



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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AGENDA


JANUARY 10, 2024

1. Roll Call
2. Election of Officers
3. Approval of December Minutes
4. Consent Agenda *(the following item(s) are request(s) for a public hearing)*
 - 4.1 Peaceful View Subdivision
5. Public Hearing Agenda
 - 5.1 Burnt Creek Farm Special Use Permit
6. Other Business:
7. Adjourn – Next Meeting February 14, 2024



Agenda Item 4.1 Peaceful View Subdivision

Application for a Preliminary Subdivision and Zoning Change

Project Summary	
Consent Agenda:	Peaceful View Subdivision and Zoning Change from A to R1
Status:	Request for a public hearing
Petitioner/Developer	Duane Small
Engineer	Mark Isaacs, Independent Land Surveyors
Location:	<i>Part of the South 1/2 of Section 11, Part of Lot B and Part of the North 1/4 of Section 14, Township 137 North, Range 80 W in Burleigh County</i>
<p>Exhibit 4.1.1 Location Map</p> 	
Project Size:	17.89 acres divided into two (2) lots

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



History/Description

Burleigh County was approached in March regarding the platting of 17 acres into a two (2) lot subdivision. A preliminary review was held with the county review staff and the petitioner. Attending the review meeting were: County Planning and Engineering Staff, Rural Fire and Mark Isaacs-Independent Land Surveyor representing Duane Small

The proposed subdivision offers some challenges because of its location and the location of several buildings on the property. The original homestead was developed before the county section lines were in place. Because of this the house and several buildings are located in what would become the county section line right of way. After several discussions on the lay out of the subdivision, it was decided the best course of action was to not ask for a section line vacation, but to note on the Plat:

1. No construction of new structures allowed in designated Public Right of Way.
2. Structures existing in Public Right of Way on or before filing of this plat may remain.

The west side of the property borders the US Army Corp of Engineers land along the river front. The Small family have a dedicated access route for the US Army Corp of Engineers to access the land.

The location of the section line requires the subdivision to have two (2) block each containing one (1) lot.

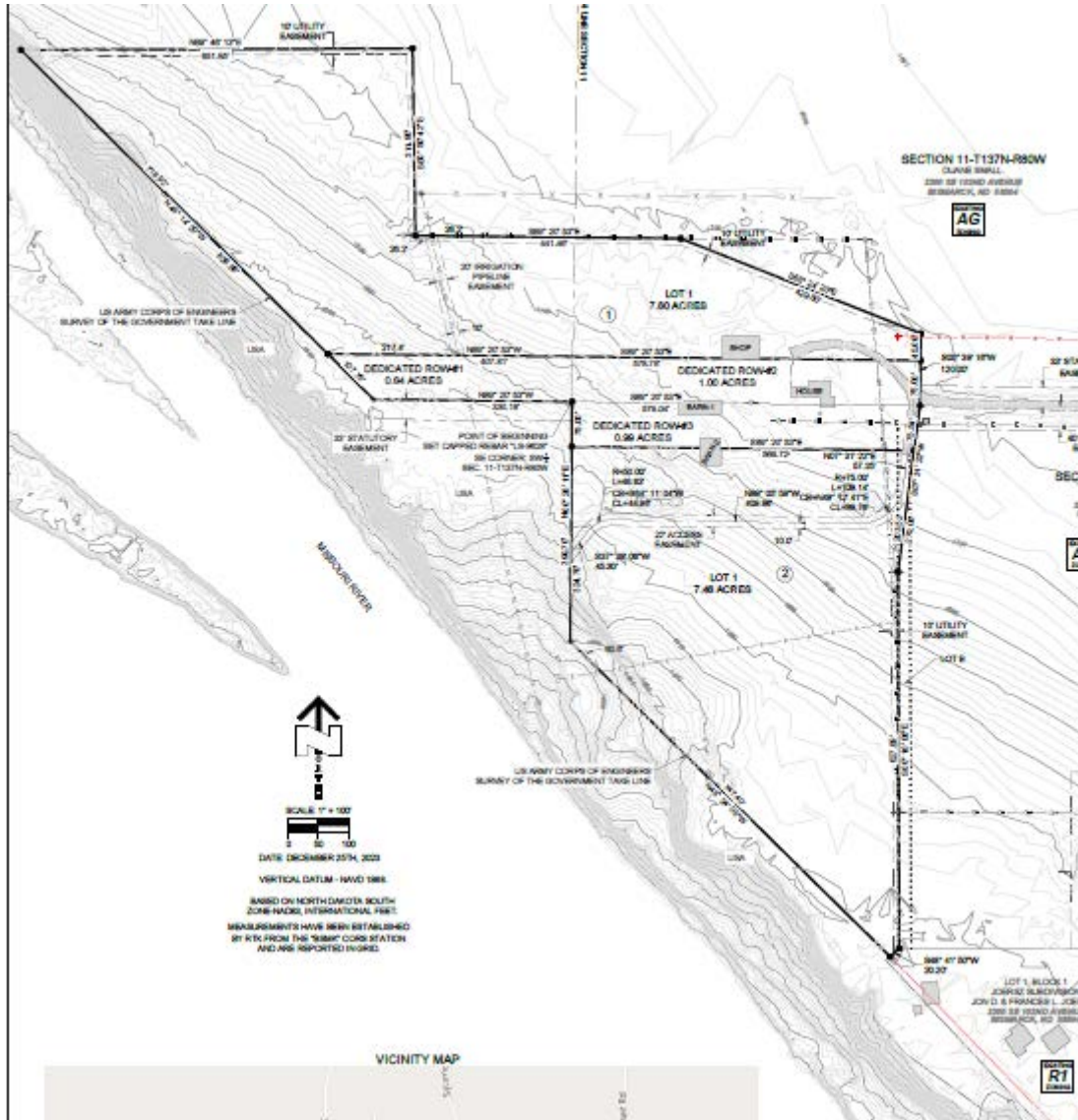
The zoning change request from A-Agricultural Zoning to R1- Rural Single Family Residential is an appropriate zoning change. The proposed lots are under ten (10) acres and will not qualify for A-Agricultural Zoning which requires a minimum of ten (10) acres. The surrounding properties are a mix of A-Agricultural and R1-Rural Single Family Residential.



PLANNING AND ZONING COMMISSION

January 10, 2024

Exhibit 4-1-2 Subdivision Preliminary Plat



January 10, 2024



PLANNING AND ZONING
COMMISSION

January 10, 2024



Exhibit 4-1-3 Subdivision Site Map

EXHIBITS:

4-1-1	Location Map
4-1-2	Preliminary Plat
4-1-3	Site Map



PLANNING AND ZONING COMMISSION

January 10, 2024

Staff Findings: Preliminary Plat

1. This subdivision fulfills the requirements for a Preliminary Plat as per Article 33, Section 5 Procedures *items 1 and 2* of the Burleigh County Zoning Ordinance.
2. The stormwater management plan waiver will be requested
3. A paving waiver will be requested
4. This preliminary plat has been submitted to all reviewing entities. Changes and corrections have been addressed.

Staff Findings: Zoning Change

1. The zoning change from A-Agricultural to R1-Rural Single Family Residential fulfills the requirements of Article 12 of the Burleigh County Zoning Ordinance.

Planning Staff Recommendation

The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 12 & 33. Staff recommends approval of the preliminary plat and zoning change and requests for a public hearing.

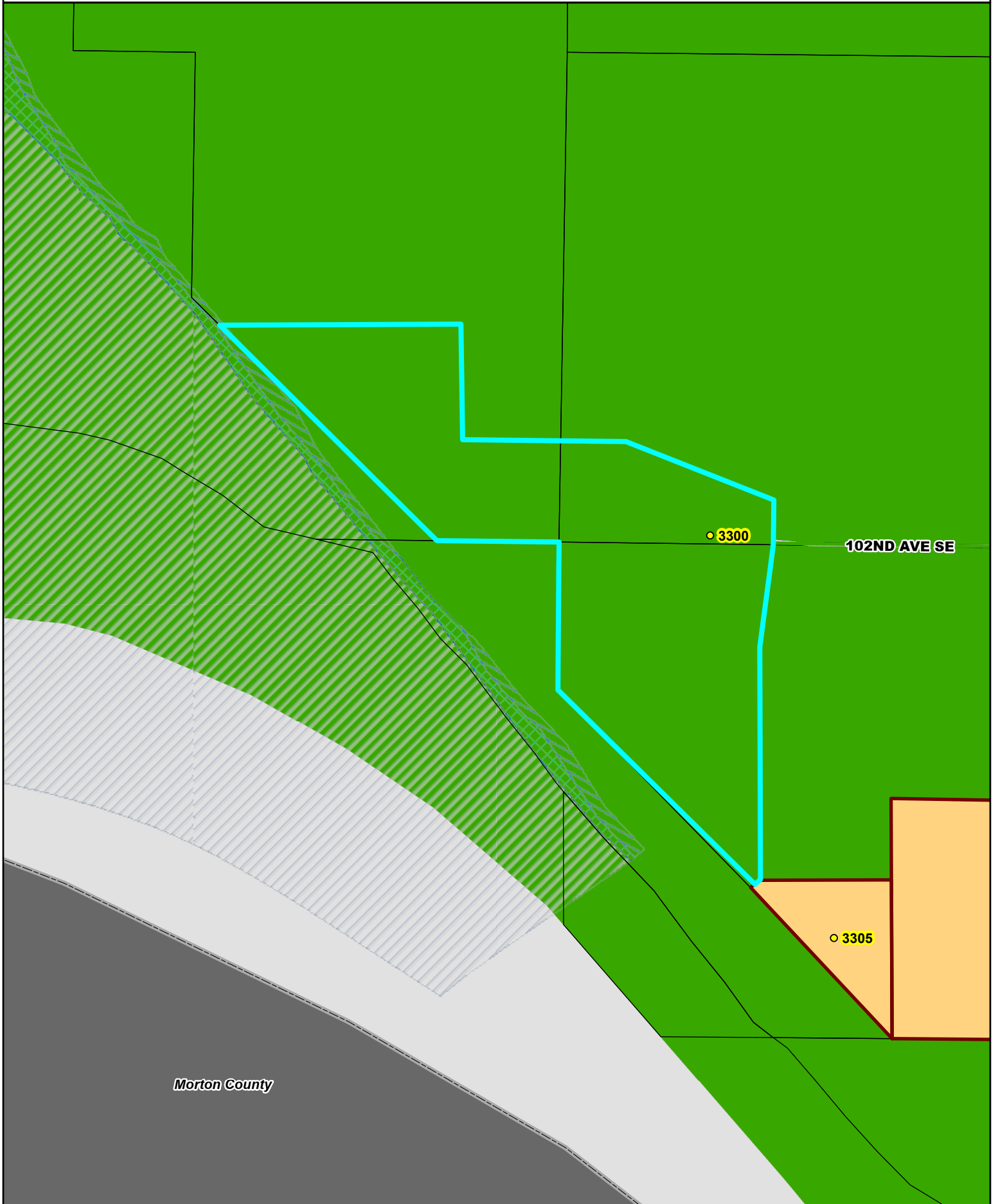
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

