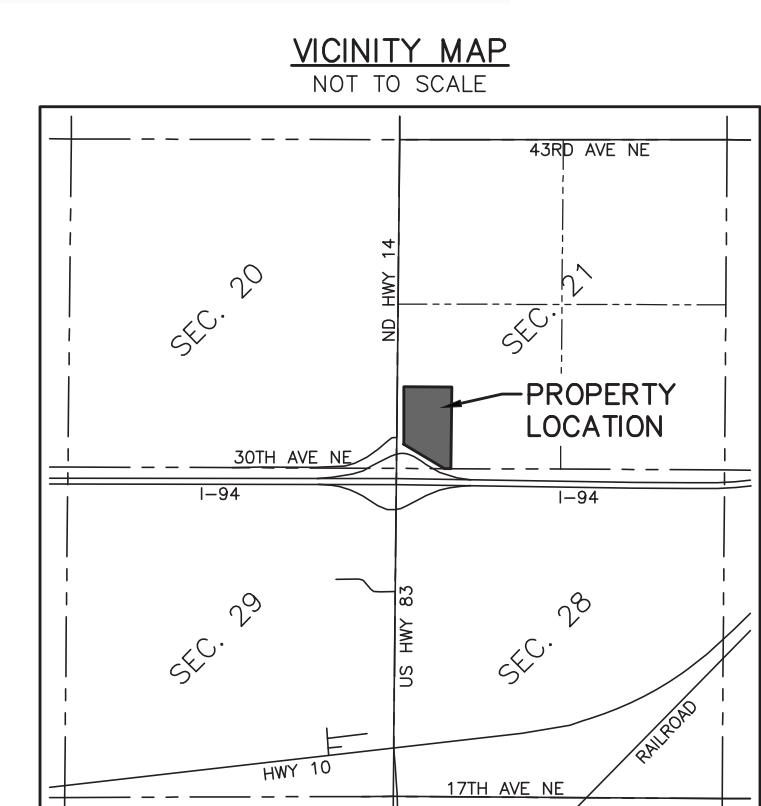
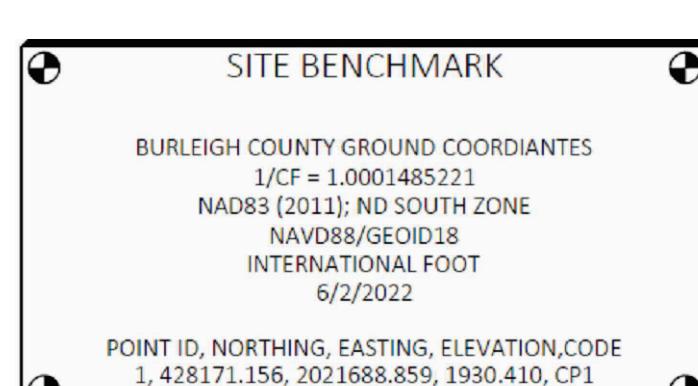
Said easement contains 6.81 acres, more or less.

AREA DATA:

Lot 1, Block 1 865,595 Sq. Ft. 19.87 Acres

RESTRICTED USE ON STORMWATER & DRAINAGE EASEMENT

1. Stormwater & Drainage Easements are constructed to collect, store, convey, and/or treat stormwater runoff. They are constructed to prevent or limit flood damage and environmental impacts to properties and the outside of the easement. They are not intended to be permanent vegetated areas.
2. Property owners shall not place any type of fill material or make any alterations to the permanent vegetated cover on the Stormwater & Drainage Easement (no open fill soil is allowed). They shall not plant any trees or shrubs within the easement with the intent to screen or provide a snow shelter belt. Individual trees and shrubs may be planted within the easement with the prior approval of the County Engineer. Property owners shall not construct any type of structure (including fences, garages, outbuildings, sheds, driveways, parking pads, landscaping, gardens, and septic fields) or other features that interfere with the intended use of the Stormwater & Drainage Easement.



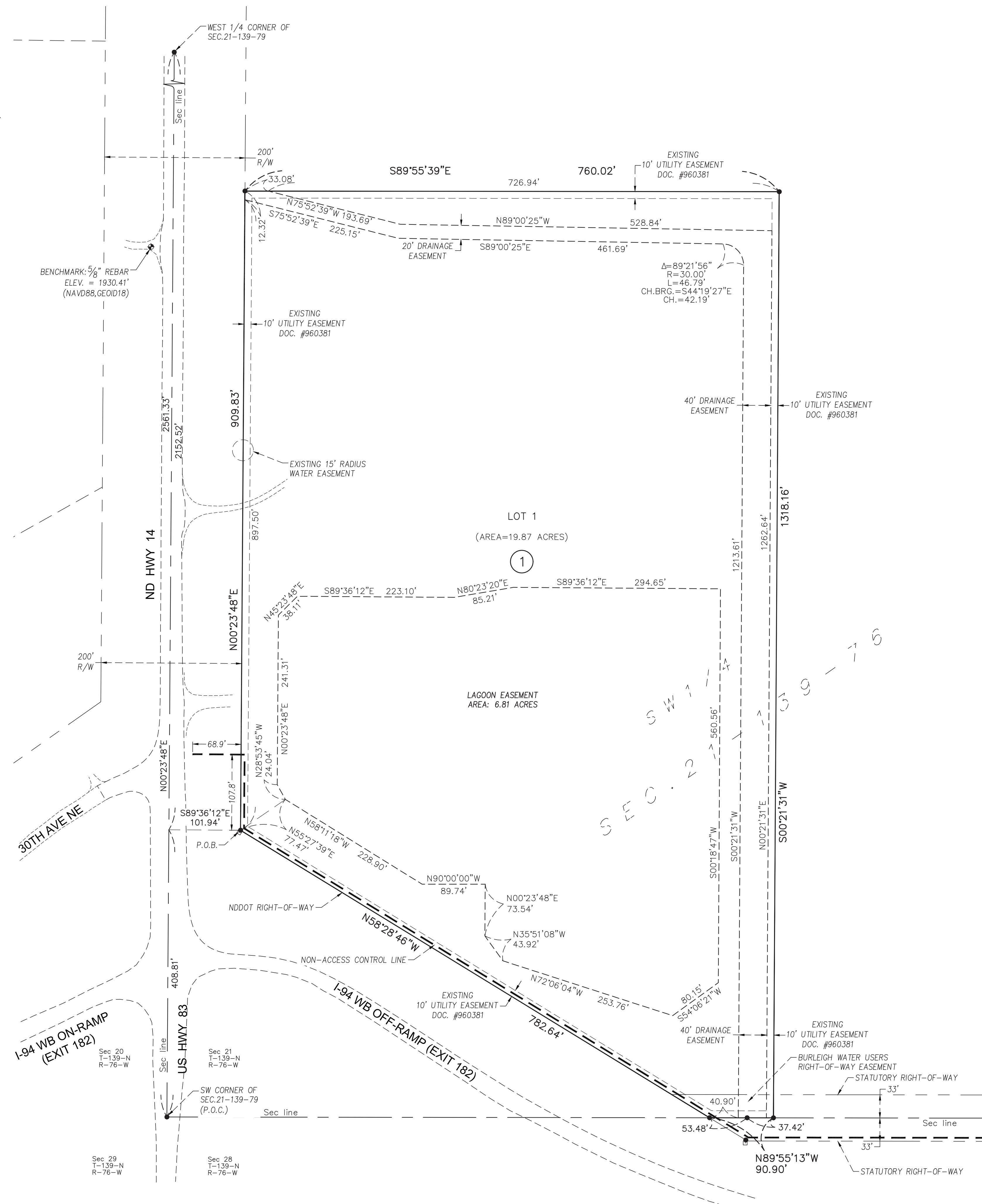
LEGEND

- IRON MONUMENT FOUND
- SET 5/8"X18" REBAR WITH ALUMINUM CAP LS-10871
- RIGHT OF WAY POST
- NON-ACCESS LINE
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING

**HORIZONTAL DATUM: BURLEIGH COUNTY GROUND COORDINATES
ND COORDINATE SYSTEM OF 1983, NADB3(2011)
ND SOUTH ZONE, INTERNATIONAL FOOT DEFINITION
COMBINATION FACTOR: 0.9998515**



PROPERTY OWNER:
ROSEROCK HOLDINGS LLC
PO BOX 5256
OAK BROOK, IL 60522-5256
PARCEL #:
35-139-76-00-21-610
PRELIMINARY PLAT DATE: 10-23-2024



I-94

OWNERS DEDICATION

We, the undersigned, being the sole owners of the land platted hereon, do hereby voluntarily consent to the execution of said plat and do dedicate easements to run with the land for gas, electric, telephone, water or other public utilities or services on or under those certain strips of land designated hereon as "Utility Easement". We further dedicate drainage and lagoon easements as shown hereon.

Signature _____

Name Timothy J. Doty, II
Roserock Holdings, LLC

State of _____
County of _____

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared _____, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same in the name of RRH Subdivision.

Notary Public, _____ County, _____

APPROVAL OF BOARD OF COUNTY COMMISSION

The Board of County Commissioners of the County of Burleigh, North Dakota, has approved the subdivision of land as shown on this plat, has accepted the dedication of all streets shown thereon, and does hereby vacate any previous platting within the boundary of this plat.

This plat was done in accordance with the laws of the State of North Dakota, the comprehensive plan and ordinances of the County of Burleigh.

The foregoing action on the Board of County Commission of Burleigh County, North Dakota, was taken by resolution approved on the _____ day of _____, 20____.

Brian Bitner, Chairman

Attest: Mark Spionskowski
County Auditor/Treasurer

APPROVAL OF THE COUNTY ENGINEER

I, Marcus J. Hall, P.E., County Engineer of the County of Burleigh, North Dakota, hereby approve this plat of RRH Subdivision, as shown on this plat.

Dated this _____ day of _____, 20____.

Marcus J. Hall, P.E., County Engineer

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

The County Planning and Zoning Commission of the County of Burleigh, North Dakota, hereby approves the RRH Subdivision, as shown on this plat.

This plat was done in accordance with the laws of the State of North Dakota, the comprehensive plan and ordinances of the County of Burleigh and regulation adopted by said Planning and Zoning Commission.

The foregoing action on the County Planning and Zoning Commission of Burleigh County, North Dakota, was taken by resolution approved on the _____ day of _____, 20____.

Dennis Agnew, Chairman

Attest: Mitch Flanagan, Secretary

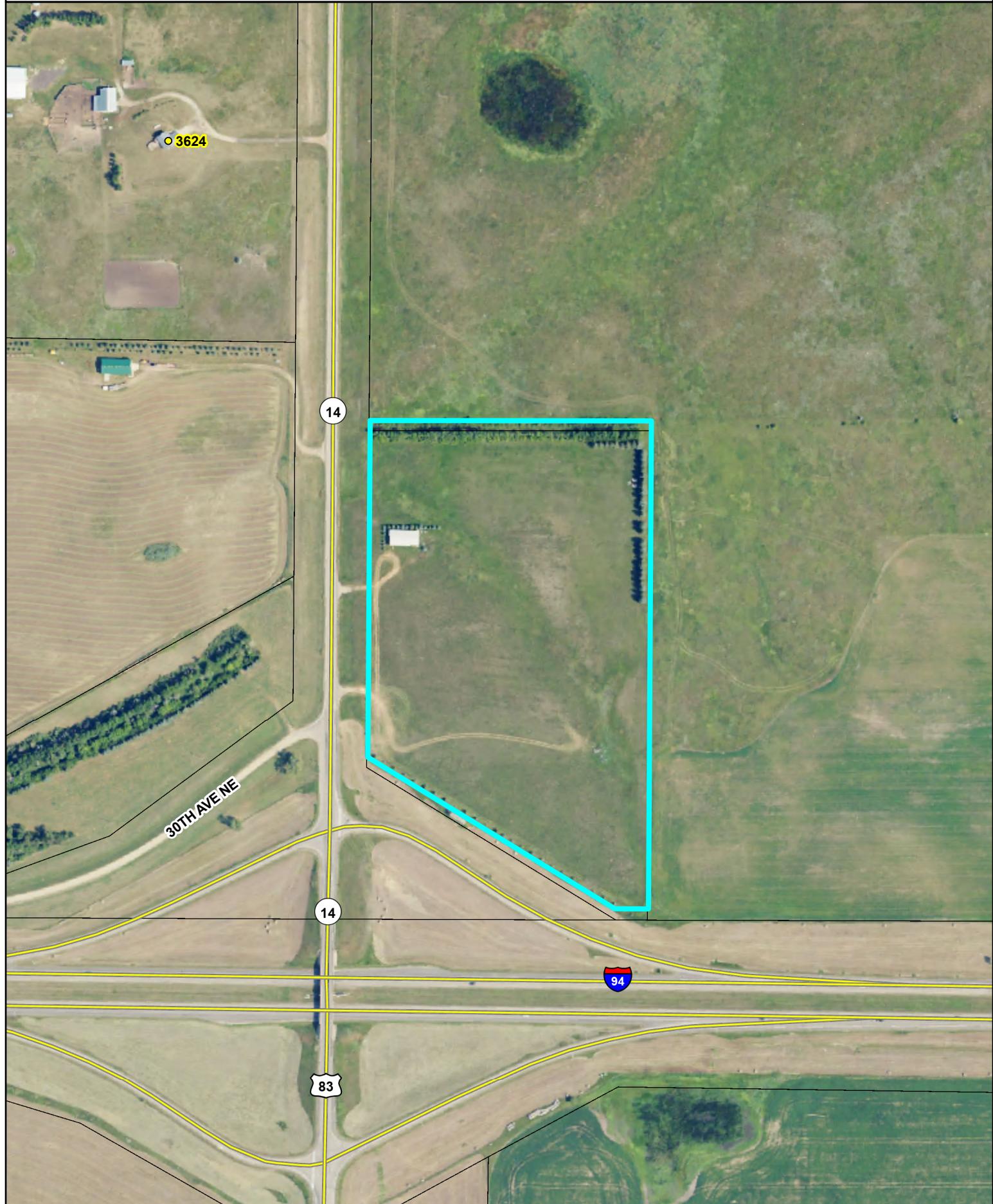
SURVEYOR'S CERTIFICATE

Thomas D. Weigel, being duly sworn, deposes and says that he is the Registered Professional Land Surveyor who prepared and made the attached plat of "RRH SUBDIVISION", a part of the Southeast Quarter of Section 21, Township 139 North, Range 76 West of the Fifth Principal Meridian, Burleigh County, North Dakota; that said plat is a true and correct representation of said survey; that all distances are correctly shown on said plat; that monuments have been placed in the ground as indicated for the guidance of future surveys; all dimensional and geodetic details are correct.

PRELIMINARY
Thomas D. Weigel
Professional Land Surveyor
Reg. No. LS-10871
State of North Dakota
county of Burleigh

On this _____ day of _____, 20____, before me, a notary public in and for said county and state, personally appeared Thomas D. Weigel, registered land surveyor, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public, Burleigh County, North Dakota





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Bismarck, ND



5:15pm

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AGENDA

February 12, 2025

1. Roll Call
2. Approval of the January 8, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*

There are no items on the consent agenda
4. Public Hearing Agenda
 - 4-1 Article 8 – Special Uses – Solar Farms
 - 4-2 Article 8 – Special Uses – Data Centers
 - 4-3 Article 8 – Special Uses – Accessory Dwelling Units
5. Other Business:
6. Adjourn

– Next Meeting – March 12, 2025



Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.

Re: Public Hearing to Amend Burleigh County Zoning Ordinances

Date: 1-29-2025

From: Mitch Flanagan, Burleigh County Planning Director.

ITEM 1

Amend Article 8 Solar Farms

It has become necessary to consider amending the current Article 8 to include Solar Farms i.e.: under a Special Use Permit. Sections dedicated to this application will allow for the development of onsite renewable energy systems such as an Accessory use in any District and Solar Farms within an Agricultural District.

Article 8 draft ordinance for Solar farms was presented to the Planning Commission on July 10th and September 11th with the first public hearing held on and November 13th of 2024. This is the final public hearing required for the amendment.

ACTION REQUESTED:

Consider motion to recommend approval of ordinance.

Attachments:

Ex. 1- Article 8 Section 29 Special Use Permit.
Ex. 2- Application and Standards for Solar Farms

ORDINANCE 25-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO SECTION 29 SOLAR FARMS

Section 1. Amendment Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

SECTION 29 Section _____ Solar Energy System Facilities

A solar energy system may be permitted in All Districts upon approval as a special use, provided the individual criteria and submittal requirements are met.

Burleigh County finds that it is in the public interest to encourage the use and development of renewable energy systems (including solar energy systems) that have a positive impact on energy conservation with limited adverse impact on nearby properties. **Burleigh County supports the use of solar collection systems and the development of solar energy farms.**

Consistent with the Burleigh County Comprehensive Plan, it is the intent of the County with this Section to create standards for the reasonable capture and use, by households, businesses and property owners, of their solar energy resource and encourage the development and use of solar energy.

I. DEFINITIONS

The following words, terms and phrases, when used in this Article and Section, shall have the meaning provided herein, except where the context clearly indicates otherwise:

1. **Agrivoltaics**- The dual use of land for combining agriculture with solar energy production, typically, with raised co-located solar arrays above agricultural activity.
2. **Building-Integrated Solar System**- An active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

3. **Community Solar Energy System**- A solar-electric (photovoltaic) array that provides retail electric power, in accordance with definitions of electric public utilities and rural electric cooperatives per North Dakota Century Code 49-03-01, between 100kW and 10 MW (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.
4. **Ground Mounted Panels**- Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.
5. **Lot** - The word "lot" when used alone shall mean, unless the context of the Article clearly indicates otherwise, a "zoning lot" as defined in Article 3- Definitions.
6. **Photovoltaic System**- An active solar energy system that converts solar energy directly into electricity.
7. **Roof or Building Mounted SES**- Solar Energy System (panels) that are mounted to the roof or building using brackets, stands or other apparatus.
8. **Roof Pitch**- The final exterior slope of a building roof calculated by the rise over the run, typically, but not exclusively, expressed in twelfths such as 3/12, 9/12, 12/12.
9. **Solar Access**- A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.
10. **Photovoltaic Panel System** A system that incorporates discrete photovoltaic panels that convert solar radiation into electricity, including rack support systems.
11. **Solar Collector**- A device, structure or a part of a device or structure that the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.
12. **Solar Energy**- Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

13. *Solar Energy System (SES)*- A system that converts solar radiation to usable energy, including photovoltaic panel systems and solar thermal systems.

An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means.

14. *Solar Farm*- A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the primary land use for the parcel on which it is located.

15. *Solar Thermal System*. A system that converts solar radiation to thermal energy for use in heating or cooling.

II. **APPLICABILITY**

These regulations are for all solar energy systems and solar energy farms on properties and structures under the jurisdiction of the Burleigh County Zoning Ordinance except that Burleigh County requires the owner or operator of solar farms that would generate electricity greater than 50 megawatts of power to have approval for such a system from the North Dakota Public Service Commission.

Types of Solar Energy Systems.

1. Rooftop solar energy systems:

Accessory to the primary land use, designed to supply energy for the primary use:

- a. These systems are permitted accessory uses in all districts in which buildings are permitted. The owner or contractor shall receive a electrical, building and or a mechanical permit before installing a rooftop solar energy system.

2. Ground-mount solar energy systems:

Accessory to the primary land use, designed to supply energy for the primary use.

- a. Ground-mount systems are permitted accessory uses in all districts in which buildings are permitted.
- b. Ground-mount systems require a Burleigh County building permit and are subject to the accessory use standards for the district in which it is located, including setback. The height of a ground-mounted shall not exceed 10 feet

and shall not cover or encompass more than 10 percent of the total property area or lot size.

3. Community solar energy systems:

Roof or ground-mount solar energy systems, may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, but not for export to the wholesale market or connection to the electric transmission grid.

These systems shall be subject to the following conditions:

- a. Rooftop community solar energy systems are permitted in AG districts in which buildings are permitted.
- b. Ground-mount community solar energy systems are an accessory use in all districts.
- c. All structures must meet the setback, height and coverage limitations for the district in which the system is located.
- d. Ground-mount systems must meet all required standards for structures in the district in which the system is located.
- e. Site Plan Required: The owner or operator shall submit to the County a detailed site plan for both existing and proposed conditions. These plans shall show north compass direction and the location of all areas where solar arrays would be placed, the existing and proposed structures, property lines, access points, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high-water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the County.
- f. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The Building Official or their designee may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.

4. Solar farms:

Ground-mount solar energy arrays that are the primary use on the lot or of a property, designed for providing energy to off-site uses or export to the wholesale

market. If a proposed solar farm generates electricity greater than 50 MW, it shall require siting review and approval by the North Dakota Public Service Commission.

- a. Solar farms are allowed under a special use permit in Agricultural (AG) zoning.
- b. Shall be on properties of at least 10 acres in size.
- c. Stormwater management and erosion and sediment control, if required, shall meet the design restrictions of the County.
- d. Foundations. If required, the manufacturer's engineer or a ND registered design professional shall certify that the foundation and design of the solar panels meet the accepted professional standards, given local soil and climate conditions.
- e. Other standards and codes. All solar farms shall meet all applicable local, state and federal regulatory standards, including the State of North Dakota Building Code and the National Electric Code.
- f. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The Building Official or their designee may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines as reviewed by the manufacturer's engineer or a ND registered design professional.
- g. Site Plan Required. The owner or operator of the solar farm must submit to the County a digital copy of site plan (pdf format, full size) at 1" = 20' or larger scale, if integral to request, for both existing and proposed conditions. These plans shall show the location of all areas where solar arrays would be placed, proposed location and distances from the existing and proposed structures, property lines, access points to the site, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high- water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the County, including:
 - h. Date the site plan was prepared,
 - i. North point indication,
 - j. Section, township and range numbers,

- k. Topographic contours with a minimum contour interval of ten (10) feet, with indication of datum used,
- l. A location map inset showing the township(s) in which the project is located and the boundary of the proposed project,
- m. Location of all existing public roads, dimensions and location of any utility easements and rights-of-way within five hundred (500) feet of proposed solar farm,
- n. The County allows the installation of small operations, security and equipment buildings on the site of solar farms as permitted accessory uses to the solar farm,
- o. The owner or operator shall contain all unenclosed electrical conductors located above ground within structures that control access or they must be protected from entry by a six-foot-tall fence,

5. Accessory Solar Energy Systems:

- a. Solar Access: an applicant may obtain solar easements from the adjoining property owners to preserve direct access to sunlight, as authorized by Section 47-05-01.2 of the North Dakota Century Code. A permit granted by Burleigh County to install a solar energy system does not guarantee solar access.
- b. Accessory Use: Solar energy systems are permitted as an accessory use, subject to all requirements of Article 8 **Section 30** and the building code requirements of Article 22 Section 1.
 - i. An accessory solar energy system must be located on the same lot or parcel of land as the primary use it is intended to serve.
 - ii. An accessory solar energy system is intended to produce energy primarily for on-site consumption but excess electrical power may be transferred to a power supply grid pursuant to utility company interconnection agreements.

6. Decommissioning Plan:

The County requires the owner or operator to submit a decommissioning plan for ground-mounted systems to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not

in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures that are above ground and foundations, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all County requirements and the requirements of the County Solid Waste Ordinance. The County also may require the owner or operator to post a bond, letter of credit or establish and escrow account to ensure property decommissioning.

7. Prohibitions:

The County prohibits community solar farms located within:

- a. All Floodplain Districts and Designated SFHA Areas.

8. Additional standards:

In addition to the requirements listed above, all solar energy systems shall meet the following standards.

- a. The owners or operators of electric solar energy systems that are connected to the electric distribution or transmission system, either directly or through the existing service of the primary use on the site, shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.
- b. Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
- c. All solar energy systems shall meet the current standards of the North Dakota State Electrical Board, North Dakota State Building Code, National Electric Safety Code and National Electric Code.
- d. Solar farms shall control all Noxious Weeds according to NDCC Chapter 4.1-47.
- e. All electrical lines serving a freestanding accessory solar energy system shall be buried.
- f. Installation of all rooftop solar systems shall meet the standards of the North Dakota Building Code.
- g. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties.

Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system or other remedies that limit glare.

- h. Roof-mounted solar systems shall not exceed the maximum allowed height in any zoning district.
- i. All exterior electrical and plumbing lines, batteries, and other appurtenant features serving a building-mounted accessory solar energy system shall be buried, screened or landscape buffered. This provision does not apply to a solar collector.
- j. The non-collecting side of a solar collector and other appurtenant features of any freestanding accessory solar energy system shall be screened from view of said public right-of-way with landscape buffer and/or fencing.
- k. Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.
- l. Setbacks. All equipment and structures shall meet the setback and coverage limitations for the zoning district in which the system is located. No freestanding accessory solar energy system may extend into or over a legally recorded easement

9. Fees:

The special use permit fee will be based on $.001 \times$ Total Project Cost. An application fee of \$1000 shall be payable at the time of application for a special use permit, with the remainder of the special use permit fee remitted by the applicant prior to commencement of construction. Or:

- a. \$300.00 whichever is greater.

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

Section 3. **Severability.** If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date. This ordinance shall take effect after final passage, adoption and publication as provided by law.

First Reading Passed: _____

Passed and adopted this _____ day of _____, 2024

Brian Bitner, Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of _____ day of _____, 2024

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2024

Mark Splonskowski, Burleigh County Auditor/Treasurer

SOLAR

Information necessary to thoroughly evaluate the impacts of the project

Detailed site plan	Sec. II.4.g. - o.
Haul road plan (approved by County Engineer)	N/A
Traffic Impact Study	N/A
Emergency response plan (approved by County EM)	Developed by Owner
Manufacturer equipment specifications	Sec. II.8. b.c.
Noise Impact Study	N/A
Evidence of land control (lease agreements, sensitive info redacted)	N/A
Evidence of electric utility approval/signed power purchase agreement	Sec. II.8.a.
Impact of water and electricity needs	Sec. I.1.b

Siting & Performance Standards in Zoning Code

Allowable zones. Approval process.	Sec. 1 & II
Minimum setbacks from occupied residences, public assembly areas.	Sec. I & II
Road Use Agreement	N/A
Decommissioning plan, reclamation bonds: a) bond value = engineer's estimate x 2	Sec. II.6
Timeframe for substantial performance to begin	N/A
Shielded lighting/Glare	Sec. II.8.g.
Control of Noxious Weeds	Sec. II.8.d.
Vegetative screening/ Landscape buffers	Sec. I.3.e.

Tax Impacts

Equipment is personal property, not real property. Buildings are taxed, equipment is not.

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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.

Re: Public Hearing to Amend Burleigh County Zoning Ordinances

Date: 1-29-2025

From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Amend Article 8 Data Centers

It has become necessary to consider amending the current Article 8 to allow by Special Use Permit, Data Centers within I-Districts under a special use permit. A Data Center is a facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers, applications, appliances, services, and other associated components or facilities used for digital asset mining and the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances and other associated components or facilities.

Article 8 draft ordinance for Data Centers was presented to the Planning Commission on July 10th and September 11th. The first public hearing was held on November 13th of 2024. This is the final public hearing required for the amendment.

ACTION REQUESTED:

Consider motion to recommend approval of Article 8 Data Center Ordinance.

Attachments:

- Ex. 1- Article 8 Data Center Special Use Permit.
- Ex. 2- Application and Standards for Data Centers
- Ex. 3- Purpose of SUP for Data Centers

ORDINANCE 25-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO SECTION 30 DATA CENTERS

Section 1. Amendment Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

SECTION **_____** Data Center AI Conversion Facilities

This section is adopted to allow data centers/AI conversion facilities within Burleigh County and to minimize the potential off-site impacts of development and reduce long-term exposure that may impact the public safety, health and the general welfare of Burleigh County residents.

DEFINITIONS

The following words, terms and phrases, when used in this Article and Section, shall have the meaning provided herein, except where the context clearly indicates otherwise:

1. **Blockchain**- a digital record of all the transactions involving cryptocurrency. Copies of the blockchain are stored and maintained by computers around the world.
2. **Cryptocurrency**- a type of decentralized digital currency that investors can buy and sell along the blockchain. Unlike banknotes or minted coins that have a tangible physical form, cryptocurrencies can only be accessed using computers and other electronic devices.
3. **Data Center**- a commercial /industrial building, structure, complex or group of buildings and/or structures, facility, or dedicated space within a building, structure, complex, or facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances, services, and other associated components or facilities. Facilities may also include air handlers, water cooling and storage, utility substations to support operations.
4. **Data Center/ AI Conversion Facility**- a data center that is converted and used to support artificial intelligence
5. **Digital asset Mining**- means using computer hardware and software specifically designed or used for the purpose of validating data and securing a blockchain network.
6. **Digital Asset Mining- Business**- means an individual or company operating a digital asset mining facility that cumulatively draws more than one megawatt of power in the County.

I. APPLICABILITY

These regulations are for Data Center Facilities on properties and structures under the jurisdiction of the Burleigh County Zoning Ordinance. The installation or construction of a data center, or any modification to a lawfully existing data center beyond routine maintenance, requires a Special Use Permit and also requires a Burleigh County Building Permit obtained from the Burleigh County Building, Planning and Zoning Department.

Data centers may only be permitted in an Industrial (I) District with a Special Use Permit.

- a. A landscape buffer of 50' shall be required as measured from the interior of all property lines.

1. Application Requirements

The application for the installation or construction of a data center, or for modifications to a lawfully existing data center beyond routine maintenance, shall follow the application procedures for Special Use Permits Article 8 and any other procedures as may be required by this Ordinance for data centers, such as zoning map amendments, platting, or variances. In addition, applications shall include the following:

- a. Applicant name(s) and contact information. The applicant must also identify on the application, the owner/owners of record for the property, the occupant or lessee of the property, and the operator of the data center.
- b. A description of the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
- c. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.
- d. A site plan: a digital copy of site plan (pdf format, full size) at 1" = 20' or larger scale, if integral to request, for both existing and proposed conditions, ~~drawn to scale~~, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access, including:
 - i. Date the site plan was prepared,
 - ii. North point indication,
 - iii. Section, township and range numbers,
 - iv. A location map inset showing the township(s) in which the project is located and the boundary of the proposed project,
 - v. Location of all existing public roads, dimensions and location of any utility easements and rights-of-way within five hundred (500) feet of proposed Data Center.
- e. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks located within one (1) mile of the exterior boundaries of the property where the data center will be located.

- f. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a building permit obtained from Burleigh County Building Department.

- g. Data centers may only be permitted in an I- Industrial District with a Special Use Permit.

Fees:

~~All application fees, including the required fees for a Special Use Permit and building permits, in the amounts determined by the Board of County Commissioners.~~

- h. Fees:

The special use permit fee will be based on .001 x Total Project Cost. An application fee of \$1,000 shall be payable at the time of application for a special use permit, with the remainder of the special use permit fee remitted by the applicant prior to issuance of building permits and commencement of construction. Or:

- i. \$300.00 whichever is greater.

- i. Copies of signed permits or other documentation that indicates compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the North Dakota State Electrical Board.

- j. Copy of the signed electrical power purchase agreement.

- k. Financial security for the following:

- i. Financial security for maintenance of the data center, as fully constructed and operational or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for maintenance of the lawfully existing data center as modified. The financial security shall be in the amount of 125% of the estimated cost to maintain the data center, as fully constructed and operational, or as modified, as determined by the applicant's ND State registered engineer, with such estimated costs subject to review and approval by the Burleigh County Building Department and

- ii. Financial security for reclamation and restoration of any data center and the property on which the data center is located or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for reclamation and restoration of the property on which the data center as modified is located. Reclamation and restoration shall include, but is not limited to, the removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and the removal and disposal of all other facilities, structures, equipment, and materials on or under the property. The financial security shall be in the amount of 125% of the estimated cost to reclaim and restore property on which the data center, or the data center as modified, is located as

determined by the applicant's ND State registered engineer, with such estimated costs subject to review and approval of the Burleigh County Building Department. Any financial security provided by the applicant which is required by this Chapter shall be subject to review and approval by the County and be in the form of one or more of the following:

- iii. An irrevocable letter of credit issued by an FDIC insured financial institution authorized to do business in the State of North Dakota to be effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County;
- iv. A surety bond which is effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County; and/or;
- i. Cash in escrow to be held in trust by Burleigh County effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and continuing to the date when full reclamation and restoration is complete as approved by the County. The financial security required above shall be provided to Burleigh County prior to commencement of any work to install and/or construct the data center, or to modify a lawfully existing data center beyond routine maintenance, but no later than the date determined by the Board of County Commissioners in approving the data center or in approving the modifications to a lawfully existing data center beyond routine maintenance.
- I. Other relevant studies, reports, certifications, or approvals as may be required by the County to ensure compliance with this Chapter and this Ordinance.

II. Prohibitions:

The County prohibits data center facilities located within:

- a. All Floodplain Districts and Designated SFHA Areas.

III. Design Standards

1. Data centers shall be set back at least **one half (1/2) mile** to all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of these sensitive properties to the data center's exterior property lines.
2. Height. All buildings, structures, and appurtenances on the property where the data center will be located shall meet the height requirements of the Industrial I District in this Ordinance.

3. Electrical wiring. All electrical wiring shall be buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the North Dakota State Electrical Board, and any of its rules and regulations.
4. Written verification is submitted from the utility provider that sufficient capacity will be available to meet anticipated needs for electrical power.
5. Security fencing. A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility. Any fencing shall comply with the Development Standards in this Ordinance.
6. Buffering and screening. Landscaped buffers shall be required around the entire perimeter of the property where the data center is located in accordance with the requirements of this Ordinance.
7. **Noises. Sound:** A maximum auditory decibel level of 75 dB of the following shall be met and maintained during all hours of operation, as measured from the property line of the subject parcel:

<u>Zoning District</u>	Day	Night
Agricultural	55	45
Residential: R1, R2, R3	55	45
Commercial: C	60	50
Industrial: I	65	60

The applicant shall provide written verification and documents prepared by a registered design professional ~~may be~~ in the form of a noise study as certified by a licensed acoustical engineer, including manufacturer specifications, anticipated noise level of the facility will not exceed the maximum auditory decibel level as stated in Section 7 and any data from comparable facilities or combination thereof.

8. All outdoor light fixtures shall be installed in a manner intended to limit the amount of off-site impacts. Light fixtures located near adjacent properties may require special shielding devices to prevent light trespass.
9. Accessory structures and appurtenances. All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is complementary with the primary building(s) and shall be finished in a non-obtrusive color.
10. Roads. All adjacent exterior access roads serving a data center shall conform to the Development Standards in this Ordinance and Article 33. Exterior road construction or improvements shall be subject to approval by the Burleigh County Highway Engineer or their designee. A road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation or construction of the data center, or during modification of a lawfully existing data

center beyond routine maintenance. All interior roads serving the data center shall be subject to review by the Burleigh County Fire Department to ensure safe and adequate access for emergency response vehicles.

11. Storm Drainage, Erosion Control, Grading, Drainage and Stormwater Management Permit for the data center shall comply with the requirements in Article 33 of this Ordinance.
12. Additional conditions or specific allowances to this ordinance may be considered in the review and approval of the Special Use Permit.
13. Development Agreement. The owner of record of the property, or the owner's representative of the data center and of the property on which the data center will be located, as determined appropriate by Burleigh County, must sign a development agreement which shall include provisions related to, but are not limited to, the posting and use of financial security, exterior and interior road construction or improvement, road maintenance, improvements related to storm drainage, **stormwater management plan**, erosion control, grading, and drainage, reclamation and restoration, and/or any other condition imposed by this Chapter, this Ordinance, or the Board of County Commissioners in approving installation of construction of the data center or modifications to a lawfully existing data center beyond routine maintenance.

IV. Decommissioning Plan:

1. It is the responsibility of the original applicant, or if different, the owner of record of the property, the occupant or lessee of the property, and the operator of the data center to notify Burleigh County in writing, at least six (6) months in advance, of the intent to abandon or cease operations of the data center. Any data center that is not operated for a continuous period of six (6) months shall automatically be considered abandoned, and Burleigh County may require the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and the operator of the data center to reclaim and restore the property within ninety (90) days after written notice to reclaim and restore the property from Burleigh County. Any such reclamation and restoration shall include, but is not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property. If the property is not fully reclaimed and restored as required by this Article within ninety (90) days after written notice from Burleigh County, the County may reclaim and restore the property, or cause the property to be reclaimed and restored, including, but not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property and recover costs directly from the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and/or the operator of the data center. Burleigh County may also, in its discretion, recover such costs, by access to and use of the financial security provided and on file for the data

center, or by lien or special assessment, or any other remedy, authorized by law or the Development Agreement entered into under this Article. Nothing in this Article is intended to impose a mandatory obligation on Burleigh County to reclaim and restore the property.

2. After a decommissioning process has been completed, the I District Industrial Zoning of the property shall automatically be transferred back to the original zoning, prior to the issuance of the special use permit.

V. Amend Article 18, I-Industrial Zoning District, the following regulations shall apply:

1. Special Uses Permitted. The following Special Uses are allowed as per Article 8 Section 30 hereof:
 - a. Data Center Facilities
 - b. Any change of use within an existing permitted Data Center, i.e.: AI Conversion Center, shall require a new special use permit review and approval.

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

Section 3. **Severability.** If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. **Effective Date.** This ordinance shall take effect after final passage, adoption and publication as provided by law.

First Reading Passed: _____

Passed and adopted this _____ day of _____, 2025

Brian Bitner, Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of _____ day of _____, 2025

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2025

Mark Splonskowski, Burleigh County Auditor/Treasurer

DRAFT

DATA CENTERS

Information necessary to thoroughly evaluate the impacts of the project

Detailed site plan	Sec. I.1.d
Haul road plan (approved by County Engineer)	Sec. III. 10
Traffic impact study	TBD
Emergency response plan (approved by County EM)	By Owner
Noise/Sound impact study	Sec. III. 7
Evidence of land control (lease agreements, sensitive info redacted)	Sec. 1.1.a
Evidence of electric utility approval/signed power purchase agreement	Sec. I.1. j
Impact of water and electricity needs	Sec. I.1.b

Siting & Performance Standards in Zoning Code

Allowable zones. Approval process.	Sec. I- & I. 1.g
Minimum setbacks from occupied residences, public assembly areas.	Sec. III. 1
Road use agreement	Sec. III. 10
Decommissioning plan, reclamation bonds: a) bond value = engineer's estimate x 2	Sec. IV.1
Timeframe for substantial performance to begin	Art. 8 Sec. 1.13
Shielded lighting	Sec. III. 8
Vegetative screening/landscape buffers	Sec. I.1. a.

Permitting

- All data processing and storage is contained within a building constructed in compliance with the International Building Code and International Fire Code.
- Written verification is submitted from the utility provider that sufficient capacity will be available to meet anticipated needs for electrical power.
- Facilities are equipped with environmental controls to maintain the proper conditions for the operation of electronic equipment.
- Applicant must provide "any additional materials" determined to be relevant to the application
- The applicant verifies at the time of application that all req' of the Burleigh County Code of Ordinances will be met during operations, as measured from the property line of the subject parcel. Verification may be in the form of a noise study, manufacturer specifications, data from comparable facilities, or any combination thereof.

DATA CENTERS

Tax Impacts

Equipment is personal property, not real property. Buildings are taxed, equipment is not.

SUP MINIMUM REQUIREMENTS

1. The SUP will not adversely affect the public health, safety and general welfare
2. The SUP complies with all applicable provisions of the zoning and is consistent with the general intent and purpose;
3. The SUP is compatible with adjacent land uses and zoning;
4. Adequate public facilities and services are in place or would be provided at the time of development;
5. A SUP will 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;
7. The SUP is consistent with Burleigh County Comprehensive Plan.

COMP PLAN APPLICABLE SECTIONS:

a. II. Government

Objective: # 5.4 Ensure that all developments are established with the safety of current and future users in mind.

b. VI. Business and Industry

Objective: #3 Promote the quality growth of manufacturing and industrial uses.

- i. Policy: #1: Encourage industry to locate in planned manufacturing and industrial parks.
- #2: Manufacturing and industrial uses should be located conveniently to transportation facilities.
- #3: Buffers shall be provided between manufacturing and industrial development and adjacent land uses.
- #4: Ensure that sufficient off-street parking and loading space is provided.
- #5: Encourage the screening of outside storage of material and equipment.

THE PLAN SHOULD BE USED AS A GUIDE WHEN DEVELOPING AND IMPLEMENTING THE COUNTY ZONING ORDINANCES

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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.
Re: Amend Burleigh County Zoning Ordinances
Date: 1-29-2025
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Amend Article 8 Accessory Dwelling Units

It has become necessary to consider amending the current Article 8 in Burleigh County Zoning Ordinances to allow Accessory Dwellings. These type units are a separate and complete dwelling unit established in conjunction with and ancillary to, the principal single-family dwelling, whether within the same structure as the principal dwelling or within a detached accessory structure on the same lot or parcel. An accessory dwelling unit contains one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

Article 8 ADU draft ordinance was presented to the Planning Commission on July 10th and September 11th. The first public hearing was held on November 13th of 2024. This is the final public hearing required for the amendment.

ACTION REQUESTED:

Consider motion to recommendations to amend Article 8 to allow Accessory Units.

Attachments:

- Ex. 1- Article 8 Special Use Permit ADU draft ordinance.
- Ex. 2- Types of ADU's
- Ex. 3- Non-Conversion Agreement

ORDINANCE 24-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 OF THE 1972
AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH
DAKOTA RELATING TO ~~SECTION 31~~ SECTION _____ ACCESSORY
DWELLING UNITS

Section 1. **Amendment** Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

Section 31 _____ Accessory Dwelling Units

To provide for a broader range of housing options, efficient use of existing infrastructure and housing stock, and preserve the character of existing single-family neighborhoods. accessory dwelling unit to a single-family dwelling is permitted as a special use within any R1 – Rural Residential, and A – Agricultural zoning district subject to all requirements of the Burleigh County Ordinances, unless otherwise stated within this section.