N
12/28/2023



PRELIMINARY PLAT

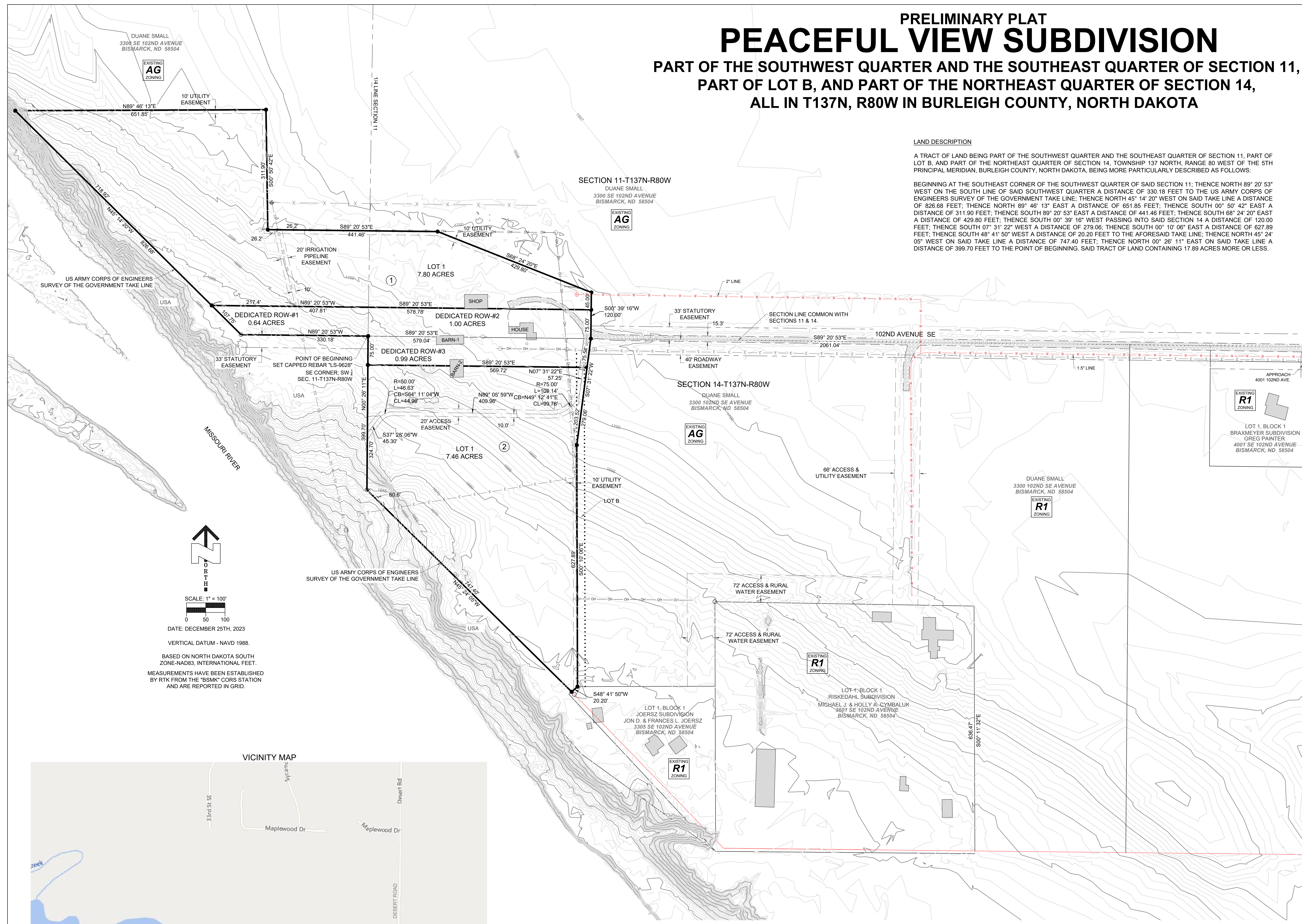
PEACEFUL VIEW SUBDIVISION


PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11,
PART OF LOT B, AND PART OF THE NORTHEAST QUARTER OF SECTION 14,
ALL IN T137N, R80W IN BURLEIGH COUNTY, NORTH DAKOTA

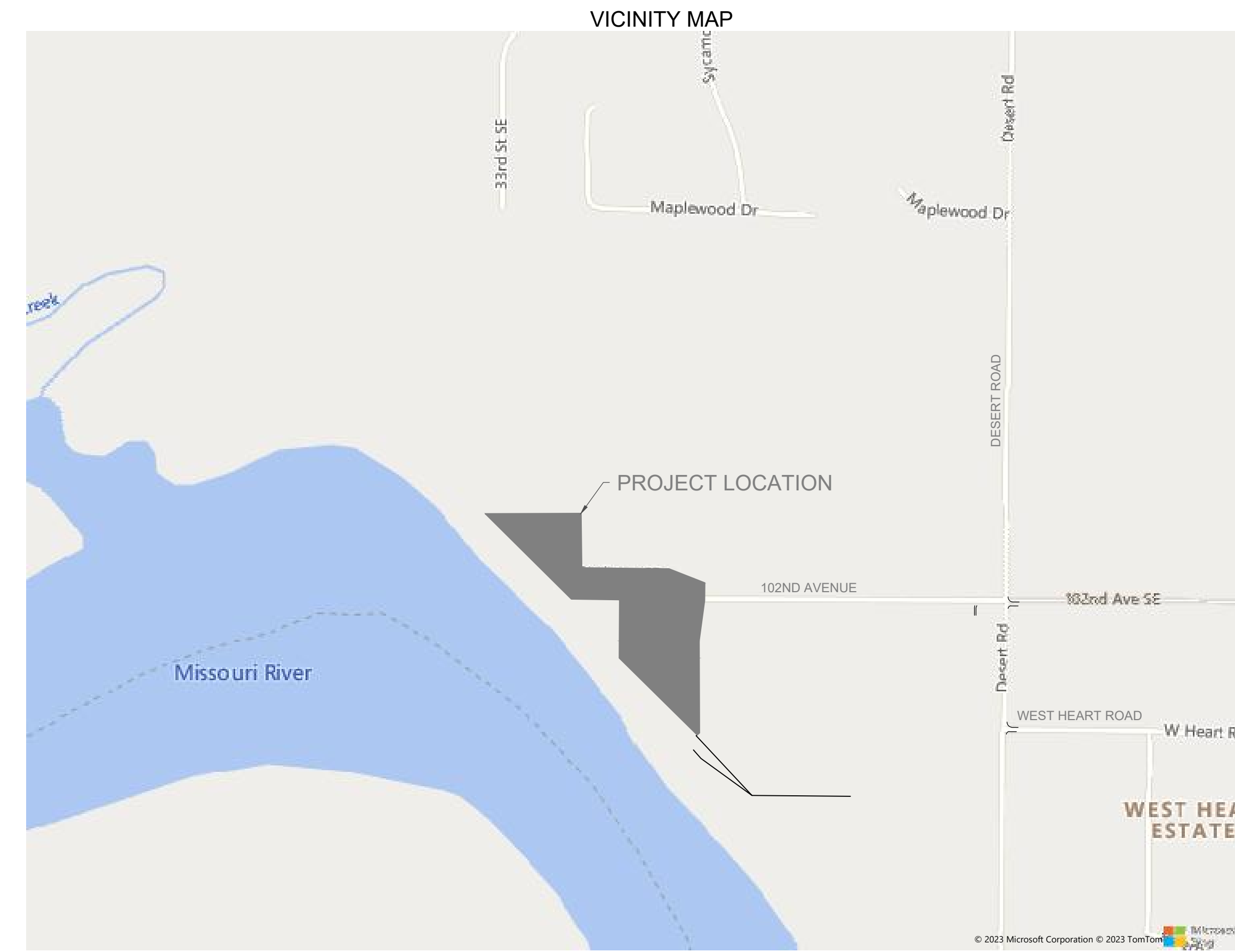
LAND DESCRIPTION

A TRACT OF LAND BEING PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, PART OF LOT B, AND PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 137 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 11; THENCE NORTH 89° 20' 53" WEST ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 330.18 FEET TO THE US ARMY CORPS OF ENGINEERS SURVEY OF THE GOVERNMENT TAKE LINE; THENCE NORTH 45° 14' 20" WEST ON SAID TAKE LINE A DISTANCE OF 826.68 FEET; THENCE NORTH 89° 46' 13" EAST A DISTANCE OF 651.85 FEET; THENCE SOUTH 00° 50' 42" EAST A DISTANCE OF 311.90 FEET; THENCE SOUTH 89° 20' 53" EAST A DISTANCE OF 441.46 FEET; THENCE SOUTH 68° 24' 20" EAST A DISTANCE OF 429.80 FEET; THENCE SOUTH 00° 39' 16" WEST PASSING INTO SAID SECTION 14 A DISTANCE OF 120.00 FEET; THENCE SOUTH 07° 31' 22" WEST A DISTANCE OF 279.06; THENCE SOUTH 00° 10' 06" EAST A DISTANCE OF 627.89 FEET; THENCE SOUTH 48° 41' 50" WEST A DISTANCE OF 20.20 FEET TO THE AFORESAID TAKE LINE; THENCE NORTH 45° 24' 05" WEST ON SAID TAKE LINE A DISTANCE OF 747.40 FEET; THENCE NORTH 00° 28' 11" EAST ON SAID TAKE LINE A DISTANCE OF 399.70 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 17.89 ACRES MORE OR LESS.




 NORTH
 SCALE: 1" = 100'
 0 50 100
 DATE: DECEMBER 25TH, 2023
 VERTICAL DATUM - NAVD 1988.
 BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.
 MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE "BSMK" CORRS STATION AND ARE REPORTED IN GRID.



LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- EXISTING BUILDING
- EXISTING GRAVEL
- EXISTING FENCE
- EXISTING IRRIGATION PIPELINE
- EXISTING OVERHEAD ELECTRIC
- EXISTING UNDERGROUND ELECTRIC
- EXISTING WATER LINES
- EXISTING POWER POLE
- EXISTING PEDESTAL
- VACATED LOT LINES

ACREAGE TABLE

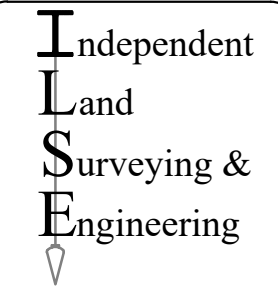
LOT 1, BLOCK 1	7.80 ACRES
LOT 1, BLOCK 2	7.46 ACRES
DEDICATED ROW #1	0.64 ACRES
DEDICATED ROW #2	1.00 ACRES
DEDICATED ROW #3	0.99 ACRES
TOTAL	17.89 ACRES
SW 1/4 SEC 11	6.50 ACRES
SE 1/4 SEC 11	2.93 ACRES
NE 1/4 SEC 14	8.45 ACRES

OWNER:
DUANE SMALL
3300 SE 102ND AVE
BISMARCK, ND 58504

- NOTES:**
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
 - SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
 - EXISTING ZONING - AGRICULTURAL
 - PROPOSED ZONING - RESIDENTIAL

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

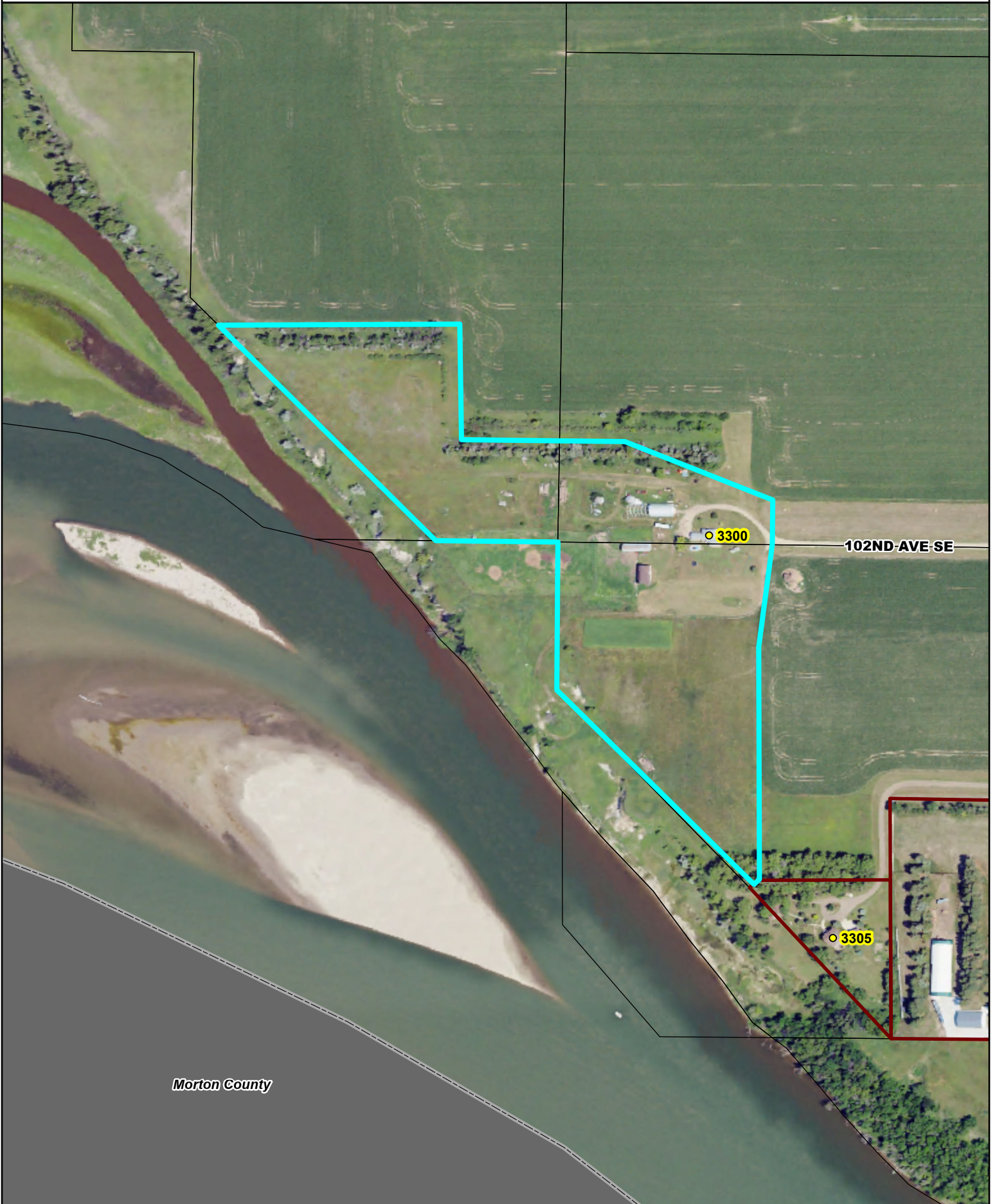
PEACEFUL VIEW SUBDIVISION
PART OF THE S. 1/2 SEC. 11-137-80
PART OF THE N. 1/2 SEC. 14-137-80
BURLEIGH, NORTH DAKOTA