Definitions The following definitions represent the meanings of terms as they are used in these regulations:

Accessory Dwelling Unit: A separate and complete dwelling unit established in conjunction with and ancillary to, the principal single-family dwelling unit, whether within the same structure as the principal unit or within a detached accessory structure on the same lot or parcel of record. An accessory dwelling unit contains one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

Accessory Use: A use or structure that is clearly incidental to and customarily found in connection with a principal structure or use; is ancillary in purpose to the principal building or uses; contributes to the comfort, convenience or necessity of occupants of the principal use; and is located on the same lot as the principal structure.

Building-Accessory: A permanent, or semi-permanent, ancillary building or structure, the use of which is customarily incidental to that of a principal building on the same lot, including, without limitation, garages, storage sheds, playhouses, kennels, statuary, trellises, barbecue stoves, residential greenhouses, tent-like structures, or similar structures, storm or civil defense shelter, radio towers, satellite receiving or transmitting stations or antennas, and other structures, towers, antenna, ornaments or devices

Special Uses. In order to carry out the purposes of this section, the Board of Burleigh County Commissioners find it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the Burleigh County Planning and Zoning Commission prior to the granting of a building permit or certificate of occupancy and that the Burleigh County Planning and Zoning Commission and the Zoning Administrator (where allowed) are hereby given limited discretionary powers relating to the granting of such a permit or certificate.

1. **Applicability:**

An accessory dwelling unit to a single-family dwelling is permitted as a special use within any R1 Rural Residential and A – Agricultural zoning district subject to all requirements of the Burleigh County Zoning Ordinances,

2. **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. The height of any accessory structure containing an accessory dwelling unit may be up to twenty-five (25) feet.
- 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.

3. **Size requirements.**

- a. No accessory dwelling unit may include more than one (1) bedroom.
- b. 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 900 square feet or less than 300 square feet.

- c. Units within Accessory Structure: The floor area of an accessory dwelling unit may not be greater than 900 square feet or less than 300 square feet on any lot or parcel five (5) acres in area or less.
- d. The sq./ft. floor area of an accessory dwelling unit may be up to 1,500 square feet on any lot or parcel that is greater than five (5) acres in area:
 - i. May be determined by the lot size.
- e. 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.
- f. To protect the privacy of neighbors, rooftop decks and balconies are not allowed within 25 feet of a neighboring property line.
- g. 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 septic system, the applicant must show that sufficient sewage treatment capacity will be available to meet anticipated needs.
- h. An accessory dwelling unit must comply with all residential building code requirements as defined by Article 22 and Article 23 of the Burleigh County Zoning Ordinance.
- i. An accessory dwelling unit may be occupied by no more than one family, as defined by Article 3 of the Burleigh County Zoning Ordinance.

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.

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 be served by an on-site septic system, documentation to provide compliance with Article 24 is required.
- d. Prior to the issuance of a building permit and special use permit for the accessory dwelling, the property owner must submit a signed non-conversion agreement to Burleigh County. The non-conversion agreement must be recorded with the Burleigh County Recorder.

6. Termination of Special Use Permit. A special use permit for an accessory dwelling shall automatically expire:
 - a. If the permitted accessory dwelling unit is substantially altered and is no longer in conformance with these provisions,
 - b. The owner of the property no longer occupies one of the units,
 - c. The required parking is no longer maintained and available for use by the occupant,
 - d. Or the permit is not put to use within twenty-four (24) months from date of approval.

Section 2 Repeal

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

Section 3. Severability

If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such as adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date

This ordinance shall take effect after final passage, adoption and publication as provided by law

First Reading Passed: _____

Passed and adopted this _____ day of _____, 2024-2025

Brian Bitner

Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2024 2025

Mark Splonskowski, Burleigh County Auditor/Treasurer

ACCESSORY DWELLING STRUCTURES

Information necessary to thoroughly evaluate the impacts of Acc. Dwelling Units

Section

Detailed site plan 1.5. b

Occupied by Owner 1.2. c.

Siting & Performance Standards in Zoning Code

Allowable zones. Approval process. 1 & II

Minimum setbacks from occupied residences, public assembly areas. 1.3. f.

Min./Max. Square footage req'. 1.2. a., 1.3.a-e

Offstreet Parking 1.2. d.

Termination of SUP 1.6. a-e.

Privacy req. 1.3. f.

Utilities Connection Requirements 1.3. g.

Vegetative screening/landscape buffers N/A

Tax Impacts

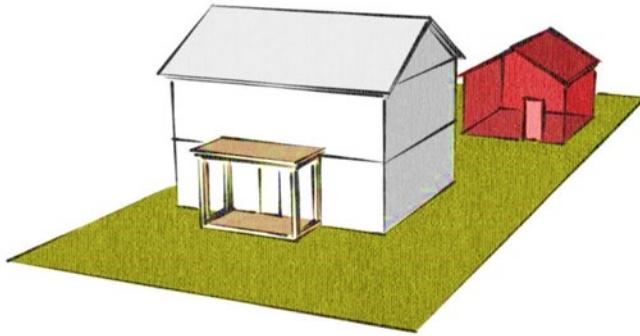
Equipment is personal property, not real property.

Buildings are taxed, equipment is not.

Types of Accessory Dwelling Units (ADUs)

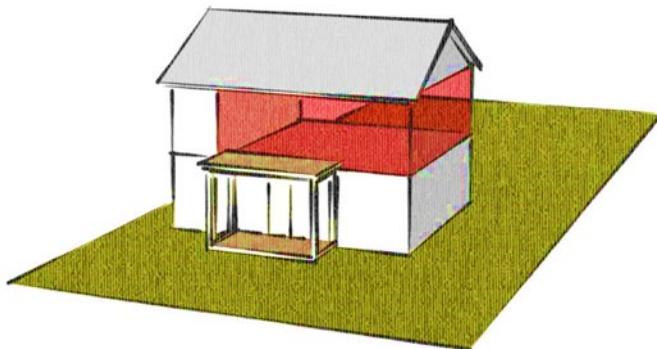
External ADU:

A dwelling unit separate from the primary home, either above a garage or in a stand-alone structure.



Internal ADU:

The use of a portion of the home for the unit, typically in a basement, attic, or an attached addition to the home



Definition of ADU:

“Accessory dwelling unit: A separate and complete dwelling unit established in conjunction with, and ancillary to, the principal single-family dwelling unit, whether within the same structure as the principal unit or within a detached accessory structure on the same lot or parcel. An accessory dwelling unit contains one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.”

Occupancy Requirements

The owner must live in either the primary home or the ADU. This requirement will be applied to subsequent owners if the lot is sold and the ADU remains in place. The ADU may be occupied by one family or up to four unrelated people. Only one ADU is allowed per lot or parcel. An ADU may be used for extended family.

Size Requirements

The residential space must be more than 300 square feet and less than 800 **900** square feet; however, the size may be up to 1,200 square feet on lots of 5 acres or more. An internal ADU may not exceed 40% of the entire floor plan of the home (not counting an attached garage). The footprint of the primary and accessory structure together may not be greater than 30% of the area of the lot. The height of an external ADU may not exceed 25 feet.

Setbacks for External ADUs

External ADUs must meet standard setback requirements for any other accessory structures. In general, this means they must not be in a front yard, must be at least 15' from side or 50' rear property lines, depending on the zoning, and must be 10 feet from the primary home.

BURLEIGH COUNTY NON-CONVERSION AGREEMENT

Property Owner: _____, "Owner"

Property Address: _____

Property Legal Description: _____

Page 10 of 10

Building Permit Number: _____

Owner represents that they solely own the above referenced property and will record this non-conversion agreement at the Burleigh County Recorder's office and certifies, accepts, and declares that the following conditions and restrictions are placed on the affected property, and will run with the land, as a condition of granting the above referenced permit, and affects rights and obligations of the Owner and shall be binding on the Owner, heirs, personal representatives, successors, future owners, and assigns.

The above referenced permit has been applied for by Owner and may be issued by the Burleigh County with the following CONDITIONS AND RESTRICTIONS:

The accessory dwelling structure to which these conditions and restrictions apply:

- 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.
- Shall be used solely for residential use to members directly related to the owners of same property.
- Upon notice to the owner of the property, County staff shall be authorized to enter the property for the purpose of inspecting the exterior and interior of the accessory structure to verify code compliance.

Owner: _____

Name _____

Name _____

STATE OF NORTH DAKOTA

) SS

COUNTY OF BURLEIGH

On this _____ day of _____, 20____, before me personally appeared
_____, known to me to be the persons described
in, and who executed the within and foregoing instrument and who severally acknowledged to
me that they executed the same.

Notary Public

BURLEIGH COUNTY NON-CONVERSION AGREEMENT

County of Burleigh by:

County Chairperson

STATE OF NORTH DAKOTA)

COUNTY OF BURLEIGH)

Attested by

County Auditor

) SS

On this _____ day of _____, 20____, before me personally appeared _____,
the County Chairperson of the Burleigh County Commission and _____,
the County Auditor, known to me to be the persons described in, and who executed the within
and foregoing instrument and who severally acknowledged to me that they executed the same.

Notary Public



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

March 12, 2025

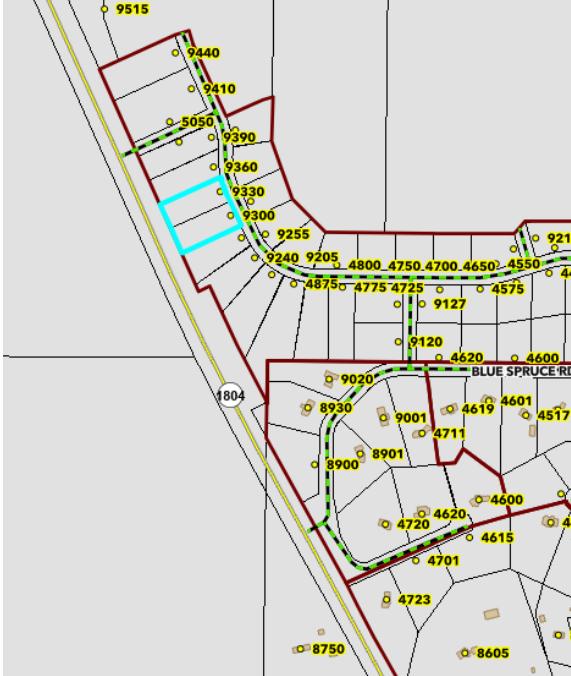
1. Roll Call
2. Approval of the February 12, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*

There are no items on the consent agenda
4. Public Hearing Agenda
 - 4-1 Summit Point 2nd Subdivision (short plat)
 - 4-2 Article 8 – Special Uses – Solar Farm
 - Continuation of February 12, 2025 Public Hearing
5. Other Business:
 - 5-1 Non-Access Lines
6. Adjourn

– Next Meeting – April 9, 2025

Agenda Item 4-1

Application for Summit Point Second Subdivision

Project Summary	
Public Hearing:	Summit Point 2nd Subdivision
Petitioner/Developer	John & Sarah Wonnenburg
Engineer	Toman Engineering Co
Location:	Lots 3 & 4, Block 2 Summit Point Subdivision
 <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: center;">4-1-1 Location Map</div>	
Project Size:	205 acres
Petitioners Request	Approval of the Summit Point 2 nd Subdivision & "Do Pass" Recommendation to the Board of Burleigh County Commissioners
Notifications	Bismarck Tribune Feb. 28 & March 7 Surrounding Property Owners February 28 Burleigh Co. Website February 28

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners

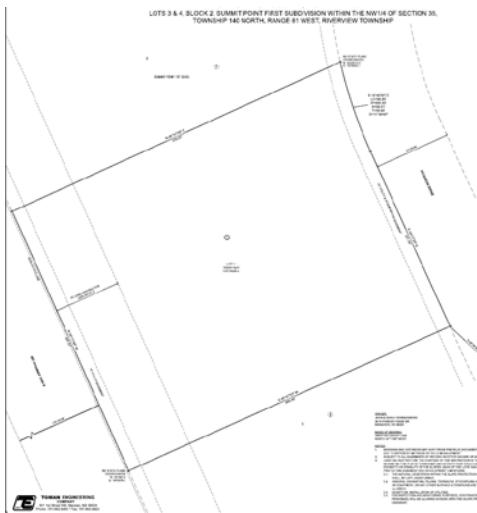


PLANNING AND ZONING
COMMISSION

History/Description

Burleigh County was approached by John & Sarah Wonnenberg purchased Lots 3 & 4, Block 2 of the Summit Point First Subdivision. He would like to combine his two (2) lots into one (1) lot.

Planning and review committee found no issues of concern for this subdivision.



Attachment 4-1-2 Final Plat



Attachment 4-1-3 Site Map



PLANNING AND ZONING COMMISSION

Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This subdivision is a short plat subdivision – Article 33, Section 12
3. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
4. Zoning is a PUD. This subdivision is covered under the PUD and the covenants of Summit Point 1st Subdivision
5. This subdivision meets the goals and intent of the Burleigh County Comprehensive Plan for the orderly development in Burleigh County.

Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the final plat and giving a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

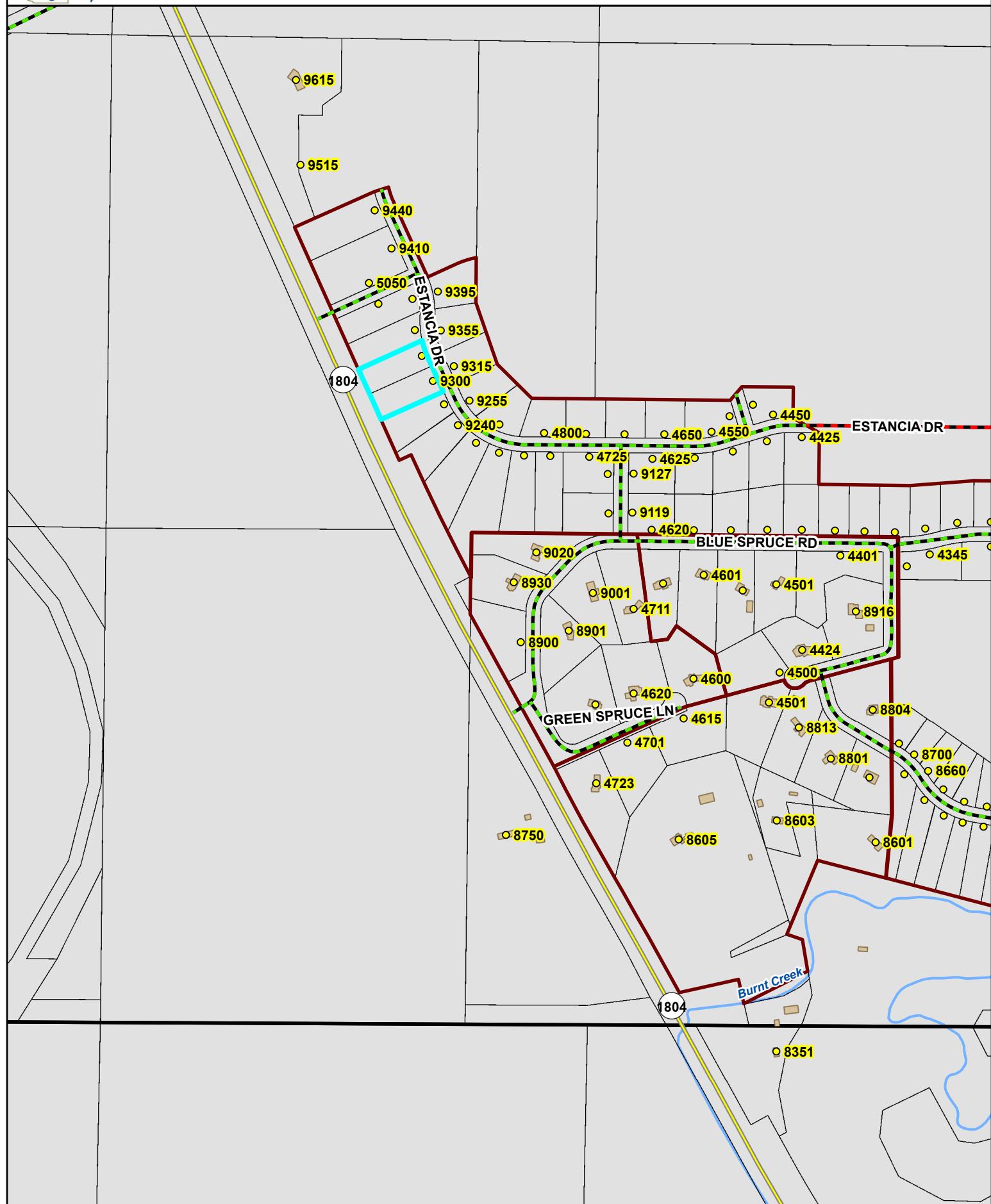
The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and give a "Do Pass" recommendation
2. Approve the final plat with conditions and give a "Do Pass" recommendation
3. Deny the final plat with reason.
4. Table the final plat for more information.



BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

N
2/28/2025



SUMMIT POINT SECOND SUBDIVISION

OF BURLEIGH COUNTY, NORTH DAKOTA

LOTS 3 & 4, BLOCK 2, SUMMIT POINT FIRST SUBDIVISION WITHIN THE NW1/4 OF SECTION 35,
TOWNSHIP 140 NORTH, RANGE 81 WEST, RIVerview TOWNSHIP

DESCRIPTION OF PROPERTY

A TRACT OF LAND BEING ALL OF LOTS 3 & 4, BLOCK 2, SUMMIT POINT FIRST SUBDIVISION
WITHIN THE NW1/4 OF SECTION 35, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH
PRINCIPAL MERIDIAN, RIVERVIEW TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA. SAID TRACT
OF LAND CONTAINING 2.54 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, ANDRA 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 HUNDREDS THEREOF; AND
BEARINGS ARE INDICATED IN QUADRANTS AND DEGREES, MINUTES, AND SECONDS THEREOF;
THAT ALL MONUMENTS SHOWN THEREON HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND
GEODETIC DETAILS ARE CORRECT; FURTHER, THAT SAID PLAT DOES TRULY SHOW THE SURVEY
TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ANDRA MARQUARDT, RLS 4623

OWNER'S CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED, BEING SOLE OWNERS OF THE LAND PLATTED HEREIN, DO HEREBY
VOLUNTARILY CONSENT TO THE EXECUTION OF SAID PLAT AND DO DEDICATE ALL THE RIGHT
OF WAY SHOWN HEREIN TO BURLEIGH COUNTY FOREVER. WE ALSO DEDICATE EASEMENTS
TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE, WATER OR OTHER PUBLIC UTILITIES
OR SERVICES OR ON UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS
"UTILITY EASEMENT".

WE FURTHER DEDICATE STORM WATER EASEMENTS AS SHOWN HEREON.

WE FURTHER ARE RETAINING MEMBERSHIP IN THE SUMMIT POINT FIRST SUBDIVISION HOA
COVENANTS AND SUMMIT POINT FIRST PUD RESTRICTIONS AND REGULATIONS.

JOHN WONNENBERG

SARAH WONNENBERG

SUBSCRIBED AND SWEARN BEFORE ME, A NOTARY PUBLIC, THIS ____ DAY OF
_____, 2025.

NOTARY PUBLIC
COUNTY:
MY COMMISSION EXPIRES: _____

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA,
HEREBY APPROVES SUMMIT POINT SECOND SUBDIVISION AS SHOWN ON THIS PLAT. THIS PLAT
WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE
COMPREHENSIVE PLAN AND THE ORDINANCES OF THE COUNTY OF BURLEIGH AND
REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION.

THE FOREGOING ACTION OF THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH
COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE ____ DAY
OF _____, 2025.

DENNIS AGNEW - CHAIRMAN

ATTEST: MITCH FLANAGAN - SECRETARY

APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS

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

THE PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE
COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSION OF BURLEIGH COUNTY,
NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE ____ DAY
OF _____, 2025.

BRIAN BITNER - CHAIRMAN

ATTEST: MARK SPLOSKOWSKI
COUNTY AUDITOR/TREASURER

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER OF THE COUNTY OF BURLEIGH, NORTH DAKOTA,
HEREBY APPROVES THIS PLAT OF SUMMIT POINT SECOND SUBDIVISION, AS SHOWN ON THIS
PLAT.

DATED THIS ____ DAY OF _____, 2025

MARCUS J. HALL, PE
COUNTY ENGINEER

SE COR OF NW1/4,
SEC. 35, T140N-R81W:
ND STATE PLANE
COORDINATES
N = 451262.3
E = 1877530.0
BM ELEV: 1707.12

S 89°23'09" W 2639.36'
E1/4 COR. SEC. 35
T140N-R81W



2-26-2025
0 20' 40'
VERT. DATUM: NAVD88
HORIZ. DATUM: 1983 ST. PLANE, ND SOUTH (3302)
INTERNATIONAL FEET

LEGEND
○ FOUND REBAR MONUMENT
● SET REBAR MONUMENT

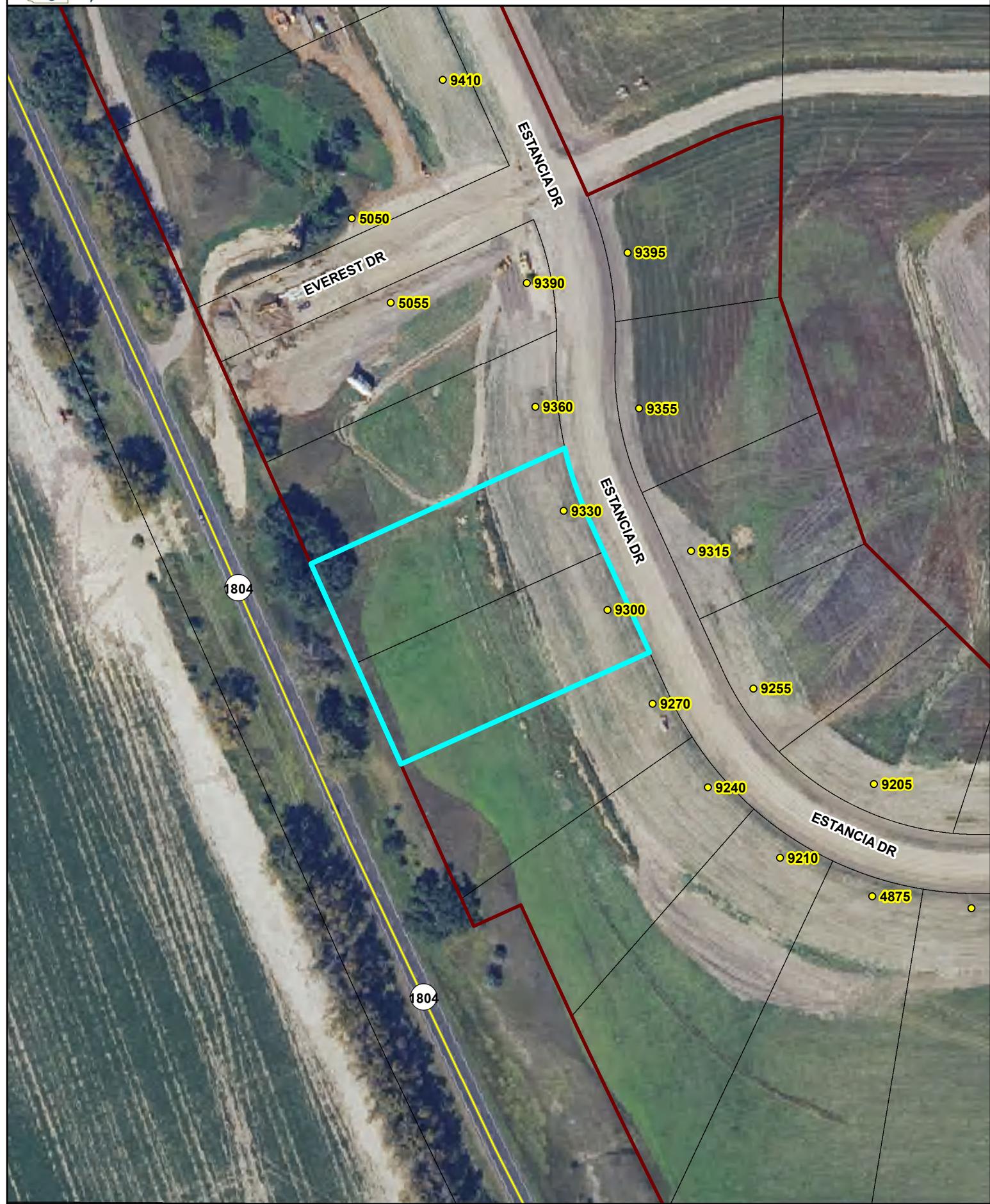
OWNER:
JOHN & SARAH WONNENBERG
3618 POWDER RIDGE DR
BISMARCK, ND 58503

BASIS OF BEARING:
WEST BOUNDARY LINE
NORTH 24°11'48" WEST

NOTES:

- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD
DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
- SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
- LAND USE RESTRICTION: THE PURPOSE OF THE RESTRICTION IN THE AREAS
SHOWN ON THIS PLAT IS TO PROHIBIT ANY ACTIVITY THAT COULD AFFECT THE
EROSIVITY OR STABILITY OF THE SLOPES. EACH OF THE LOTS HAS A SLOPE
PROTECTION EASEMENT AND DEVELOPMENT LIMITATIONS:
 - THE NATURAL VEGETATION WITHIN THE SLOPE PROTECTION EASEMENT
SHALL BE LEFT UNDISTURBED.
 - GRADING, EXCAVATING, FILLING, TERRACING, STOCKPILING OF MATERIAL
OR EQUIPMENT, OR ANY OTHER SURFACE ALTERATIONS ARE NOT
ALLOWED.
 - EXCEPTION: INSTALLATION OF UTILITIES.
 - FOR INSPECTION AND MONITORING PURPOSES, GOVERNMENTAL
PERSONNEL WILL BE ALLOWED ACCESS ONTO THE SLOPE PROTECTION
EASEMENT.





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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.

Re: Public Hearing to Amend Burleigh County Zoning Ordinances

Date: 2-27-2025

From: Mitch Flanagan, Burleigh County Planning Director. *UV*

ITEM 1

Amend Article 8 Solar Energy System Facilities

It has become necessary to consider amending the current Article 8 to include Solar Energy Systems i.e.: under a Special Use Permit. Sections dedicated to this application will allow for the development of onsite renewable energy systems such as an Accessory use in any District and Solar Farms within an Agricultural District.

Article 8 draft ordinance for Solar Energy System Facilities was presented to the Planning Commission on July 10th and September 11th with the first public hearing held on and November 13th, 2024 and the 2nd public hearing presented on February 12, 2025.

ACTION REQUESTED

Consider motion to recommend approval of ordinance.

Attachments:

Ex. 1- Article 8 Solar Energy Systems Special Use Permit.
Ex. 2- Application and Standards for Solar Energy System Facilities

ORDINANCE 25-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO **SECTION 29** SOLAR FARMS-ENERGY SYSTEMS

Section 1. Amendment Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

SECTION 29 Section _____ Solar Energy System Facilities

A solar energy system may be permitted in All Districts upon approval as a special use, provided the individual criteria and submittal requirements are met.

Burleigh County finds that it is in the public interest to encourage the use and development of renewable energy systems (including solar energy systems) that have a positive impact on energy conservation with limited adverse impact on nearby properties. **Burleigh County supports the use of solar collection systems and the development of solar energy farms.**

Consistent with the Burleigh County Comprehensive Plan, it is the intent of the County with this Section to create standards for the reasonable capture and use, by households, businesses and property owners, of their solar energy resource and encourage the development and use of solar energy.

I. DEFINITIONS

The following words, terms and phrases, when used in this Article and Section, shall have the meaning provided herein, except where the context clearly indicates otherwise:

1. **Agrivoltaics**- The dual use of land for combining agriculture with solar energy production, typically, with raised co-located solar arrays above agricultural activity.
2. **Building-Integrated Solar System**- An active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

3. **Community Solar Energy System-** A solar-electric (photovoltaic) array that provides retail electric power, in accordance with definitions of electric public utilities and rural electric cooperatives per North Dakota Century Code 49-03-01, between 100kW and 10 MW (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.
4. **Ground Mounted Panels-** Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.

5. kWac- Kilowatt, Alternating Current

6. **Lot** - The word "lot" when used alone shall mean, unless the context of the Article clearly indicates otherwise, a "zoning lot" as defined in Article 3- Definitions.

7. mWac- Megawatt, Alternating Current

8. **Off-Grid Solar Energy System-** An active solar energy system that converts solar energy directly into electricity. Unlike on-grid solar power systems, off-grid systems do not connect to the national utility grid.

9. **Photovoltaic System-** An active solar energy system that converts solar energy directly into electricity.

10. **Roof or Building Mounted SES-** Solar Energy System (panels) that are mounted to the roof or building using brackets, stands or other apparatus.

11. **Roof Pitch-** The final exterior slope of a building roof calculated by the rise over the run, typically, but not exclusively, expressed in twelfths such as 3/12, 9/12, 12/12.

12. **Solar Access-** A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

13. **Photovoltaic Panel System** A system that incorporates discrete photovoltaic panels that convert solar radiation into electricity, including rack support systems.

14. Solar Collector- A device, structure or a part of a device or structure that the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.
15. Solar Energy- Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
16. Solar Energy System (SES)- A system that converts solar radiation to usable energy, including photovoltaic panel systems and solar thermal systems.
An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means.
17. Solar Farm- A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the primary land use for the parcel on which it is located.
18. Solar Thermal System. A system that converts solar radiation to thermal energy for use in heating or cooling.

II. **APPLICABILITY**

These regulations are for all solar energy systems and solar energy farms on properties and structures under the jurisdiction of the Burleigh County Zoning Ordinance except that Burleigh County requires the owner or operator of solar farms that would generate electricity greater than 50 megawatts of power to have approval for such a system from the North Dakota Public Service Commission.

Types of Solar Energy Systems.

1. Rooftop solar energy systems:

Accessory to the primary land use, designed to supply energy for the primary use:

- a. These systems are permitted accessory uses in all districts in which buildings are permitted. The owner or contractor shall receive a electrical, building and or a mechanical permit before installing a rooftop solar energy system.

b. Size Classification restrictions for the following rooftop Solar Photo Voltaic systems:

- i. Residential - 1 to 20 kWac - accessory use, connected to existing load, rooftop or ground mount.
- ii. Small Commercial - 20 to 50 kWac - accessory use, connected to existing load, rooftop or ground mount.
- iii. Large Commercial - 50 kWac to 100 MWac - accessory use, connected to existing load, rooftop or ground mount.

c. Exemption:

- i. A Rooftop mounted solar panel in Residential Districts for a single family dwelling primary structure is exempt from this section.

2. Ground-mount solar energy systems:

Accessory to the primary land use, designed to supply energy for the primary use.

- a. Ground-mount systems are permitted accessory uses in all districts in which buildings are permitted.
- b. Ground-mount systems require a Burleigh County building permit and are subject to the accessory use standards for the district in which it is located, including setback. The height of a ground-mounted shall not exceed 10 feet and shall not cover or encompass more than 10 percent of the total property area or lot size.
- c. Size Classification restrictions for the following ground mounted Solar Photo Voltaic systems:

- i. Residential - 1 to 20 kWac - accessory use, connected to existing load, rooftop or ground mount.
- ii. Small Commercial - 20 to 50 kWac - accessory use, connected to existing load, rooftop or ground mount.
- iii. Large Commercial - 50 kWac to 100 MWac - accessory use, connected to existing load, rooftop or ground mount.

3. Community solar energy systems:

Roof or ground-mount solar energy systems, may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, but not for export to the wholesale market or connection to the electric transmission grid.

These systems shall be subject to the following conditions:

- a. Rooftop community solar energy systems are permitted in AG districts in which buildings are permitted.
- b. Ground-mount community solar energy systems are an accessory use in all districts.
- c. All structures must meet the setback, height and coverage limitations for the district in which the system is located.
- d. **Size Classification of Community Solar - 100 kWac to 1 MWac - primary or special use, not connected to a load, typically ground mount.**
- e. Ground-mount systems must meet all required standards for structures in the district in which the system is located.
- f. Site Plan Required: The owner or operator shall submit to the County a detailed site plan for both existing and proposed conditions. These plans shall show north compass direction and the location of all areas where solar arrays would be placed, the existing and proposed structures, property lines, access points, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high-water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the County.
- g. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The Building Official or their designee may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.

4. Solar farms:

Ground-mount solar energy arrays that are the primary use on the lot or of a property, designed for providing energy to off-site uses or export to the wholesale market. If a proposed solar farm generates electricity greater than 50 MW, it shall require siting review and approval by the North Dakota Public Service Commission.

- a. Solar farms are allowed under a special use permit in Agricultural (AG) zoning.
- b. Shall be on properties of at least 10 acres in size.
- c. **Size Classification of Solar Farms Photo Voltaic systems - 10 MWac to 500 MWac - primary or special use, not connected to a load, ground mount.**

- d. Stormwater management and erosion and sediment control, if required, shall meet the design restrictions of the County.
- e. Foundations. If required, the manufacturer's engineer or a ND registered design professional shall certify that the foundation and design of the solar panels meet the accepted professional standards, given local soil and climate conditions.
- f. Other standards and codes. All solar farms shall meet all applicable local, state and federal regulatory standards, including the State of North Dakota Building Code and the National Electric Code.
- g. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The Building Official or their designee may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines as reviewed by the manufacturer's engineer or a ND registered design professional.
- h. Site Plan Required. The owner or operator of the solar farm must submit to the County a digital copy of site plan (pdf format, full size) at 1" = 20' or larger scale, if integral to request, for both existing and proposed conditions. These plans shall show the location of all areas where solar arrays would be placed, proposed location and distances from the existing and proposed structures, property lines, access points to the site, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high- water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the County, including:
 - i. Date the site plan was prepared,
 - j. North point indication,
 - k. Section, township and range numbers,
 - l. Topographic contours with a minimum contour interval of ten (10) feet, with indication of datum used,
 - m. A location map inset showing the township(s) in which the project is located and the boundary of the proposed project,
 - n. Location of all existing public roads, dimensions and location of any utility easements and rights-of-way within five hundred (500) feet of proposed solar farm,

- o. The County allows the installation of small operations, security and equipment buildings on the site of solar farms as permitted accessory uses to the solar farm,
- p. The owner or operator shall contain all unenclosed electrical conductors located above ground within structures that control access or they must be protected from entry by a six-foot-tall fence,

5. Accessory Solar Energy Systems:

- a. Solar Access: an applicant may obtain solar easements from the adjoining property owners to preserve direct access to sunlight, as authorized by Section 47-05-01.2 of the North Dakota Century Code. A permit granted by Burleigh County to install a solar energy system does not guarantee solar access.
- b. Accessory Use: Solar energy systems are permitted as an accessory use, subject to all requirements of Article 8 Section 30 and the building code requirements of Article 22 Section 1.
 - i. An accessory solar energy system must be located on the same lot or parcel of land as the primary use it is intended to serve.
 - ii. An accessory solar energy system is intended to produce energy primarily for on-site consumption but excess electrical power may be transferred to a power supply grid pursuant to utility company interconnection agreements.

6. Size Classification of Solar Photo Voltaic systems:

- a. Residential - 1 to 20 kWac - accessory use, connected to existing load, rooftop or ground mount.
- b. Small Commercial - 20 to 50 kWac - accessory use, connected to existing load, rooftop or ground mount.
- c. Large Commercial - 50 kWac to 100 MWac - accessory use, connected to existing load, rooftop or ground mount.
- d. Community Solar - 100 kWac to 1 MWac - primary or special use, not connected to a load, typically ground mount.
- e. Solar Farm - 10 MWac to 500 MWac - primary or special use, not connected to a load, ground mount.

7. Decommissioning Plan:

The County requires the owner or operator to submit a decommissioning plan for ground-mounted systems to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures that are above ground and foundations, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all County requirements and the requirements of the County Solid Waste Ordinance. The County also may require the owner or operator to post a bond, letter of credit or establish and escrow account to ensure property decommissioning.

8. Prohibitions:

The County prohibits community solar farms located within:

- a. All Floodplain Districts and Designated SFHA Areas.

9. Additional standards:

In addition to the requirements listed above, all solar energy systems shall meet the following standards.

- a. The owners or operators of electric solar energy systems that are connected **in parallel with the service provider** to the electric distribution or transmission system, either directly or through the existing service of the primary use on the site, shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.
- b. Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
- c. All solar energy systems shall meet the current standards of the North Dakota State Electrical Board, North Dakota State Building Code, National Electric Safety Code and National Electric Code.
- d. Solar farms shall control all Noxious Weeds according to NDCC Chapter 4.1-47.

- e. All electrical lines serving a freestanding accessory solar energy system shall be buried.
- f. Installation of all rooftop solar systems shall meet the standards of the North Dakota Building Code.
- g. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system or other remedies that limit glare.
- h. Roof-mounted solar systems shall not exceed the maximum allowed height in any zoning district.
- i. All exterior electrical and plumbing lines, batteries, and other appurtenant features serving a building-mounted accessory solar energy system shall be buried, screened or landscape buffered. This provision does not apply to a solar collector.
- j. The non-collecting side of a solar collector and other appurtenant features of any freestanding accessory solar energy system shall be screened from view of said public right-of-way with landscape buffer and/or fencing.
- k. Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.
- l. Setbacks. All equipment and structures shall meet the setback and coverage limitations for the zoning district in which the system is located. No freestanding accessory solar energy system may extend into or over a legally recorded easement.
- m. Additional conditions or specific allowances to this ordinance may be considered in the review and approval of the Special Use Permit.

9. 10. Fees:

The special use permit fee will be based on .001 x Total Project Cost. An application fee of \$1000 shall be payable at the time of application for a special use permit, with the remainder of the special use permit fee remitted by the applicant prior to commencement of construction. Or:

- a. \$300.00 whichever is greater.

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

Section 3. **Severability.** If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. **Effective Date.** This ordinance shall take effect after final passage, adoption and publication as provided by law.

First Reading Passed: _____

Passed and adopted this _____ day of _____, 2024 2025

Brian Bitner, Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of _____ day of _____, 2024 2025

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2024 2025

Mark Splonskowski, Burleigh County Auditor/Treasurer

SOLAR

Information necessary to thoroughly evaluate the impacts of the project

Detailed site plan	Sec. II.4.g. - o.
Haul road plan (approved by County Engineer)	N/A
Traffic Impact Study	N/A
Emergency response plan (approved by County EM)	Developed by Owner
Manufacturer equipment specifications	Sec. II.8. b.c.
Noise Impact Study	N/A
Evidence of land control (lease agreements, sensitive info redacted)	N/A
Evidence of electric utility approval/signed power purchase agreement	Sec. II.8.a.
Impact of water and electricity needs	Sec. I.1.b

Siting & Performance Standards in Zoning Code

Allowable zones. Approval process.	Sec. 1 & II
Minimum setbacks from occupied residences, public assembly areas.	Sec. I & II
Road Use Agreement	N/A
Decommissioning plan, reclamation bonds: a) bond value = engineer's estimate x 2	Sec. II.6
Timeframe for substantial performance to begin	N/A
Shielded lighting/Glare	Sec. II.8.g.
Control of Noxious Weeds	Sec. II.8.d.
Vegetative screening/ Landscape buffers	Sec. I.3.e.

Tax Impacts

Equipment is personal property, not real property. Buildings are taxed, equipment is not.

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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.
Re: Administrative Change to Platted Non-Access Lines.
Date: 2-27-2025
From: Mitch Flanagan, Burleigh County Planning Director. *111*

ITEM 1

Changing Non-Access Lines

Non-access lines are selectively drawn on a plat to limit access to high speed, high traffic volume roadways and at intersections to lower traffic accidents. County Staff reviews the non-access line locations and makes recommendations to the County Commission for their approval. Once non-access lines are recorded on a plat, it currently requires the owner to replat the allowed access to a new location. Staff's intentions are to be able to make an administrative change to a non-access line on the plat, while not compromising important safety concerns.

Minor changes to a Non-Access Line can be completed in a less complicated method by use of a Resolution and Affidavit which would proceed as follows:

1. \$250.00 Non-access line modification fee.
2. Applications reviewed by Burleigh County Planning and Zoning, the Burleigh County Highway Department, and additional Staff as needed.
3. After the petition is presented at a public hearing to the Planning Commission, the resolution and affidavit documents are submitted to the Board of Burleigh County Commissioners for approval.
4. Auditor stamps and signs the Affidavit
5. All documents will be recorded by County Staff and filed with the original subdivision.

Using this method/policy would shorten the time and reduce costs for application, surveying and recording. Recent properties affected by platted Non-Access Lines:

1. Braunagel Subdivision: 1072 NE 171st St.
2. Twin Buttes Subdivision: Thomas Simillion: 4800 102nd Ave SE.
3. Riverside 3rd Subdivision: 9922 Island Road.
4. Heritage Reserve Subdivision: 12009 Acadia Drive.

ACTION REQUESTED

Advise County Commission and Staff on recommendations to allow administrative changes to a platted non-access line.

Attachments: Ex.1 Sample Resolution.
Ex.2 Sample Affidavit.

RESOLUTION 25-01

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS COUNTY OF BURLEIGH, NORTH DAKOTA MODIFICATION OF NON-ACCESS LINE

WHEREAS, the owners of property described as _____, adjoining and contiguous to a platted non-access control lines, have heretofore joined in petition requesting that parts of said non-access control lines be modified, verified by oath of at least one petitioner and accompanied by a plat of said non-access control lines to be modified having set forth the facts and reason for said modification; and

WHEREAS, said platted non-access control lines were shown on the plat of _____ which was recorded on _____ (document # _____) and

WHEREAS, The County Engineer has determined that the parts of the non-access control lines to be modified does not adversely affect traffic movements or public safety.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners for Burleigh County, North Dakota that the petition heretofore described to modify the non-access control line described as:

Legal Description of Non-Access Line

Is in all things allowed and granted

BE IT FURTHER RESOLVED that the petition heretofore described to modify the _____ of the non-access control line described as:

Legal Description of Non-Access Line Modification

Is in all things allowed and granted.

BE IT FURTHER RESOLVED the County Auditor is hereby authorized to file this resolution for record in the office of the County Recorder. Burleigh County, North Dakota.

Adopted this _____ day of _____, 20____.

CERTIFICATE

I, _____, do hereby certify that I am the duly elected, qualified, and acting County Auditor of the County of Burleigh, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted by the Board of County Commissioners at its regular meeting of _____ 20____.