Independent Land Surveying & Engineering

SHEET: 1 OF 1 JOB NUMBER: 23154
 SCALE: 1" = 100' DWG REVISION DATES
 DRAWN BY: MRS - -
 DWG DATE: 11/10/23 - -
 Cell: 701-955-2079
 mark@isurveynd.com

4215 Old Red Trail NW
 Mandan, ND 58554
 Phone: 701-663-5184
 Cell: 701-955-2079
 mark@isurveynd.com

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**




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Agenda Item 4.2 Burnt Creek Farm

Application for a Special Use Permit

Project Summary

Public Hearing Agenda:	Special Use Permit
Status:	Public Hearing
Petitioner/Developer	Dave Lehman
Property Owner:	Dave Lehman
Location:	Burnt Creek Township, Section 24, PT SW 1/4 Tract #1 Addressed as: 11501 NE 41 st Street
<div data-bbox="423 835 777 900" data-label="Caption"><p>Exhibit 5-1-1 Location Map</p></div> 	
Parcel Size:	30.81 acres A- Agricultural Zoning
Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a Conditional Special Use Permit for Events
Posted Dates	Bismarck Tribune 1/4 & 1/8, 2024 Surrounding Property Owners 12/29/2023 Burleigh County Website 12/29/2023



History

Burleigh County Planning and Building Staff have been working with Dave Lehman for some time regarding his Burnt Creek Farm. He has made several improvements and added buildings to his property. His farm is of historical significance to Burleigh County and the State of ND. His restorations have been for historical preservation of the property.

Staff Findings:

1. Zoning will not be changed, and will retain A-Agricultural zoning.
2. The Special Use Permit would be for three (3) or five (5) years.
3. The Special Use Permit would be a conditional use permit, requiring a public hearing to determine:
 - i If standards regarding health and safety are not met.
 - ii If the use of the Special Use permit upsets the flow and general welfare of the surrounding neighbors.
 - iii Allows the Board of Burleigh County Commissioners to reissue, revise or pull the Special Use Permit after the timeframe has expired or at any time with reason.
 - iv Conditions can be set before the Special Use Permit is issued.
4. The intended use can be an allowable use in an A-Agricultural Zoning District.
5. The petitioner has addressed some of the concerns for this type project. However, Planning Staff concerns are:
 - a) Traffic- possible request for a traffic study or traffic impact study.
 - b) Noise.
 - c) Over use of property.



Planning Staff Recommendation

The request for a special use permit fulfils the requirements of Article 8. Planning Staff suggest a “Do Pass” recommendation with relative conditions set by the Planning and Zoning Commission.

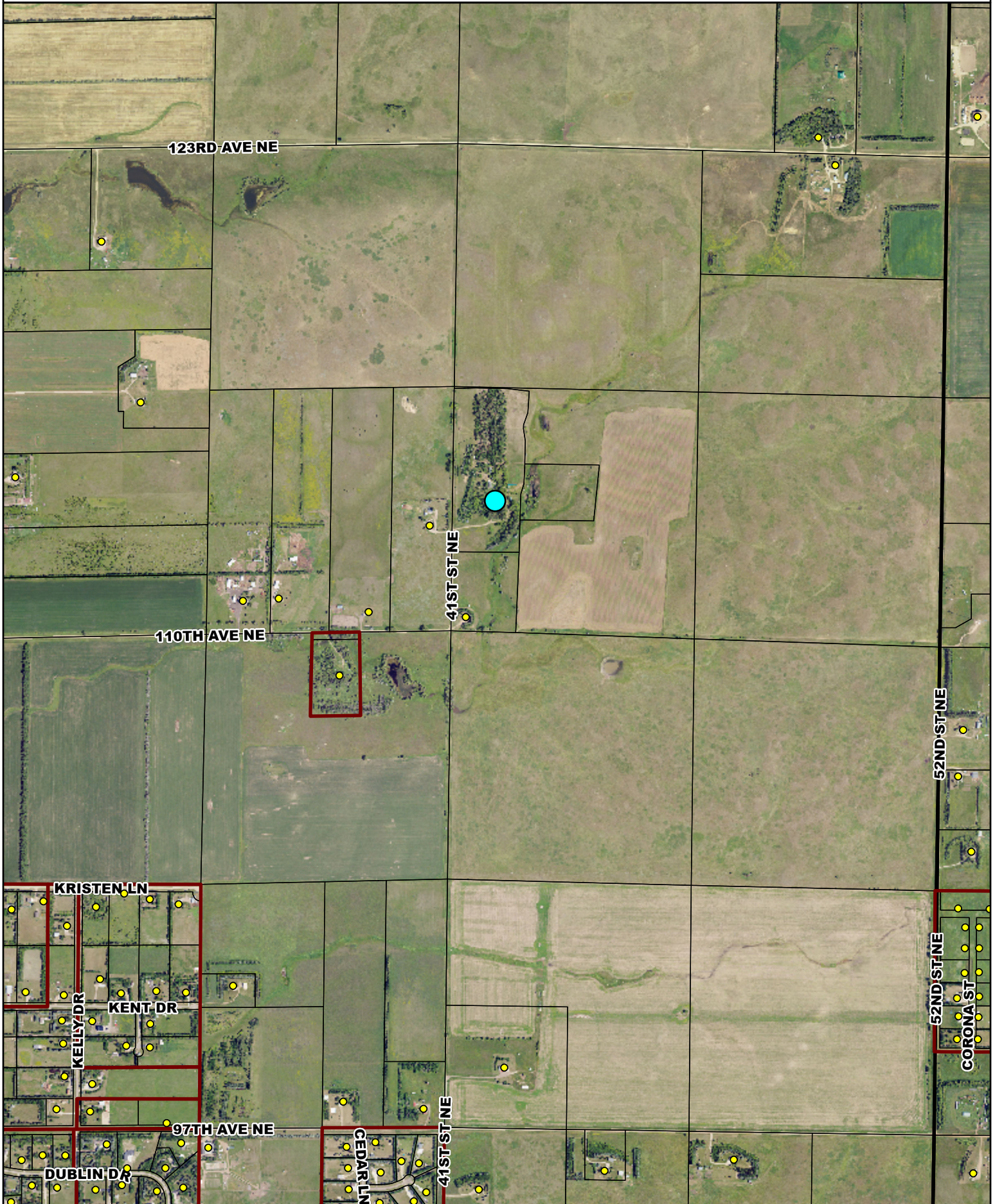
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the special use permit with no conditions and give a “Do Pass” Recommendation
2. Approve special use permit with conditions and give a “Do Pass” recommendation with conditions required 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
12/28/2023



Burnt Creek Farm



12/20/23

Burleigh Co. Building/Planning/Zoning Dept.
PO Box 5518
Bismarck, ND 58506-5518

Dear Burleigh County Planning Commission Members:

Please accept this application in consideration for a Special Use permit to allow agritourism and events at Burnt Creek Farm. Anticipated activity relative to this permit would include the following:

1. Tours:
 - Historical
 - Agritourism

2. Events such as:
 - Weddings: (Limited to May 15th to Oct 15th)
 - Corporate events
 - Family events

3. Lodging

Burnt Creek Farm would like to start operations in May 2024 (although activity is anticipated to be quite light throughout 2024). Due to the light activity for 2024, BCF asks for a consideration of 3-5 year period. Burnt Creek farm's focus lies in educating the public about North Dakota's strong agricultural history as well as providing memories for all of those that visit. Thank you for your consideration!

Sincerely,

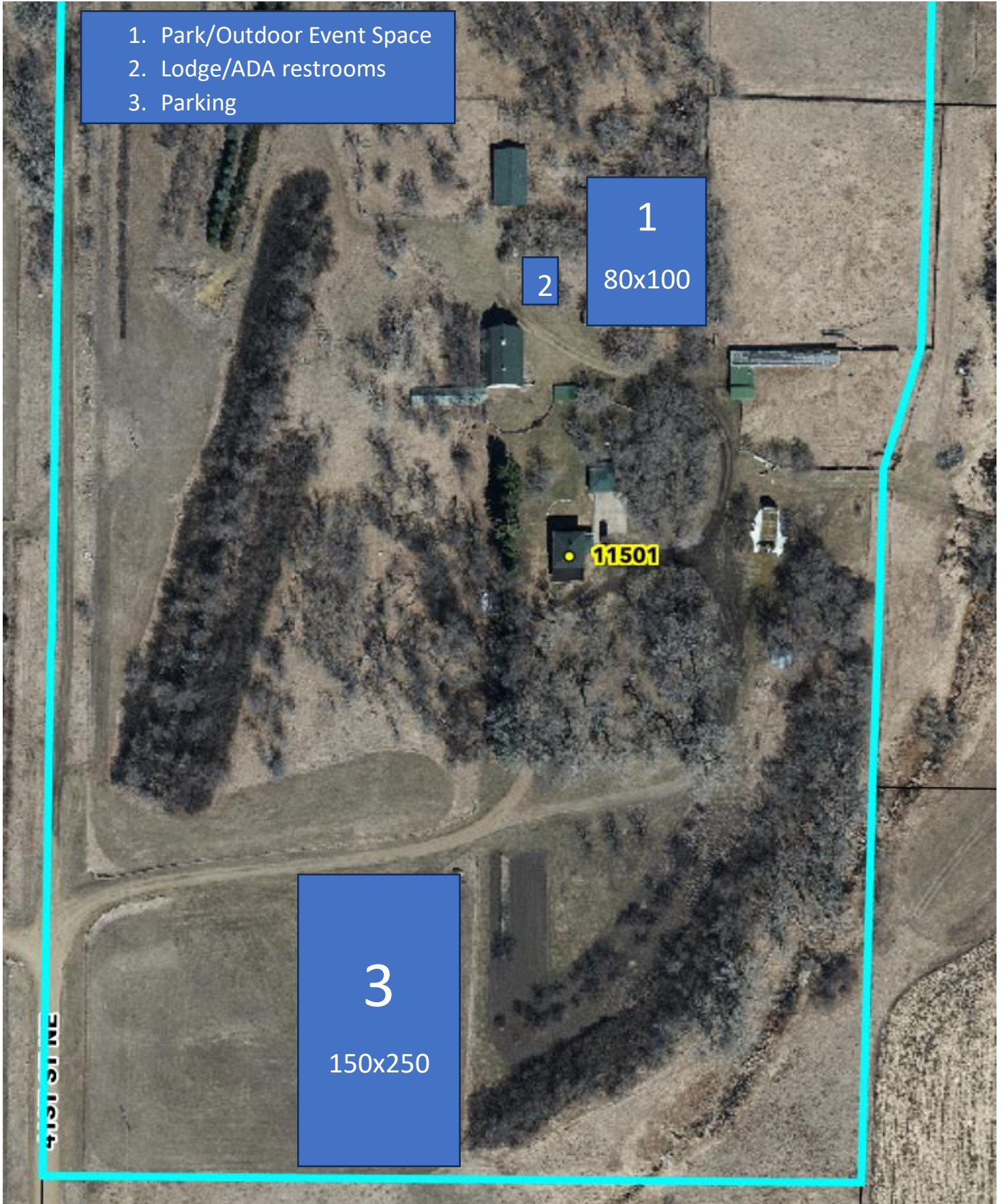
David Lehman

Burnt Creek Property Boundary Map



Line indicates property bounds of Burnt Creek Farm. Left boundary line runs along 41st Street.