IN WITNESS WHEREOF, have hereunto set my hand and the seal of the County of Burleigh, North Dakota, this _____ day of _____, 20____

Mark Splonskowski
County Auditor. Burleigh County, North Dakota

AFFIDAVIT OF NON-ACCESS LINE MODIFICATION

AFD 25-001

The Burleigh County Commission at a regular scheduled meeting on _____, 2025, duly modified the following non-access line as described below:

Witness my hand and seal this _____ day of _____, 2025

Mark Splonskowski,
Burleigh County Auditor

MODIFICATION OF NON-ACCESS LINE

The Non-Access Line vacation is situated on _____

, Burleigh County North Dakota being more particularly described as follows:

Legal description of non-access line:



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamediaaccess.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

April 9, 2025

1. Roll Call
2. Approval of the March 12, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*

There are no items on the consent agenda
4. Public Hearing Agenda
 - 4-1 Special Use Permit Request - Schatz
 - 4-2 Article 8 – Special Uses – Data Centers
 - Continuation of February 12, 2025 Public Hearing
5. Other Business:
 - 5-1 BESS Moratorium
6. Adjourn

– Next Meeting – May 14, 2025

PUBLIC HEARINGS

Agenda Item 4-1

Application for Special Use Permit

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners

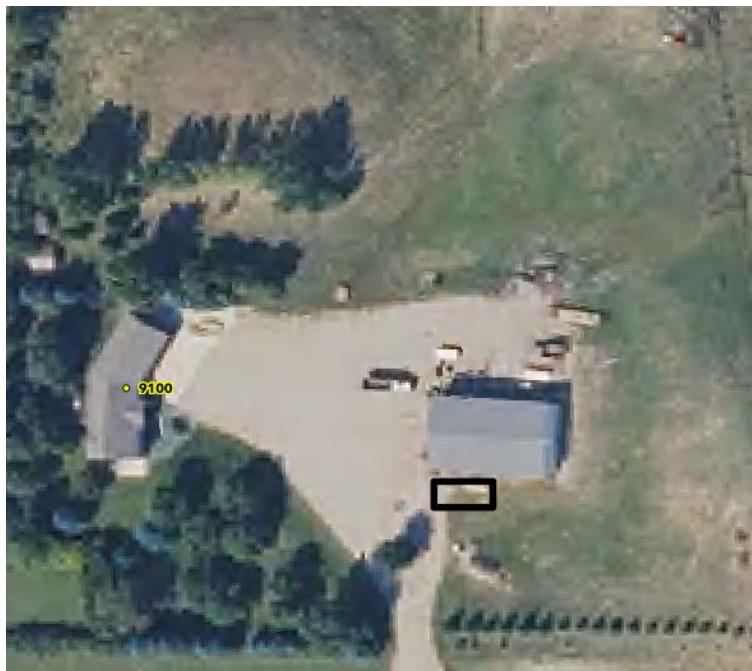


PLANNING AND ZONING
COMMISSION

History/Description

Jason and Jenney Schatz requested a permit on February 9th to set a small manufactured home on their property. Their property contains 39.86 acres with a single-family home, accessory building and a farm building. They would like to set the manufactured home to use as an office. Because the manufactured home contains a kitchen, bathroom and bedroom, it could be an additional residence according to Burleigh County Zoning Ordinances.

The Schatz were advised to apply for a special use permit allowing them to set the manufactured home on their property. Crofte Township was notified of the Schatz special use request. Crofte Township is an organized township, which has turned the zoning and building jurisdiction to Burleigh County. Crofte Township recommends passing the special use permit. They have no concerns regarding the manufactured home or the proposed use.



Attachment 4-1-2 Building Location



PLANNING AND ZONING
COMMISSION



Attachment 4-1-3 Site Map

Staff Findings

1. Article 8 – Special Uses states “ ...The Board of County Commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the County Planning and Zoning Commission and the Board of County Commissioners prior to the granting of a building permit or certificate of occupancy therefore: and that the Planning and Zoning Commissioner and the Board of County Commissioners be and are hereby given limited discretionary powers relating to the granting of such permit or certificate.
2. The request to the use of the manufactured home as an office space on a property with a single-family home is an *infrequent occurrence* which qualifies for a special use request.



PLANNING AND ZONING
COMMISSION

3. Burleigh County Zoning Ordinance, Article 3 - Definitions – Dwelling-Single-Family describes a single-family dwelling unit as having a minimum living space square footage of 900sf. The manufactured home is 620 sf. It does not qualify as a single-family dwelling unit. A special use permit would be required to set the manufactured home.
4. All requirements for applying for a special use permit have been completed by the property owners.
5. Planned use of the building is appropriate for this location.
6. Crofte Township was consulted regarding the manufactured home and the proposed use. Crofte Township has recommended a "Do Pass" to the Planning and Zoning Commission.

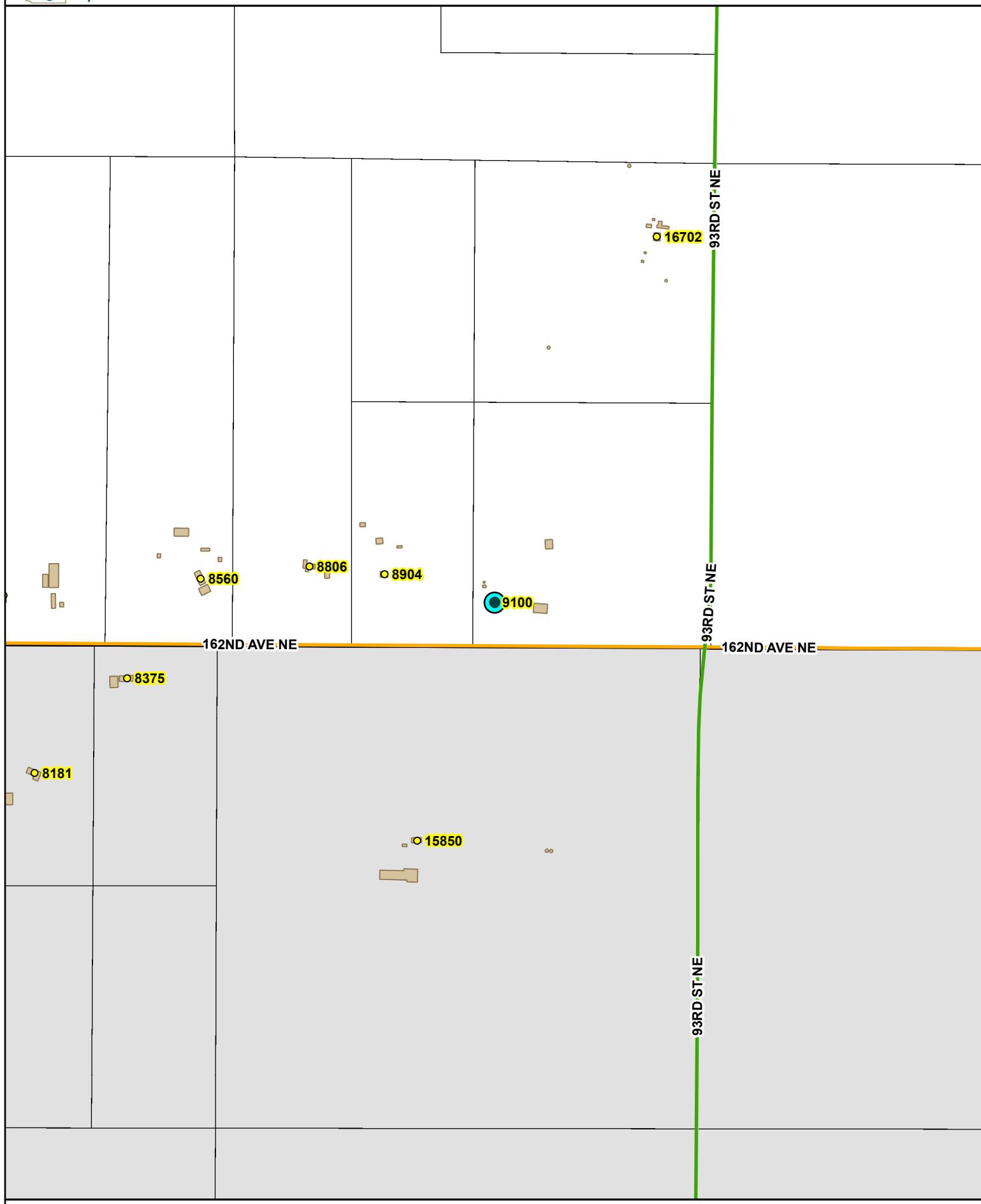
Planning Staff Recommendation

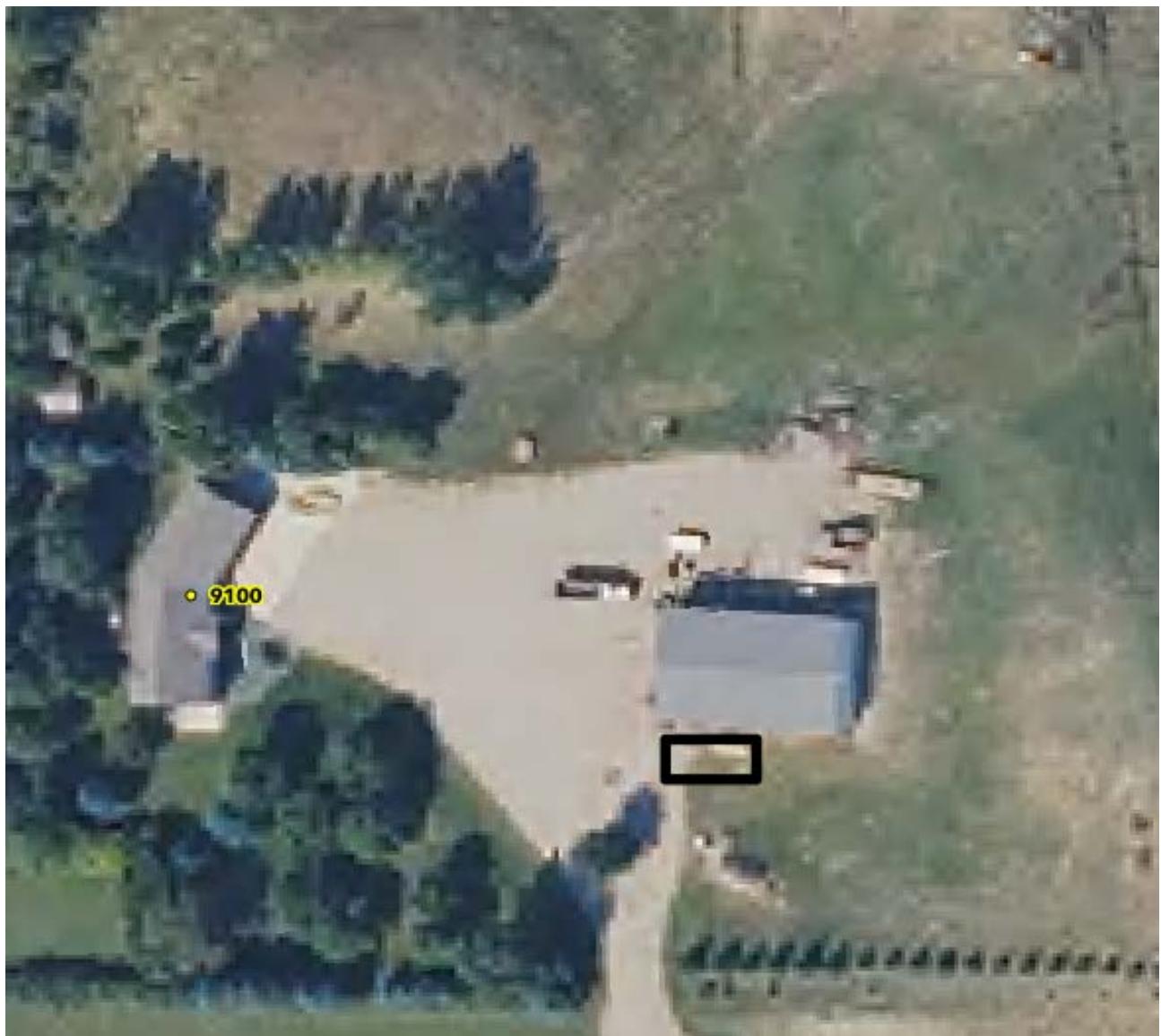
The petition for a special use permit meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the special use and giving a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

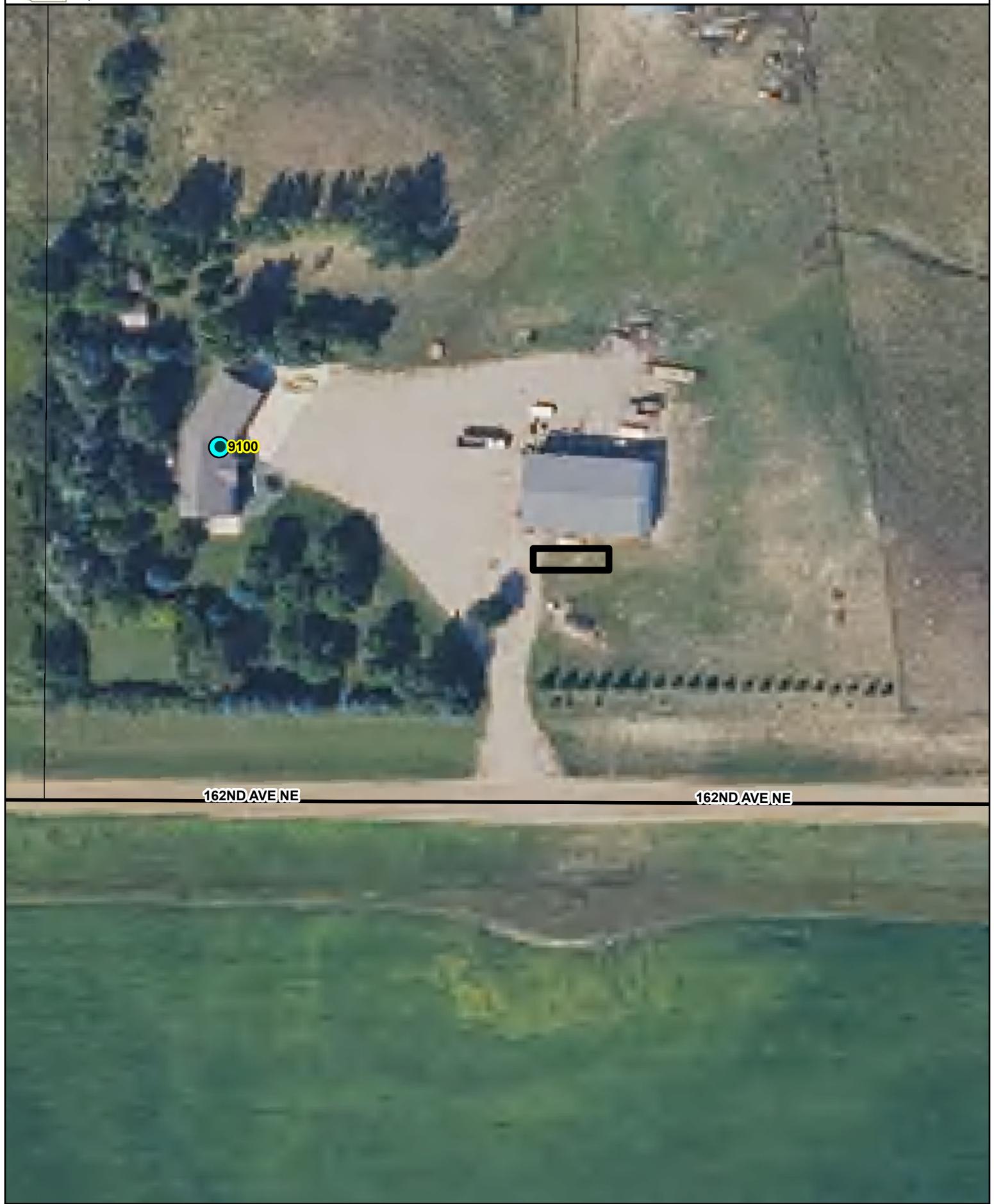
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the special use and give a "Do Pass" recommendation
2. Approve the special use with conditions and give a "Do Pass" recommendation
3. Deny the special use with reason.
4. Table the special use for more information.







9100

162ND AVE NE

162ND AVE NE

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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.

Re: Public Hearing to Amend Burleigh County Zoning Ordinances

Date: 3-27-2025

From: Mitch Flanagan, Burleigh County Planning Director.

ITEM 1

Amend Article 8 Data Centers

It has become necessary to consider amending the current Article 8 to allow Data Centers within I-Districts under a special use permit. A Data Center is a facility that contains large amounts of computer systems, IT infrastructure, including, but not limited to, networks, servers and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers.

Article 8 draft ordinance for Data Centers was presented to the Planning Commission on July 10th and September 11th. Public hearings were held on November 13th and February 12th, this is a continuance of the Feb. 12th final public hearing necessary to meet the technical requirements for approval of the amendment.

ACTION REQUESTED:

Consider motion to recommend approval of Article 8 Data Center Draft Ordinance.

Attachments:

Ex.1 Article 8 Data Center draft 03272025
Ex.2 Data Center Model Ordinance

ORDINANCE 25-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO SECTION 30 DATA CENTERS

Section 1. Amendment Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

SECTION **_____** Data Center AI Conversion Facilities

This section is adopted to allow data centers/AI conversion facilities within Burleigh County and to minimize the potential off-site impacts of development and reduce long-term exposure that may impact the public safety, health and the general welfare of Burleigh County residents.

DEFINITIONS

The following words, terms and phrases, when used in this Article and Section, shall have the meaning provided herein, except where the context clearly indicates otherwise:

1. **Blockchain**- a digital record of all the transactions involving cryptocurrency. Copies of the blockchain are stored and maintained by computers around the world.
2. **Cryptocurrency**- a type of decentralized digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds. ~~that investors can buy and sell along the blockchain. Unlike banknotes or minted coins that have a tangible physical form, cryptocurrencies can only be accessed using computers and other electronic devices.~~
3. **Cryptocurrency Data Center**: Leased or owned boundaries of floor space devoted to the operating data processing equipment for Commercial Cryptocurrency Mining; excluded spaces for commercial offices, storage, shipping and receiving warehousing, or any other space that is not electronic processing.
4. **Cryptocurrency Server Farm**- Three or more interconnected computers held together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.
5. **Data Center** ~~a commercial /industrial building, structure, complex or group of buildings and/or structures, facility, or dedicated space within a building, structure, complex, or facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances, services, and other associated components or facilities.~~

Data center- a facility containing large amounts of computer systems, servers, networking equipment, and storage infrastructure primarily for the purpose of remote storage, processing, or distribution of large amounts of data. A typical data center may include functions such as cryptocurrency mining, cloud AI functions, hyperscale cloud functions, but are not limited to such examples. Any equipment requiring a High-Density Load Service, for a server farm or data center, will constitute a commercial cryptocurrency mining application.

6. ***Data Center/ AI Conversion Facility***- a data center that is converted and used to support artificial intelligence.
7. ***Digital asset Mining***- means using computer hardware and software specifically designed or used for the purpose of validating data and securing a blockchain network.
8. Digital Asset Mining- Business- means an individual or company operating a digital asset mining facility that cumulatively draws more than one megawatt of power in the County.
9. ***High Density Load Service***- The provision of electrical service where the requested load density has, for any monthly billing period, either an average power demand in excess of 300 kilowatts OR an average power density in excess of 250 kilowatt-hours per year per data center square foot, equivalent to 35.064 square feet per kilowatt, at 100% load factor.
10. ***Owner***- Any person, agent, operator, entity, firm or corporation having any legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding an interest or title to the property; or otherwise having possession or control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
11. ***Sensitive Properties***- Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from noise or contaminant discharges generated by a nearby facility.

I. APPLICABILITY

These regulations are for Data Center Facilities on properties and structures under the jurisdiction of the Burleigh County Zoning Ordinance and are applicable to Data Centers requiring consistent electric loads of 50MW or greater. The installation or construction of a data center, or any modification to a lawfully existing data center beyond routine maintenance, requires a Special Use Permit and also requires a Burleigh County Building Permit obtained from the Burleigh County Building, Planning and Zoning Department. Data centers may only be permitted in an Industrial (I) District with a Special Use Permit.

- a. A landscape buffer of 50' shall be required as measured from the interior of all property lines.

1. Application Requirements

The application for the installation or construction of a data center, or for modifications to a lawfully existing data center beyond routine maintenance, shall follow the application procedures for Special Use Permits Article 8 and any other procedures as may be required by this Ordinance for data centers, such as zoning map amendments, platting, or variances. In addition, applications shall include the following:

- a. Applicant name(s) and contact information. The applicant must also identify on the application, ~~the owner/owners of record for the property~~, the occupant or lessee of the property, and the operator of the data center.
- b. A description of the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
- c. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.
- d. A **preliminary** site plan: a digital copy of site plan (pdf format, full size) at 1" = 20' or larger scale, if integral to request, for both existing and proposed conditions, ~~drawn to scale~~, showing the location and dimensions of all existing and proposed structures, screening, fencing, **a photometric plan that shows all exterior lighting, including any security lighting, electrical connections, property lines, and roadway access, including:**
 - i. Date the site plan was prepared,
 - ii. North point indication,
 - iii. Section, township and range numbers,
 - iv. A location map inset showing the township(s) in which the project is located and the boundary of the proposed project,
 - v. Location of all existing public roads, dimensions and location of any utility easements and rights-of-way within five hundred (500) feet of proposed Data Center.
- e. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks located within one (1) mile of the exterior boundaries of the property where the data center will be located.
- f. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a building permit obtained from Burleigh County Building Department.
- g. Data centers may only be permitted in an I- Industrial District with a Special Use Permit.
- Fees:**
~~All application fees, including the required fees for a Special Use Permit and building permits, in the amounts determined by the Board of County Commissioners.~~
- h. Fees:

The special use permit fee will be based on .001 x Total Project Cost up to 1,000,000,000.00 An application fee of \$1,000 shall be payable at the time of application for a special use permit, with the remainder of the special use permit fee remitted by the applicant prior to issuance of building permits and commencement of construction. Or:

- i. \$300.00 whichever is greater
- i. Copies of signed permits or other documentation that indicates compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the North Dakota State Electrical Board.
- j. Copy of the signed electrical power purchase agreement.
- k. Financial security for the following:
 - i. Financial security for maintenance of the data center, as fully constructed and operational or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for maintenance of the lawfully existing data center as modified. The financial security shall be in the amount of 125% of the estimated cost to maintain the data center, as fully constructed and operational, or as modified, as determined by the applicant's ND State registered engineer, with such estimated costs subject to review and approval by the Burleigh County Building Department and
 - ii. Financial security for reclamation and restoration of any data center and the property on which the data center is located or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for reclamation and restoration of the property on which the data center as modified is located. Reclamation and restoration shall include, but is not limited to, the removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and the removal and disposal of all other facilities, structures, equipment, and materials on or under the property. The financial security shall be in the amount of 125% of the estimated cost to reclaim and restore property on which the data center, or the data center as modified, is located as determined by the applicant's ND State registered engineer, with such estimated costs subject to review and approval of the Burleigh County Building Department. Any financial security provided by the applicant which is required by this Chapter shall be subject to review and approval by the County and be in the form of one or more of the following:
 - iii. An irrevocable letter of credit issued by an FDIC insured financial institution authorized to do business in the State of North Dakota to be effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County;

- iv. A surety bond which is effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County; and/or;
- i. Cash in escrow to be held in trust by Burleigh County effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and continuing to the date when full reclamation and restoration is complete as approved by the County. The financial security required above shall be provided to Burleigh County prior to commencement of any work to install and/or construct the data center, or to modify a lawfully existing data center beyond routine maintenance, but no later than the date determined by the Board of County Commissioners in approving the data center or in approving the modifications to a lawfully existing data center beyond routine maintenance.
- I. Other relevant studies, reports, certifications, or approvals as may be required by the County to ensure compliance with this Chapter and this Ordinance.

II. Prohibitions:

The County prohibits data center facilities located within:

- a. All Floodplain Districts and Designated SFHA Areas.

III. Design Standards

- 1. Data Centers or Cryptocurrency Data Centers shall be set back at least ~~one half (1/2)~~ ~~one (1)~~ mile to all sensitive properties, such as: single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of ~~these sensitive properties~~ to the data center's exterior property lines.
- 2. Height. All buildings, structures, and appurtenances on the property where the data center will be located shall meet the height requirements of the Industrial I District in this Ordinance.
- 3. Electrical wiring. All electrical wiring shall be ~~buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the standards of the~~ North Dakota State Electrical Board, and any of its rules and regulations.
- 4. Generator testing is limited to between 11:00 a.m. and 5:00 p.m.
- 5. Generator use is limited to backup/emergency use only.
- 6. Building Permit. At the time of SUP approval, a building permit for all proposed structures will be required. Permit information shall include: Applicant name(s) and contact. The applicant must also identify on the application contact information for the

owner/owners of record for the property, the occupant or lessee of the property, and the operator of the data center.

7. The facility will be required to obtain an NDPDES permit if they discharge water to surface waters.
8. Written verification is submitted from the utility provider that sufficient capacity will be available to meet anticipated needs for electrical power.
9. Security fencing. A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility. Any fencing shall comply with the Development Standards in this Ordinance.
10. Buffering and screening. Landscaped buffers shall be required around the entire perimeter of the property where the data center is located in accordance with the requirements of this Ordinance.
11. Sound. The operators shall not cause, allow, or permit the operation of any source of sound which creates at an occupied residential building or a defined sensitive property, as may exist at the time of the issuance of a certificate of occupancy, a sound level that exceeds a daytime continuous sound level of 50 dBA or a nighttime continuous sound level of 45 dBA, for any 15-minute measurement interval unless otherwise permitted.
 - a. The operators shall not cause, allow, or permit the operation of any source of sound which creates a pure tone where the one-third ($\frac{1}{3}$) octave band sound pressure level in the band of interest exceeds the arithmetic average of the sound-pressure levels for the two adjacent one-third octave bands by the corresponding decibel (dB (Flat)) values as follows:
 - i. 5 db for center frequencies of 500 Hertz and above,
 - ii. 8 db for center frequencies between and including 160 and 400 Hertz,
 - iii. 15 db for center frequencies less than or equal to 125 Hertz
 - iv. A pure tone shall be deemed present at measurement.
12. Noises. Sound: A maximum auditory decibel level of 75 dB of the following shall be met and maintained during all hours of operation, as measured from the property line of the subject parcel:

<u>Zoning District</u>	Day	Night
Agricultural	55	45
Residential: R1, R2, R3	55	45
Commercial: C	60	50
Industrial: I	65	60

The applicant shall provide written verification and documents prepared by a registered

design professional ~~may be~~ in the form of a noise study as certified by a licensed acoustical engineer, including manufacturer specifications, anticipated noise level of the facility will not exceed the maximum auditory decibel level as stated in Section 7 ~~11~~ and any data from comparable facilities or combination thereof.

13. A Data Center operation shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name if applicable, owner/representative name, telephone number, and corresponding local power company and telephone numbers.
14. All outdoor light fixtures shall be installed in a manner intended to limit the amount of off-site impacts. Light fixtures located near adjacent properties may require special shielding devices to prevent light trespass.
15. Accessory structures and appurtenances. All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is complementary with the primary building(s) and shall be finished in a non-obtrusive color.
16. Roads. All adjacent exterior access roads serving a data center shall conform to the Development Standards in this Ordinance and Article 33. Exterior road construction or improvements shall be subject to approval by the Burleigh County Highway Engineer or their designee. A road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation or construction of the data center, or during modification of a lawfully existing data center beyond routine maintenance. All interior roads serving the data center shall be subject to review by the Burleigh County Fire Department to ensure safe and adequate access for emergency response vehicles.
17. Storm Drainage, Erosion Control, Grading, Drainage and Stormwater Management Permit for the data center shall comply with the requirements in Article 33 of this Ordinance.
18. Additional conditions or specific allowances to this ordinance may be considered in the review and approval of the Special Use Permit.
19. Development Agreement. The owner of record of the property, or the owner's representative of the data center and of the property on which the data center will be located, as determined appropriate by Burleigh County, must sign a development agreement which shall include provisions related to, but are not limited to, the posting and use of financial security, exterior and interior road construction or improvement, road maintenance, improvements related to storm drainage, ~~stormwater management plan~~, erosion control, grading, and drainage, reclamation and restoration, and/or any other condition imposed by this Chapter, this Ordinance, or the Board of County Commissioners in approving installation of construction of the data center or modifications to a lawfully existing data center beyond routine maintenance.

IV. Decommissioning Plan:

1. It is the responsibility of the original applicant, or if different, the owner of record of the property, the occupant or lessee of the property, and the operator of the data center to notify Burleigh County in writing, at least six (6) months in advance, of the intent to abandon or cease operations of the data center. Any data center that is not operated for a continuous period of six (6) months shall automatically be considered abandoned, and Burleigh County may require the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and the operator of the data center to reclaim and restore the property within ninety (90) days after written notice to reclaim and restore the property from Burleigh County. Any such reclamation and restoration shall include, but is not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property. If the property is not fully reclaimed and restored as required by this Article within ninety (90) days after written notice from Burleigh County, the County may reclaim and restore the property, or cause the property to be reclaimed and restored, including, but not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property and recover costs directly from the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and/or the operator of the data center. Burleigh County may also, in its discretion, recover such costs, by access to and use of the financial security provided and on file for the data center, or by lien or special assessment, or any other remedy, authorized by law or the Development Agreement entered into under this Article. Nothing in this Article is intended to impose a mandatory obligation on Burleigh County to reclaim and restore the property.
2. After a decommissioning process has been completed, the I District Industrial Zoning of the property shall automatically be transferred back to the ~~original~~ pre-existing zoning, prior to the issuance of the special use permit.

V. Amend Article 18, I-Industrial Zoning District, the following regulations shall apply:

1. Special Uses Permitted. The following Special Uses are allowed as per Article 8 Section 30 hereof:
 - a. Data Center Facilities
 - b. Any change of use within an existing permitted Data Center, i.e.: AI Conversion Center, shall require a new special use permit review and approval.

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

Section 3. **Severability.** If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. **Effective Date.** This ordinance shall take effect after final passage, adoption and publication as provided by law.

First Reading Passed: _____

Passed and adopted this _____ day of _____, 2025

Brian Bitner, Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of _____ day of _____, 2025

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2025

Mark Splonskowski, Burleigh County Auditor/Treasurer

AN ORDINANCE TO ENACT CHAPTER xxxxx TO THE CITY OF _____ CODE OF ORDINANCE, RELATING TO DATA CENTERS

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

Section 1. Enact. Chapter XXX of the Code of Ordinances of the City of _____, North Dakota, relating to Data Centers is hereby enacted to read as follows:

CHAPTER XX-XX – DATA CENTERS

XX-01-01. Definitions

1. "Data center" means a facility containing large amounts of computer systems, servers, networking equipment, and storage infrastructure primarily for the purpose of remote storage, processing, or distribution of large amounts of data. A typical data center may include functions such as cryptocurrency mining, cloud AI functions, hyperscale cloud functions, but are not limited to such examples.

2. "dB(A)" means the A-weighted sound level in decibels, as measured with a sound level meter that meets the requirements for a type 1, 2, S1A, or S2A in American National Standard Specification for Sound Level Meters ANSI S1.4.

XX-01-02. Zoning. A data center may be permitted in any <INDUSTRIAL> district as a(n) <administrative> special use provided:

1. All data processing and storage is contained within a building constructed in compliance with the <International Building Code and International Fire Code, as amended in the City Code {or if no municipal amendments, as provided in the} State Building Code and Fire Code of North Dakota>.

2. Written verification is submitted from the utility provider that sufficient capacity will be available to meet anticipated needs for electrical power.

3. Facilities are equipped with environmental controls to maintain the proper conditions for the operation of electronic equipment.

4. The applicant verifies at the time of application that all design standard requirements of this chapter in relation to noise, sound and traffic will be met.

XX-01-03. Design standards. A data center shall be set back at least four-tenth (0.4) mile from all single-family and multi-family dwellings, schools, churches, synagogues and other similar religious institution or structure and public parks as

measured from the nearest property line of any of these sensitive properties to the data center's exterior property line. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks located within one (1) mile of the exterior boundaries of the property where the data center will be located will be provided with the application with any methods of minimizing impacts noted thereon. A data center shall adhere to the following minimum standards:

A. Security. A fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility.

B. Noise. The data center will provide a noise study of the property prior to the start of any construction activity on the site with the median levels of ambient noise as measured from each direction (north, south, east and west) at the property lines. At the completion of construction, an updated noise study will be provided to the City evidencing a median noise level of not more than 80 dB(A), less the ambient noise level recorded previously, as measured from each direction (north, south, east and west) at the property lines.

C. Traffic. Adequate measures will be demonstrated that traffic congestion will be minimized during construction.

D. Light pollution. Downcast lighting and motion sensor lighting will be used as appropriate to limit the number of off-site impacts.

Section 2. 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 3. Effective Date. This ordinance shall take effect upon final passage, adoption and publication.

OTHER BUSINESS



Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Planning Commission.

Re: Consider Moratorium

Date: 3-27-2025

From: Mitch Flanagan, Burleigh County Planning Director. *III*

ITEM 2

BESS Moratorium

The Planning Department has taken notice of the potential for Burleigh County to be identified as a preferred location for the development of battery energy storage systems (BESS) and finds it necessary to develop a zoning ordinance amendment to establish a framework for the evaluation and siting of BESS facilities.

In order to provide for an ordinance amendment, a consideration to place a moratorium as a pause on all new development, land use, and construction applications for BESS facilities is applicable.

The State of North Dakota grants Counties the authority to adopt a moratorium under Chapter 11 Sections: 11-09.1, 11-28 and 11-33 which set forth the law relating to a County's authority to regulate construction.

ACTION REQUESTED:

Consider motion to recommend approval of a BESS Moratorium.

Attachments:

Ex.1 Draft BESS Moratorium

BURLEIGH COUNTY COMMISSION

RESOLUTION 00-2025-02

A RESOLUTION OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, TO IMPOSE A MORATORIUM ON THE DEVELOPMENT OF BATTERY ENERGY STORAGE SYSTEMS UNTIL A ZONING STANDARD IS DEVELOPED.

WHEREAS, the Board of Commissioners of Burleigh County, ND has taken notice of the potential for Burleigh County to be identified as a preferred location for the development of battery energy storage system (BESS) in the future

WHEREAS, the Board of Commissioners of Burleigh County, ND finds it necessary to develop a zoning ordinance amendment to establish a framework for the evaluation and siting of BESS facilities, in order to protect the health, safety and general welfare of the citizens of Burleigh County

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Burleigh County, ND that a moratorium on the development of all battery energy storage systems (BESS) is adopted, for the period of time necessary to develop and adopt adequate, applicable zoning code amendments, and that this resolution shall take effect upon recording and publication.

BY ORDER OF THE Board of Burleigh County Commissioners this _____th day of _____, 2025.

Brian Bitner, Burleigh County Chairperson

ATTEST:

Mark Splonskowski, Burleigh County Auditor/Treasurer

DRAFT



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamedia.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

June 11, 2025

1. Roll Call
2. Approval of the April 9, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Biegler Subdivision
 - 3-2 Plains Ridge Subdivision
4. Public Hearing Agenda
 - 4-1 Special Use Permit Request - Wiese
 - 4-2 Article 8 – Special Uses – Ag-Recreation
5. Other Business:
6. Adjourn

– Next Meeting – July 9, 2025

Agenda Item 3-1

Biegler Subdivision

Project Summary	
Status:	Consent Agenda
Petitioner/Developer	Ron and Kathy Biegler
Engineer	Mark Isaacs – ILSE, Inc
Location:	Part of Auditor's Lot E in the SE Quarter and Part of the SE Quarter all in Section 29, Township 139N, Range 76W, Burleigh County
	
3-1-1 Location Map	
Project Size:	Four (4) Lots on 22.76 Acres
Zoning Change:	Sterling Township
Petitioners Request	Approve preliminary plat. Call for a public hearing

History/Description

The petitioners approached Burleigh County regarding property located in Sterling Township. The property owners had earlier requested to purchase the excess Right of Way along County Highway 10, the excess was granted to the Biegler's on October 21, 2024. The Biegler's have purchased the land and all remaining items have been removed.

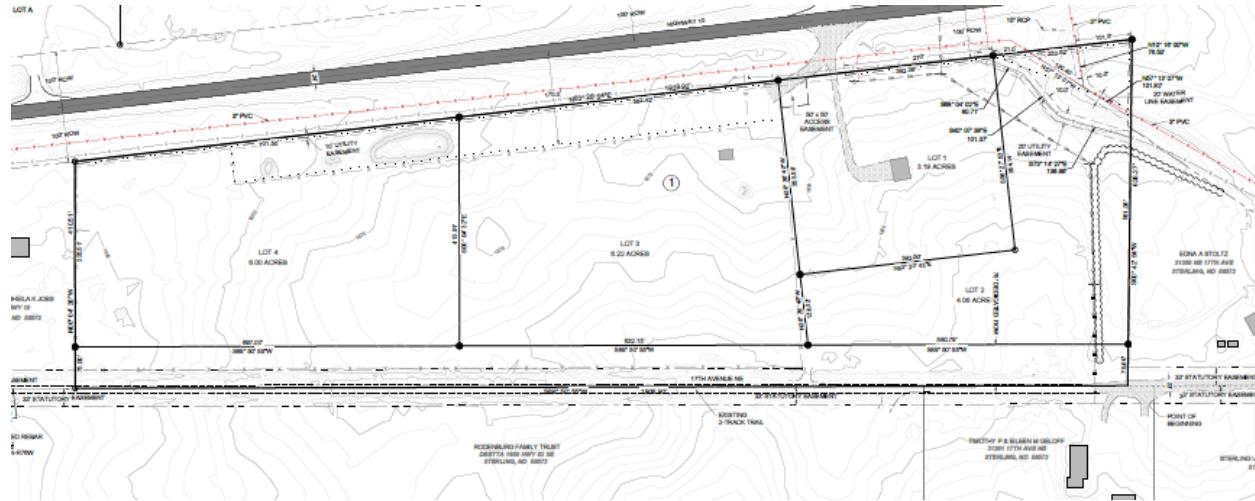
As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING
COMMISSION

June 11, 2025

After removal of the items left on the released Right of Way, the Biegler's decided to move forward with the platting of the property into a four (4) lot subdivision.



Attachment 3-1-2 Preliminary Plat



Attachment 3-1-3 Site Map



PLANNING AND ZONING
COMMISSION

June 11, 2025





PLANNING AND ZONING
COMMISSION

June 11, 2025





PLANNING AND ZONING
COMMISSION

June 11, 2025

Staff Findings – Preliminary Plat

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
3. Zoning is A-Agricultural. Property is located in Sterling Township
4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

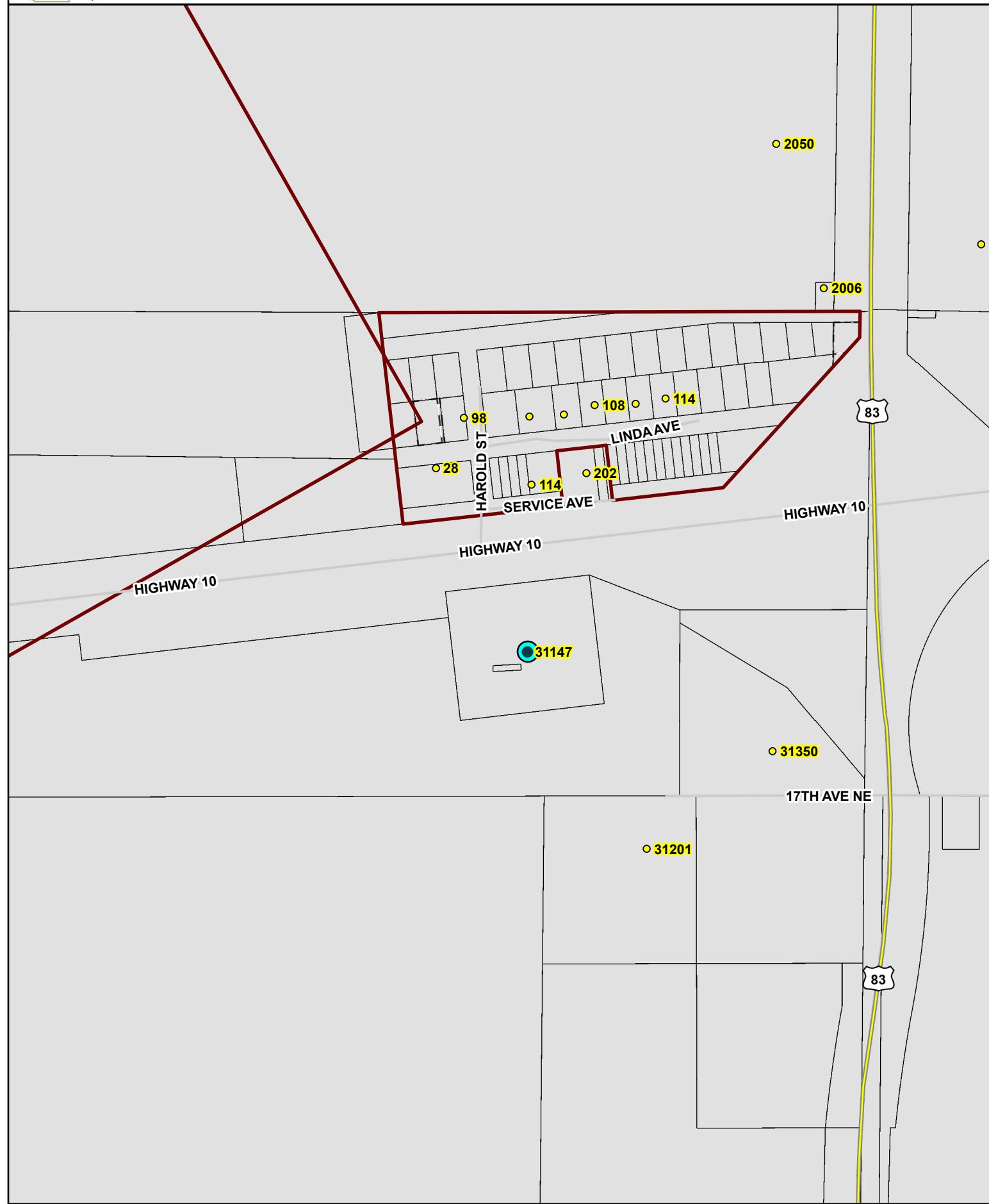
Planning Staff Recommendation

The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the preliminary plat and calling for a public hearing.