Burnt Creek Facility Map





Burnt Creek Farm

11501 41st St NE Bismarck, ND

David Lehman, Owner

January 2024

Background

Burnt Creek Farm (BCF) Historical Site: North Dakota has an incredibly rich history as it pertains to agriculture, homesteading, etc. Unfortunately, with each passing year we are losing these historic barns, homes, and outbuildings. North Dakota has many pioneer village type facilities with historic community type buildings, collections of antiques, tractors, and ag equipment displayed. While these are important, tourists don't get an opportunity to see the equipment, tools, vehicles, etc. in a real farm setting. By staging the farm, it gives people a better feel for what the farm actually looked and felt like and provides a better appreciation for what farming was like in the early days of North Dakota. Burnt Creek Farm is one of very few fully intact restored historic farms in North Dakota.

The North Dakota State Historical Preservation Office has toured the farmstead numerous times and feels confident in its eligibility for the state and national registers of historic places. Due to innovation and progress in agriculture and larger equipment requiring larger facilities, very few farm sites from the early days of agriculture remain intact and preserved. There are 2 or 3 other farmsteads available to tour in the state, however, Burnt Creek Farm differs in that it is a well-preserved example of a 'modern' farmstead built during the mechanization era as farms transitioned from horse to tractor power. This includes the innovation in building construction, running water systems (windmill with gravity feed to areas of the farm), rechargeable 32V battery system powering the farm, and equipment. The farm will be staged as it would have been in the 1920's showing the transition from horse to tractor power. These were all major technological advances in agriculture and an incredibly important era in North Dakota which isn't a focus with other historic sites. Due to the farm's ties to the Non-Partisan League and its role in the inception of the state bank, mill, and elevator, this shift in North Dakota's ag economy will also be covered. Other elements of Burnt Creek Farm which are relatively unique and lend themselves to agritourism tours are the following:

- 1878 Tree claim with evidence that can be easily seen by tourists
- Intact 1920's-1950's farmstead
- Rare (possibly the only) instance of terracotta structural clay tile and brick use in the farmhouse and bunkhouse construction. The clay tile and brick came from the early days of North Dakota's Hebron Brick factory.
- One of the first 'modern' farms in ND with running water and electricity (less than 2% of farms had these amenities in the early 1920's.)
- Ties to the Non-Partisan League and Linda Slaughter both heavily involved in the development of the region, state, and upper Midwest.
- Unique architecture such as the trench/bunker silo
- Filming location of End of the Rope movie
- Only historic farm site located close to a major community. Located about a mile outside of Bismarck's extra-terrestrial area and easily accessible from the interstate and highway 83 allows visitors easy access to the facilities while still accessing amenities of a larger community. It also allows Burnt Creek Farm the opportunity to draw more people to promote North Dakota's proud ag history.

Services

1. Tours: Educating visitors about the history of agriculture in North Dakota is BCF's primary focus. Initial plans would be to offer tours by reservation. It is anticipated there would be demand from schools, commodity groups, organizations, etc. for the tours. While the tours are an important element to the goal of educating others about the history of agriculture in North Dakota, it is not anticipated to be a major source of traffic or revenue at BCF.

2. Events: Events would primarily be outdoor events. The historical integrity of the buildings will be restored and maintained and as such will not be insulated and no additional construction is planned that would alter the appearance/feel of the historic farmstead. This will limit their utility relative to events. Events are anticipated to include the following:

- Weddings: The season for weddings is anticipated to be May 15th to Oct 15th due to lack of climate-controlled facilities (there is a space for a tent). These events would be limited to 200 attendees. Security would be required for all weddings.
- Corporate events: It is anticipated there may be some interest in company picnics during the summer.
- Family events: It is anticipated there could be some demand for family get togethers, picnics, pictures, etc. at BCF.
- Agritourism: Farm tours as well as interest in the orchards, etc.

3. Lodging: There is currently a granary that has been converted to a lodge that may be used for traditional lodging or as a bridal suite for the bridal party to prepare for weddings. The lodge is not four seasons and will be winterized each year.

4. Facilities: There is currently an ADA restroom facility, a lodge (same building as the ADA restrooms), a park with a clearing for events, as well as the original buildings. These buildings have limited capacity and are not climate controlled. There are no plans to expand these buildings or renovate beyond the restoration back to their original state due to the historical significance of the structures. They will however be staged as they would have been in the 1920's for tours.

Traffic

When calculating traffic, I assumed 200 people per week (I feel like this figure is high) during the May-Oct season. Assuming 2.25 people/vehicle yields 80 trips/week. Taking 80 trips/week times 20 weeks comes out to 1600 trips per year (to and from BCF). There could be some winter traffic for special events, but it is not anticipated to be significant.

To put this into perspective, studies show a single-family home generates approximately 5 trips per day (to and from home) accounting for roughly 1825 trips per year (to and from the home). While the traffic would be more concentrated at specific times, the additional traffic generated from activities at BCF is anticipated to be less than that generated by a typical single-family home.

From a similar perspective, when the Morris Family owned the farm (1950-1997), they had a family of 6. National studies show that traffic generated is roughly 1 (two-way) trip/person, or 6 trips/day for a family of 6. This amounts to 2190 trips per year. In addition, the family farmed and had construction operations (hauling grain, livestock, coal, aggregate, soil, etc.), so the road also accommodated trucks and heavy equipment (which it doesn't currently see as a result of my occupation). As a result of being a farm operation, most of these trips were concentrated over the same general season as proposed by the events and tours at BCF.

Dust

Dust mitigation will be looked into, however the level of dust generated is not expected to be much greater than that generated by a typical single-family residence. In addition, dust control is currently in use for those homes on 110 Ave near highway 83.

Timeline

2020-ongoing: Farm restoration and development of grounds

2021: Filming of End of the Rope film

2023: Screening for End of the Rope Film

2024: Farm tours and events

Map of Proposed Event Space



Appendix



STATE HISTORICAL SOCIETY
OF NORTH DAKOTA

HISTORY FOR *everyone.*

August 31, 2023

To Whom I may Concern,

I have visited the Burnt Creek Farm located north of Bismarck, North Dakota and reviewed the information provided by Dave Lehman. I have made the preliminary determination that the property is eligible for listing in both the North Dakota State Historic Sites Registry and the National Register of Historic Places. The farm is a rare example of an improved tree claim and demonstrates the evolution of farm technology spanning the prosperous era just before the Great Depression through the recovery following World War II. Additionally, the architectural and engineering designs of the individual buildings and the building systems testify to the innovations of the time. This property is worthy of preservation and certainly contributes to our understanding of history.

If you have any questions, please feel free to contact me at lbmeidinger@nd.gov or 701-328-2089.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Meidinger', written in a cursive style.

Lorna Meidinger
Lead Historic Preservation Specialist

Appendix I: Historical Tidbits

The history of Burnt Creek Farm (BCF) dates back to the early years of Edwinton/Bismarck, Dakota Territory. In the 1870's GW Racek and his brother Chas owned the Racek Bro's harness shop on 4th street in Bismarck (known as Murderers Gulch or Bloody 4th having earned a reputation as one of the wildest cities in the nation resulting from the saloons, brothels, and a cultural clash of soldiers, native Americans, immigrant settlers, rich business men etc.). One of (if not the first) saddle and harness shop in Bismarck, G.W. did leatherwork for the calvary and settlers. They also started the Racek Bro's harness shop in Billings Montana, well known for quality territorial era saddles and leather goods. They also bought a parcel in Medora to capitalize on the gold trade as the Marquis De Mores and others had stage coach service directly to Deadwood and the Black Hills. It is unknown, however, if this business came to fruition.



1870's Photo of Racek Bro's Saddle & Harness Shop located on 4th Street in Bismarck, ND

ND Historical Society



G.W. homesteaded North of Bismarck (around where Stan Puklich is located). To acquire more 'free' land, he staked a tree claim where BCF is located. Per the 1878 Timber Culture Act, settlers were granted a quarter of land for planting 27,000 trees on 10 acres within that quarter and keeping 25% of them alive for 8 years. After planting the trees in the late 1870 or early 1880's, G.W. received title to the quarter in 1889, the year North Dakota was granted statehood. As seen in the picture to the left, ripples in the front yard (and back woods) still show evidence of the 1890 tree claim. Ripples in the land created while planting and watering the 27,000 trees with horse drawn implements are still very noticeable (see photo at left). Note all trees are on the crest of the ripples. GW (George)

Racek passed away not long after establishing the tree claim. The horse drawn breaking plow believed to have been used to plant the trees is currently on display in the ND Heritage center.



Upon G.W.'s passing in 1901, the land transferred to his son J.B Racek, a wealthy banker in Mandan. In 1922, J.B. had the farm built much as it exists today (see photo above). The farm included a brick prairie square (or American foursquare) house, barn, bunkhouse, garage, corn



crib/granary, chicken coop, outhouse, etc. It was extremely rare, being one of less than 2% of the farms at that time with running water and electricity. Running water came from a

windmill/cistern at the top of the hill (still present) which gravity flowed to the barn, house/cistern (a hand pump located in the

kitchen drew water from the cistern, but there was no bathroom initially), and finally the orchard. Electricity to power the farm came from a 32-volt generator and rechargeable glass battery system (photo above) which will also be restored and on display at the farm.



J.B Racek's signature on the \$10 bank note from The First National Bank of Mandan. 1 of 11 still known to exist. Owned by Dave Lehman.

Modern Farm Home
A beautiful, modern country home is being constructed by J. B. Racek of Mandan on his farm a mile east of Arnold. The house contains eight rooms and bath. It has running water and electric lights. The bath room and pantry are being constructed of hollow tile and brick which is brought from the Hebron factory. A fine modern barn will also be constructed. The buildings are situated in the grove on the farm.

Aug 1922 Bismarck Tribune

NDSU ties

According to prior owners of BCF, the farm was designed by the North Dakota Agricultural College (NDAC now NDSU). These claims have yet to be substantiated due to lack of records retention, however, there is evidence that this is a very strong possibility based on the following:

- The roughcut cottonwood fences and buildings (aside from the brick house) are painted white and green similar to NDSU experiment stations.
- The well-designed farm was built by a banker and farmed by a tenant farmer. Being a banker, it is unlikely JB Racek would have had the background to design the farmstead. NDSU archives hold very similar designs for gates/fences, water systems, buildings, etc. dating back to the 1920's.
- Mr. Racek step children (Luthers) attended NDAC and held various leadership roles, so it's quite possible there was an established relationship. His stepson was president of AGR and student body president and his stepdaughter taught at NDAC.
- The land grant extension service in ND was in its infancy, and unfortunately many records have been lost.

THE SPECTRUM
North Dakota State College
VOLUME XLV. STATE COLLEGE, NORTH DAKOTA, FRIDAY, APRIL 4, 1928. NUMBER 41

Luther Next Commission President

Hundreds Throng Armory To Honor Prexy Shepperd
Made Permanent Head of School By State Board Monday
CONGRATULATED AT CONVOCATION
Representative Group Praises Selection of Most Able Leader
Hundreds of students, friends, and townspeople filled the armory Wednesday morning to pay honor to Dr. John H. Shepperd after word had been received that the State Board of Administration had selected him as permanent head of this institution Monday evening. Dean Minard acted as chairman in charge of the program. The program was formally opened by the G. G. direction.

GOLD STAR BAND BROADCASTS OVER WDAY
The Gold Star band broadcast a radio program over WDAY last night consisting of the following numbers: The North Dakota Hymn, a march; Old Hickory by Al Sweet; an Overture—Kost in C, Turnout by Lachner; both movements from the Unfinished Symphony by Schubert; a selection from The Desert Song by Romberg; and last, the Yellow and the Green. Dr. Putnam reports that he has received many complimentary calls and telegrams about the program and that it came through more clearly than any other program they have given.