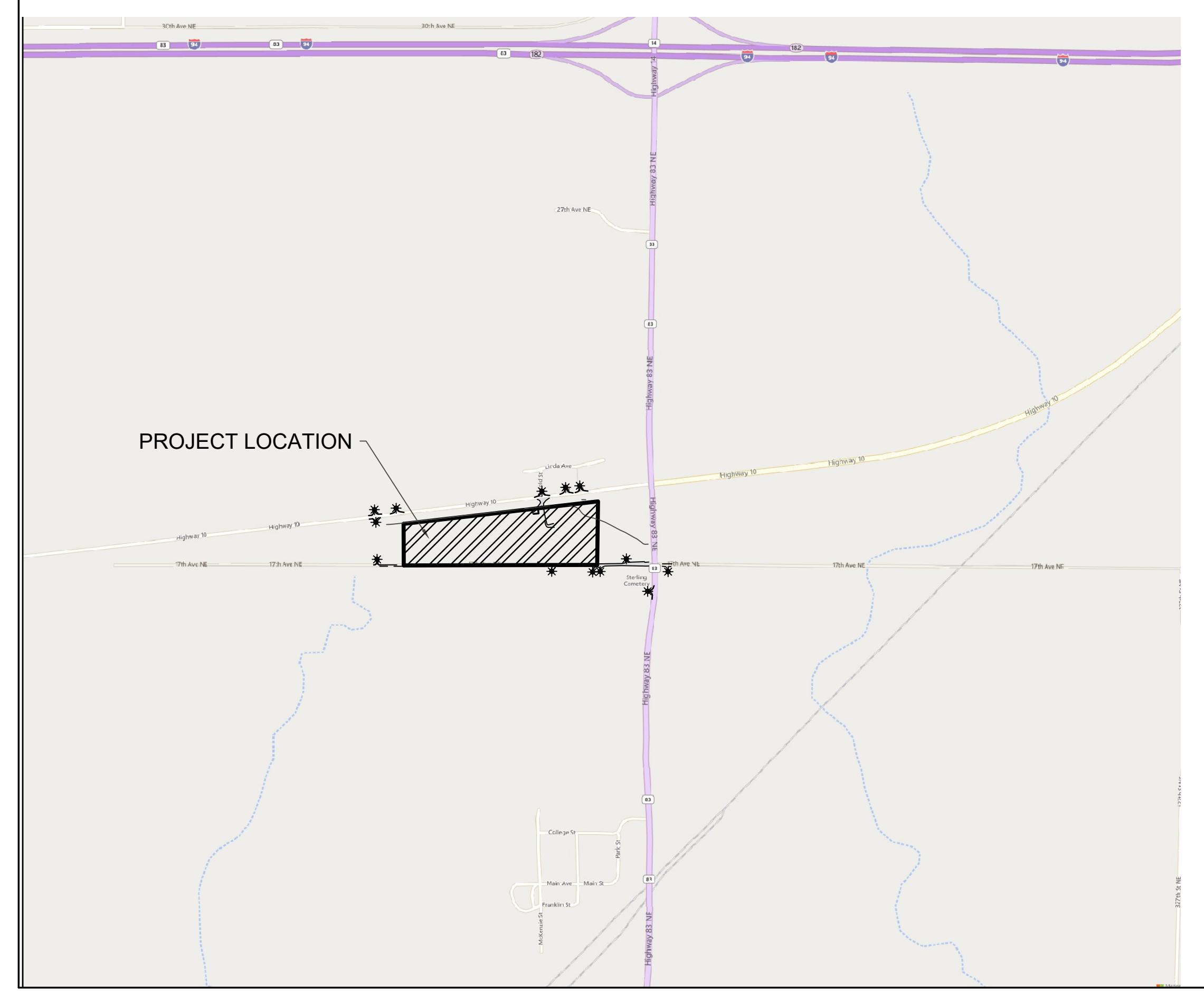
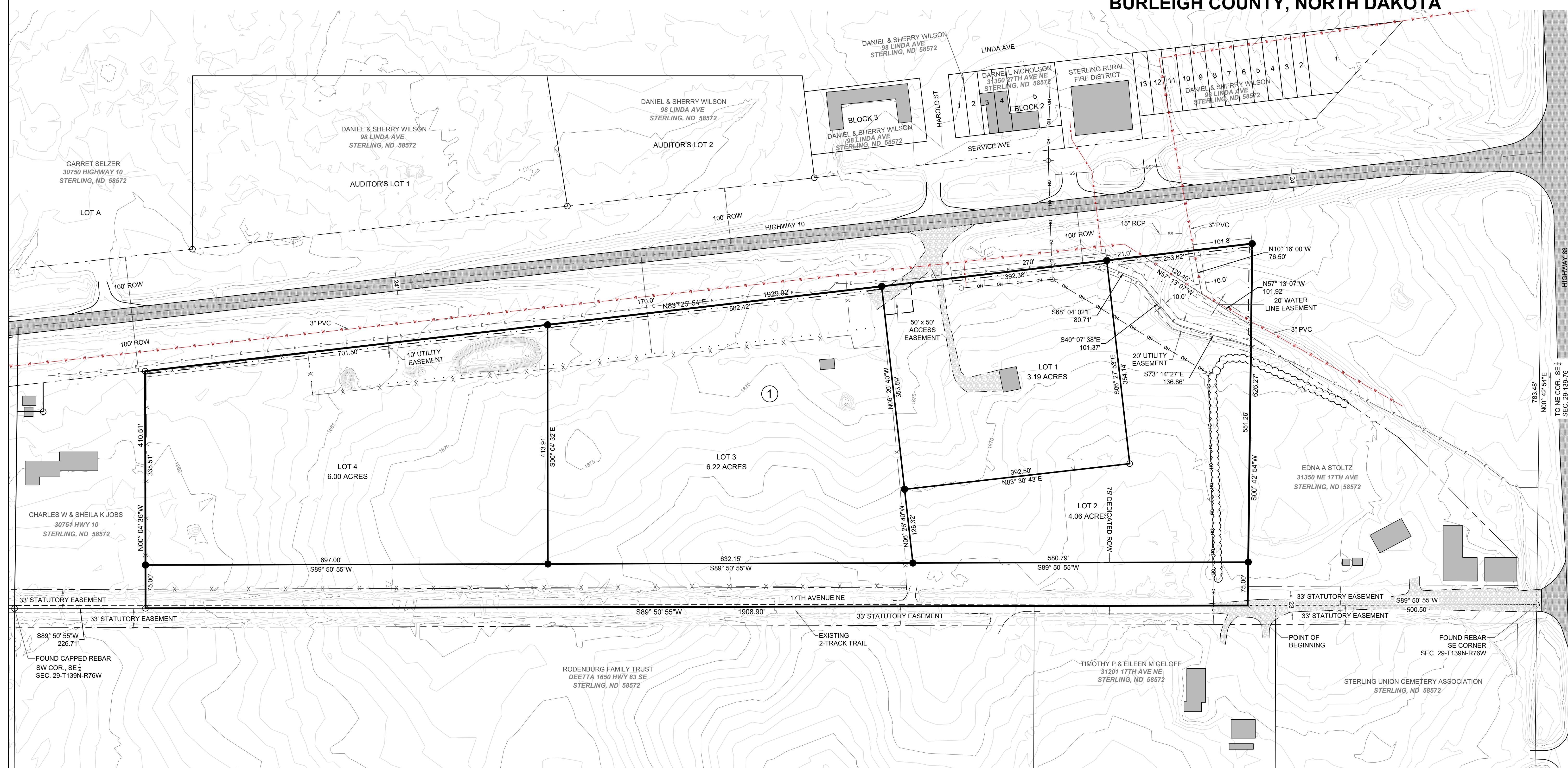
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and call for a public hearing.
2. Approve the preliminary plat with conditions and call for a public hearing after all condition have been completed.
3. Deny the preliminary plat with reason.
4. Table the preliminary plat for more information.



PRELIMINARY PLAT
BIEGLER SUBDIVISION
 PART OF AUDITOR'S LOT E IN THE SE QUARTER
 AND PART OF THE SE QUARTER
 ALL IN SECTION 29, T139N, R76W
 BURLEIGH COUNTY, NORTH DAKOTA



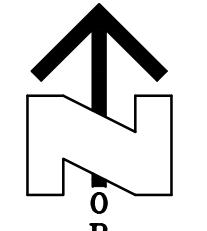
LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- ROW
- RIGHT OF WAY
- EXISTING BUILDING
- EXISTING GRAVEL
- EXISTING FENCE
- OH — EXISTING OVERHEAD ELECTRIC
- X — EXISTING DRIVE APPROACH
- C — EXISTING TREE BELT
- H — EXISTING ASPHALT
- D — NON-ACCESS LINE
- E — ACCESS EASEMENT
- W — EXISTING 3" PVC WATER LINE
- P — EXISTING POWER POLE
- X — EXISTING UTILITY BOX

LAND DESCRIPTION

PART OF AUDITOR'S LOT E IN THE SOUTHEAST QUARTER AND PART OF THE SOUTHEAST QUARTER ALL IN SECTION 29, TOWNSHIP 139 NORTH, RANGE 76 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 29; THENCE SOUTH 89° 50' 55" WEST ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 500.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89° 50' 55" WEST ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 1908.90 FEET; THENCE NORTH 00° 04' 36" WEST A DISTANCE OF 410.51 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIGHWAY 10; THENCE NORTH 83° 25' 54" EAST ON SAID SOUTH RIGHT OF WAY LINE 9 A DISTANCE OF 1929.92 FEET; THENCE SOUTH 00° 42' 54" WEST A DISTANCE OF 626.27 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 22.76 ACRES MORE OR LESS; AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



SCALE: 1" = 80'
 0 40 80

DATE: MAY 29TH, 2025

VERTICAL DATUM - NAVD 1988.
 BASED ON NORTH DAKOTA SOUTH ZONE-NAD83 (2011) INTERNATIONAL FEET.
 MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE "BSMK" CORS STATION AND ARE REPORTED IN GRID.

PROFESSIONAL LAND SURVEYOR
 MARK R. ISAACS, LS-8028

BIEGLER SUBDIVISION PART OF AUD. LOT E SOUTHEAST QUARTER SECTION 29, T139N, R76W BURLEIGH, NORTH DAKOTA	
Independent Land Surveying & Engineering	
4215 Old Red Trill NW Mandan, ND 58545 Phone: 701-663-5184 Cell: 701-595-2079 mark@lsurveynd.com	
SHEET: 1 OF 1 JOB NUMBER: 24061 SCALE: 1" = 80' Dwg Revision Dates DRAWN BY: MR. 5/29/25 - DWG DATE: 4/22/25 - DWG NAME: 24061 Survey.dwg	

ACREAGE TABLE	
LOT 1	3.19 ACRES
LOT 2	4.06 ACRES
LOT 3	6.22 ACRES
LOT 4	6.00 ACRES
DEDICATED ROW	3.29 ACRES
TOTAL	22.76 ACRES

OWNERS:
 RONNIE & KATHY BIEGLER
 31302 5TH AVENUE NE
 STERLING, ND 58572

JOYCE BIEGLER
 4430 41ST AVE SE
 TAPPEN, ND 58487

NOTES:
 1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
 2. SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
 3. EXISTING ZONING PROPOSED PLAT AREA AND SURROUNDING AREAS - AGRICULTURAL
 4. 50' x 50' ACCESS EASEMENT TO SERVE LOT 3 BLOCK 1.



PARCEL ID: 35-139-76-00-32-400 OWNER: HEATON, LEWIS R & SHERRY L ACRES: 160

SITE ADDRESS:

MAIL ADDRESS: 28051 10TH AVE SE, MCKENZIE, ND 58572

LEGAL: STERLING TOWNSHIP Section 32 NW1/4 32-139-76

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Agenda Item 3-2

Plains Ridge Subdivision

Project Summary	
Status:	Consent Agenda
Petitioner/Developer	Seth Sandness
Engineer	Todd Marschall – Houston Engineering
Location:	Part of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 24, Township 140N, Range 80W, Burleigh County, ND Addressed as: 11201 41 st Street NE
	 <div>3-2-1 Location Map</div>
Project Size:	Two (2) Lots – 14.1 Acres More or Less
Zoning Change:	A-Agricultural to R1-Rural Single Family Residential (Hear by P & Z, April 2020 but not heard by County Commission)
Petitioners Request	Approve preliminary plat. Call for a public hearing.

History/Description

Seth Sandness approached Burleigh County in February of 2020 for a four (4) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential. At the April 2020 public hearing the subdivision was denied for the following reasons:

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



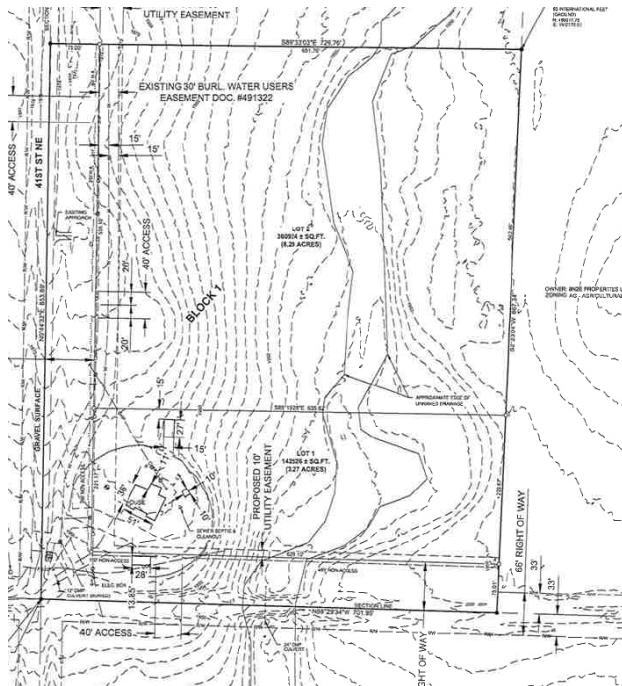
PLANNING AND ZONING COMMISSION

June 11, 2025

1. There is only one access out onto NE 41st Street
2. Snow removal can be a concern
3. Wastewater may flow into Hay Creek tributary
4. Tree growing in the ditches leading to 41st could be a hazard
5. Road conditions on NE 41st and 110th Avenue are unimproved.
6. Improving 110th Avenue will be an additional cost to Burleigh County.

Seth Sandness decided not to appeal the decision.

In 2025, he was approached by his renter to purchase the property surrounding the house he has rented. Since the house is located on one (1) parcel, the parcel needed to be subdivided before the property could be purchased by his renter. He was advised to submit a new preliminary plat showing a two (2) lot subdivision and to request the zoning approval be submitted to the County Commission.



Attachment 3-2-2 Preliminary Plat



PLANNING AND ZONING
COMMISSION

June 11, 2025



Attachment 3-2-3 Site Map

Staff Findings – Preliminary Plat

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
3. Zoning is A-Agricultural. This was presented at the April 2020 meeting to change to R1-Rural Single Family but was not approved or denied.
4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
5. A revised Stormwater Management Plan was requested.



PLANNING AND ZONING COMMISSION

June 11, 2025

Planning Staff Recommendation

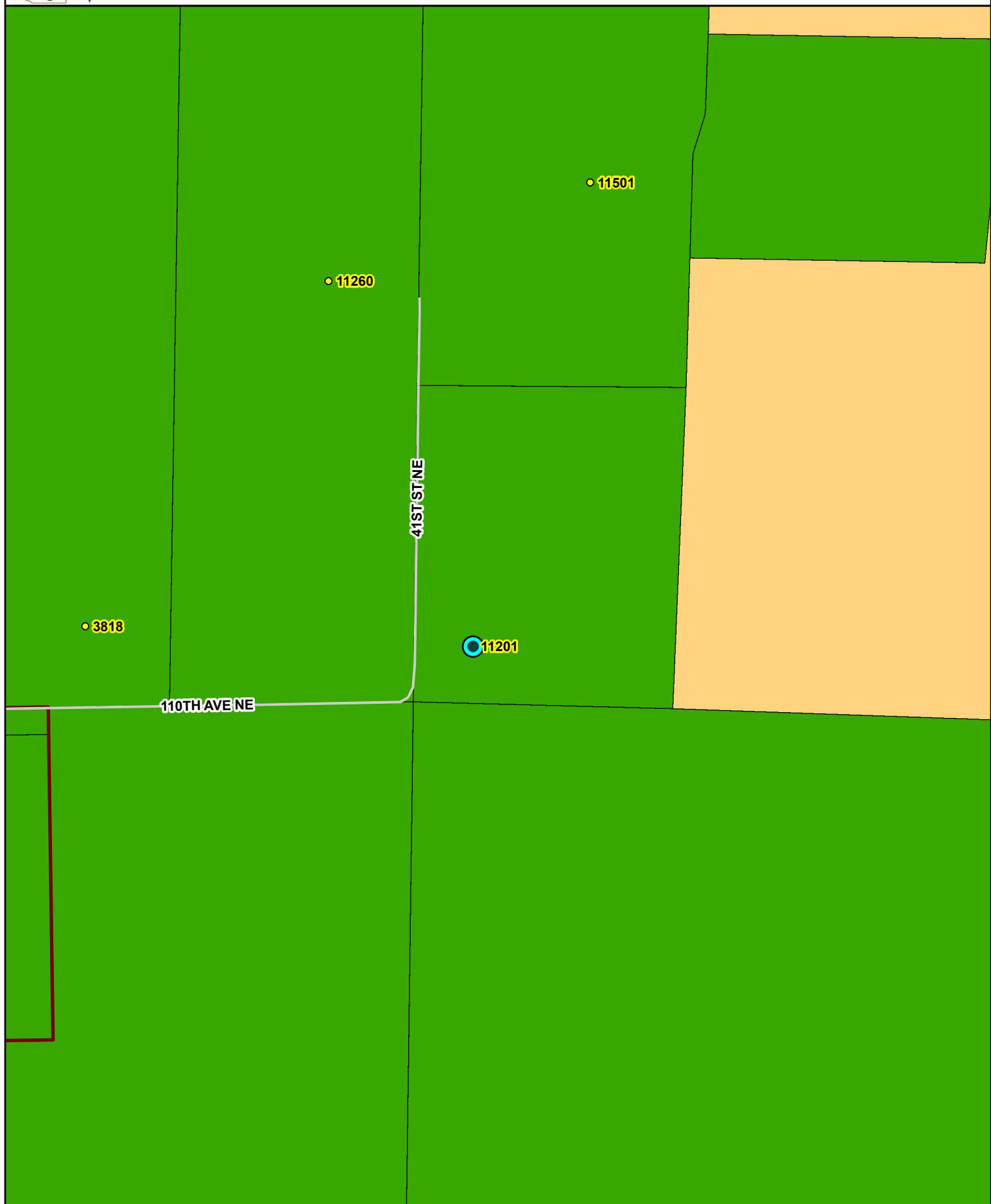
The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the preliminary plat and calling for a public hearing.

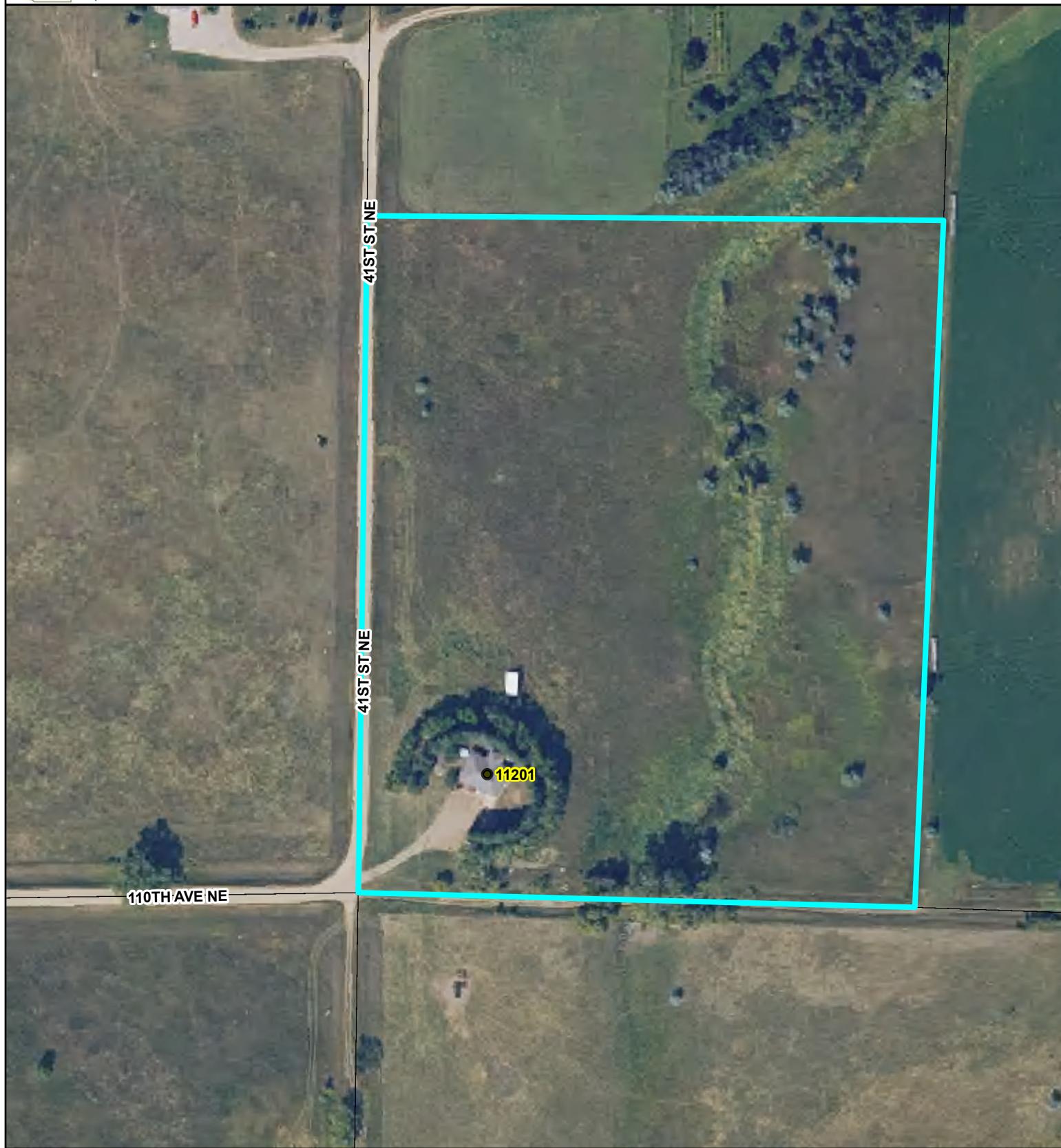
Staff recommends approval of the zoning change request from April 2020 with a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and call for a public hearing.
2. Approve the preliminary plat with conditions and call for a public hearing after all condition have been completed.
3. Deny the preliminary plat with reason.
4. Table the preliminary plat for more information.





PARCEL ID: 24-140-80-00-24-601

OWNER: SANDNESS, AMBER & SETH

ACRES: 14.138

SITE ADDRESS: 11201 NE 41ST ST

MAIL ADDRESS: 4401 W ROUNDUP ROAD, BISMARCK, ND 58503

LEGAL: BURNT CREEK TOWNSHIP Section 24 SW1/4 BEG @ COMMON CORNER TO SECTIONS 23-24 AND 25-26 THENCE S89°15'E FOR 702.8', N1°10'E FOR - 867.7', S89°42'W FOR 727.5', THENCE S854.6' TO POB 24-140-80

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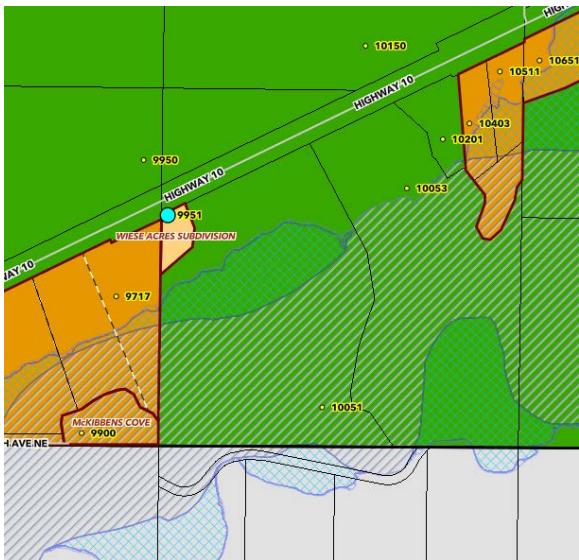
PLANNING AND ZONING
COMMISSION

June 11, 2025

Agenda Item 4.1 Wiese Special Use

Application for a Special Use Permit

Project Summary

Public Hearing Agenda:	Special Use Permit to move a building
Status:	Public Hearing
Petitioner/Developer	Gene & Kathleen Wiese
Location:	9951 Hwy 10, Bismarck ND Wiese Acres Subdivision Block 1, Lot 1 
	<div style="border: 1px solid black; padding: 5px; text-align: center;">Exhibit 4-1-1 Location Map</div>
Parcel Size:	2 acres R1-Rural Single Family Residential
Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a



PLANNING AND ZONING
COMMISSION

June 11, 2025

	Special Use Permit to move a 1700 sf shop before house is completed
Posted Dates	Bismarck Tribune 5/29 & 6/5/2025 Surrounding Property Owners 5/30/2025 Burleigh County Website 5/30/2025

History/Description

Burleigh County Planning and Building Staff was approached by Gene Wiese regarding moving a 1700 sf pre-built shop from his property at 10750 Rushmore Road to their new property located at 9951 Highway 10. Burleigh County staff examined the building at the Rushmore Road location. It was determined the building was in good condition and allowable on the parcel. Staff determined the building meets all building codes.

Gene and Kathleen have received a permit to build their residence on the property located at 9951 Highway 10. They are also in the process of selling their home on Rushmore Road. They are not planning to sell the accessory building, but to move it when their house was completed. They have been advised to have the accessory building moved before the house is placed on the market.

The Wiese's have contacted their neighbors in regards to moving their building before their house is completed. They have not received responses to their inquiries. There are ten (10) surrounding properties within a quarter mile of 9951 Highway 10, with only two (2) with residences on the parcels.

Staff Findings:

1. The building to be moved meets the requirements for an accessory building in Burleigh County.
2. Staff has determined the building will not affect the surrounding neighbors
3. The size of the building is allowed on 2 acres of property. Article 6 – Incidental Uses
4. This building would be allowed in R1-Rural Single Family Residential Zoning
5. The building permit for a residence has been approved and issued.



PLANNING AND ZONING
COMMISSION

June 11, 2025

6. The application for request of a Special Use Permit meets the requirements of Article 8 of the Burleigh County Zoning Ordinance.

Planning Staff Recommendation

The request for a special use permit fulfills the application requirements of Article 8, Article 6 and Article 12 of the Burleigh County Zoning Ordinances. Planning Staff recommends a "Do Pass" recommendation to the Board of Burleigh County Commissioners with conditions set by the Planning and Zoning Commission.

Planning Commission Action

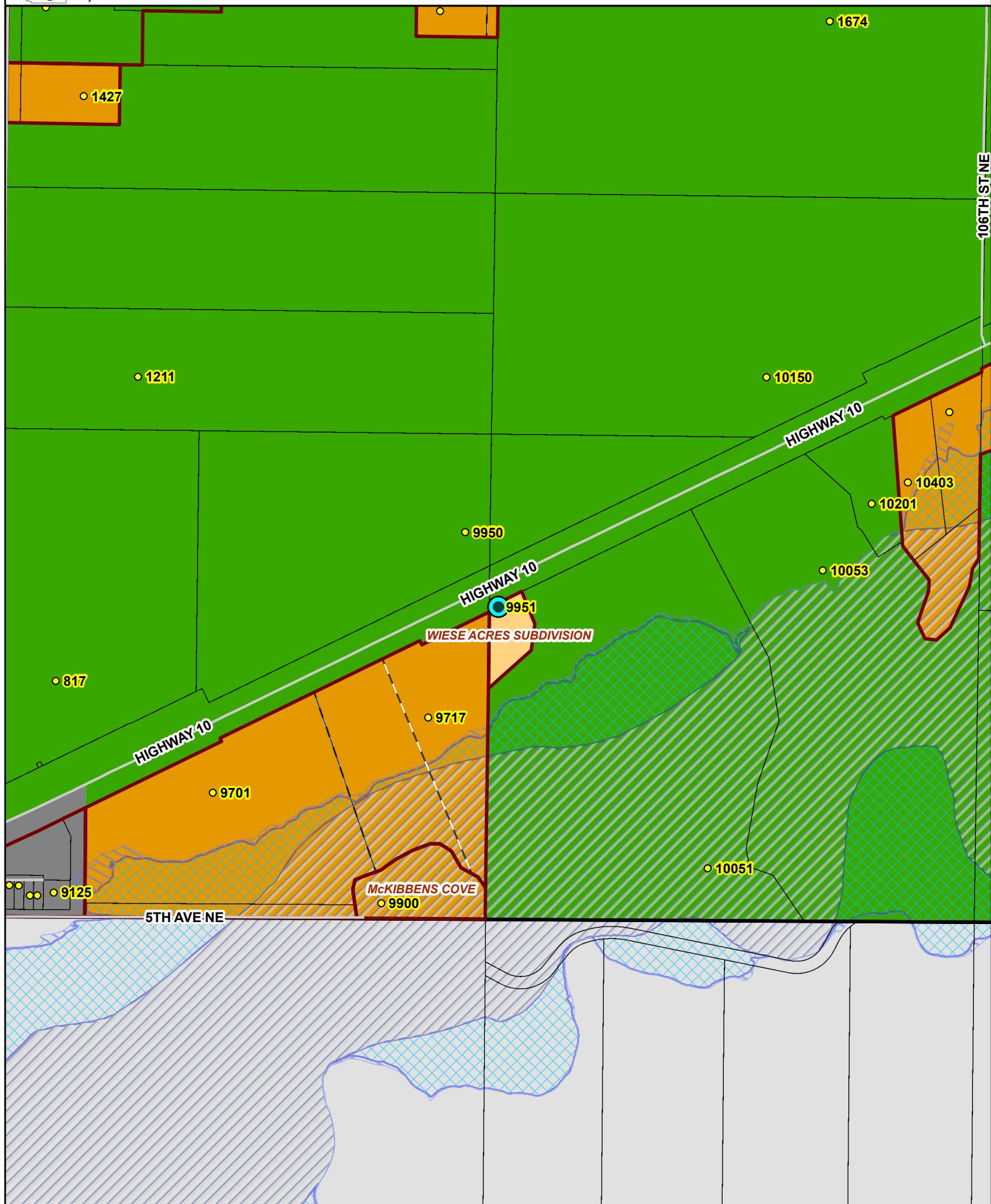
The Burleigh County Planning and Zoning Commission can:

1. Approve the special use permit and give a "Do Pass" Recommendation
2. Approve special use permit with conditions and give a "Do Pass" recommendation after all conditions required are approved by the Planning and Zoning Commission.
3. Deny the special use permit with reason.
4. Table the special use permit for more information.



BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

N
5/30/2025





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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

Date: June 11, 2025

TO: Burleigh County Planning and Zoning Commission
RE: Public Hearing to Amend Burleigh County Zoning Ordinances
FROM: Marla McMonagle, Associate Planner

AMEND ARTICLE 8 TO ADD AGRICULTURAL RECREATION:

Agricultural Recreation is described as:

An agriculture recreation use combines agricultural production with recreational uses that are in common with and ancillary to the primary agricultural use and in conjunction with a single-family dwelling.

Due to the growth in agricultural awareness and tourism in the state of ND, it has become necessary to include Agricultural Recreation in the Burleigh County Zoning Ordinances. A draft ordinance was presented to the Planning and Zoning Commission in July of 2024, and approved for a public hearing.

After a public hearing in August 2024 regarding the amendment, it was determined staff needed to meet with the Agricultural Recreation Focus Group to rework the amendment. The group met with staff on April 24th and May 15th.

Staff presented the group with two (2) separate ordinance amendments, the original amendment that was presented to the Planning and Zoning Commission in August of 2024 and a new draft ordinance. The focus group decided to use the new draft ordinance as the outline for the amendment. Most of the focus group approved the amendment and requested it to be presented to the Planning and Zoning Commission for final approval and a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Attachment:

Article 8 – Special Uses – Agricultural Recreation

ORDINANCE 25-----

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 AND 11 OF THE 1972 AMENDED
ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO AGRICULTURAL
RECREATION**

Section 1. **Amendment** Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

Section 31 - Agricultural Recreation

Agricultural Recreation may be permitted in an Agricultural District as a special use. All persons, entities or organizations wishing to establish the use of Agricultural Recreation within Burleigh County must apply for and be granted a special use permit.

Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

Agriculture. *The Science or practice of cultivating the soil, producing crops and or raising livestock.*

Agriculture Recreation. *An agriculture recreation use combines agricultural production with recreation uses that are in common with and ancillary to the primary agricultural use and in conjunction with a single-family dwelling.*

1. Allowable Uses on ten (10) acres or more, no more than seventy-five (75) days per year. Exception: Educational Agricultural Tours
 - a. "You-Pick" orchards or tree cutting - under 50 people per day.
 - b. Corn or Hay Bale Mazes –under 50 people per day.
 - c. Hay Rides - under 50 people per day.
 - d. Tractor or farm equipment rides - under 50 people per day.
 - e. Farm animal viewing and petting - under 50 people per day.
 - f. Tasting events for products - under 50 people per day.
 - g. Relating to the principle agricultural use at which less than 50 people per day.

Minimum Requirements:

1. Outdoor lighting fixtures directed so direct light is visible above a height of 5 feet. lighting fixtures near adjacent properties must have special shielding to help eliminate light pollution on adjacent properties.
2. Outdoor lighting must be five (5) feet from the adjacent properties.
3. Sound generated by outdoor amplification of music or voice must not exceed 55 decibels during daylight hours, 45 decibels during nighttime hours, measured from the property line.
4. Events shall be held between the hours of 9:00 am to 9:00 pm, with one-hour before and after event for set-up and clean up only.
5. Adequate restroom facilities must be provided.
6. On-site Parking must be provided. No road side parking. All parking areas must be mowed or graveled to prevent fire hazards.

2. Allowed with a Special Use Permit on 40 acres or more:

- a. Domestic Winery –which uses products grown on site or within the region and as licensed through NDCC.
- b. Domestic Distillery - which uses products grown on site or within the region and as licensed through NDCC.
- c. Brewer Taproom- which uses products grown on site or within the region and as licensed through NDCC.
- d. Any event relating to the principle agricultural use at which more than fifty (50) persons attend per day.
- e. Any event relating to the principle agricultural use that occurs more seventy-five (75) days per year.
- f. Event specific over-night camping i.e. camping for trail rides, rodeos, agricultural events.

Additional requirements for Special Use Permits:

1. Outdoor lighting fixtures directed so direct light is visible above a height of 5 feet. Lighting fixtures near adjacent properties must have special shielding to help eliminate light pollution on adjacent properties.
2. Outdoor lighting must be five (5) feet from the adjacent properties.
3. Sound generated by outdoor amplification of music or voice must not exceed 55 decibels during daylight hours, 45 decibels during nighttime hours, measured from the property line.
4. Events shall be held between the hours of 9:00 am to 9:00 pm, with one-hour before and after event for set-up and clean up only.
5. Adequate restroom facilities must be provided.
6. On-site parking must be provided. Parking is to be organized and must have a minimum of 12 ft lanes for travel. No road side parking. All parking areas must be mowed or graveled to prevent fire hazards.

7. A site plan including, but not limited to, multiple means of ingress and egress, emergency response plan must be provided.
8. Limitations/requirements as determined by the Board of Burleigh County Commissioners for each special use permit. These limitations and requirements are special use permit specific and may not be required on all agricultural recreation special use permits.

Section 2. Amendment: Article 11, A-Agricultural Zoning District, Section 4 Special Uses amended to include the following:

Agricultural Recreation

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

Section 4. Severability If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such as adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. Effective Date This ordinance shall take effect after final passage, adoption and publication as provided by law

Passed and adopted this _____ day of _____, 2025

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2025

Mark Splonskowski, Burleigh County Auditor/Treasurer



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamedia.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

July 9, 2025

1. Roll Call
2. Approval of the June 11, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*

There are no items on the Consent Agenda
4. Public Hearing Agenda
 - 4-1 Plains Ridge Subdivision
 - 4-2 Article 8 – Special Uses – Ag-Recreation
2nd Hearing
5. Other Business:
6. Adjourn

– Next Meeting – August 13, 2025

Agenda Item 4-1 Public Hearing

Plains Ridge Subdivision

Project Summary	
Status:	Public Hearing
Petitioner/Developer	Seth Sandness
Engineer	Todd Marschall – Houston Engineering
Location:	Part of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 24, Township 140N, Range 80W, Burleigh County, ND Addressed as: 11201 41 st Street NE
	 <div style="border: 1px solid black; padding: 5px; text-align: center;">4-1-1 Location Map</div>
Project Size:	Two (2) Lots – 14.1 Acres More or Less 1 lot = 8.9 acres 1 lot = 3.27 acres
Zoning Change:	A-Agricultural to R1-Rural Single Family Residential (Heard by P & Z, April 2020 but not heard by County Commission)
Posted:	Bismarck Tribune 6/25/2025 7/2/2025 Burleigh Co. Website 6/24/2025 Surrounding Property Owners - Quarter mile radius 6/24/2025
Petitioners Request	Approve final plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING
COMMISSION

July 9, 2025

History/Description

Seth Sandness approached Burleigh County in February of 2020 for a four (4) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential. At the April 2020 public hearing the subdivision was denied for the following reasons:

1. There is only one access out onto NE 41st Street
2. Snow removal can be a concern
3. Wastewater may flow into Hay Creek tributary
4. Tree growing in the ditches leading to 41st could be a hazard
5. Road conditions on NE 41st and 110th Avenue are unimproved.
6. Improving 110th Avenue will be an additional cost to Burleigh County.

Seth Sandness decided not to appeal the decision.

In 2025, he was approached by his renter to purchase the property surrounding the house he has rented. Since the house is located on one (1) parcel, the parcel needed to be subdivided before the property could be purchased by his renter. He was advised to submit a new final plat showing a two (2) lot subdivision and to request the zoning approval be submitted to the County Commission.

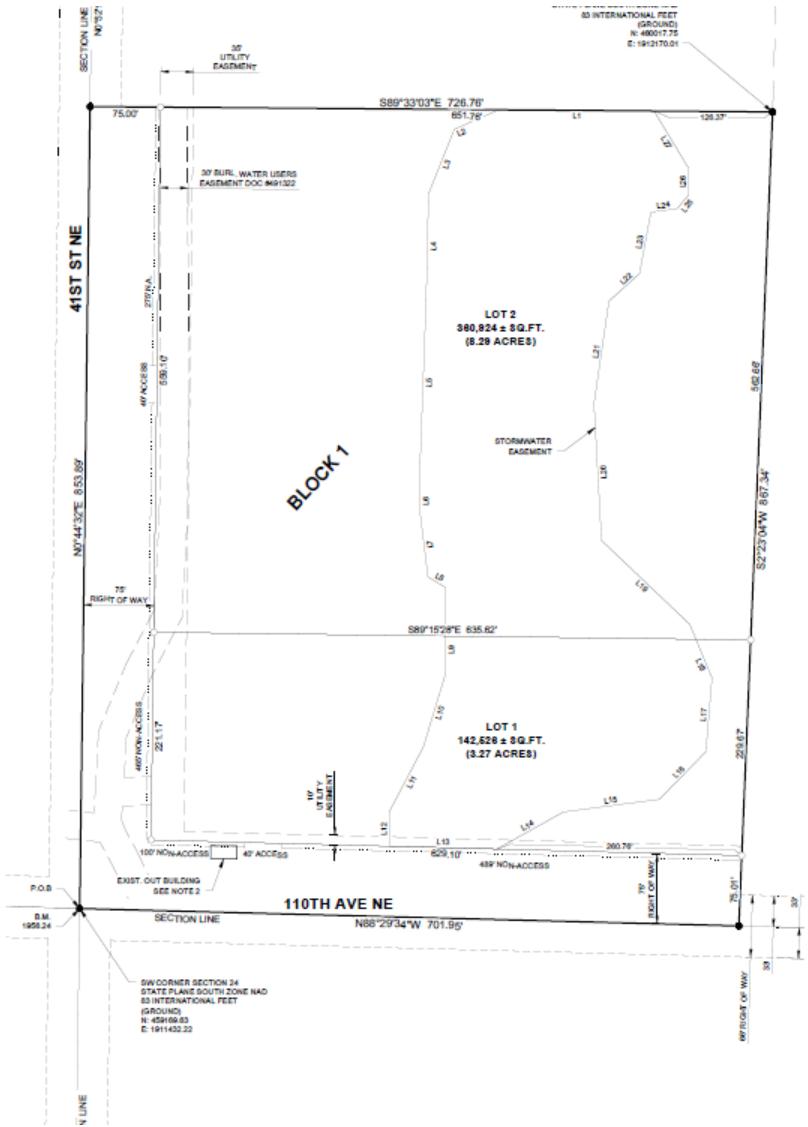
The petitioner is asking for a zoning change from A-Agricultural to R1-Rural Single Family Residential. The zoning change submitted in February of 2020 was not motioned for approval or denial at the public hearing. The petitioner is asking the Planning and Zoning Commission to approve the zoning change. Without the zoning change, the lot cannot be platted.

The Storm Water Management Plan for the two (2) lot subdivision has been submitted and approved by County Engineering. Access to the occupied lot has been approved and access for the unoccupied lot has been assigned on the final plat.