McGrath, May Have Places of Honor In Junior Prom Line
Tickets Will Go On Sale Monday for Formal Party
Herose McGrath and Leo May will be third and fourth in line in the

ERIC NORDSTROM WINS FREE THROW TROPHY
Eric Nordstrom was presented with the free throw trophy by the athletic department for garnering the most attempts from the free throw line during the past season.
Eric, a member of Alpha Kappa Phi Fraternity, was the spark plug of the team after the injury of Vern Goodwin and from then on proceeded to set the pace in scoring.
The cup was awarded on a percentage basis over the longest time played. With several men in the contest, Eric was finally determined winner with 87% of his shots good. Leo Thomason and George Fairhead both had a 100%, Thomason making the out of five or million percent.

Over 600 Votes Polled During Student Election
"Voting Is Closest Recorded Here," According to Madsen
NEW COMMISSION TAKES OFFICE MON.
Art Cayou Chosen Fresh Publication Member By Single Vote

Mandan Shorts
Mrs. William Sullivan and her mother, Mrs. A. W. Farr, will entertain members of St. Anne's court, Lady Foresters, at a dinner this evening at the Sullivan home.
Leonard A. Luther was named president of Alpha Gamma Rho fraternity at the North Dakota Agricultural college, Fargo, according to word received by his mother, Mrs. J. B. Racek.

Miss Vivian Luther, who has been visiting her mother, Mrs. John Racek of Bismarck, and friends in Mandan, left Tuesday for Fargo, where she is an instructor in the dramatic department of the North Dakota Agricultural college.



In 1950, the farm was sold to Robert Morris. Under his ownership, BCF was featured in The Farmer magazine (a national/regional publication) on a couple of occasions due to its unique and progressive design. The Farmer magazine featuring the trench silo (left) due to its unique architecture and diverse range of utility. The roof on the 15'x65' building was removable so silage could be added. When it did not have silage, it was used for farrowing hogs and 4H 'barn' dances. The back was later converted to a shop. This silo's architecture was identified as one of the farms features qualifying for the state and national register.

The section of land the farm resides on is of importance for other reasons as well. Somewhat ironically, it was more so noteworthy due to the women involved rather than the men. At a time when women maybe weren't afforded the same opportunities as men, these women had a major impact in their respective spheres of influence.

1. Florence Borner: In the 1910's, ND farmers felt taken advantage of by 'Big Business' and created the Non-Partisan League (NPL). The NPL, a socialist movement, took control of the state government (and much of the upper Midwest). They felt that by creating the State Mill and Elevator and the Bank of North Dakota they could gain control over commodity prices. These are businesses are still in operation today. Florence Borner was a league poet and an integral part of the propaganda machine for the NPL. The Borners spent a lot of time at the BCF, so many discussions of the NPL and construction of the State Mill and Elevator, and BND likely occurred at the kitchen table at BCF. The Borner farm which bordered Burnt Creek Farm was later purchased by J.B. Racek and added to the farm's acreage.

THE PRAIRIES	THE DEAR OLD FARM
<p>The prairies seem so lonely like To some, but not to me; I think they are the only place Where I could happy be; Here in my little old sod shack I lead a peaceful life; And have no need to feel alarm At this world's care and strife.</p>	<p>I read a picce the other day That made me kind of warm, It told about the money made, Upon the dear old farm. It said the farmers all were rich, Excepting those who shirked, And 'lowed we'd all been millionaires If harder we had worked.</p>
<p>The people here live far apart, For miles and miles around, There's naught save lonely prairies, Or perhaps you hear the sound Of a coyote calling to his mate, Upon some distant hill, Or a hoot owl's screech as he flits past Then every-thing is still.</p>	<p>It spoke of softly lowing kine, And fields of new-mown hay, Of how the chickens always laid So many eggs a day. It mentioned fields of golden grain, Fruit hanging on the vine, And written down in words like that The "dear old farm" sounds fine.</p>
<p>I love the rolling prairies, Where the wind blows wild and free; None of your crowded city homes, Or big hotels for me; I want to live a lonely life, Upon the prairie sod; It seems to me that I am here, Much nearer to my God.</p>	<p>It said the farmer is a king, The monarch of the land, It told of lovely sylvan dells, Great trees on every hand. It said the farmer owed no one, Looked each man in the face, Called him the son of honest toil— A credit to his race.</p>
<p>Well, what that fellow didn't know Of farming was a lot; And when he said "he owes no one," It hit a tender spot. Here I've been working twenty years, From dawn till set of sun, And find that I have even less Than when I had begun.</p>	
<p><i>Excerpts from Borner's book Modern Poems for Modern People when she lived by BCF. Published in 1919, this book contained poems about farm life, the NPL, and the struagles of the era.</i></p>	

1. Linda (Warfel) and Dr. Ben Slaughter (Gov Burgum's great grandparents) established the 'Burleigh County Poor Farm' and post office bordering the farm. Ben was a post surgeon assigned to the region's earliest military posts, including Camp Greeley/Hancock and Fort Rice. Linda Warfel Slaughter was known for the following:

- Founded the first ND historical society, which merged with the State Historical Society of North Dakota.
- First woman to vote in a national convention for a presidential candidate.
- Started the first Sunday school in 1872
- Started the Bismarck Academy in 1873, the first Bismarck public school
- First teacher and superintendent of schools in Burleigh County.
- First postmistress of Bismarck
- Crafted a bill in 1881 creating a board of education.
- Involved in the temperance movement and close personal friend of Susan B. Anthony.
- Wrote the words to the state song.

<p style="text-align: center;">Two Evils.</p> <p>SLAUGHTER, N. D., July 31, 1890.—After a swing around the circle, taking in Conger, Croft and Cromwell, and noting the excellent crops—at least, excellent in appearance, I was impressed with at least two major evils, of which one at least could easily be remedied. I refer to the condition of farms owned by non-residents, some of which are being pre-empted by noxious weeds and wild mustard, that are disfiguring the face of the country. Handsome trees of vigorous growth waiting to be blackened and dissolved by the first prairie fire, for the want of a little care. Infinitely preferable the untouched virgin sward of indestructible native grasses.</p> <p>These land owners should be made to pay for this ruthless disfigurement of our fair domain. If in no other way, let the tax gatherer reach out for them until our incoming legislature can help us.</p> <p>Many tree claims that have been proved up on are permitted to go to weeds and grass, which will soon be their funeral pyre. There are some tree claim holders who richly deserve the blessing of the people in their respective communities—such as Asklund in Ecklund, Pollock in township 141, Racek in township 140 and a few others. These bright oases on the prairie make our hearts go out to them as substantial benefactors.</p> <p>The reckless waste and neglect of farm machinery makes the heart grow sick. At one place I counted a mower, hay rake, double sulky plow and a reaper and binder</p>	<p>and but for the tall weeds that sheltered them from the pitiless rain and burning sun, might have counted more. I learned that this man had quit farming. He is one who ought to have quit ere he began. Why our farmers do not pay more attention to tree culture around their homes passeth my understanding. They have teams and woods are near, wells with abundance of water at hand when the rains are too tardy in coming. I notice some few have wells a little distance from their houses, but it seems never to have occurred that a group of trees around it, to shade and add sylvan beauty, would furnish pleasure to the eye and enhance the value of their property. They should not let another fall pass by without this addition. If late, it is not too late.</p> <p style="text-align: right;">S.</p> <p><i>A columnist for the Bismarck Tribune, Linda Warfel-Slaughter criticized tree claims due to poor management but gave praise to G.W Racek for his good management practices.</i></p>
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For additional information regarding Burnt Creek Farm, please visit the Facebook page at: <https://www.facebook.com/burntcreekfarm>



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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AGENDA

FEBRUARY 14, 2024

1. Roll Call
2. Approval of January 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 Bauer Butcher Shop Special Use Permit
5. Other Business:
 - 5.1 Burleigh County Zoning Ordinance
6. Adjourn – Next Meeting March 13, 2024



Agenda Item 4.1 Bauer Butcher Barn

Application for a Special Use Permit

Project Summary

Public Hearing Agenda:	Special Use Permit
Status:	Public Hearing
Petitioner/Developer	Susan and Leon Bauer
Property Owner:	Susan and Leon Bauer
Location:	Crofte Township, Section 18, Lot C of Government Lot 1 and E ½ Addressed as 21175 26 th Street NE, Baldwin, ND
Exhibit 4-1-1 Location Map	
Parcel Size:	52.57 acres A- Agricultural Zoning
Petitioners Request	Approval for a Special Use Permit for a Butcher Shop



Posted Dates	Bismarck Tribune 1/31 & 2/7/2024 Surrounding Property Owners 2/1/2024 Burleigh County Website 2/2/2024
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History/Description

Burleigh County Planning and Building Staff was approached by Susan Bauer regarding opening a butcher shop on their property. The Bauer’s have contacted the State Department of Health and Human Services NDHHS, regarding permits and conditions required for operating and licensing of their proposed butcher shop. Their intentions are to construct a new building to house their operation.

The Bauer’s plan to butcher animals for processing from customers. This meat will not be for sale it will be returned to the customer. The Bauer’s will purchase and sell only frozen USDA packaged meats, including packaged meats for processing hamburger and sausages.

The petitioners are required by the State of North Dakota to receive an approved Burleigh County Special Use Permit before they can apply for the Retail Exempt Meat Market.

Staff Findings:

1. Zoning will not be changed, and the property will retain A-Agricultural zoning.
2. A limited meat packing facility, is allowable in Ag zoning by Special Use Permit as per Article 11 of the Burleigh County Zoning Ordinance.
3. Petitioners will be submitting applications for “Meat Processing Establishment – Custom Exemption.”



4. Petitioners will be applying for "Food Establishment License for Retail Exempt Meat Market."
5. The septic system is in the design stage and will be designed by a state licensed engineer.
6. Petitioners have been working with the ND Department of Agriculture, ND Health and Human Services, Small Business Administration and the Lewis & Clark Development Group.
7. Petitioners have received an approval letter from South Central Regional Water District for rural water use.
8. Crofte Township has been contacted. We have not received their comments, but should have them before the meeting.
9. 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 fulfils the application requirements of Article 8 and Article 11 of the Burleigh County Zoning Ordinances. Based on the above findings, zoning reports and policies of the current Comprehensive Plan, Planning Staff recommends approval of the Special Use Permit with the following minimum requirements.

Required Conditions:

1. Meet all ND State requirements/licensing for operations of a Meat Processing Establishment – Custom Exemption
2. Maintain all ND State Licensing for a Retail Exempt Meat Market
3. Septic system must be an engineered design
4. Other requirements set by Planning Commission
5. Require all new buildings, septic and mechanical systems be permitted by the Burleigh County Building Department.