PLANNING AND ZONING COMMISSION

July 9, 2025



Attachment 4-1-2 Final Plat



PLANNING AND ZONING
COMMISSION

July 9, 2025



Attachment 4-1-3 Site Map

Staff Findings – Final Plat

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
3. Zoning is A-Agricultural. This was presented at the April 2020 meeting to change to R1-Rural Single Family but was not approved or denied. Petitioner has requested approval of the zoning change.
4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
5. A revised Stormwater Management Plan was submitted and approved.



PLANNING AND ZONING
COMMISSION

July 9, 2025

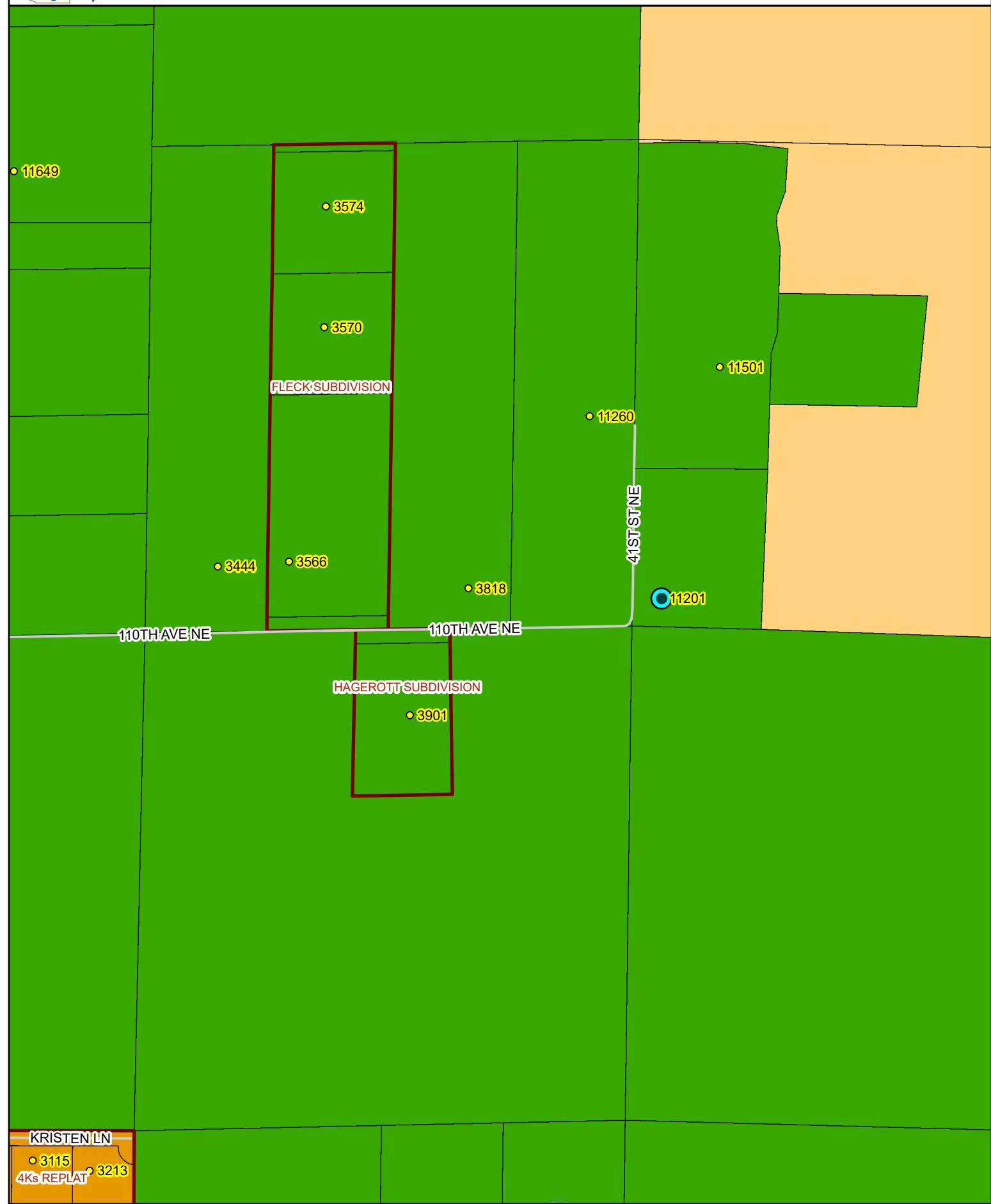
Planning Staff Recommendation

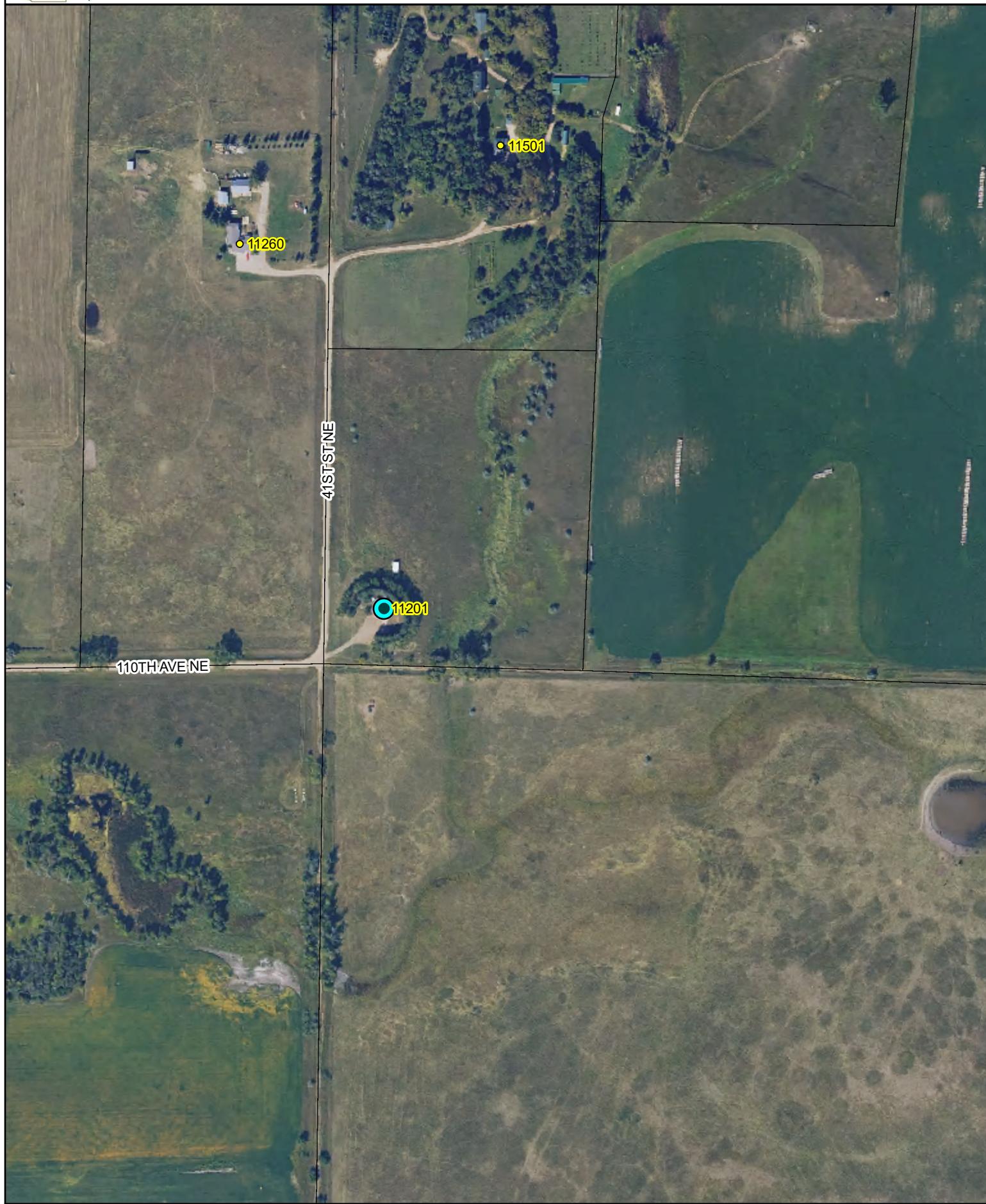
The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the final plat and zoning change and giving a "Do Pass" recommendation to the Board of Burleigh County Commissioners

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and zoning change and give a "Do Pass" Recommendation
2. Approve the final plat and zoning change with conditions and give a "Do Pass" recommendation.
3. Deny the final plat and zoning change with reason.
4. Table the final plat and zoning change for more information.





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**BURLEIGH COUNTY
BUILDING/PLANNING/ZONING
DEPARTMENT**



DATE: June 27, 2025

TO: Burleigh County Planning and Zoning Commission

RE: 2nd Public Hearing to Amend Burleigh County Zoning Ordinances

FROM: Marla McMonagle, Associate Planner

AMEND ARTICLE 8 TO ADD AGRICULTURAL RECREATION

Staff presented the Planning and Zoning Commission with the draft ordinance for Agricultural Recreation at a public hearing on June 11th. After several comments from the public regarding the number of days and number of attendees in which an activity could be held without a Special Use Permit (SUP), the allowable decibels and whether a corn maze and hay bail maze were agricultural activities a motion was made:

Change the number of days for allowable activities without a permit to fifty (50) from seventy-five (75) days. Remove corn and hay bail mazes as an allowable activity. Change the decibels for night time noise to 35 decibels from 45 decibels in all instances.

The changes are highlighted on the new amended Article 8 – Special Uses. A 2nd public hearing has been scheduled for July 9th.

One item that was originally removed within the first motion which failed was the sentence:

“All persons, entities or organizations wishing to establish the use of Agricultural Recreation within Burleigh County must apply for and be granted a special use permit”

When meeting with the focus group, the members wanted to have an attendee and a date limit which would be allowed without having to seek a special use permit. Members that approached us after the meeting are confused about whether a SUP would be needed for events under fifty (50) people and under fifty (50) days.

Attachment:

Article 8 – Special Uses – Agricultural Recreation

ORDINANCE 25-----

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 8 AND 11 OF THE 1972 AMENDED
ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO AGRICULTURAL
RECREATION**

Section 1. **Amendment** Article 8 of the Zoning Ordinance is hereby amended and re-enacted as follows:

Section 31 - Agricultural Recreation

Agricultural Recreation may be permitted in an Agricultural District as a special use. All persons, entities or organizations wishing to establish the use of Agricultural Recreation within Burleigh County must apply for and be granted a special use permit.

Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

Agriculture. The Science or practice of cultivating the soil, producing crops and or raising livestock.

Agriculture Recreation. An agriculture recreation use combines agricultural production with recreation uses that are in common with and ancillary to the primary agricultural use and in conjunction with a single-family dwelling.

1. Allowable Uses on ten (10) acres or more, no more than **seventy-five (75)** fifty (50) days per year. Exception: Educational Agricultural Tours
 - a. "You-Pick" orchards or tree cutting - under 50 people per day.
 - b. Corn or Hay Bale Mazes - under 50 people per day.**
 - c. Hay Rides - under 50 people per day.
 - d. Tractor or farm equipment rides - under 50 people per day.
 - e. Farm animal viewing and petting - under 50 people per day.
 - f. Tasting events for products - under 50 people per day.
 - g. Relating to the principle agricultural use at which less than 50 people per day.

Minimum Requirements:

1. Outdoor lighting fixtures directed so direct light is visible above a height of 5 feet. lighting fixtures near adjacent properties must have special shielding to help eliminate light pollution on adjacent properties.
2. Outdoor lighting must be five (5) feet from the adjacent properties.
3. Sound generated by outdoor amplification of music or voice must not exceed 55-35 decibels during daylight hours, 45 decibels during nighttime hours, measured from the property line.
4. Events shall be held between the hours of 9:00 am to 9:00 pm, with one-hour before and after event for set-up and clean up only.
5. Adequate restroom facilities must be provided.
6. On-site Parking must be provided. No road side parking. All parking areas must be mowed or graveled to prevent fire hazards.

2. Allowed with a Special Use Permit on 40 acres or more:

- a. Domestic Winery –which uses products grown on site or within the region and as licensed through NDCC.
- b. Domestic Distillery - which uses products grown on site or within the region and as licensed through NDCC.
- c. Brewer Taproom- which uses products grown on site or within the region and as licensed through NDCC.
- d. Any event relating to the principle agricultural use at which more than fifty (50) persons attend per day.
- e. Any event relating to the principle agricultural use that occurs more seventy-five (75) days per year.
- f. Event specific over-night camping i.e. camping for trail rides, rodeos, agricultural events.

Additional requirements for Special Use Permits:

1. Outdoor lighting fixtures directed so direct light is visible above a height of 5 feet. Lighting fixtures near adjacent properties must have special shielding to help eliminate light pollution on adjacent properties.
2. Outdoor lighting must be five (5) feet from the adjacent properties.
3. Sound generated by outdoor amplification of music or voice must not exceed 55 decibels during daylight hours, 45-35 decibels during nighttime hours, measured from the property line.
4. Events shall be held between the hours of 9:00 am to 9:00 pm, with one-hour before and after event for set-up and clean up only.
5. Adequate restroom facilities must be provided.
6. On-site parking must be provided. Parking is to be organized and must have a minimum of 12 ft lanes for travel. No road side parking. All parking areas must be mowed or graveled to prevent fire hazards.

7. A site plan including, but not limited to, multiple means of ingress and egress, emergency response plan must be provided.
8. Limitations/requirements as determined by the Board of Burleigh County Commissioners for each special use permit. These limitations and requirements are special use permit specific and may not be required on all agricultural recreation special use permits.

Section 2. Amendment: Article 11, A-Agricultural Zoning District, Section 4 Special Uses amended to include the following:

Agricultural Recreation

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

Section 4. Severability If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such as adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. Effective Date This ordinance shall take effect after final passage, adoption and publication as provided by law

Passed and adopted this _____ day of _____, 2025

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2025

Mark Splonskowski, Burleigh County Auditor/Treasurer



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamediaaccess.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

August 13, 2025

1. Roll Call
2. Approval of the July 9, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*

There are no items on the Consent Agenda
4. Public Hearing Agenda
 - 4-1 Special Use Permit – Sabot House Move
5. Other Business:
6. Adjourn

– Next Meeting –September 10, 2025



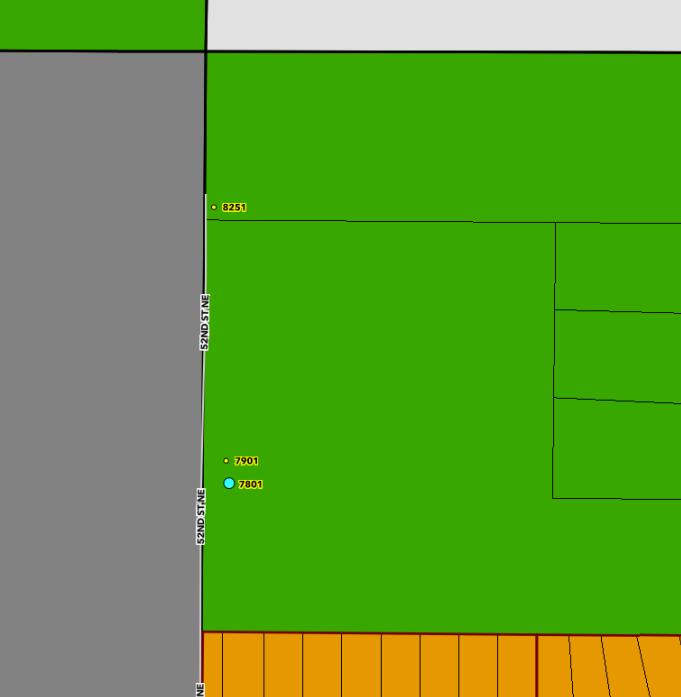
PLANNING AND ZONING
COMMISSION

August 13, 2025

Agenda Item 4.1 Sabot Special Use

Application for a Special Use Permit

Project Summary

Public Hearing Agenda:	Special Use Permit to move a residential building
Status:	Public Hearing
Petitioner/Developer	Luke Sabot
Location:	<p>7801 52nd Street NE GIBBS TOWNSHIP Section 06 NW1/4, LESS S400'; LESS N525' OF THE S925' OF THE E710' SE1/4NW1/4; LESS TRACT B; LESS 10AC TO -430 ; LESS 10AC TO -440 ; LESS 10AC TO -450; LESS N1/2N1/2NW1/4 06-139-79</p> <p>Move to: 8251 52nd Street NE GIBBS TOWNSHIP Section 06 N1/2N1/2NW1/4 06- 139-79</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">Exhibit 4-1-1 Location Map</div> 
Parcel Size:	40 acres A-Agricultural



PLANNING AND ZONING
COMMISSION

August 13, 2025

Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a Special Use Permit to move a 1638 sf residence
Posted Dates	Bismarck Tribune 7/26 & 8/5/2025 Surrounding Property Owners 8/1/2025 Burleigh County Website 7/31/2025

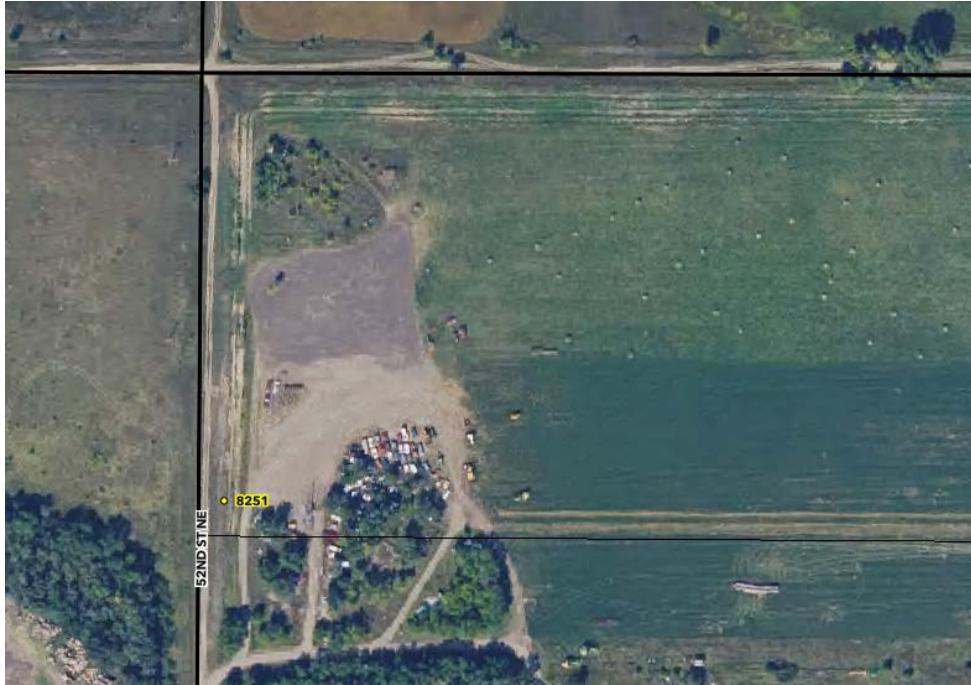
History/Description

Burleigh County Planning and Building Staff was approached by Luke Sabot regarding moving a 1638 sq./ft. residence to his family property located at 8251 52nd Street NE. The residence is the farmstead home located at 7801 52nd Street NE. Burleigh County Staff inspected the residence on July 8, 2025. It was determined the building was in good condition and allowable on the parcel. Staff determined the building meets all building codes. Petitioner must request a road approach and foundation permit before the house can be moved.



PLANNING AND ZONING
COMMISSION

August 13, 2025



4-1-2 Site Map

Staff Findings:

1. The building to be moved meets the requirements for a residential building in Burleigh County.
2. Staff has determined the building will not affect the surrounding neighbors.
3. The building permit for the foundation will be obtained.
4. The building will be moved by professional house movers.
5. The application for request of a Special Use Permit meets the requirements of Article 8 of the Burleigh County Zoning Ordinance.

Planning Staff Recommendation

The request for a special use permit fulfills the application requirements of Article 8 of the Burleigh County Zoning Ordinances. Planning Staff recommends a "Do Pass" recommendation to the Board of Burleigh County Commissioners.



PLANNING AND ZONING
COMMISSION

August 13, 2025

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the special use permit and give a "Do Pass" Recommendation
2. Approve special use permit with conditions and give a "Do Pass" recommendation after all conditions required are approved by the Planning and Zoning Commission.
3. Deny the special use permit with reason.
4. Table the special use permit for more information.



PLANNING AND ZONING
COMMISSION

August 13, 2025



4-1-3 Front View



PLANNING AND ZONING
COMMISSION

August 13, 2025



4-1-4 Back View



PLANNING AND ZONING
COMMISSION

August 13, 2025



4-1-5 Back View

• 8251

52ND ST NE

• 7901

● 7801

52ND ST NE

• 5200

• 5300

COUNTRY CREEK 4TH SUBDIVISION

• 5312

• 5400

• 5412

• 5424

• 5500

COUNTRY CREEK 2ND SUBDIVISION

• 5512

• 5524

• 5600

• 5612











Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamediaaccess.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA – Revised

(addition of “Public Comments”)

October 8, 2025

1. Roll Call
 - Approval of the September 10, 2025 Minutes
2. Public Comment. (*Restricted to Burleigh County residents and landowners*)
3. Consent Agenda (*The following item(s) are request(s) for a public hearing*)
 - 3-1 Gawley Subdivision and Zoning Change
 - Preliminary Plat Consideration for a one (1) lot subdivision/Staff recommends: Approval and call a public hearing
 - Zoning Change A-Agricultural to R1-Rural Single Family Residential/Staff recommends: Approval and call a public hearing
4. Public Hearing Agenda
 - 4-1 Variance Request
 - Request for a variance to required setbacks/Staff recommends: Approval
 - 4-2 Biegler Subdivision
 - Requests a “Do Pass” recommendation for a four (4) lot subdivision/Staff recommends: Approval
5. Other Business:
6. Adjourn
 - Next Meeting –November 12, 2025

Agenda Item 3-1

Gawley Subdivision & Zoning Change

Project Summary	
Status:	Consent Agenda
Petitioner/Developer	Lisa and Trent Peterson
Engineer	Swenson Hagen & Company
Location:	Tract C of the NW ¼, Section 6, Township 139, Range 79W
 <p>3-1-1 Location Map</p>	
Project Size:	One (1) lot on 10 acres
Zoning Change:	Burleigh County
Petitioners Request	Approve preliminary plat and zoning change. Call for a public hearing.

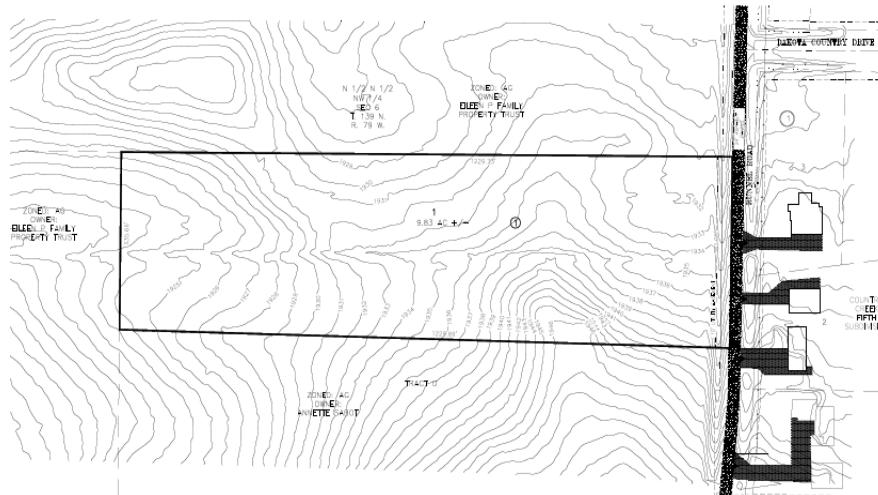
History/Description

Burleigh County was approached about building a home on a lot containing ten (10) acres. Because the lot is less than forty (40) acres, the petitioner was advised to plat the parcel into a subdivision. Swenson Hagen & Company met with the review committee regarding the preliminary plat. The review committee did not have any concerns.



PLANNING AND ZONING COMMISSION

October 8, 2025



Attachment 3-1-2
Preliminary Plat



Attachment 3-1-3 Site Map



PLANNING AND ZONING
COMMISSION

October 8, 2025

Staff Findings – Preliminary Plat

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
3. Zoning is A-Agricultural. A zoning change has been requested.
4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
5. A Stormwater Management Plan waiver was submitted on September 17th.

Staff Findings – Zoning Change

1. The proposed parcel meets the requirements of Article 12 – R1 – Rural Residential District Regulations.
2. The parcel is in a low-density residential and limited agricultural area. The surrounding properties are zoned:
 - North – Agricultural
 - South – Agricultural
 - West – Agricultural
 - East – R1-Rural Residential – Country Creek 3rd and 5th Subdivisions.

Planning Staff Recommendation

The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the preliminary plat and calling for a public hearing.

The petition for a zoning changes meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval and calling for a public hearing.



PLANNING AND ZONING
COMMISSION

October 8, 2025

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

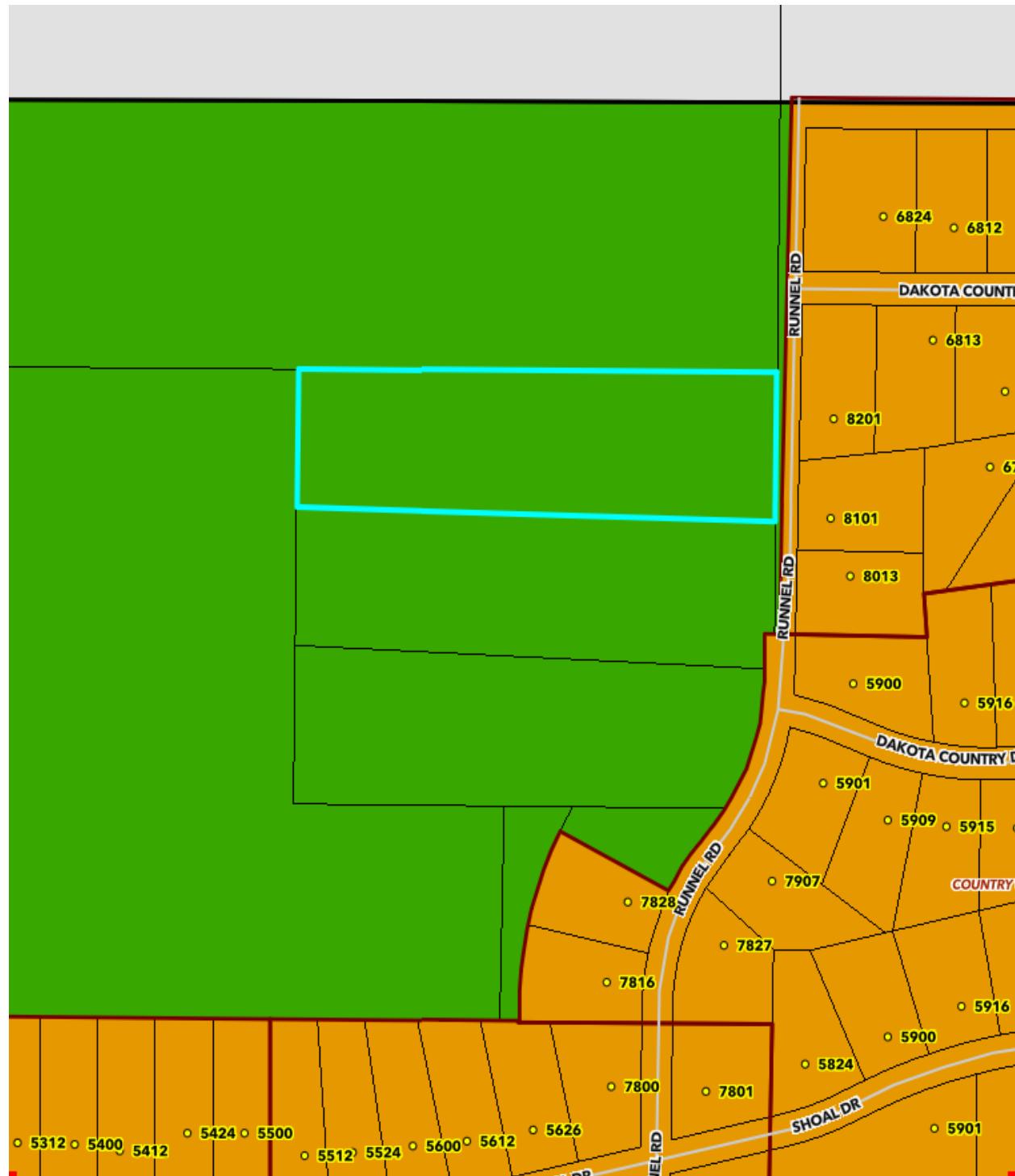
1. Approve the preliminary plat and zoning change. Calling for a public hearing.
2. Approve the preliminary plat and zoning change with conditions. Calling for a public hearing after all condition have been completed.
3. Deny the preliminary plat and zoning change with reason.
4. Table the preliminary plat and zoning change for more information.

Google Map View



GAWLEY SUBDIVISION – LOCATION MAP

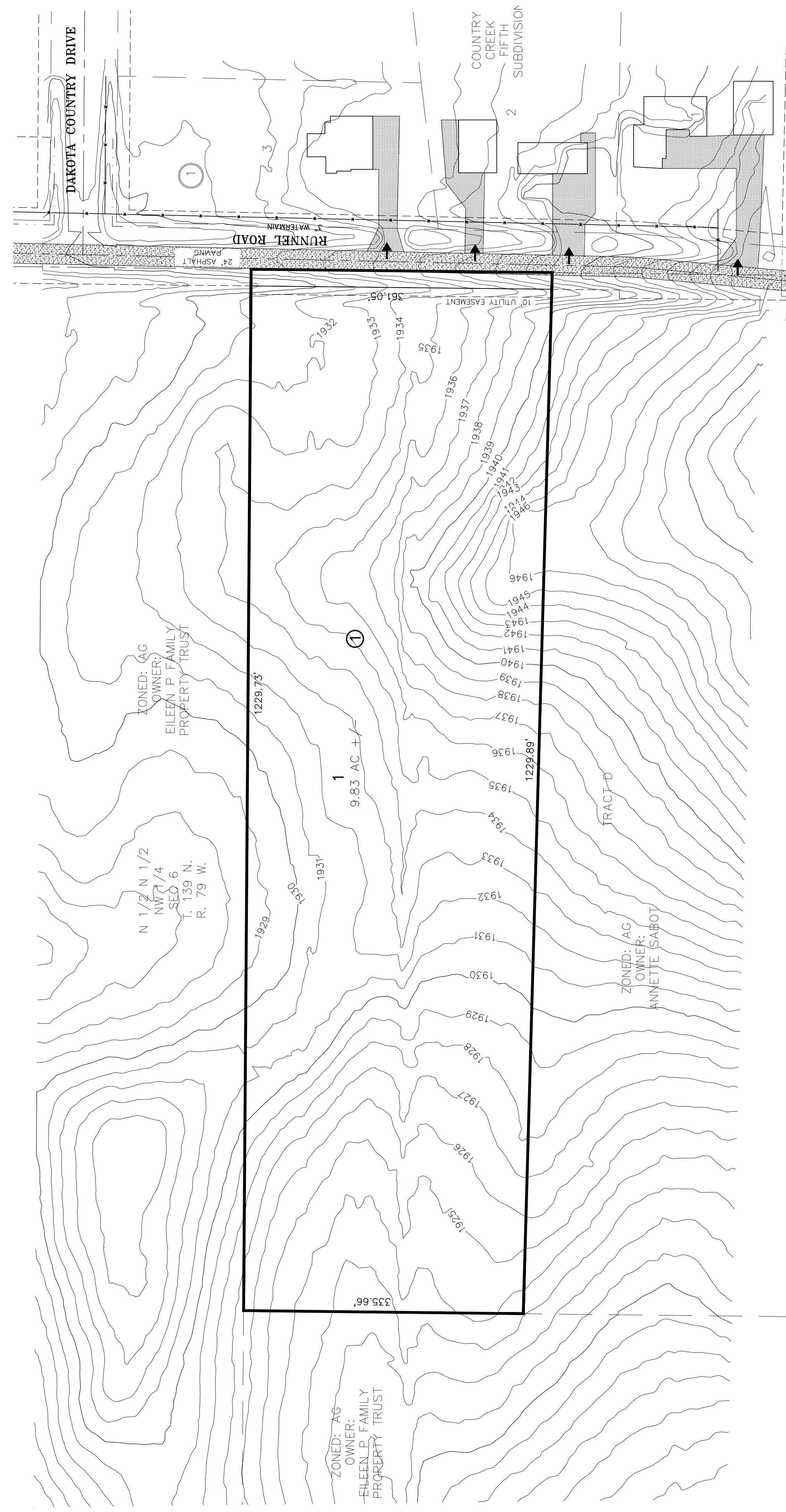
Tract C of the NW ¼ Section 6-139-79



GAWLEY SUBDIVISION

BURLEIGH COUNTY, NORTH DAKOTA

*BEING A REPLAT OF TRACT C OF
THE NW 1/4 OF SECTION 6, TOWNSHIP 139 NORTH, RANGE 79 WEST*



LOCATION MAP

**10.0 ACRES
EXISTING ZONING: R5
PROPOSED ZONING: R1
1 LOT, 1 BLOCK**

**LISA & TRENT PETERSON
1429 W WATERSTONE DR
SIOUX FALLS, SD**

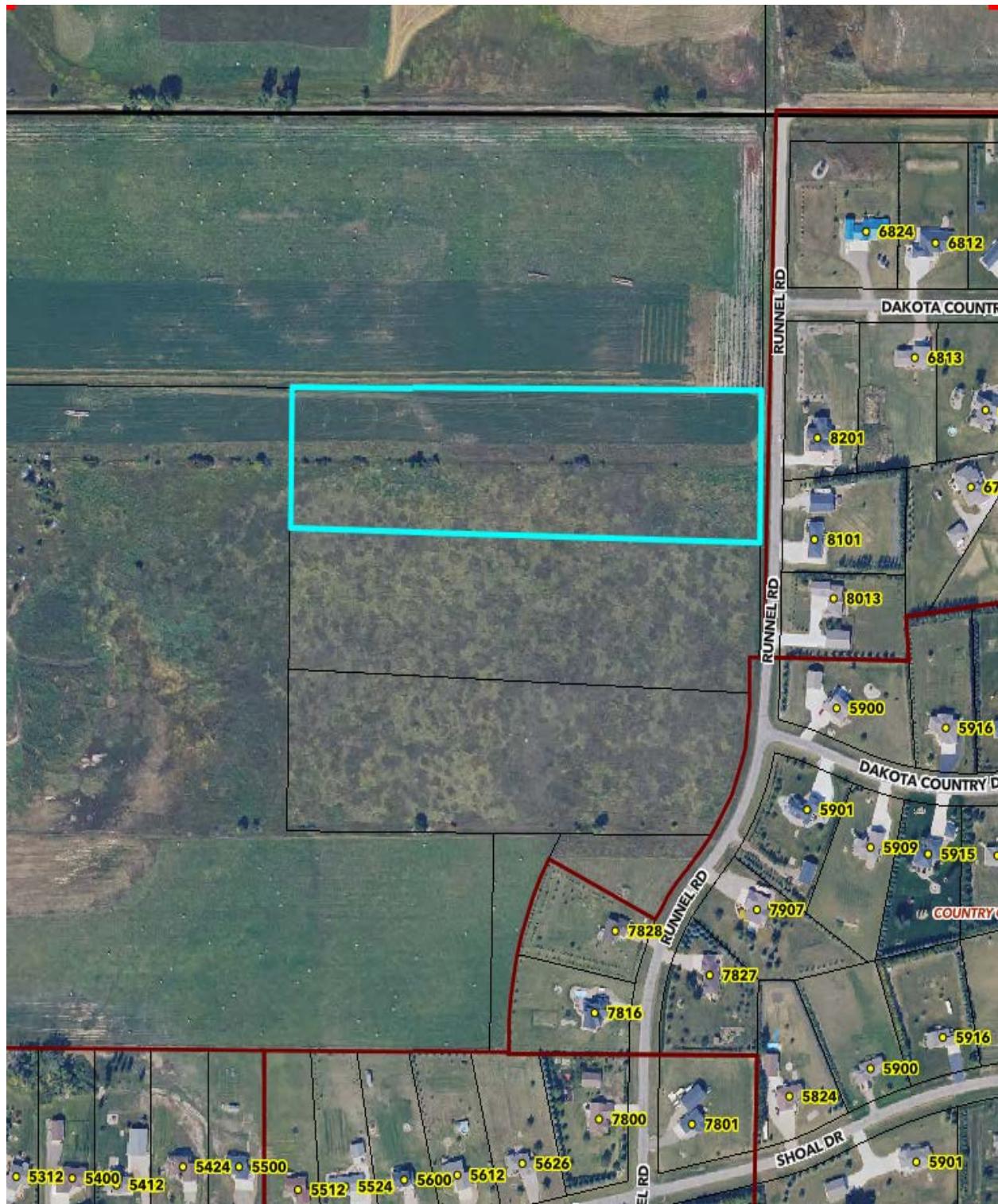
**SWENSON HAGEN & CO
3002 AIRWAY AVE
BISMARCK, ND 58504**

SWENSON, HAGEN & COMPANY P.C.

3002 Airway Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

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

GAWLEY SUBDIVISION – SITE MAP
Tract C of the NW ¼ Section 6-139-79



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PLANNING AND ZONING
COMMISSION

October 8, 2025

Agenda Item 4-1

Application for a Variance

Project Summary	
Public Hearing Agenda:	Variance to building set back distance
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Mark Rall Rall Construction
Property Owner	Vern Kuntz
Location:	Country Hills Subdivision, Lot 12, Block 2 Addressed as: 8507 Rolling Hills Road
	
<i>4-1-1 Location Map</i>	
Lot Size:	1.9 Acres

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING
COMMISSION

October 8, 2025

Zoning:	R1- Rural Single Family Residential	
Petitioners Request	Approval of the variance. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners	
Public Hearing Notifications	Bismarck Tribune Burleigh County Website Surrounding Property Owners	9/26 & 10/4/2025 9/26/2025 9/26/2025

History/Description

Mark Rall approached the Burleigh County Building Department wanting to build an accessory building for the property owner – Vern Kuntz. Country Hills Lot 12, Block 2 is a corner lot. The house faces Rolling Hills Road.

The petitioner would like to change the 50' setback on the south east side of the property to 15'. This will allow the builder to set the accessory building away from the house, and off his drain field. The lot is 160.03 feet wide and 463.36 feet long. The residence is located 66' from the SE property line (back) 40' from NW property line – (front), 80' from the NE property (side) and 269' from the SW property line. The septic is located 200' from his house. The property also contains a sloped area on the SW side of property. (*See attachment 4-1-2 Elevation Map*) The property is a corner lot and requires 90' feet of setbacks.

The petitioner has applied for a variance (*See Attachment 4-1-4*) and an accessory building permit.



Attachment 4-1-2 Elevation Map



PLANNING AND ZONING
COMMISSION

October 8, 2025

Staff Findings:

The variance request is reasonable and would allow the property owner to use more of the property. The placement of the accessory building 15' on the SE side of the property would not encumber the surrounding property owners. The SE neighbor's accessory building is 15' from the shared property line; the accessory building will be located SW of the neighboring accessory buildings.



Attachment 4-1-3 Site Map

Staff Findings:

1. This variance subdivision fulfills the requirements of Article 28 Variances of the Burleigh County Zoning Ordinance.
2. There are special circumstances or conditions applying to the land – lot is only 160' feet wide.
3. The Burleigh County Ordinances require 90' of setback within the 160' width.
4. The lot has a sloped area which an accessory building can not be placed.
5. Strict applications of the ordinances would deprive the applicant reasonable use of the land and buildings.



PLANNING AND ZONING
COMMISSION

October 8, 2025

6. Granting the variance does not affect traffic
7. Granting of the variance does not conflict with the Burleigh County Ordinances.

Planning Staff Recommendation

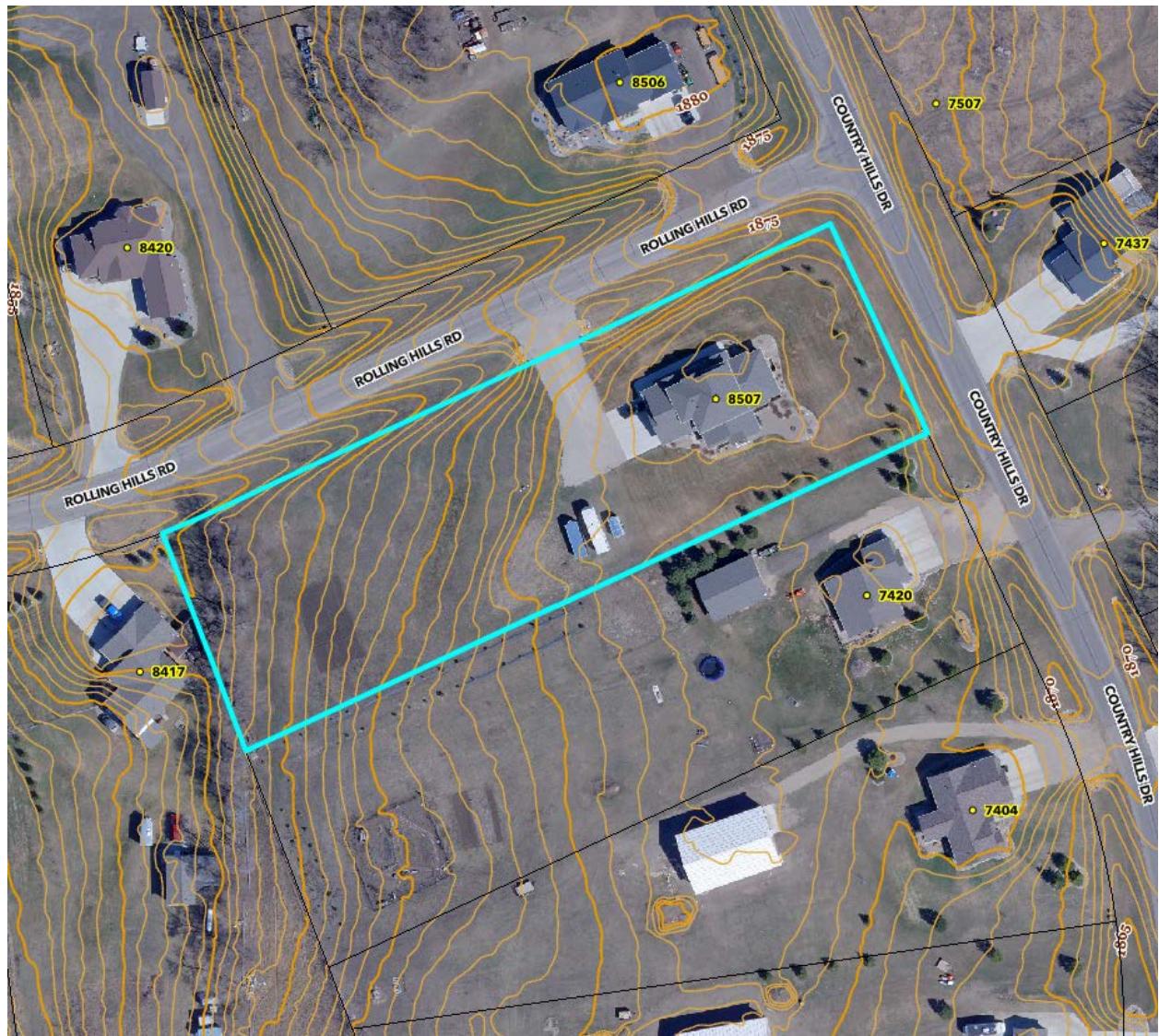
The petition for a variance meets all administrative requirements of the Burleigh County Zoning Ordinance Article 28. Staff recommends approval of the variance request with a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the variance with a "Do Pass" recommendation
2. Approve the variance with conditions and give a "Do Pass" recommendation after all condition have been completed.
3. Deny the variance with reason.
4. Table the variance for more information.

8507 Rolling Hills Elevation Map 4-1-2



Country Hills Subdivision, Lot 12, Block 2 Location Map





BURLEIGH COUNTY BUILDING, PLANNING, ZONING
221 N 5th Street, Bismarck, ND
701-221-3727

RECEIVED
R SEP 08 2025
burleighcobuilding@nd.gov
BY:

VARIANCE APPLICATION

This application is used to apply for a zoning variance. It is the developer's burden to prove that because of topographic conditions or other unique circumstances related to the property, the strict application of the zoning ordinance would result in an undue hardship.

Date: 9-8-25

APPLICANT/DEVELOPER:

Name of Applicant: Mark Ball (Ball Construction)
Phone: 701-426-3889 E-Mail Address: ballconstruction@outlook.com
Address: 2413 Mats Dr. N, Mandan ND 58554

PROPERTY INFORMATION:

Property Owner (If different than Applicant/Developer): Vern Kuntz
Address: 8507 Rolling Hills Rd, Bismarck
Legal Description of property (lot, block, addition): Lot 12, Block 2,
Country Hills Subdivision Burleigh County, ND
Street Address: Some
Existing Zoning: _____ Acreage: _____

CONTACT PERSON/AGENT:

Name: Mark Ball Firm: NJA
Mailing Address: 2413 Mats Dr N, Mandan ND 58554
Phone: 701-426-3889 E-Mail Address: ballconstruction@outlook.com



Site plan (one or more sheets) including the following: scale, site boundaries, setbacks, all easements, structures, utilities, road specifications, parking, surface waters, landscaping, fences, signage, and any other information that is pertinent to and will aid in evaluating a variance request.



A narrative describing the proposed land use and unique property conditions that make the variance necessary. Address the following:

- i. How due to the particular physical surroundings, lot characteristics, or topographical conditions of the property, strict compliance would impose an unnecessary hardship on the developer:
- ii. How the purpose of the variance is not based solely on a desire for economic or other gains:
- iii. How the alleged difficulty or hardship is caused by the zoning and/or development requirements and has been created by any person presently having an interest in the property:
- iv. How the variance will not be detrimental to the public welfare or injurious to other properties in the area: and
- v. How the variance will not be contrary to the intent and purpose of the Burleigh County Zoning Ordinance and Subdivision Regulations.



A check for the amount of \$300.00 for the variance application fee

I hereby certify under penalty of perjury and the laws of the State of North Dakota that the information submitted herein, on all other forms, documents, plans or any other information submitted as a part of this application to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand any approval based thereon may be rescinded and other appropriate action taken. The signing of this application signifies approval for representatives of Burleigh County to be present on the property for routine monitoring and inspection during the approval and development process.

Signature of Applicant:

Date:

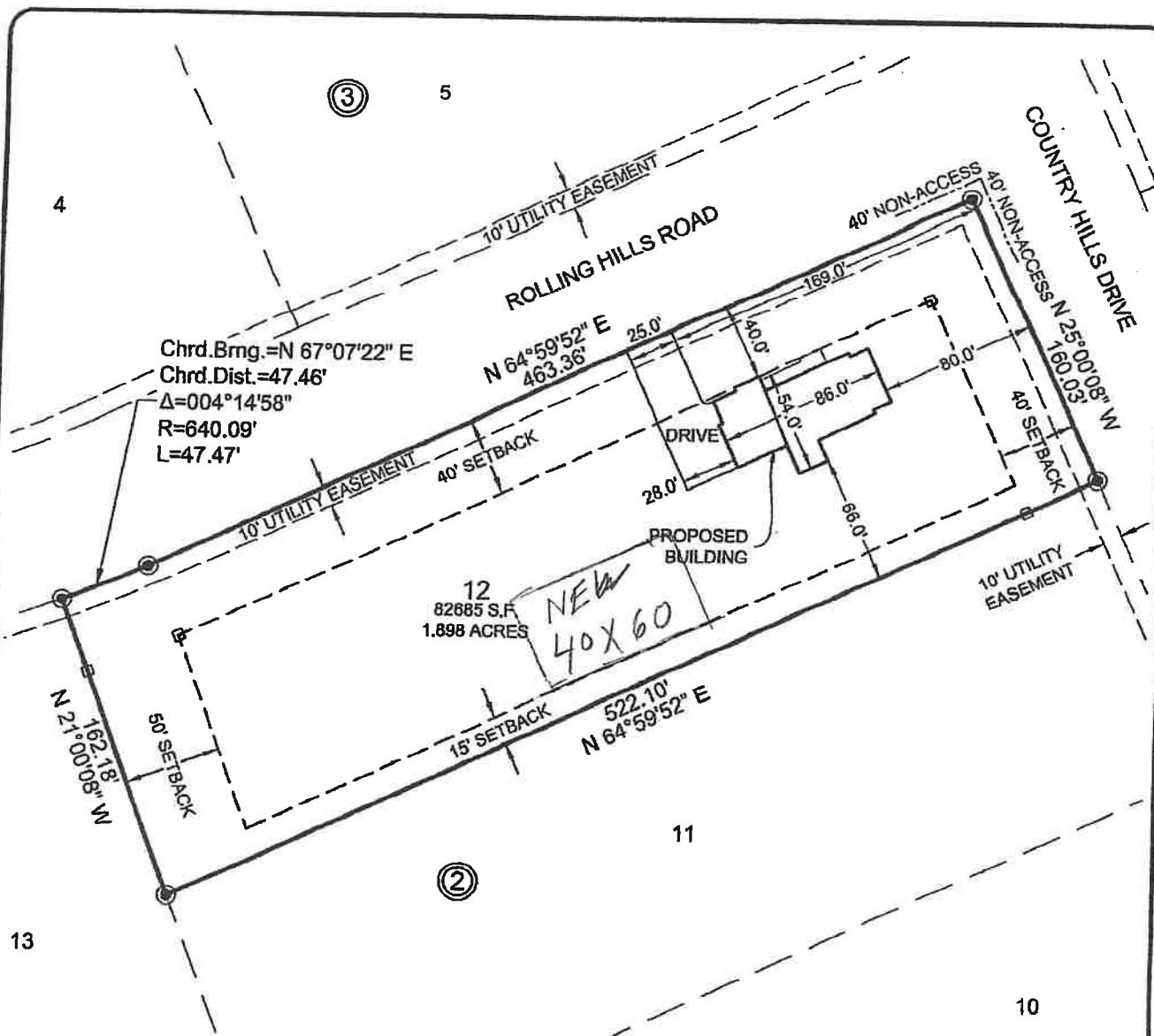
9/18/25

***In addition to hardcopy submissions to the Building/Planning/Zoning Department, please submit all necessary items as an application package via e-mail to: burleighcobuilding@nd.gov

Burleigh County Building/Planning/Zoning

PO Box 5518, Bismarck, ND 58506-5518

Phone: 701-221-3727 E-Mail: burleighcobuilding@nd.gov



N

SCALE
40 0 40 80
1" = 20' FEET

LEGEND

- MONUMENT FOUND
- MONUMENT SET
- BUILDING SETBACK

LOT SURVEY EXHIBIT K&L HOMES BISMARCK, NORTH DAKOTA			
		8507 ROLLING HILLS ROAD LOT 12, BLOCK 2, COUNTRY HILLS SUBDIVISION BURLEIGH COUNTY, ND	
OWNER	DIRT BY	PREDICTED	DATE
ZT	JRJ	1617177	4/4/2017

- i. How due to the particular physical surroundings, lot characteristics, or topographical conditions of the property, strict compliance would impose an unnecessary hardship to the developer.

Limited building envelope: The double setback requirement drastically shrinks the buildable area, or "building envelope," on the lot. This prevents the reasonable placement of a shop building, especially on corner lots, making development extremely difficult. The lot also has a drain field in usable area in which building in that area needs to be avoided.

- ii. How the purpose of the variance is not based solely on a desire for economic or other gains.

As shown on the submitted site plan, the proposed shop building cannot be placed anywhere on the property while adhering to the standard setbacks. The only feasible location for the building requires a variance from the side-yard setback. Without this variance, the developer is effectively deprived of the reasonable use of their property for an accessory building, which is a common and expected use for a rural residential lot in this district. There is no economic or other gains.

- iii. How the alleged difficulty or hardship is caused by the zoning and/or development requirements and has been created by any person presently having an interest in the property.

The fact that it is a corner lot and may have irregular dimensions or topography is a condition that existed before the purchase, not a problem the developer created themselves.

- iv. How the variance will not be detrimental to the public welfare or injurious to other properties in the area.

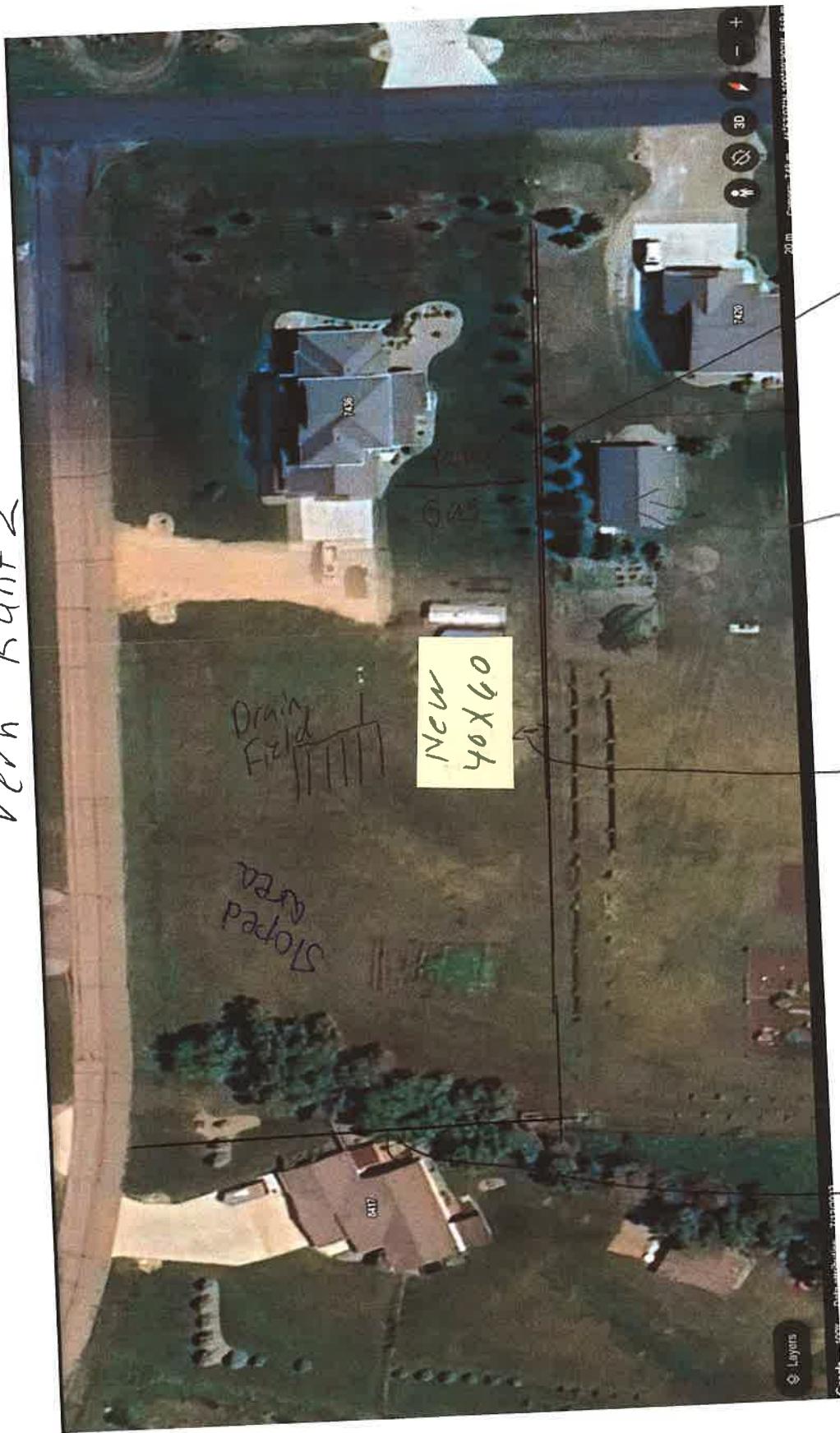
The proposed shop is consistent in size, height, and appearance with other buildings in the area and will not injure the neighborhood or public welfare.

- v. How the variance will not be contrary to the intent and purpose of the Burleigh County Zoning Ordinance and Subdivision Regulations.

This hardship is specific to this lot and is not a condition generally shared by interior lots in the neighborhood. The requested variance is the minimum necessary to allow for the construction of the shop and will not negatively impact the character of the area.

8507 Rolling Hills Road
Bismarck ND 58503

Vern Kuntz



Power
Gas

15 Feet
From
Property

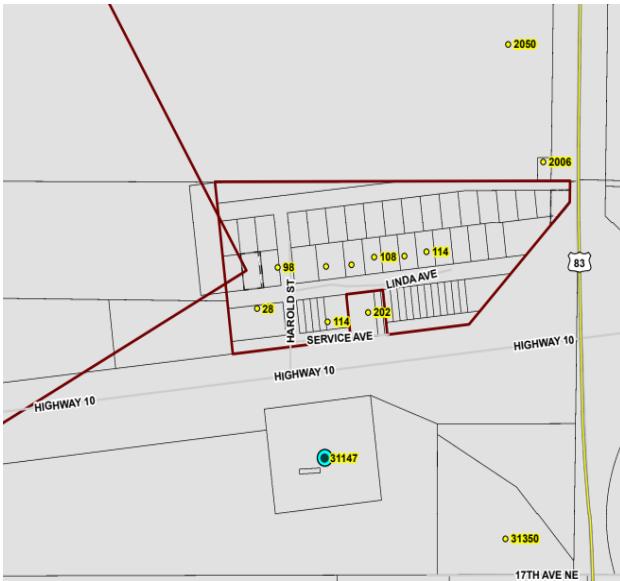
15 Feet
From
Property

15 Feet
From
Property

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Agenda Item 4-2

Biegler Subdivision

Project Summary	
Status:	Public Hearing
Petitioner/Developer	Ron and Kathy Biegler
Engineer	Mark Isaacs – ILSE, Inc
Location:	Part of Auditor's Lot E in the SE Quarter and Part of the SE Quarter all in Section 29, Township 139N, Range 76W, Burleigh County
	
4-2-1 Location Map	
Project Size:	Four (4) Lots on 22.76 Acres
Zoning Change:	Sterling Township
Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners
Notifications:	Bismarck Tribune: 9/26 & 10/3/2025 Surrounding Properties: 9/26/2025 Burleigh Co. Website: 9/26/2025

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING
COMMISSION

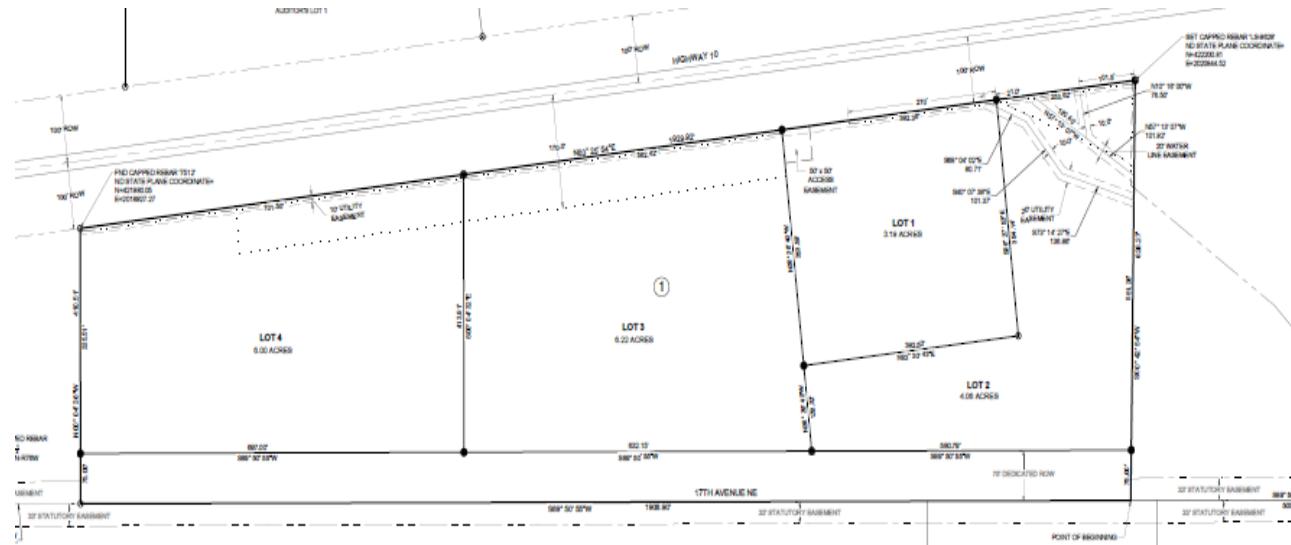
October 8, 2025

History/Description

The petitioners approached Burleigh County regarding property located in Sterling Township. The property owners had earlier requested to purchase the excess Right of Way along County Highway 10, the excess was granted to the Biegler's on October 21, 2024. The Biegler's have purchased the land and all remaining items have been removed.

After removal of the items left on the released Right of Way, the Biegler's decided to move forward with the platting of the property into a four (4) lot subdivision. The preliminary plat was approved on June 11, 2025 and a call for a public hearing was made.

Attachment 4-2-1 Final Plat





PLANNING AND ZONING
COMMISSION

October 8, 2025

Attachment 4-2-3 Site Map





PLANNING AND ZONING
COMMISSION

October 8, 2025

Staff Findings – Final Plat

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This final plat has been submitted to all reviewing entities. All concerns and corrections are being addressed.
3. All vacations of Right of Ways have been completed.
4. Zoning is A-Agricultural. Property is in Sterling Township.
5. A SWMP Waiver has been requested.
6. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

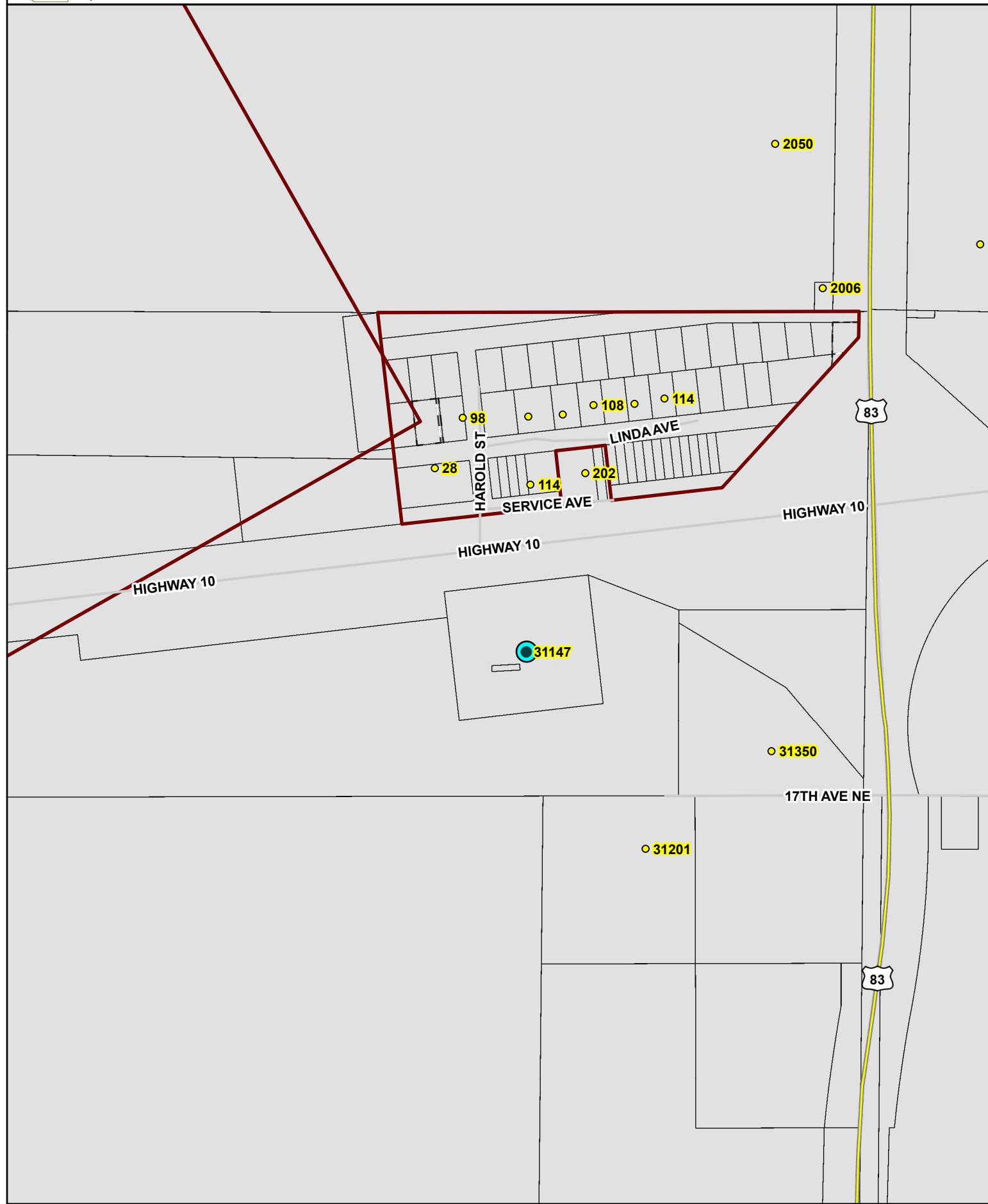
Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the final plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and a give a "Do Pass" recommendation.
2. Approve the final plat with conditions and give a "Do Pass" recommendation after all condition have been completed.
3. Deny the final plat with reason.
4. Table the final plat for more information.





PARCEL ID: 35-139-76-00-32-400 OWNER: HEATON, LEWIS R & SHERRY L ACRES: 160

SITE ADDRESS:

MAIL ADDRESS: 28051 10TH AVE SE, MCKENZIE, ND 58572

LEGAL: STERLING TOWNSHIP Section 32 NW1/4 32-139-76



Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamedia.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

November 12, 2025

1. Roll Call

- Approval of the October 8, 2025 Minutes

2. Public Comments: (*Restricted to Burleigh County residents and landowners*)

3. Consent Agenda: (*The following item(s) are request(s) for a public hearing*)

3-1 Kuntz Subdivision

- *Preliminary Plat Consideration for a one (1) lot subdivision/Staff recommends: Approval and call a public hearing/Staff recommends: Approval*

4. Public Hearing Agenda:

4-1 Huez Subdivision

- *Requests a "Do Pass" for a one (1) lot Subdivision/Staff recommends: Approval*

4-2 Gawley Subdivision and Zoning Change A to R1

- *Requests a "Do Pass" recommendation for a one (1) lot subdivision/Staff recommends: Approval*
- *Requests a "Do Pass" recommendation for zoning change/Staff recommends: Approval*

4-3 Ketterling Special Use

- *Requests a SUP to build an oversized accessory building/Staff recommends: Approval*

4-4 Wentz Special Use

- *Requests a SUP to build an oversized accessory building/Staff recommends: Approval*

5. Other Business:

6. Adjourn

– Next Meeting –December 10, 2025



PLANNING AND ZONING
COMMISSION

November 12, 2025

Agenda Item 3.1 Kuntz Subdivision

Application for a Subdivision

Project Summary

Consent Agenda:	Approval of Preliminary Plat and call for a Public Hearing
Status:	Preliminary Plat
Petitioner/Developer:	Albert & Linda Kuntz
Engineer:	Mark Isaacs, ILSE
Location:	<p>1951 149th Ave NW BURNT CREEK TOWNSHIP Section 07 LT A OF NE1/4 BEG NW COR TH E1320', S1320' W1320'.N1320' TO POB</p> <div style="border: 1px solid black; padding: 10px; width: fit-content; margin-left: auto; margin-right: auto;"><p>Exhibit 3-1-1 Location Map</p></div> 
Parcel Size:	40 acres A-Agricultural

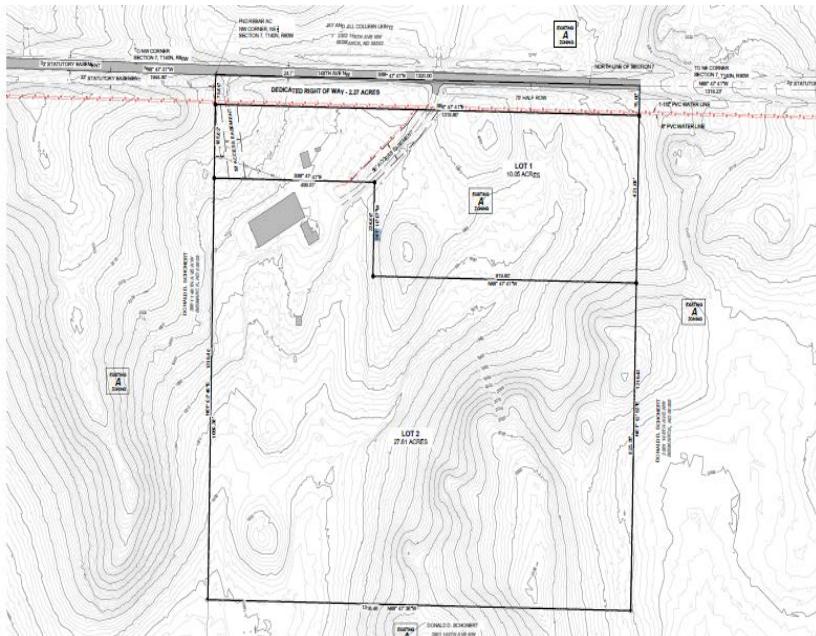


PLANNING AND ZONING
COMMISSION

November 12, 2025

History/Description

Burleigh County Planning and Building Staff was approached by Albert and Linda Kuntz regarding building an accessory dwelling unit (ADU) on their property. The property is a 40-acre parcel. There are two (2) main buildings on the property: a 1638-sf Because of the restriction to the size of the ADU, he was advised to apply for a subdivision and has made that application. The petitioners pulled their special use request and have submitted a preliminary plat subdivision to place a new manufactured home (1989), and include an existing 11,340-sf accessory building, built in 2008.

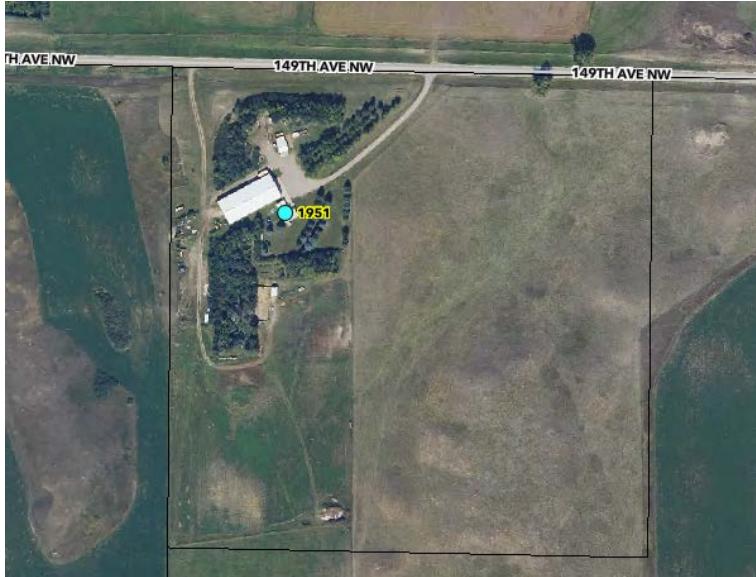


3-1-2 Preliminary Plat



PLANNING AND ZONING
COMMISSION

November 12, 2025



3-1-3 Site Map

Staff Findings:

1. The application has fulfilled all the requirements of Article 33 Subdivision Regulations.
2. The application has fulfilled the requirements of Article 11 – A-Agricultural Zoning. A zoning change will not be requested.
3. The petitioner will apply for a SWMP Waiver.
4. The subdivision has been reviewed by all reviewing entities. Minor corrections are being made and submitted.
5. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.



PLANNING AND ZONING
COMMISSION

November 12, 2025

Planning Staff Recommendation

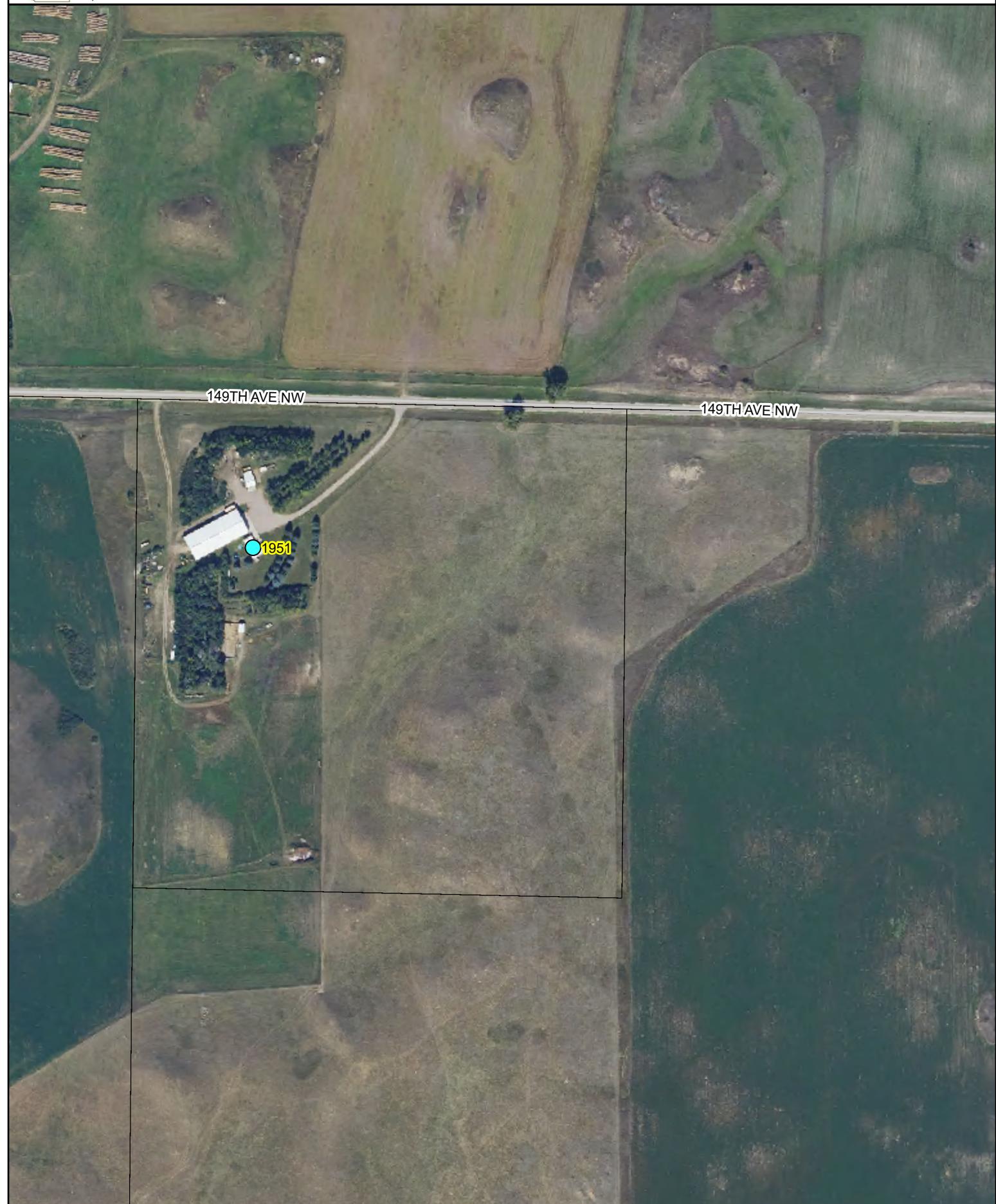
The request for a preliminary plat approval fulfills the administrative requirements of the Burleigh County Zoning Ordinances – Article 33 & Article 11.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and call for a public hearing.
2. Approve the preliminary plat with conditions and call for a public hearing.
3. Deny the preliminary plat with reason.
4. Table the preliminary plat for more information.





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Agenda Item 4-1

Huez Subdivision

Project Summary	
Status:	Public Hearing
Petitioner/Developer	Coridon & Amber Huez
Engineer	Mark Isaacs, Independent Land Surveyors and Engineers
Location:	<p>Lot 2, Block 3 in Country View Estates and Auditor's Lots "N" & "O" all in Section 3, Township 138N Range 79W, Burleigh County, ND</p> <p>Residence: 11009 Lakeview Drive</p> <div style="border: 1px solid black; padding: 5px; text-align: center;">4-1-1 Location Map</div>
Project Size:	1-Lot containing 13 Acres more or less
Zoning Change:	A-Agricultural Apple Creek Township has Zoning Jurisdiction.
Petitioners Request:	Approve final plat. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners (BCC)
Posted:	<p>Bis. Tribune: 10/30 – 11/5/2025</p> <p>Surrounding Properties: 10/30/2025</p> <p>Burleigh Co. Website: 10/31/2025</p>

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING COMMISSION

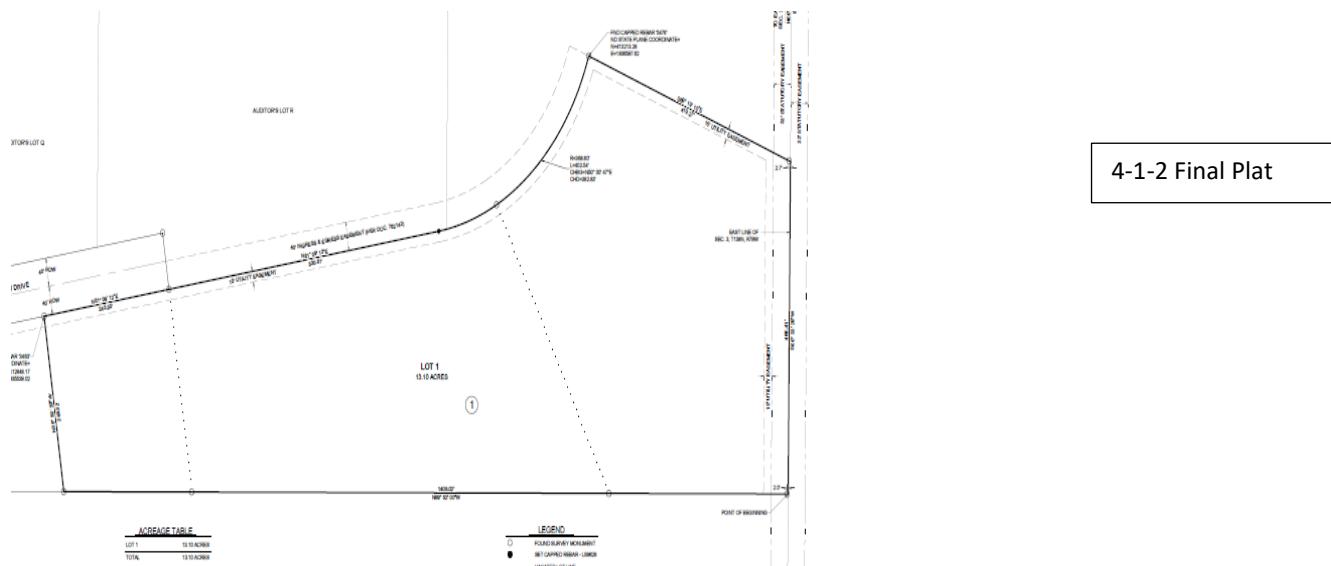
November 12, 2025

History/Description

The petitioner approached Burleigh County regarding building a horse arena for personal use on his property which contained three (3) lots. Because the lots are individual lots, he was not able to build the horse arena without combining the lots.

A pre-application meeting was held in August and the preliminary plat was approved to continue. A representative of Apple Creek Township was present at the meeting. They have approved the zoning and the subdivision plat.

A SWMP Waiver has been requested. Since the lots are on an established road, a paving was not required. The Planning and Zoning Commission approved the preliminary plat and called for a public hearing at their September 10, 2025 meeting.





PLANNING AND ZONING
COMMISSION

November 12, 2025



Attachment 4-1-3 Site Map

Staff Findings – Final Plat

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This final plat has been submitted to all reviewing entities. All concerns and corrections will be addressed.
3. Zoning is A-Agricultural.
4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
5. A Stormwater Management Plan or Waiver has been applied for.
6. A paving is not required.



PLANNING AND ZONING
COMMISSION

November 12, 2025

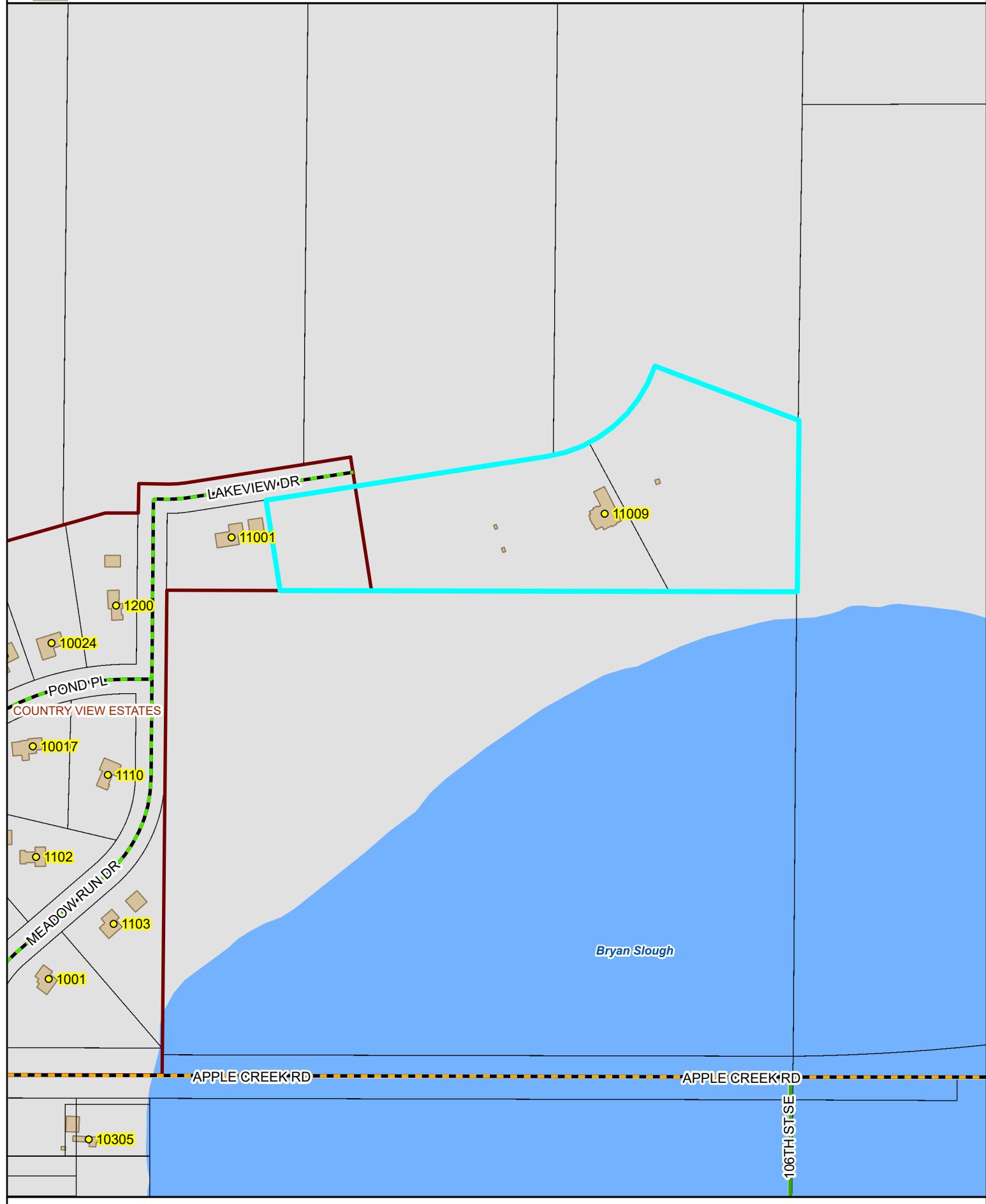
Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance – Article 33. Staff recommends approval of the final plat and giving a "Do Pass" recommendation to the BCC.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and call and give a "Do Pass" recommendation to the BCC.
2. Approve the final plat with conditions and give a "Do Pass" recommendation to the BCC. after all condition have been completed.
3. Deny the final plat with reason.
4. Table the final plat for more information.