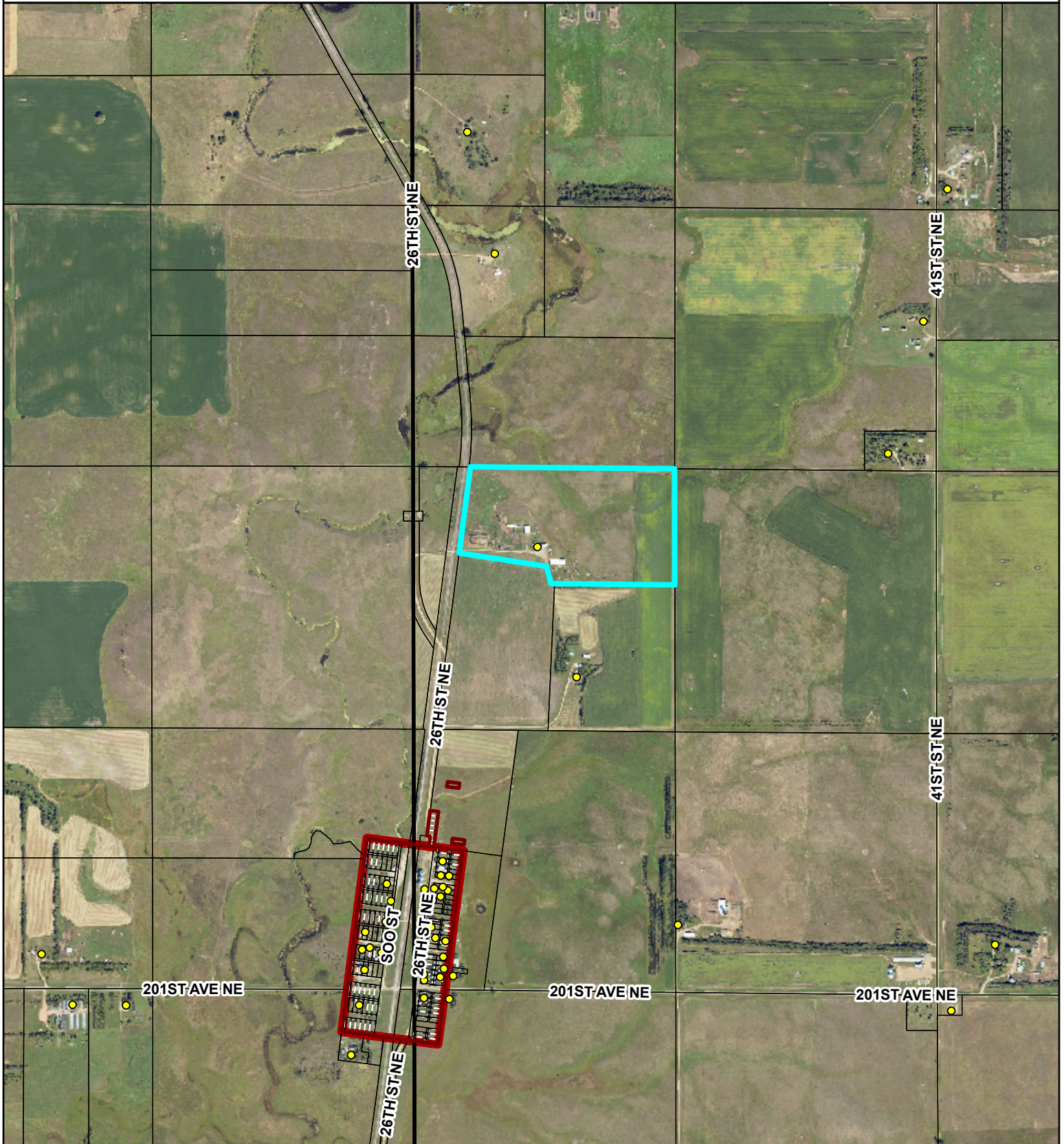
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

N
2/2/2024



PARCEL ID: 52-141-79-00-18-410 OWNER: BAUER, SUSAN L & LEON J ACRES: 52.57
SITE ADDRESS: 21175 NE 26TH ST
MAIL ADDRESS: 21175 26TH ST NE, BALDWIN, ND 58521
LEGAL: CROFTE TOWNSHIP Section 18 LOT C OF GOVERNMENT LOT 1 & E1/2 IRR PLAT 729972; 730693 18-141-79

From: Leon, Susan and Ryan Bauer

Date: January 5, 2024

RE: Custom Exempt and Retail Exempt Meat Processing facility

Nestled on our family ranch north of Baldwin we are looking to begin the endeavor of starting a Custom Exempt and Retail Exempt livestock processing facility. A business we would proudly call Bauer's Butcher Barn.

We feel there is a great need for more livestock processing facilities in our area. North Dakota prides itself as an agricultural dominated state. There are roughly 1.85 million cattle that roam this great state alone (ND.gov) Where in comparison there are only 113 meat processors in North Dakota as of January 1st, 2024 (NDDA.ND.gov). By adding our Custom Exempt/Retail Exempt facility to that list we would be able to keep more North Dakota raised animals processed locally.

Our youngest of three sons, Ryan who is nineteen, is currently enrolled in the Meat Processing program through North Dakota School of Science and North Dakota State University. Where he is learning through hands-on experience this trade. He is set to graduate in May of 2024. It is his passion that has fueled this project.

The size of our facility will be a 64x60 building where we would be able to process approximately 15-20 animals per month. We plan on processing mainly cattle and pigs. We have approvals for rural water use from South Central Regional Water and a local Sanitation company who will be picking up our inedible. We would like to start construction early this spring.

Leon and Ryan will be the partners in this exciting venture. They feel confident that this will be a very welcome service to the surrounding ranchers in our rural community. Their goal is to keep farm to table local, ethical, and sourceable to all.

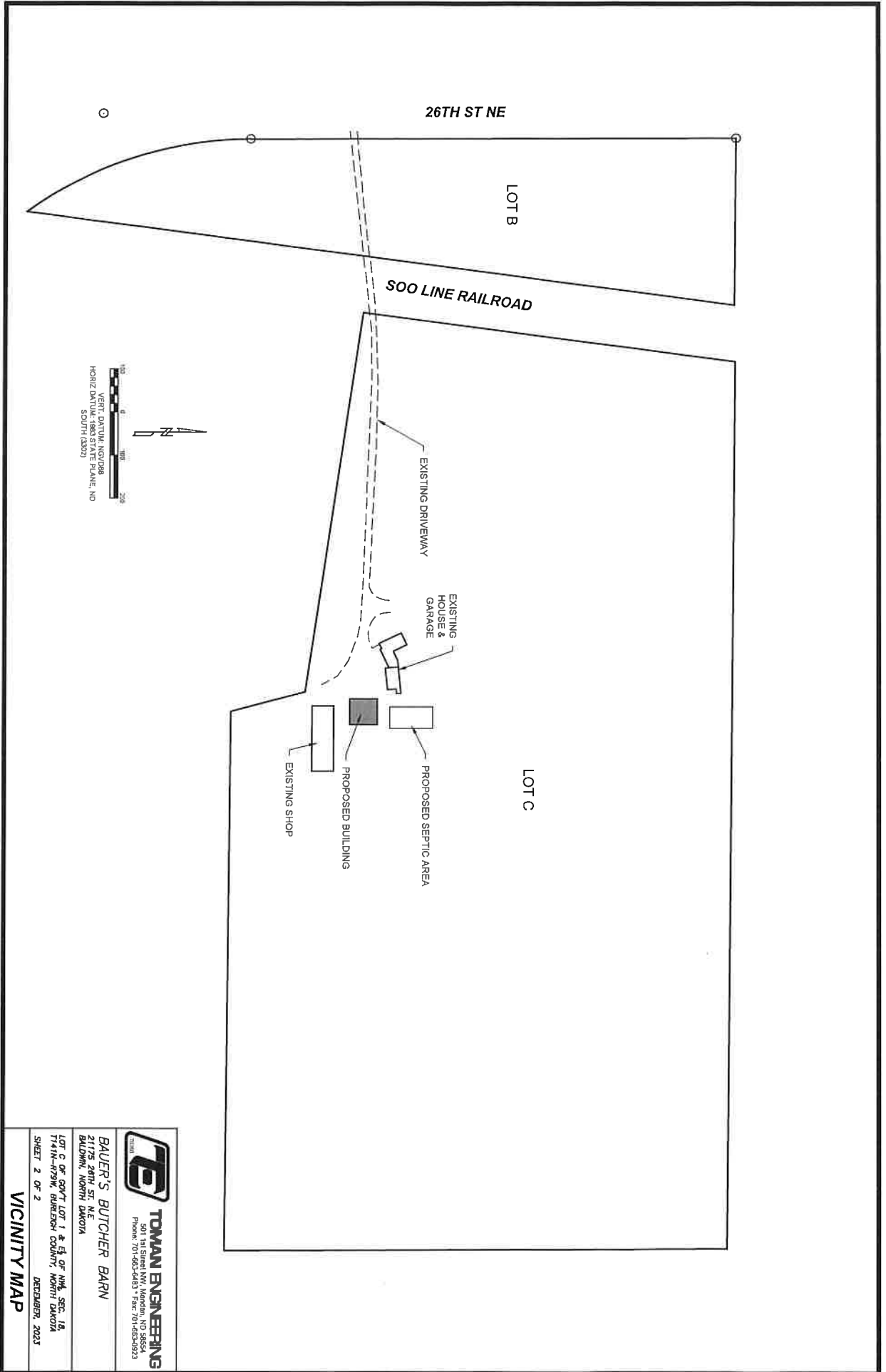
Thank you for your time and consideration in helping a young man keep a dying trade alive.


Sincerely,

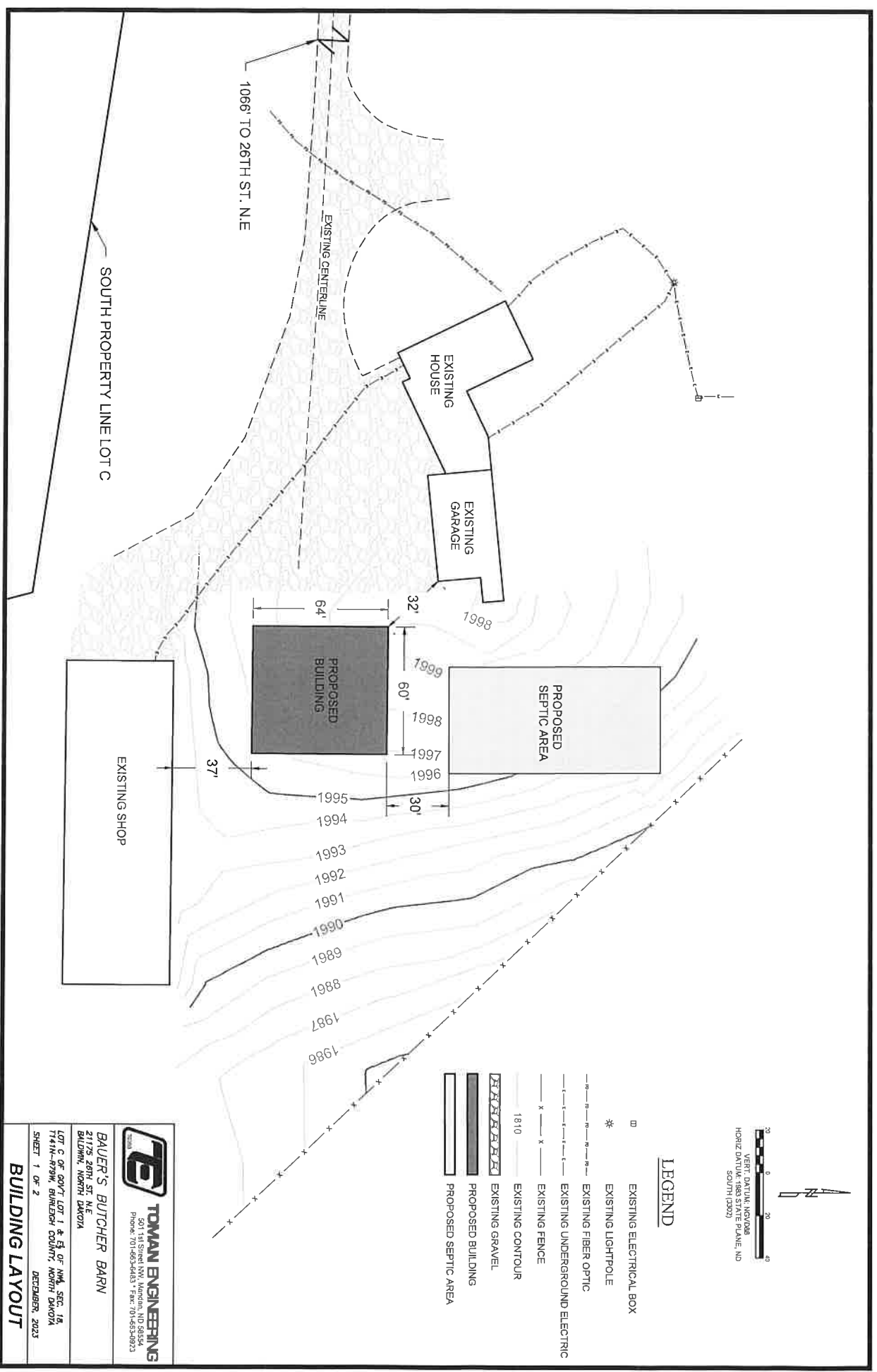
Leon, Susan and Ryan Bauer

21175 26th St NE

Baldwin, ND 58521



 TOMAN ENGINEERING 501 1st Street NW, Minnetonka, ND 58554 Phone: 701-653-4481 • Fax: 701-653-4923
BAUER'S BUTCHER BARN 21175 24th St. NE Baldwin, North Dakota
LOT C OF 99'x7' LOT 1 & E1/4 OF NW1/4, SEC. 18 T141N-672W, BURDECH COUNTY, NORTH DAKOTA SHEET 2 OF 2 DECEMBER, 2023
VICINITY MAP



LEGEND

- EXISTING ELECTRICAL BOX
- * EXISTING LIGHTPOLE
- - - - - EXISTING FIBER OPTIC
- - - - - EXISTING UNDERGROUND ELECTRIC
- x - x - EXISTING FENCE
- — — — — EXISTING CONTOUR
- 1810 — — — — —
- ▨ EXISTING GRAVEL
- ▨ PROPOSED BUILDING
- ▨ PROPOSED SEPTIC AREA

BAUER'S BUTCHER BARN
 2175 26TH ST. N.E.
 BURLING, NORTH DAKOTA

TOMAN ENGINEERING
 501 1st Street NW, Minnetonka, MN 55354
 Phone: 761-653-6443 Fax: 761-553-0923

LOT 3 OF 2047 LOT 1 & B. 0" N.M. SEC. 18
 T14N-079W, BURLINGH COUNTY, NORTH DAKOTA
 SHEET 1 OF 2
 DECEMBER, 2023

BUILDING LAYOUT

McMonagle, Marla M.