HUEZ SUBDIVISION

LOT 2, BLOCK 3 IN COUNTRY VIEW ESTATES AND AUDITORS LOTS "N" & "O" ALL IN SECTION 3, T138N, R79W BURLEIGH COUNTY, NORTH DAKOTA



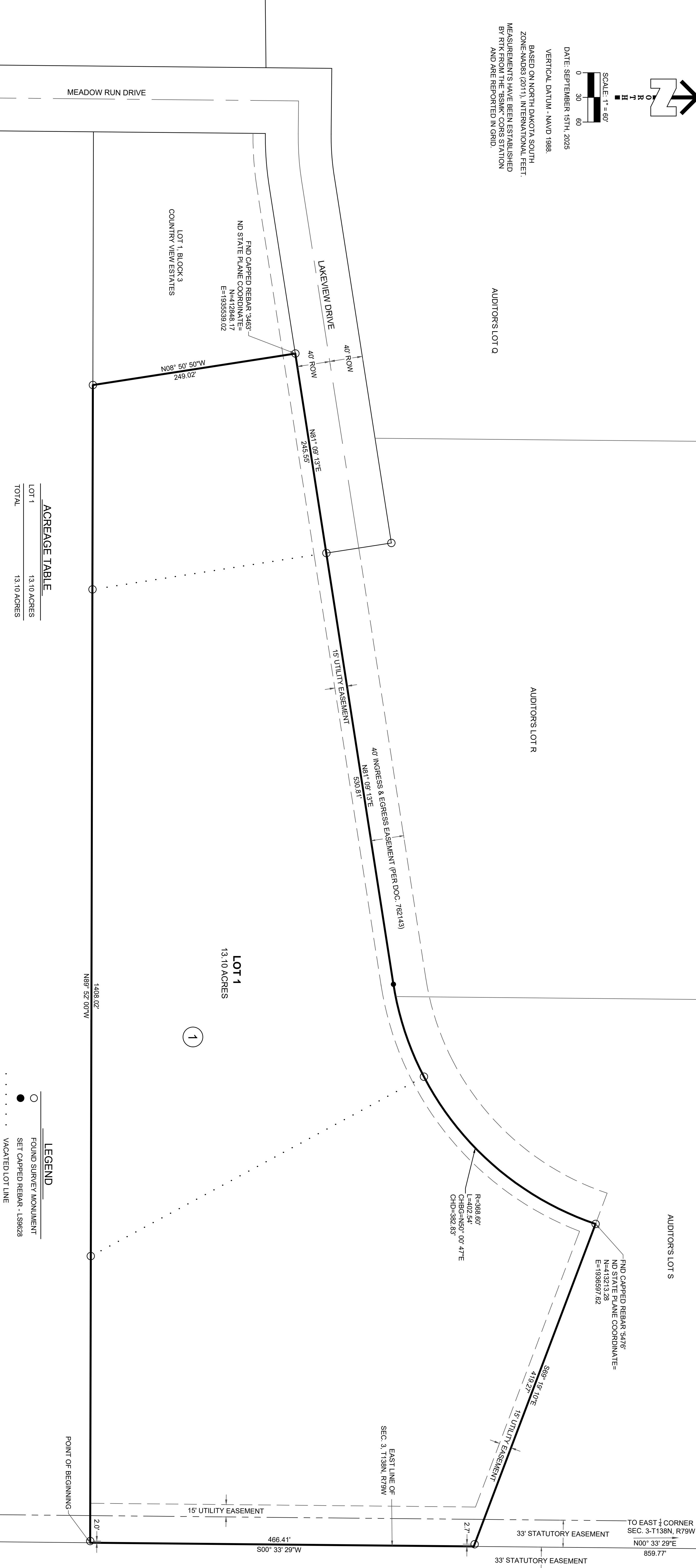
AUDITOR'S LOT S

SEC. 3, T138N, R79W
N00° 33' 29"E
859.77'

SCALE: 1" = 60'
0
30
60
DATE: SEPTEMBER 15TH, 2025
VERTICAL DATUM - NAVD 1988
BASED ON NORTH DAKOTA'S SOUTH
ZONE: NAD83 (2011), INTERNATIONAL FEET.
MEASUREMENTS HAVE BEEN ESTABLISHED
BY RTK FROM THE 'BSMK' CORNER STATION
AND ARE REPORTED IN GRID.

AUDITOR'S LOT Q

AUDITOR'S LOT R



OWNER'S CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED, BEING SOLE OWNERS OF THE LAND PLATTED HEREIN, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF SAID PLAT AND DO DEDICATE ALL THE RIGHT WAY IDENTIFIED HEREIN TO BURLEIGH COUNTY, WE ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE, WATER, OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENT.

THEY ALSO DEDICATE ACCESS EASEMENTS TO ALL LAND OWNING PARTIES TO RUN WITH THE LAND FOR THE PURPOSES OF CONSTRUCTING, OPERATING, AND MAINTAINING THE ACCESS UNDER OR UPON THE REAL PROPERTY OF THOSE CERTAIN STRIPS OF LAND SO DESIGNATED.

CONDON M. HUEZ
LOT 1, BLOCK 1
AMBER C. HUEZ
LOT 1, BLOCK 1

DENNIS AGNEW - CHAIRMAN
ATTEST: MITCH FLANAGAN - SECRETARY

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES HUEZ SUBDIVISION AS SHOWN ON THIS PLAT. THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND THE ORDINANCES OF THE COUNTY OF BURLEIGH AND REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION.

THE FOREGOING ACTION OF THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE 20 DAY OF 20.

MARCUS J. HALL, PE
COUNTY ENGINEER

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED HUEZ SUBDIVISION, AS SHOWN ON THE PLAT, DATED THIS 20 DAY OF JULY

MARK R. ISAACS, RLS #9628

MARK R. ISAACS, RLS #9628

● FOUND SURVEY MONUMENT
● SET CAPPED REBAR - LS9628
· VACATED LOT LINE

POINT OF BEGINNING

1408.02'

N89° 52' 00"

2.0'

S00° 33' 29"W

466.41'

1319.87'

N00° 33' 29"E

1319.87'

TO SE CORNER
SEC. 3, T138N, R79W

1319.87'

TO EAST 1/4 CORNER
SEC. 3, T138N, R79W
N00° 33' 29"E
859.77'

33' STATUTORY EASEMENT

33' STAT



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Agenda Item 4-2

Gawley Subdivision & Zoning Change

Project Summary	
Status:	Public Hearing
Petitioner/Developer	Lisa and Trent Peterson
Engineer	Swenson Hagen & Company
Location:	Tract C of the NW ¼, Section 6, Township 139, Range 79W
	
Project Size:	One (1) lot on 10 acres
Zoning Change:	A-Agricultural to R1-Rural Single Family Residential
Petitioners Request	Approve final plat and zoning change. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
Posted:	Bis. Tribune: 10/29 & 11/5/2025 Surrounding properties: 10/30/2025 Burleigh Co. Website: 10/31/2025

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING COMMISSION

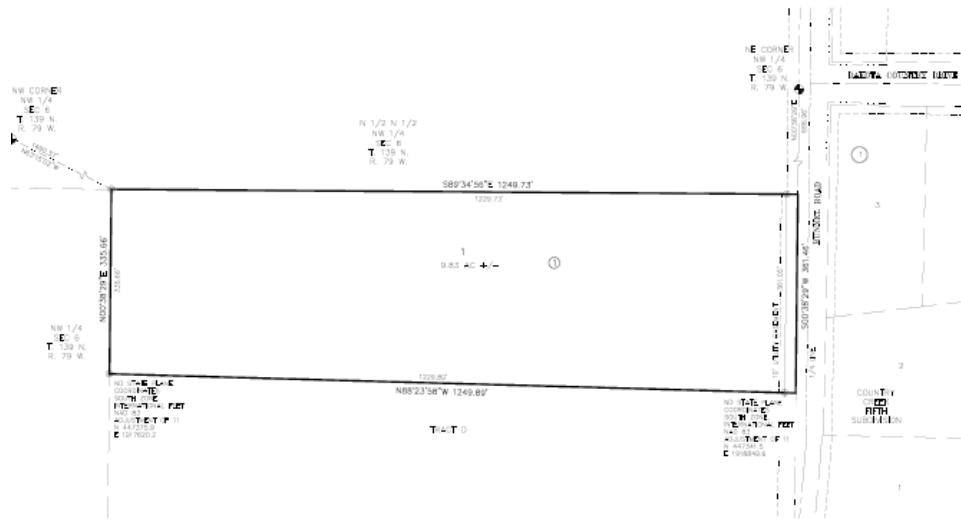
November 12, 2025

History/Description

Burleigh County was approached about building a home on a lot containing ten (10) acres. Because the lot is less than forty (40) acres, the petitioner was advised to plat the parcel into a subdivision. Swenson Hagen & Company met with the review committee regarding the preliminary plat. The review committee did not have any concerns.

Burleigh County Staff also recommended the petitioner apply for a zoning change from A-Agricultural to R1-Rural Single Family Residential because the size of the lot will be less than 10 acres, which would require a zoning change.

The preliminary plat was approved by the Planning and Zoning Commission on October 8, 2025.



4-2-2 Final Plat



PLANNING AND ZONING COMMISSION

November 12, 2025



4-2-3 Site Map

Staff Findings – Final Plat

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
3. Zoning is A-Agricultural. A zoning change has been requested.
4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
5. A Stormwater Management Plan waiver was submitted on September 17th.

Staff Findings – Zoning Change

1. The proposed parcel meets the requirements of Article 12 – R1 – Rural Residential District Regulations.
2. The parcel is in a low-density residential and limited agricultural area. The surrounding properties are zoned:
North – Agricultural



PLANNING AND ZONING
COMMISSION

November 12, 2025

South – Agricultural
West – Agricultural
East – R1-Rural Residential – Country Creek 3rd and 5th Subdivisions.

Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance – Article 33. Staff recommends approval of the final plat and a “Do Pass” recommendation to the Board of Burleigh County Commissioners.

The petition for a zoning changes meets all administrative requirements of the Burleigh County Zoning Ordinance – Article 12. Staff recommends approval and a “Do Pass” recommendation.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

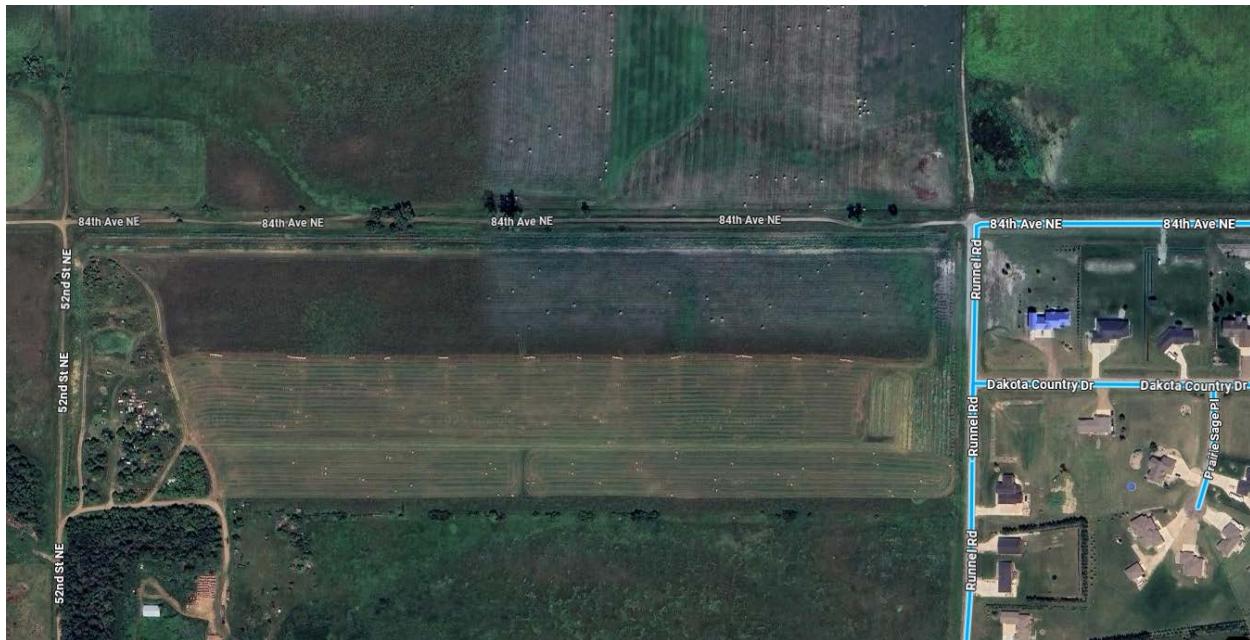
1. Approve the final plat and zoning change. Give a “Do Pass” recommendation to the Board of Burleigh County Commissioners.
2. Approve the final plat and zoning change with conditions. Give a “Do Pass” recommendation to the Board of Burleigh County Commissioners after all condition have been completed.
3. Deny the final plat and zoning change with reason.
4. Table the final plat and zoning change for more information.



PLANNING AND ZONING
COMMISSION

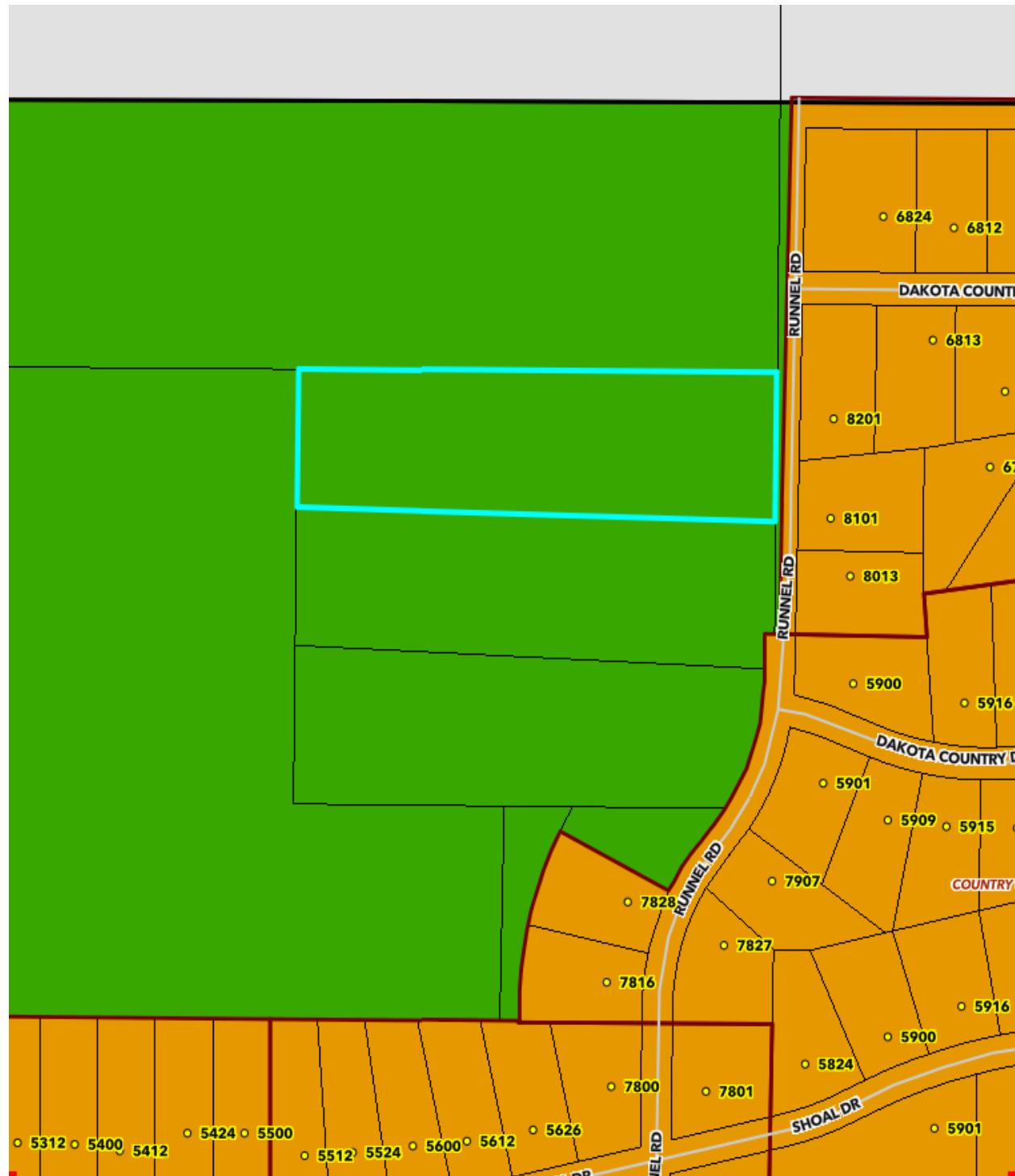
November 12, 2025

Google Map View



GAWLEY SUBDIVISION – LOCATION MAP

Tract C of the NW ¼ Section 6-139-79



GAWLEY SUBDIVISION

BEING A REPLAT OF TRACT C

PART OF THE NW 1/4 OF SECTION 6, T 139 N., R 79 W.

BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

PART OF THE NORTHWEST 1/4 OF SECTION 6, TOWNSHIP 139 NORTH, RANGE 79 WEST, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT D OF THE NORTHWEST 1/4 OF SECTION 6, TOWNSHIP 139 NORTH, RANGE 79 WEST, THENCE NORTH 00 DEGREES 38 MINUTES 29 SECONDS EAST, A DISTANCE OF 335.66 FEET, THENCE WEST 00 DEGREES 17 MINUTES 29 SECONDS, A DISTANCE OF 361.46 FEET, THENCE EAST 00 DEGREES 34 MINUTES 56 SECONDS, A DISTANCE OF 249.73 FEET, THENCE WEST 00 DEGREES 23 MINUTES 58 SECONDS, A DISTANCE OF 361.46 FEET, TO THE NORTH LINE OF SAID TRACT D, THENCE NORTH 86 DEGREES 23 MINUTES 58 SECONDS WEST, ON, SAID NORTH LINE, A DISTANCE OF 1249.89 FEET, TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 10.00 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE SHOWN PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON THE DAY OF 2025, 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.

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION, GAWLEY SUBDIVISION, AS SHOWN ON THE PLAT, THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH AND REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION.

THE FOREGOING ACTION OF THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE ____ DAY OF ____ 2025.

DENNIS AGNEW — CHAIRMAN

MICHAEL FLANAGAN — SECRETARY

APPROVAL OF BOARD OF COUNTY COMMISSION

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF, AND AS SHOWN ON, THE PLAT HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE 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.

THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE ____ DAY OF ____ 2025.

BRIAN BINTNER — CHAIRMAN

ATTEST: MARK SPOKONSKI

BURLEIGH COUNTY AUDITOR

APPROVAL OF COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVE THIS PLAT OF GAWLEY SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.

DATED THIS ____ DAY OF ____ 2025.

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT TRENT PETERSON AND LISA PETERSON, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON, HAVE CAUSED THAT PORTION DESCRIBED HERON TO BE SURVEYED AND PLATED AS GAWLEY SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA. THEY DO DEDICATE ALL RIGHT OF WAY IDENTIFIED TO BURLEIGH COUNTY.

THE ALSO DEDICATE EASEMENTS 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 ____ DAKOTA)

COUNTY OF ____)

ON THIS ____ DAY OF ____ 2025, BEFORE ME PERSONALLY APPEARED TRENT PETERSON, 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.

TRENT PETERSON —————

1429 W WATERSTONE DR

SIOUX FALLS, SD 57108

NOTARY PUBLIC, NORTH DAKOTA

MY COMMISSION EXPIRES ____

STATE OF ____ DAKOTA)

COUNTY OF ____)

1429 W WATERSTONE DR

SIOUX FALLS, SD 57108

ON THIS ____ DAY OF ____ 2025, BEFORE ME PERSONALLY APPEARED LISA PETERSON, 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.

LISA PETERSON —————

1429 W WATERSTONE DR

SIOUX FALLS, SD 57108

NOTARY PUBLIC, NORTH DAKOTA

MY COMMISSION EXPIRES ____

STATE OF ____ DAKOTA)

COUNTY OF ____)

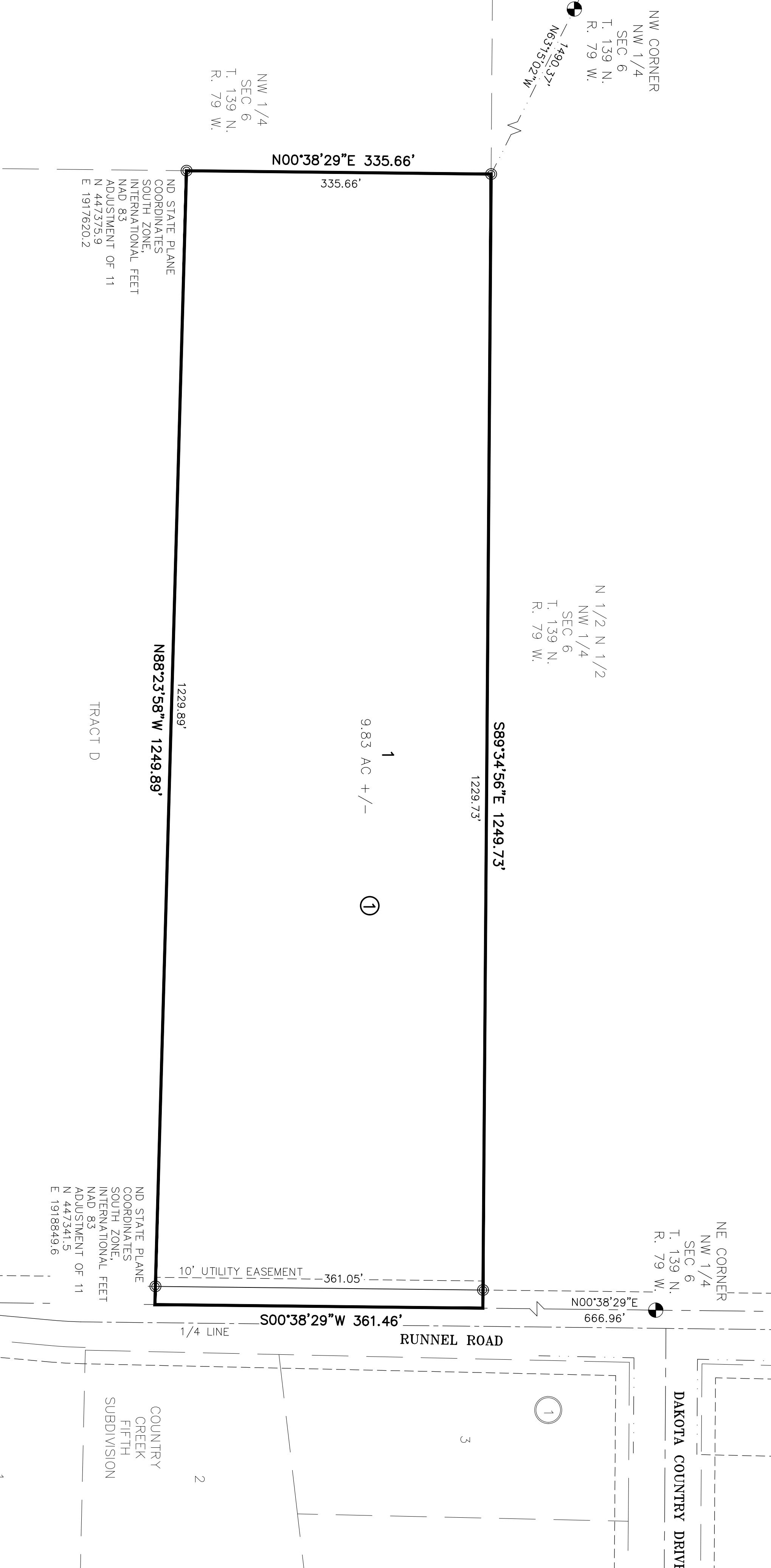
1429 W WATERSTONE DR

SIOUX FALLS, SD 57108

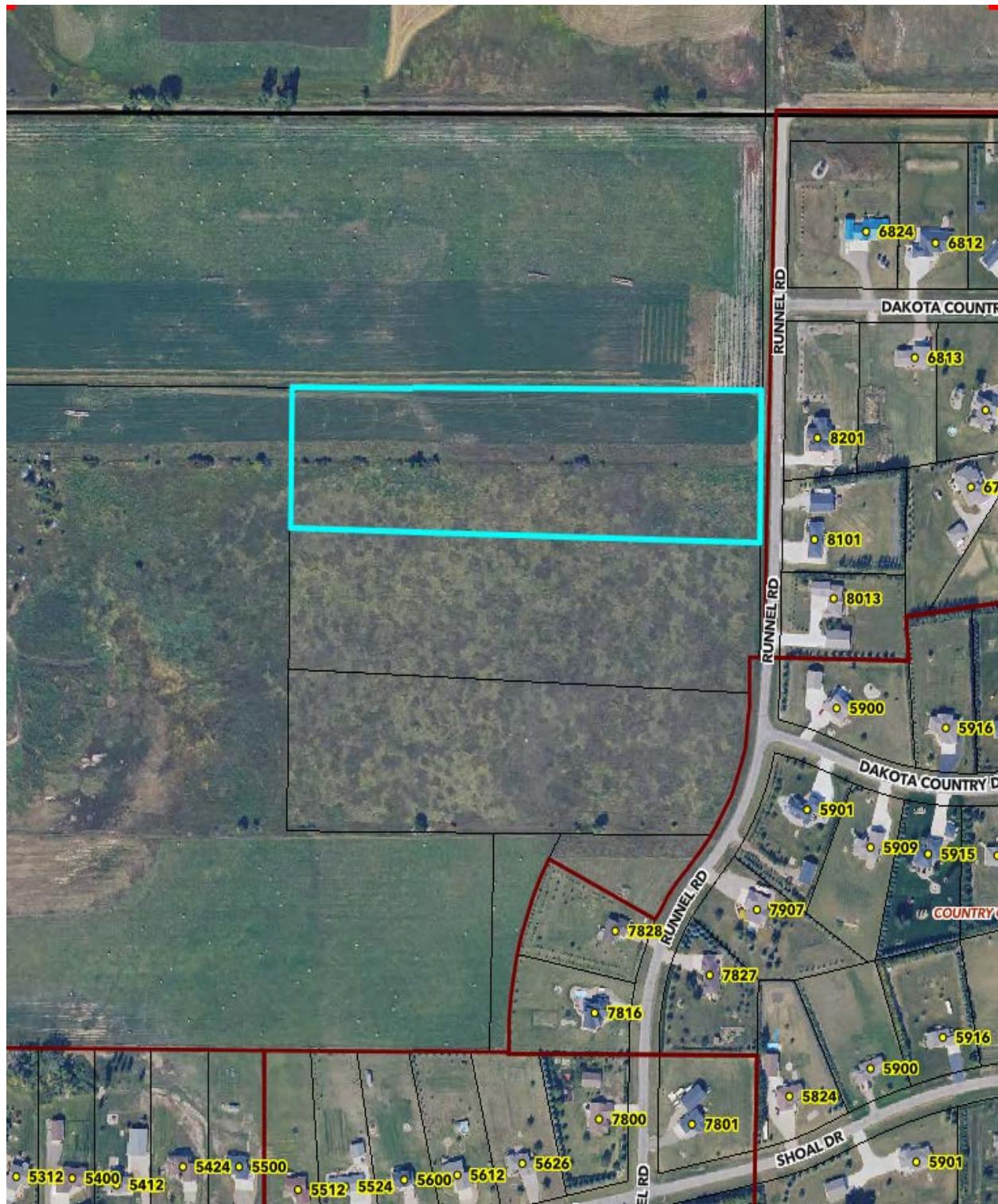
ON THIS ____ DAY OF ____ 2025, BEFORE ME PERSONALLY APPEARED LISA PETERSON, KNOWN TO ME TO BE THE PERSON DESCRIBED IN, AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC, NORTH DAKOTA

MY COMMISSION EXPIRES ____



GAWLEY SUBDIVISION – SITE MAP
Tract C of the NW ¼ Section 6-139-79



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Agenda Item 4-3 Ketterling Special Use Request

Project Summary

Public Hearing Agenda:	Special Use Permit to build an oversize accessory building.
Status:	Public Hearing
Petitioner/Developer	Keith & Jan Ketterling
Location:	<p>4420 Lookout Trail Block 1, Lot 4 Lewis & Clark Estates</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;">  <p>4-3-1 Location Map</p> </div>
Lot Size:	4.2 Acres
Zoning:	R1-Rural Single Family Residential
Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a Special Use Permit to build an oversized accessory building.
Posted Dates	<p>Bismarck Tribune: 10/30 & 11/5/2025 Surrounding Properties: 10/30/2025 Burleigh County Website: 10/30/2025</p>



PLANNING AND ZONING
COMMISSION

November 12, 2025

History/Description

Burleigh County Planning and Building Staff met with Keith Ketterling regarding building a 64' X 120' sf winter riding arena for personal use.

Common among all property owners is the Burleigh County Zoning Ordinance that allows 4% lot coverage for all accessory buildings. The square footage allowance for this lot is 7,335.50 sf. The property has an existing 40' x 40' (1,600 sf) pole barn already. The remaining allowable square footage is 5,735.50'. The proposed building will be 7,680 sf in size; a difference of 1,944.50 sf. Total lot coverage will be 5% with the new building.

The petitioner applied for a variance to allow the building. After further review, staff felt a special use permit would be the best option for this request. The Burleigh County Zoning Ordinances – Article 8 – Special Use states "*...the Board of County Commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasonsand that the Planning and Zoning Commission and the Board of County Commissioners be, and are hereby given limited discretionary powers relating to the granting of such permit or certificate.*



PLANNING AND ZONING
COMMISSION

November 12, 2025



4-3-2 Site Map



PLANNING AND ZONING
COMMISSION

November 12, 2025



4-3-3 Site Plan

Staff Findings:

1. A special use permit is required for the oversized accessory building.
2. The application fulfills all the requirements for a special use permit.
3. The lot line on the North side is shared by 49 acre lot, and three (3) rows of trees between the property. The property to the East contains 4.21 acres with an established tree row. The lot to the West contains 4.21 acres with an established tree line between properties.



PLANNING AND ZONING
COMMISSION

November 12, 2025

4. The placement of the new building will be north of the existing accessory building.
5. Placement of the building will be located on the back side of the lot and will be built to resemble the existing buildings on the lot.
6. The addition of the new building will be 5% lot coverage.

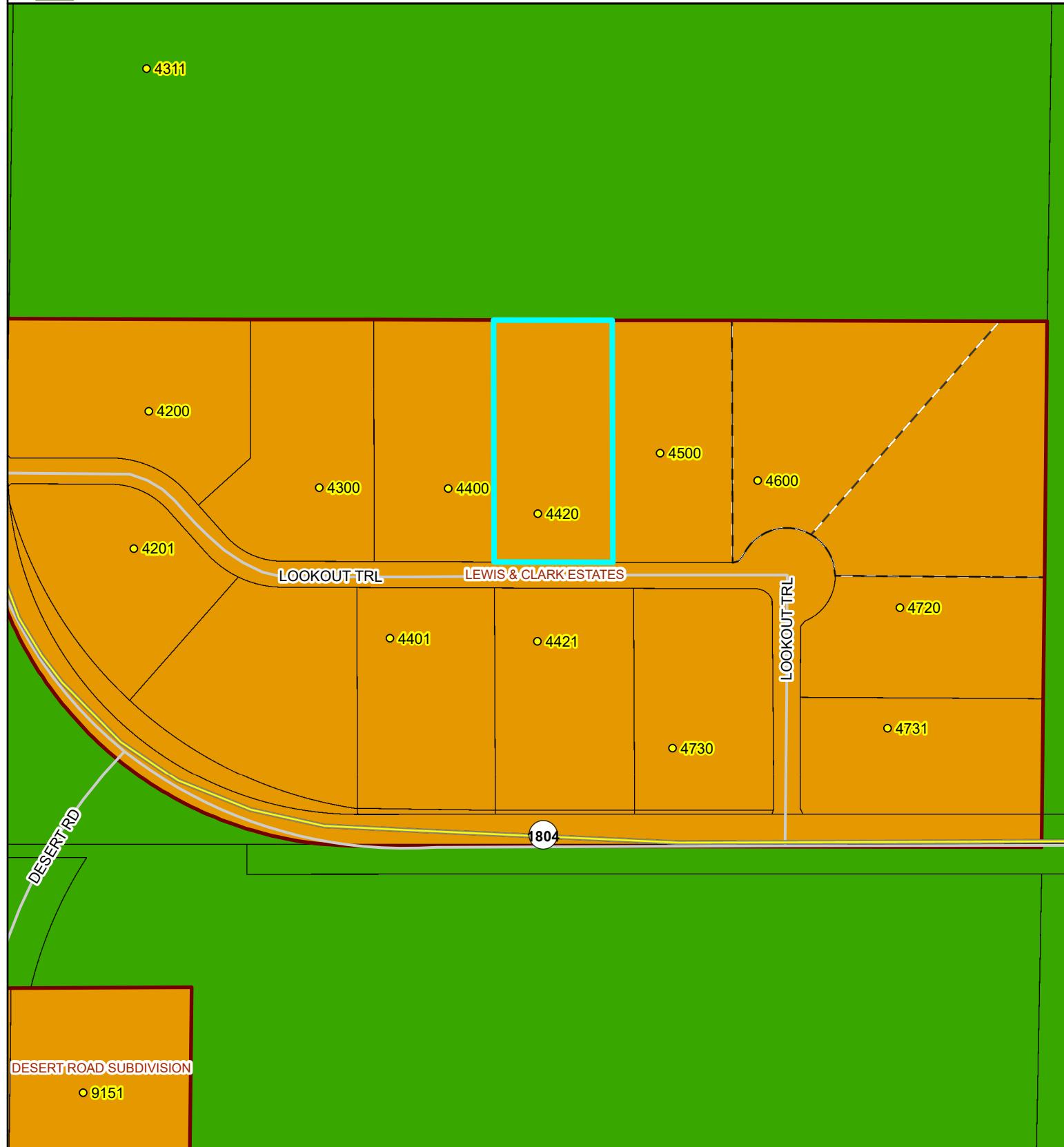
Planning Staff Recommendation

The request for a special use permit fulfills the administrative requirements of Article 8, of the Burleigh County Zoning Ordinances. Planning Staff recommends a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the special use permit and give a "Do Pass" Recommendation
2. Approve special use permit with conditions and give a "Do Pass" recommendation after all conditions required are approved by the Planning and Zoning Commission.
3. Deny the special use permit with reason.
4. Table the special use permit for more information.



PARCEL ID: 51-137-80-56-01-040 OWNER: KETTERLING, KEITH & JAN ACRES: 4.21

SITE ADDRESS: 4420 LOOKOUT TRL

MAIL ADDRESS: 4420 LOOKOUT TRL, BISMARCK, ND 58504-4217

LEGAL: LEWIS & CLARK ESTATES Block 01 LOT 4 809589



PARCEL ID: 51-137-80-56-01-040 OWNER: KETTERLING, KEITH & JAN ACRES: 4.21
SITE ADDRESS: 4420 LOOKOUT TRL
MAIL ADDRESS: 4420 LOOKOUT TRL, BISMARCK, ND 58504-4217
LEGAL: LEWIS & CLARK ESTATES Block 01 LOT 4 809589



64' X 120'

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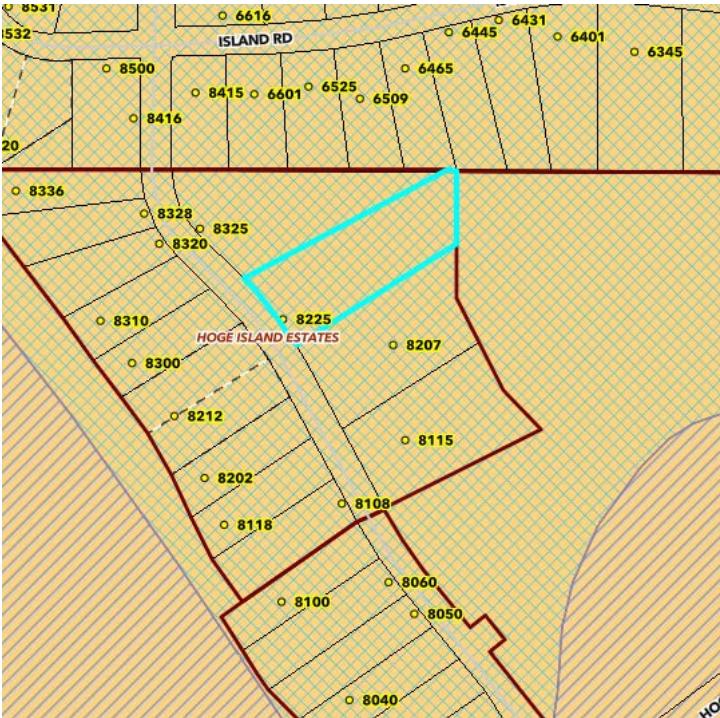


PLANNING AND ZONING
COMMISSION

November 12, 2025

Agenda Item 4-4 Wentz Special Use Request

Project Summary

Public Hearing Agenda:	Special Use Permit to build an oversize accessory building on a unoccupied lot.
Status:	Public Hearing
Petitioner/Developer	Bryan and Annette Wentz
Location:	<p>8225 Burnt Creek Island Road Block 2, Lot 2 Hogue Island Estates</p> 
Lot Size:	2.5 Acres
Zoning:	R1-Rural Single Family Residential



PLANNING AND ZONING
COMMISSION

November 12, 2025

Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a Special Use Permit to build an oversized accessory building on a lot without a residence
Posted Dates	Bis. Tribune: 10/30 & 11/5/2025 Surrounding Properties: 10/30/2025 Burleigh Co. Website: 10/30/2025

History/Description

Burleigh County Planning and Building Staff met with Bryon Wentz regarding placing a 2,808 sf accessory building on a lot which does not have a residence. The building will be used to store equipment used by Wentz Trees LLC.

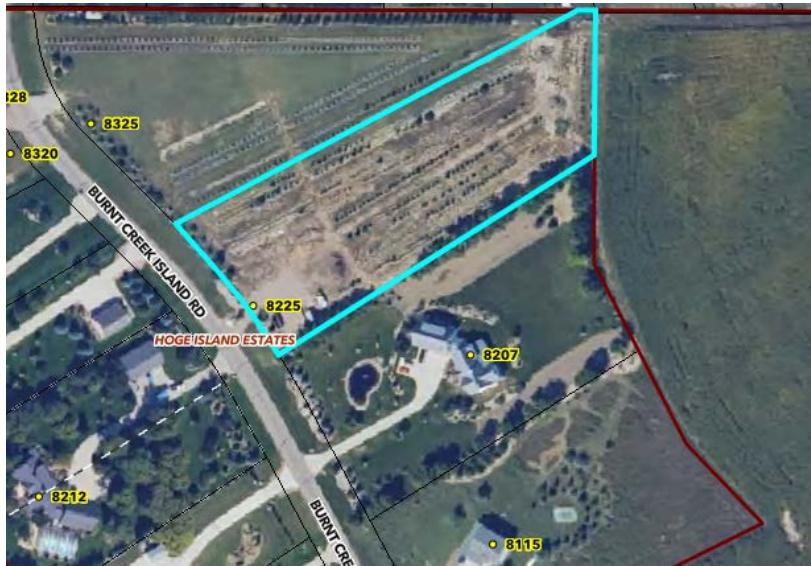
Burleigh County Zoning Ordinance – Article 6 – Incidental Uses, Section 1 Accessory Uses, item J allows the construction of a 1200 sf building on a lot less than ten (10) acres to be built on a lot without a residence. The 2808 sf would be over the allowable square footage limit by 1608 sf over the allowable square footage.

The petitioner was informed they would need a special use permit to build the size building he requested. The Burleigh County Zoning Ordinances – Article 8 – Special Use states "*...the Board of County Commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasonsand that the Planning and Zoning Commission and the Board of County Commissioners be, and are hereby given limited discretionary powers relating to the granting of such permit or certificate.*



PLANNING AND ZONING
COMMISSION

November 12, 2025



4-4-2 Site Map



4-4-3 Site Plan



PLANNING AND ZONING
COMMISSION

November 12, 2025



4-4-4 Building Drawing

Grey Metal Roof with White LP
Siding to match house located on
Block 2, Lot 3 – 8207 Burnt Creek
Island Road

Staff Findings:

1. A special use permit is required for the oversized accessory building on an unoccupied lot.
2. The application fulfills all the requirements for a special use permit.
3. The lot (Block 2, Lot 1) located on the NW property line, Block 2, Lot 3 located on the SE property line and Block 1, Lots 6 & 7, located across Burnt Creek Island Road and lot in question are owned by the Wentz family.
4. The placement of the building will be 174' from the front property line.
5. The building will be built in such a manner as to blend into the neighborhood. It will match the house located SE of the property.
6. The building will be built in the floodplain and must meet all requirements for building in the floodplain.