From: Susan Bauer <bauerx5@yahoo.com>
Sent: Sunday, February 4, 2024 5:50 PM
To: McMonagle, Marla M.
Cc: Flanagan, Mitch
Subject: Re: Bauer Special Use Permit
Attachments: Barn 4.png

You don't often get email from bauerx5@yahoo.com. [Learn why this is important](#)

******* CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *******

Hello,
Here is more info on our project.

We plan on doing Custom Exempt processing, which means the customer owns the animal, we provide the service of processing it then the customer gets his whole animal back.

We also want to do Retail Exempt processing, which means we purchase boxed meat that has already been inspected by the USDA and we can further process it into sausages and hamburger etc.

The building will be constructed per State Inspection guidelines for possible future expansion. Our contractor is Creative Construction, Chad Dietrich. The building will be a 64x60 and will look like a barn as seen in the picture below.

I will be submitting the following applications:

- Meat Processing Establishment License Application
 - For the Custom Exemption

- Food Establishment License Application (can only be submitted once SUP is granted)
 - For the Retail Exempt Meat Market
 - Contact is Mike Lee with Health & Human Services

We have an approval letter from South Central Regional Water District for rural water use.

Myron Strom with Strom Sanitation will pick up our offal and take it to the landfill. He is currently doing this for NoDak Meats in Steele. I will be getting confirmation letters from Myron and the landfill.

We have been working with Nathan Kroh with the ND Dept of Ag. He has been great in helping us navigate through this process.

We are also working with Tyler Delmar with Small Business Administration.

Chris Masse with Lewis & Clark Development Group has been helping me work through the application process for the Meat Processing Intermediary Lending Program.

We are meeting with the Chad Monday afternoon to go over final blueprints. We will also be discussing the septic system as I know the Commissioners will want to know more details about that. Can I email you Monday night with an update on the septic system?

Please see image below as this is what the building will be similar to.

If you have any further questions, please don't hesitate to call me 701-226-3631

Thanks,
Susan Bauer



On Friday, February 2, 2024 at 04:15:12 PM CST, McMonagle, Marla M. <mmcmonagle@nd.gov> wrote:

Hello,

I have been working on your special use permit and I need some more information. What type of licensing are you applying for from the state? Can you send me your applications? I would like as much information as possible to give to the P & Z Commissioners. I'm sure there will be questions regarding what your butcher shop operation will entail!

I'm planning on sending the staff report out on Monday. If you have the information handy can you send it to me? I don't necessarily need the documents by Monday, however, I would like to include the classification you will be operating under. You can just drop me an email with that information. Give me a call if you have any questions! ☺

Thanks Susan, have a good weekend!

Marla McMonagle

Associate Planner

Burleigh Co. Building/Planning/Zoning Dept.

PO Box 5518, Bismarck ND 58506-5518

(701)221-3727 fax(701)221-3726

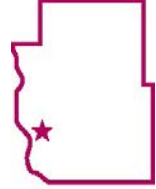


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Burleigh County Planning and Zoning Commission Meeting Agenda

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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AGENDA

MARCH 13, 2024

1. Roll Call
2. Approval of the Revised January 10, Minutes
3. Approval of the February 14, Minutes
4. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 4.1 Baker Subdivision
5. Public Hearing Agenda
 - 5.1 Hartmann Subdivision – Short Plat
6. Other Business:
 - 6.1 Article 21 – FP – Floodplain District Regulations
 - 6.2 Article 8 – Special Uses Section 28 Agri-Tourism
7. Adjourn – Next meeting – April 10, 2024

Baker Preliminary Plat



Agenda Item 4.1

Application for a Preliminary Subdivision

Project Summary	
Consent Agenda:	Baker Subdivision – A two (2) lot subdivision
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Dorothy Baker
Engineer	Mark Isaacs Independent Land Surveying and Engineering
Location:	Part of the SE 1/4, Section 7 and Part of the NE 1/4, Section 18, All in T137N, Range 79W, Burleigh County Attachment 4-1 Location Map
Project Size:	69 Acres more or less A- Agricultural Zoning
Petitioners Request	Approval of the preliminary plat. Call for a public hearing

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

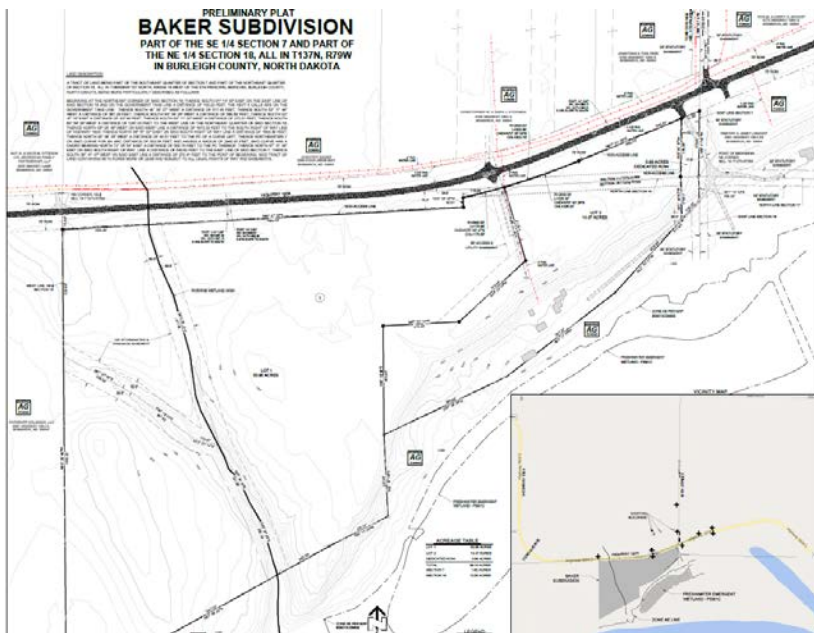


History/Description

Mark Isaac, ILSE met with Burleigh County Staff to wanting to plat 69.25 acres owned by Dorothy Baker. The proposed plat contains two (2) pieces of property. One parcel contains 67.4 acres (Lot A). The other property contains 1.85 acres (Lot B). Lot B contained a section line. The Bakers wanted to plat the property into three (3) subdivision. Lot 1 containing 53.95 acres more or less, lot 2 containing 12.79 acres more or less, lot 3 containing 2.36 acres more or less. Lot 3 would require a zoning change.

The proposed three (3) subdivision could not be platted due to a section line located on Lot B. (Attachment 4-2) Two (2) subdivisions would be required to make three (3) lots. A two (2) lot subdivision located SW of the section line and a one (1) lot subdivision NE of the section line. A zoning change would be required for Lot 3. It was recommended the petitioners apply for a section line vacation in order to plat the property into one (1) subdivision.

The petitioners requested a section line vacation that was granted by the Board of Burleigh County Commissioners on January 17, 2024. The preliminary plat was re-submitted as a two (2) lot subdivision on February 22.



Attachment 4-3 Preliminary Plat



PLANNING AND ZONING COMMISSION

March 13, 2024



Attachment 4-4 Site Map

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. Zoning will not be changed.
3. A paving waiver has been granted by the Board of Burleigh County Commissioners on February 17.
4. The preliminary plat reflects the vacation of the section line.
5. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.



PLANNING AND ZONING COMMISSION

March 13, 2024

Planning Staff Recommendation

The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 33. Staff recommends approval of the preliminary plat and calling for a public hearing.

Planning Commission Action

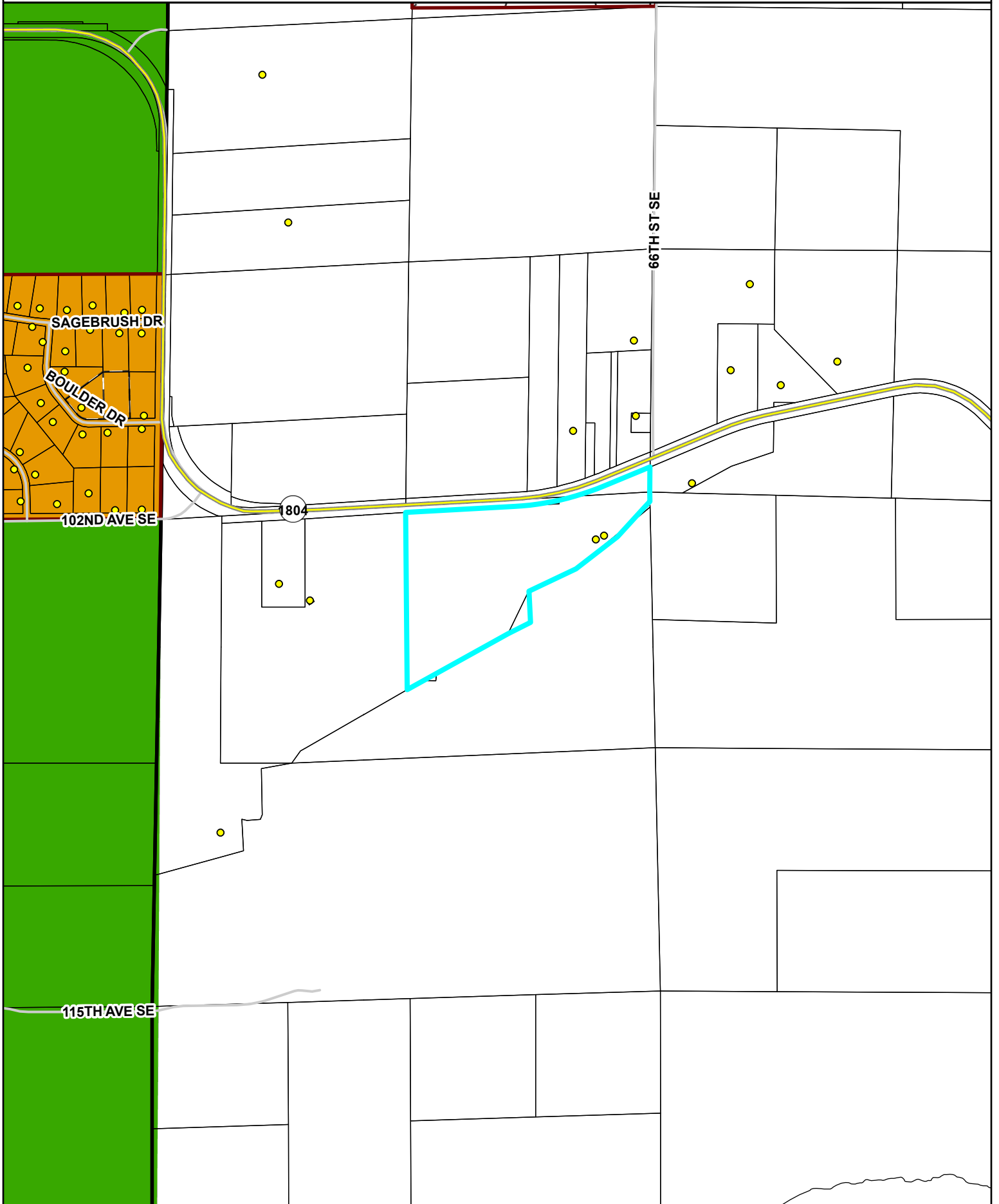
The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat. 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.