PLANNING AND ZONING
COMMISSION

November 12, 2025

7. The building will cover 2% of the lot.
8. A residence is not planned at this time.

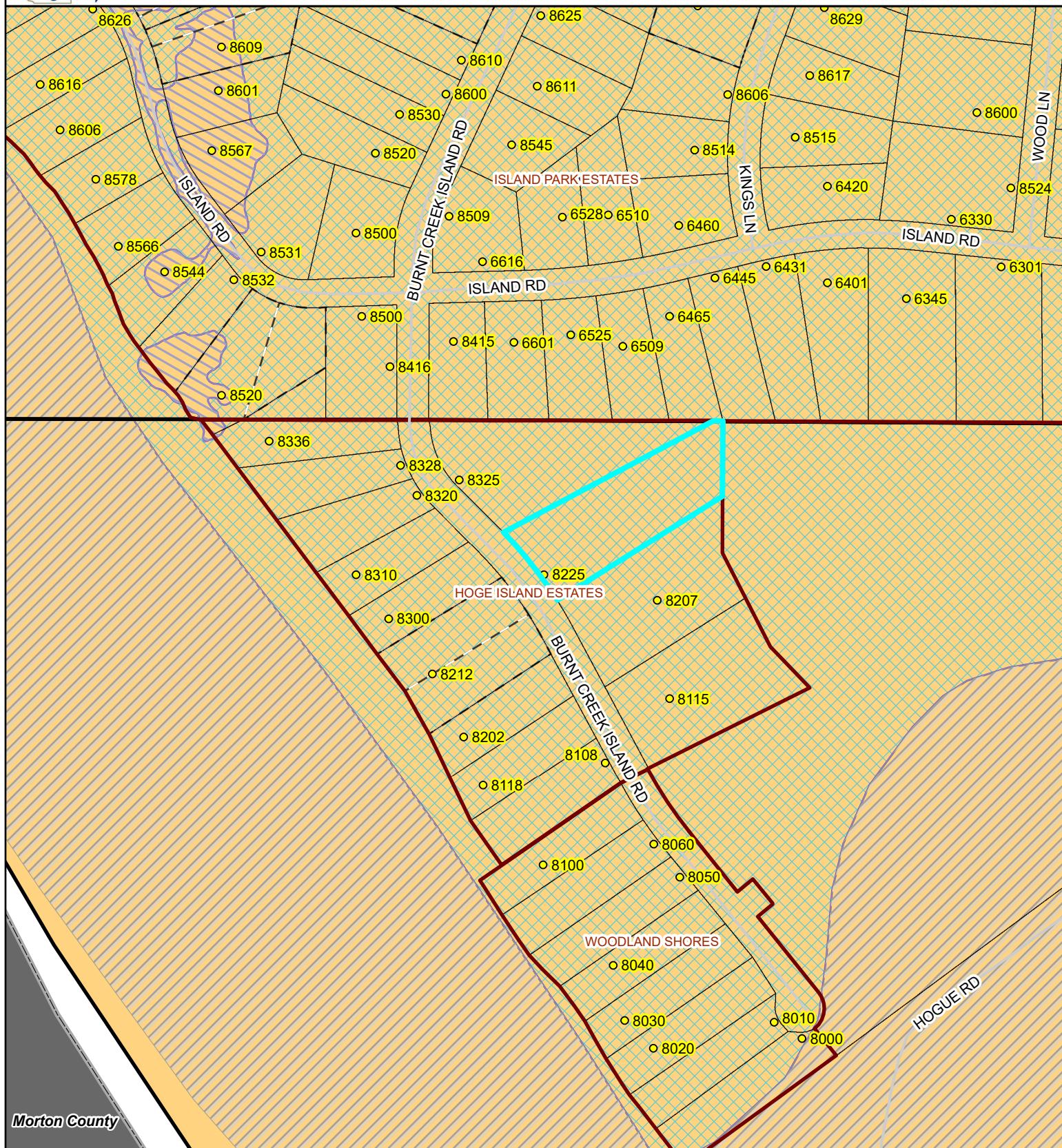
Planning Staff Recommendation

The request for a special use permit fulfills the administrative requirements of Article 8, of the Burleigh County Zoning Ordinances. Planning Staff recommends a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the special use permit and give a "Do Pass" Recommendation
2. Approve special use permit with conditions and give a "Do Pass" recommendation after all conditions required are approved by the Planning and Zoning Commission.
3. Deny the special use permit with reason.
4. Table the special use permit for more information.

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

PARCEL ID: 31-139-81-23-02-020

OWNER: WENTZ TREES LLC

ACRES: 2.501

SITE ADDRESS: 8225 BURNT CREEK ISLAND RD

MAIL ADDRESS: 8212 BURNT CREEK ISLAND RD, BISMARCK, ND 58503

LEGAL: HOGE ISLAND ESTATES Block 02 LOT 2 663758



PARCEL ID: 31-139-81-23-02-020

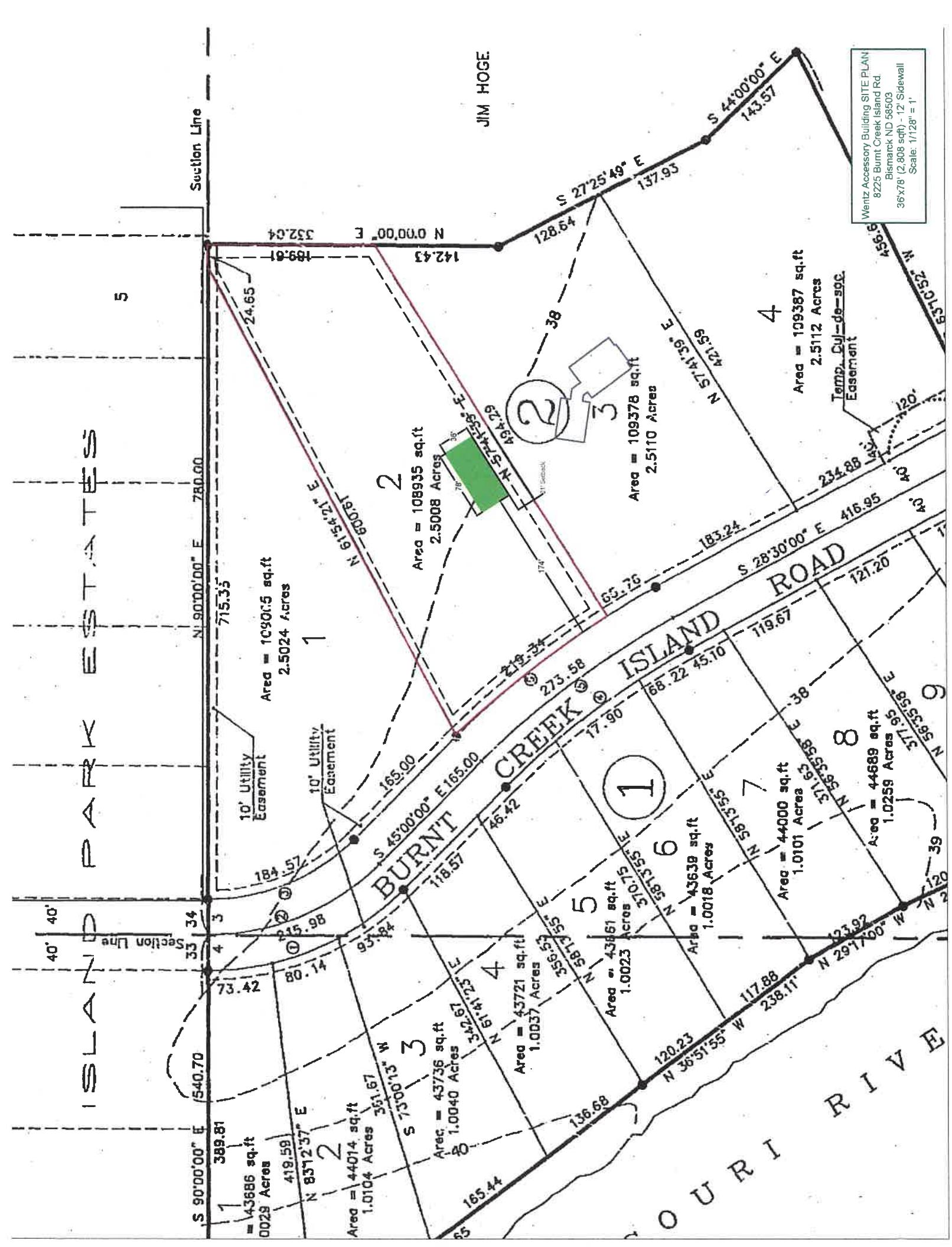
OWNER: WENTZ TREES LLC

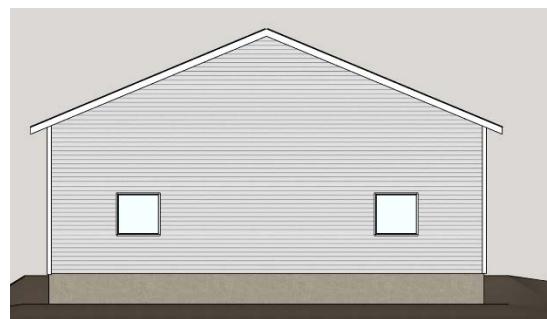
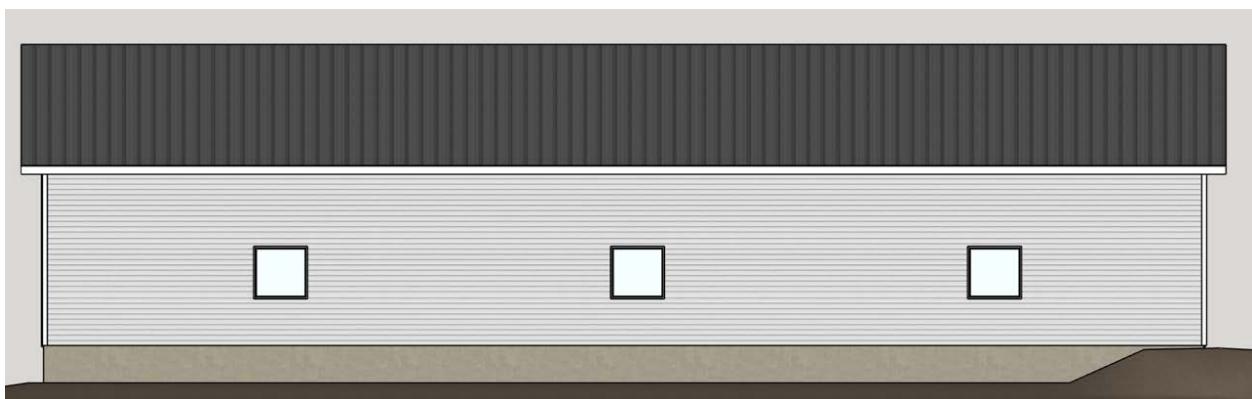
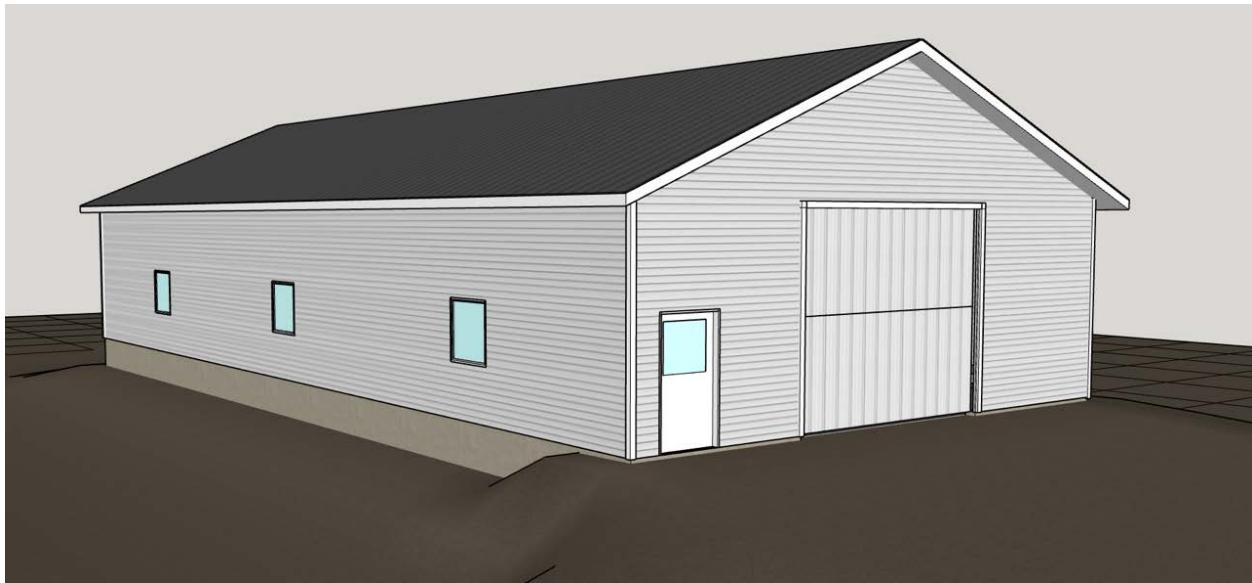
ACRES: 2.501

SITE ADDRESS: 8225 BURNT CREEK ISLAND RD

MAIL ADDRESS: 8212 BURNT CREEK ISLAND RD, BISMARCK, ND 58503

LEGAL: HOGE ISLAND ESTATES Block 02 LOT 2 663758







Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5th Street N,
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or
[Dakota Media Access Facebook Live](https://www.dakotamedia.org/live) || Replay Later from [Freetv.org](https://freetv.org)

AGENDA

December 10, 2025

1. Roll Call

- Approval of the November 12, 2025 Minutes

2. Public Comments: (Restricted to Burleigh County residents and landowners)

3. Consent Agenda: (The following item(s) are request(s) for a public hearing)

There are no items on the Consent Agenda

4. Public Hearing Agenda:

4-1 Huez Subdivision

- Requests a "Do Pass" for a one (1) lot Subdivision
Staff recommends: Approval

4-2 Kuntz Subdivision

- Requests a "Do Pass" recommendation for a two (2) lot subdivision
Staff recommends: Approval

4-3 Spring Coulee Subdivision – Short Plat

- Requests a "Do Pass" recommendation to replat a two (2) lot subdivision in to a one (1) lot subdivision
Staff recommends: Approval

5. Other Business:

5-1 Amendment

- Amend Article 21 – FP _ Floodplain District Regulations

5-2 2026 Planning and Zoning Commission Meeting Calendar

6. Adjourn

– Next Meeting –January 14, 2026

Agenda Item 4-1

Huez Subdivision

Project Summary	
Status:	Public Hearing - Continuation
Petitioner/Developer	Coridon & Amber Huez
Engineer	Mark Isaacs, Independent Land Surveyors and Engineers
Location:	<p>Lot 2, Block 3 in Country View Estates and Auditor's Lots "N" & "O" all in Section 3, Township 138N Range 79W, Burleigh County, ND</p> <p>Residence: 11009 Lakeview Drive</p> <div style="border: 1px solid black; padding: 5px; text-align: center;">4-1-1 Location Map</div>
Project Size:	1-Lot containing 13 Acres more or less
Zoning Change:	A-Agricultural Apple Creek Township has Zoning Jurisdiction.
Petitioners Request:	Approve final plat. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners (BCC)
Posted:	<p>Bis. Tribune: 11/29 – 12/6/2025</p> <p>Surrounding Properties: 11/26/2025</p> <p>Burleigh Co. Website: 11/28/2025</p>

As set forth under Chapter 11, Section 33 of the North Dakota Century Code and Article 33 of the Burleigh County Ordinances, the Planning Commission shall approve or disapprove the subdivision of all lands within its jurisdiction and recommend the same to the Board of Burleigh County Commissioners



PLANNING AND ZONING
COMMISSION

December 12, 2025

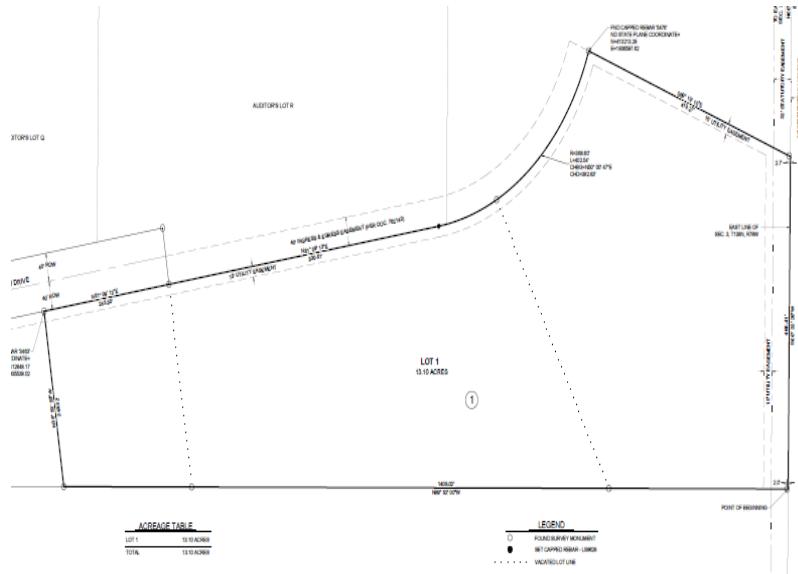
History/Description

The petitioner approached Burleigh County regarding building a horse arena for personal use on his property which contained three (3) lots. The owners intend to build a large horse arena, in order to do that they need to combine their 3 lots as a single parcel..

A pre-application meeting was held in August and the preliminary plat was approved to continue. A representative of Apple Creek Township was present at the meeting. They have approved the zoning and recommended approval of the subdivision plat.

A SWMP Waiver has been requested. Since the lots are on a public road, a paving was not required. The Planning and Zoning Commission approved the preliminary plat and called for a public hearing at their September 10, 2025 meeting.

On their November 12, 2025 meeting the Planning and Zoning Commission continued the public hearing for additional information regarding the master plan for Country View Subdivision and a legal opinion on whether a lot can be removed from a subdivision and platted in another subdivision.





PLANNING AND ZONING COMMISSION

December 12, 2025



Attachment 4-1-3 Site Map

Staff Findings – Final Plat

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This final plat has been submitted to all reviewing entities. All concerns and corrections will be addressed.
3. Zoning is A-Agricultural.



PLANNING AND ZONING
COMMISSION

December 12, 2025

4. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
5. A Stormwater Management Waiver has been applied for.
6. A paving waiver is not required.

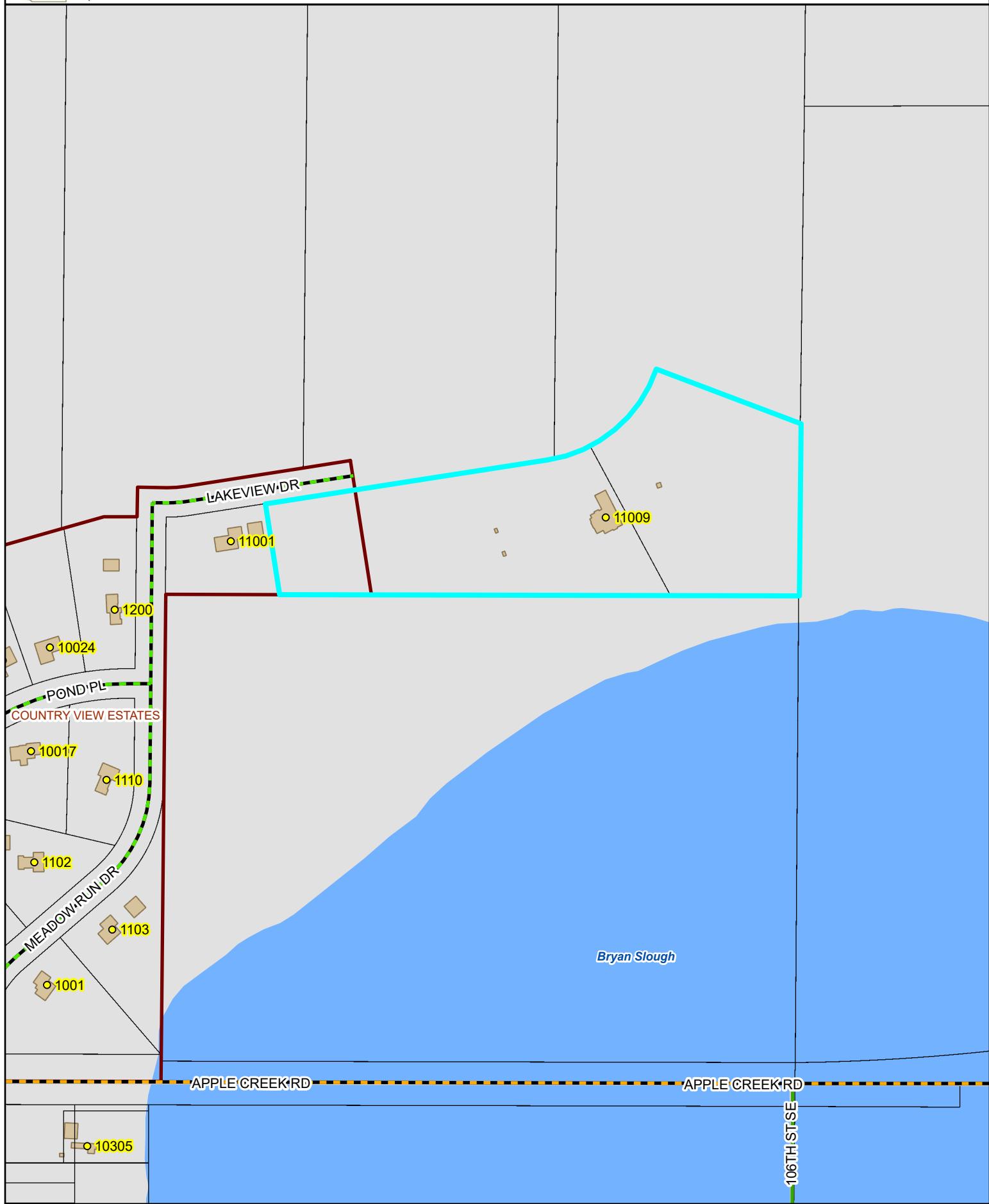
Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance – Article 33. Staff recommends approval of the final plat and giving a "Do Pass" recommendation to the BCC.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and call and give a "Do Pass" recommendation to the BCC.
2. Approve the final plat with conditions and give a "Do Pass" recommendation to the BCC. after all condition have been completed.
3. Deny the final plat with reason.
4. Table the final plat for more information.





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PLANNING AND ZONING
COMMISSION

December 10, 2025

Agenda Item 4-2 Kuntz Subdivision

Application for a Subdivision

Project Summary

Public Hearing Agenda:	Approval of Final Plat and give a "Do Pass Recommendation to the Board of Burleigh County Commissioners.
Status:	Final Plat
Petitioner/Developer:	Albert & Linda Kuntz
Engineer:	Mark Isaacs, ILSE
Location:	<p>1951 149th Ave NW BURNT CREEK TOWNSHIP Section 07 LT A OF NE1/4 BEG NW COR TH E1320', S1320' W1320'.N1320' TO POB</p> <div style="border: 1px solid black; padding: 10px; width: fit-content; margin-left: auto; margin-right: auto;"><p>Exhibit 4-2-1 Location Map</p></div>
Parcel Size:	40 acres A-Agricultural
Notification:	Bismarck Tribune 11/29 & 12/6/2025 Burleigh Co Website: 11/29/2025 Surrounding Properties: 11/26/2025



PLANNING AND ZONING
COMMISSION

December 10, 2025

History/Description

Burleigh County Planning and Building Staff were approached by Albert and Linda Kuntz regarding building an accessory dwelling unit (ADU) on their 40-acre parcel. There are two (2) main buildings on the property: a 1638-sf manufactured home (1989), and an 11,340-sf accessory building, built in 2008. The maximum allowed sq./ft. of the ADU is limited to 1,500 sf.

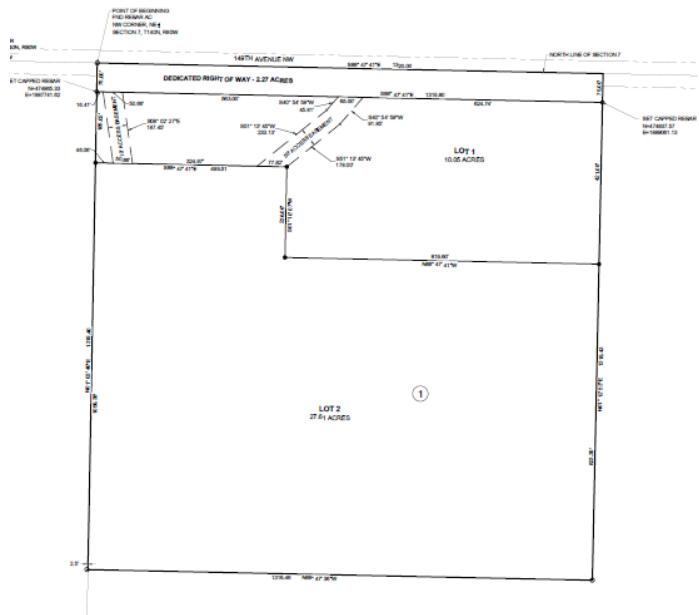
The petitioners live in the city of Bismarck. The proposed ADU would allow them to move back to the property, so they will be closer to their son. The petitioner's son resides in the manufactured home.

Due to the sq./ft. of the proposed building -2,580 sq./ft., the petitioners were advised to pull the Special Use request and subdivide the parcel into two (2) lots. This would allow the petitioners to build the size house they wanted and not be limited by the constraints of an ADU permit. The petitioners submitted a preliminary plat for a new subdivision. The preliminary plat was approved on November 10, 2025 and a public hearing was called.

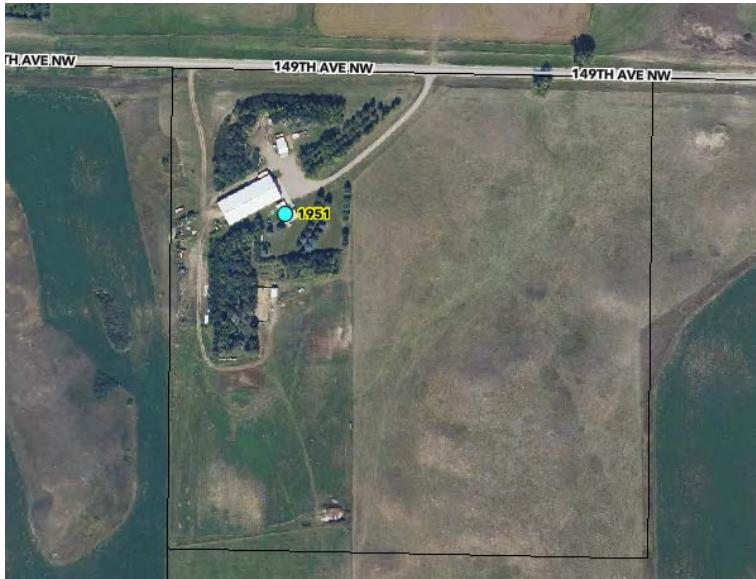


PLANNING AND ZONING COMMISSION

December 10, 2025



4-2-2 Final Plat



4-2-3 Site Map



PLANNING AND ZONING
COMMISSION

December 10, 2025

Staff Findings:

1. The application has fulfilled all the requirements of Article 33 Subdivision Regulations.
2. The application has fulfilled the requirements of Article 11 – A-Agricultural Zoning.
3. The petitioner applied for a SWMP Waiver. It has been approved.
4. The subdivision has been reviewed by all reviewing entities. Minor corrections have been made and submitted.
5. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

Planning Staff Recommendation

The request for a final plat approval fulfills the administrative requirements of the Burleigh County Zoning Ordinances – Article 33 & Article 11.

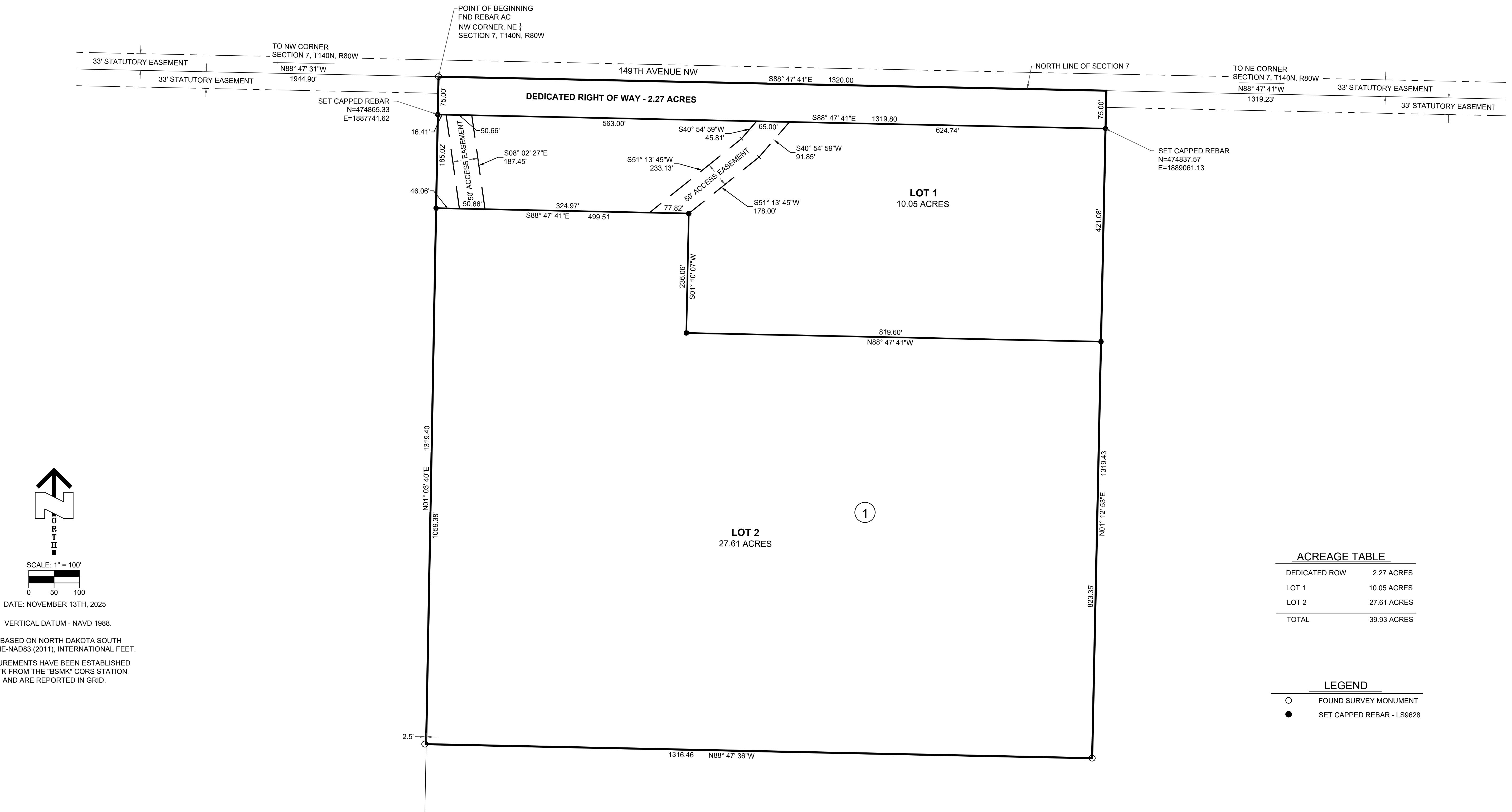
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
2. Approve the final plat with conditions and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
3. Deny the final plat with reason.
4. Table the final plat for more information.



KUNTZ SUBDIVISION
AUDITOR'S LOT "A" IN THE NORTHEAST QUARTER OF SECTION 7
ALL IN SECTION 7, T140N, R80W
BURLEIGH COUNTY, NORTH DAKOTA



OWNER'S CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED, BEING SOLE OWNERS OF THE LAND PLATTED HEREIN, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF SAID PLAT AND DO DEDICATE ALL THE RIGHT OF WAY IDENTIFIED HEREIN TO BURLEIGH COUNTY. WE ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE, WATER, OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENT".

THEY ALSO DEDICATE ACCESS EASEMENTS TO ALL LAND OWNING PARTIES, TO RUN WITH THE LAND FOR THE PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING THE ACCESS UNDER OR UPON THE REAL PROPERTY OF THOSE CERTAIN STRIPS OF LAND SO DESIGNATED.

ALBERT KUNTZ
LOTS 1 & 2, BLOCK 1

LINDA KUNTZ
LOTS 1 & 2, BLOCK 1

STATE OF ND)
COUNTY OF BURLEIGH)
SS

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS 20 DAY OF NOVEMBER, 2025.

NOTARY PUBLIC _____

APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS

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

THE PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE 20 DAY OF NOVEMBER, 2025.

BRIAN BITNER - CHAIRMAN

ATTEST: MARK SPLOSKOWSKI,
COUNTY AUDITOR

SURVEYOR'S CERTIFICATE

I, MARK R. ISAACS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON NOVEMBER 24, 2025. 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.

MARK R. ISAACS, RLS 9628

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES THIS PLAT OF "KUNTZ SUBDIVISION" AS SHOWN ON THE PLAT, DATED THIS 20 DAY OF NOVEMBER, 2025.

MARCUS J. HALL, PE
COUNTY ENGINEER

BENCHMARK - NORTHWEST CORNER OF LOT 1, BLOCK 1, A CAPPED REBAR SET FLUSH WITH THE GROUND.
ELEVATION = XXXX.XX

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

OWNERS:
ALBERT KUNTZ & LINDA KUNTZ
1951 149TH AVE NW
BISMARCK, ND 58503

KUNTZ SUBDIVISION AUDITOR'S LOT "A" SECTION 7, T140N, R80W BURLEIGH, NORTH DAKOTA	Independent Land Surveying & Engineering
NOTES: 1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS. 2. SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.	
SHEET: 1 OF 1 JOB NUMBER: 25190 SCALE: 1" = 100' DWG REVISION DATES DRAWN BY: LCM 11/24/25 - DWG DATE: 11/13/25 - DWG NAME: 25190 Final Plat.dwg 4215 Old Red Trail NW Mandan, ND 58554 Phone: (701) 595-2074 (701) 595-2079 mark@surveyn.com	



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PLANNING AND ZONING
COMMISSION

December 10, 2025

Agenda Item 4-3 Spring Coulee Subdivision Replat

Application for a Subdivision Replat

Project Summary

Public Hearing Agenda:	Approval of Final Plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
Status:	Final Plat
Petitioner/Developer:	Larry Labere
Engineer:	Swenson, Hagen and Company
Location:	<p>15612 41st Street NW Lot 1, Block 1, Spring Coulee Subdivision</p> 



PLANNING AND ZONING
COMMISSION

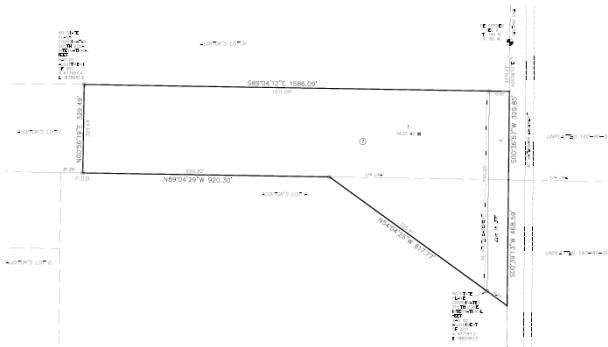
December 10, 2025

Parcel Size:	15 acres R1-Rural Single Family Residential
Notification:	Bismarck Tribune 11/29 & 12/6/2025 Burleigh Co Website: 11/29/2025 Surrounding Properties: 11/26/2025

History/Description

The petitioner applied for a building permit to construct a 2,688 sq./ft. accessory building to be used for storage, including a work space. The lot described as Lot 2, Block 1 Spring Coulee Subdivision is where he intends to build the accessory building. This lot does not contain a principle residential structure, though he owns the adjoining lot describe as Lot 1, Block 1 Spring Coulee Subdivision, he was advised to combine the 2 lots into a one (1) lot subdivision.

The Spring Coulee Subdivision was platted and recorded on October 2017 *doc. 863781*.
The zoning change was recorded. *doc. 912911*



4-3-2 Replat Final



PLANNING AND ZONING
COMMISSION

December 10, 2025



4-3-3 Site Map

Staff Findings:

1. The application has fulfilled all the requirements of Article 33 Subdivision Regulations.
2. The application has fulfilled the requirements of Article 12 – R1-Rural Single-Family Residential Zoning.
3. SWMP is not required.
4. A paving waiver is not required.
5. The subdivision has been reviewed by all reviewing entities. Minor corrections are being made and will be submitted.
6. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.



PLANNING AND ZONING
COMMISSION

December 10, 2025

Planning Staff Recommendation

The request for a final plat approval fulfills the administrative requirements of the Burleigh County Zoning Ordinances – Article 33 & Article 12.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the replat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
2. Approve the replat with conditions and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
3. Deny the replat with reason.
4. Table the replat for more information.

• 15901

SPRING COULEE SUBDIVISION

• 15612

• 15602

41ST ST NW

• 15408

• 15200

41ST ST NW

SPRING COULEE SECOND SUBDIVISION

LOTS 1 & 2 BLOCK 1 SPRING COULEE SUBDIVISION
PART OF THE NE 1/4 AND PART OF AUDITOR'S LOT F OF THE SE
1/4 OF SECTION 2, TOWNSHIP 140 NORTH, RANGE 81 WEST

BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

LOTS 1 & 2 BLOCK 1 SPRING COULEE SUBDIVISION, PART OF THE NE 1/4 AND PART OF AUDITOR'S LOT F OF THE SE 1/4 OF SECTION 2, TOWNSHIP 140 NORTH, RANGE 81 WEST, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID AUDITOR'S LOT F; THENCE SOUTH 89 DEGREES 04 MINUTES 29 SECONDS EAST, ALONG THE NORTH LINE OF SAID SE 1/4, A DISTANCE OF 81.28 FEET, TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 56 MINUTES 19 SECONDS EAST, ALONG THE BOUNDARY OF AUDITOR'S LOT I, A DISTANCE OF 329.49 FEET TO THE BOUNDARY OF AUDITOR'S LOT N; THENCE SOUTH 89 DEGREES 04 MINUTES 12 SECONDS EAST, ALONG SAID BOUNDARY, A DISTANCE OF 1586.09 FEET, TO THE EAST LINE OF SAID SECTION 2; THENCE SOUTH 00 DEGREES 36 MINUTES 57 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 329.85 FEET; THENCE SOUTH 00 DEGREES 39 MINUTES 13 SECONDS WEST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 468.59 FEET; THENCE NORTH 54 DEGREES 04 MINUTES 25 SECONDS WEST, A DISTANCE OF 817.77 FEET, TO THE NORTH LINE OF AUDITOR'S LOT F; THENCE NORTH 89 DEGREES 04 MINUTES 29 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 30.30 FEET, TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 15.47 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE SHOWN PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON NOVEMBER 18, 2025, 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.

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

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

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION HEREBY APPROVES SPRING COULEE SECOND SUBDIVISION, AS SHOWN ON THE PLAT. THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH AND REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION.

THE FOREGOING ACTION OF THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE ____ DAY OF ____ 2025

DENNIS AGNEW - CHAIRMAN MITCH FLANAGAN - SECRETARY

APPROVAL OF BOARD OF COUNTY COMMISSION

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BURLEIGH, 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 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.

THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE ____ DAY OF ____ 2025.

BRIAN BITTNER - CHAIRMAN ATTEST: MARK SPLONSKOWSKI
BURLEIGH COUNTY AUDITOR

APPROVAL OF COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVE THIS PLAT OF SPRING COULEE SECOND SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.

DATED THIS ____ DAY OF ____ 2025.

MARCUS J. HALL, P.E.
COUNTY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

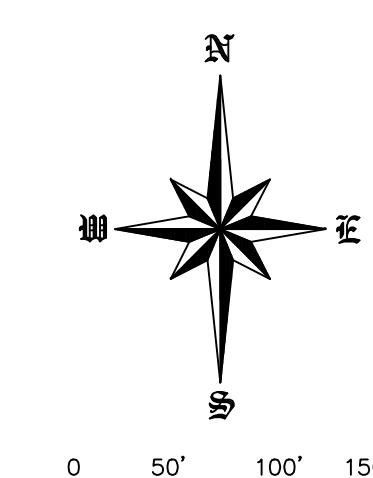
KNOW ALL MEN BY THESE PRESENTS THAT LARRY LABERE, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "SPRING COULEE SECOND SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO RE-DEDICATE RIGHT-OF-WAY AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO RE-DEDICATE EASEMENTS TO BURLEIGH COUNTY 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 _____)
COUNTY OF _____)
LARRY LABERE
15602 NW 41ST ST
BISMARCK, ND 58503

ON THIS ____ DAY OF ____ 2025, BEFORE ME PERSONALLY APPEARED LARRY LABERE, 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"=100'
NOVEMBER 18, 2025

MONUMENT IN PLACE

BASIS OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE
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.



PARCEL ID: 23-140-81-79-01-020 OWNER: LABERE, LARRY ACRES: 2.83

SITE ADDRESS: 15602 NW 41ST ST

MAIL ADDRESS: 15602 41ST STREET NW, BISMARCK, ND 58503-0000

LEGAL: SPRING COULEE BLOCK 1 LOT 2

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ORDINANCE 26-001 ZO

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 21 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO STATUTORY AUTHORIZATION OF FLOODPLAIN DISTRICT REGULATIONS

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
BURLEIGH COUNTY, NORTH DAKOTA.

Section 1. **Amendment** Article 21 of the Zoning Ordinance is hereby amended and re-enacted **as** follows:

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-05, 11-11 and 58-06, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry

In any FP-Floodplain District the following regulations shall apply:

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

Section 3. Severability If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such as adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date This ordinance shall take effect after final passage, adoption and publication as provided by law

Passed and adopted this _____ day of _____, 2026

Brian Bitner

Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2026

Mark Splonskowski, Burleigh County Auditor

DRAFT

PLANNING AND ZONING COMMISSION
2026 CALENDAR

MEETING DATE	APPLICATIONS DUE ON	BURLEIGH COUNTY COMMISSION MEETINGS (TBD)
January 14, 2026	December 18, 2025	
February 11, 2026	January 22, 2026	
March 11, 2026	February 19, 2026	
April 8, 2026	March 19, 2026	
May 13, 2026	April 22, 2026	
June 10, 2026	May 21, 2026	
July 8, 2026	June 18, 2026	
August 12, 2026	July 23, 2025	
September 9, 2026	August 20, 2026	
October 14, 2026	September 24, 2026	
November TBD	October 22, 2025	
December 9, 2026	November 19, 2025	
January 13, 2027	December 17, 2026	