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

Attachment 4-1-1

N
2/29/2024



PRELIMINARY PLAT BAKER SUBDIVISION

PART OF THE SE 1/4 SECTION 7 AND PART OF THE NE 1/4 SECTION 18, ALL IN T137N, R79W IN BURLEIGH COUNTY, NORTH DAKOTA

LAND DESCRIPTION

A TRACT OF LAND BEING PART OF THE SOUTHEAST QUARTER OF SECTION 7 AND PART OF THE NORTHEAST QUARTER OF SECTION 18, ALL IN TOWNSHIP 137 NORTH, RANGE 79 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 18; THENCE SOUTH 01° 14' 43" EAST ON THE EAST LINE OF SAID SECTION 18 AND ON THE GOVERNMENT TAKE LINE A DISTANCE OF 100.22 FEET; THE NEXT 6 CALLS ARE ON THE GOVERNMENT TAKE LINE: THENCE SOUTH 42° 30' 27" WEST A DISTANCE OF 517.43 FEET; THENCE SOUTH 52° 17' 46" WEST A DISTANCE OF 567.28 FEET; THENCE SOUTH 64° 38' 29" WEST A DISTANCE OF 560.88 FEET; THENCE SOUTH 02° 47' 18" EAST A DISTANCE OF 337.90 FEET; THENCE SOUTH 63° 11' 20" WEST A DISTANCE OF 270.31 FEET; THENCE SOUTH 60° 59' 28" WEST A DISTANCE OF 1247.03 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 18; THENCE NORTH 00° 28' 49" WEST ON SAID WEST LINE A DISTANCE OF 1913.33 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIGHWAY 1804; THENCE NORTH 86° 51' 32" EAST ON SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 1663.49 FEET; THENCE NORTH 03° 08' 28" WEST A DISTANCE OF 40.51 FEET TO THE PC OF A CURVE LEFT; THENCE NORTHEASTERLY ON SAID CURVE FOR AN ARC DISTANCE OF 503.35 FEET AND HAVING A RADIUS OF 2940.00 FEET, SAID CURVE HAS A CHORD BEARING NORTH 72° 25' 54" EAST A DISTANCE OF 502.76 FEET TO THE PC THEREOF; THENCE NORTH 67° 31' 36" EAST ON SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 540.62 FEET TO THE EAST LINE OF SAID SECTION 7; THENCE SOUTH 00° 41' 47" WEST ON SAID EAST LINE A DISTANCE OF 270.41 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 69.10 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS..

EXISTING AG ZONING

GUY G. & KAYE M. OTTESON
C/O JESPERSON FAMILY
PARTNERSHIP, LLP
2525 SMOKEY LANE
BISMARCK, ND 58504

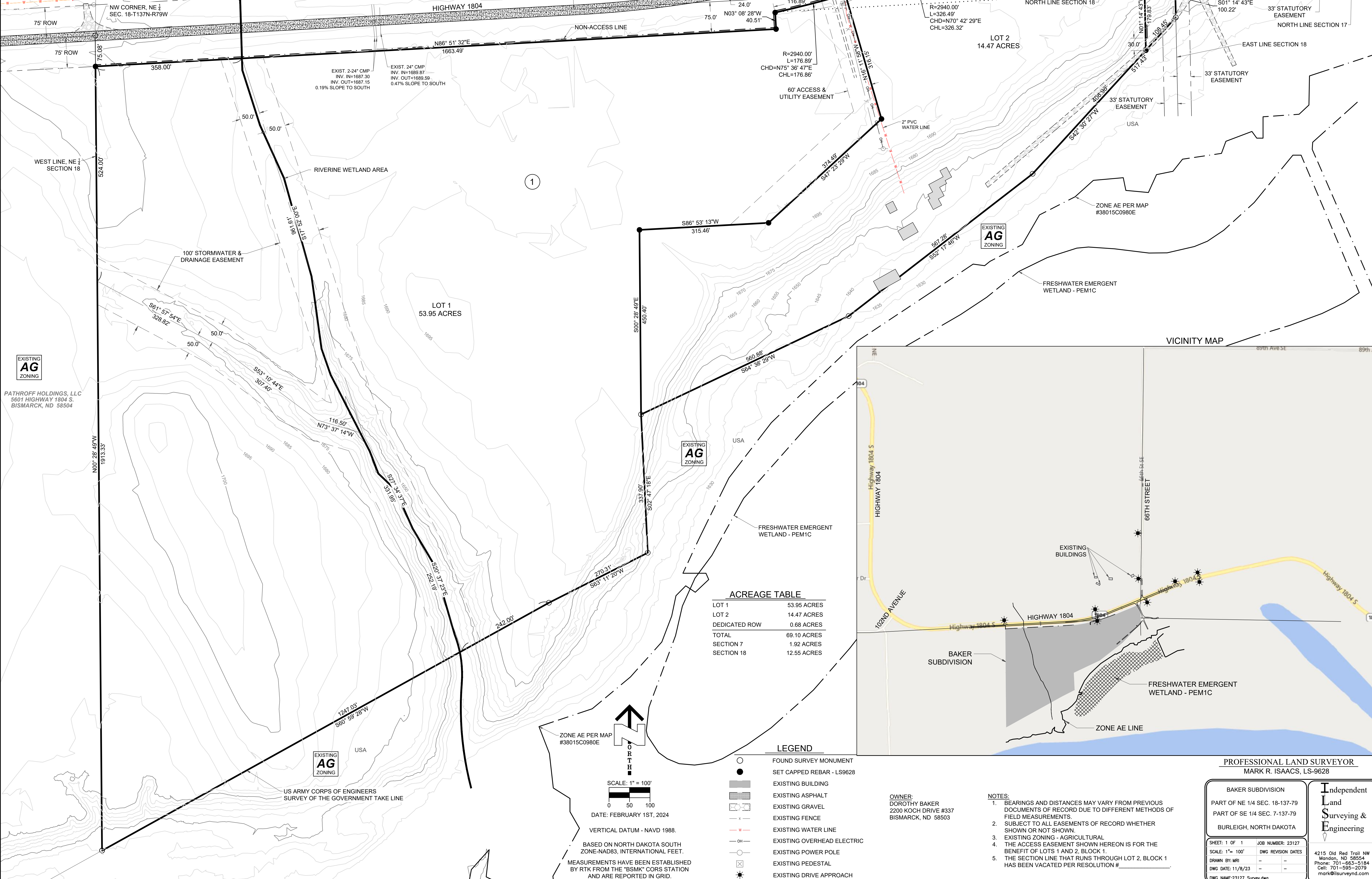
EXISTING AG ZONING

DOROTHY BAKER
2200 KOCH DRIVE #337
BISMARCK, ND 58503

EXISTING AG ZONING

PATHROFF HOLDINGS, LLC
5801 HIGHWAY 1804 S.
BISMARCK, ND 58504

US ARMY CORPS OF ENGINEERS
SURVEY OF THE GOVERNMENT TAKE LINE



ACREAGE TABLE

LOT 1	53.95 ACRES
LOT 2	14.47 ACRES
DEDICATED ROW	0.68 ACRES
TOTAL	69.10 ACRES
SECTION 7	1.92 ACRES
SECTION 18	12.55 ACRES

- ### LEGEND
- FOUND SURVEY MONUMENT
 - SET CAPPED REBAR - LS9628
 - ▭ EXISTING BUILDING
 - ▨ EXISTING ASPHALT
 - ▩ EXISTING GRAVEL
 - EXISTING FENCE
 - EXISTING WATER LINE
 - EXISTING OVERHEAD ELECTRIC
 - EXISTING POWER POLE
 - EXISTING PEDESTAL
 - EXISTING DRIVE APPROACH

ZONE AE PER MAP #38015C0980E

SCALE: 1" = 100'

DATE: FEBRUARY 1ST, 2024

VERTICAL DATUM - NAVD 1988.

BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.

MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE "BISMARCK" CORS STATION AND ARE REPORTED IN GRID.

OWNER:
DOROTHY BAKER
2200 KOCH DRIVE #337
BISMARCK, ND 58503

- ### NOTES:
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
 - SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
 - EXISTING ZONING - AGRICULTURAL.
 - THE ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOTS 1 AND 2, BLOCK 1.
 - THE SECTION LINE THAT RUNS THROUGH LOT 2, BLOCK 1 HAS BEEN VACATED PER RESOLUTION #



PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

BAKER SUBDIVISION	
PART OF NE 1/4 SEC. 18-137-79	
PART OF SE 1/4 SEC. 7-137-79	
BURLEIGH, NORTH DAKOTA	
SHEET: 1 OF 1	JOB NUMBER: 23127
SCALE: 1" = 100'	DWG REVISION DATES
DRAWN BY: MRS	
DWG DATE: 11/8/23	
DWG NAME: 23127 Survey.dwg	

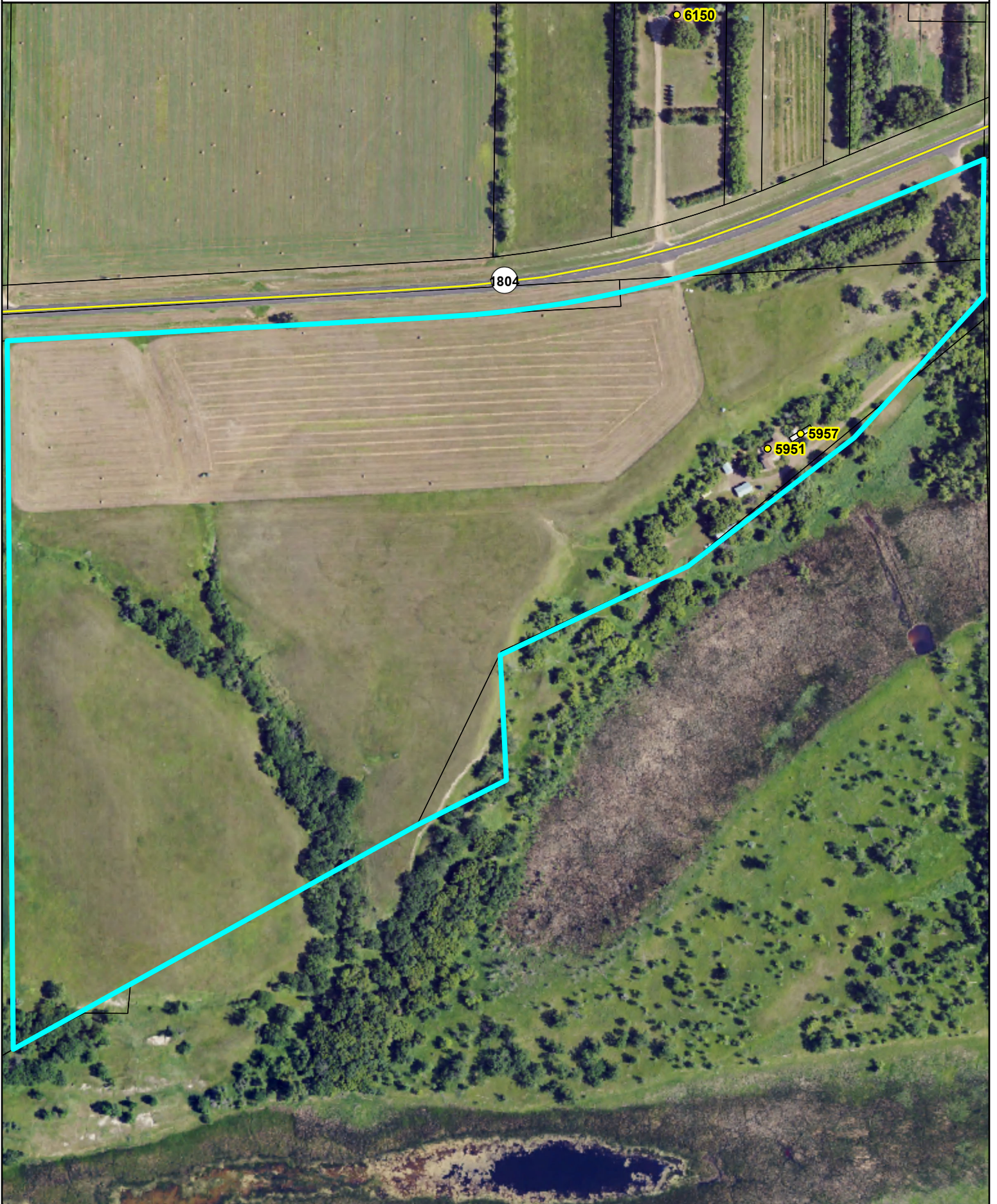
Independent Land Surveying & Engineering

4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-663-5184
Cell: 701-955-2079
mark@isurveynd.com

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

Attachment 4-1-4

N
3/1/2024



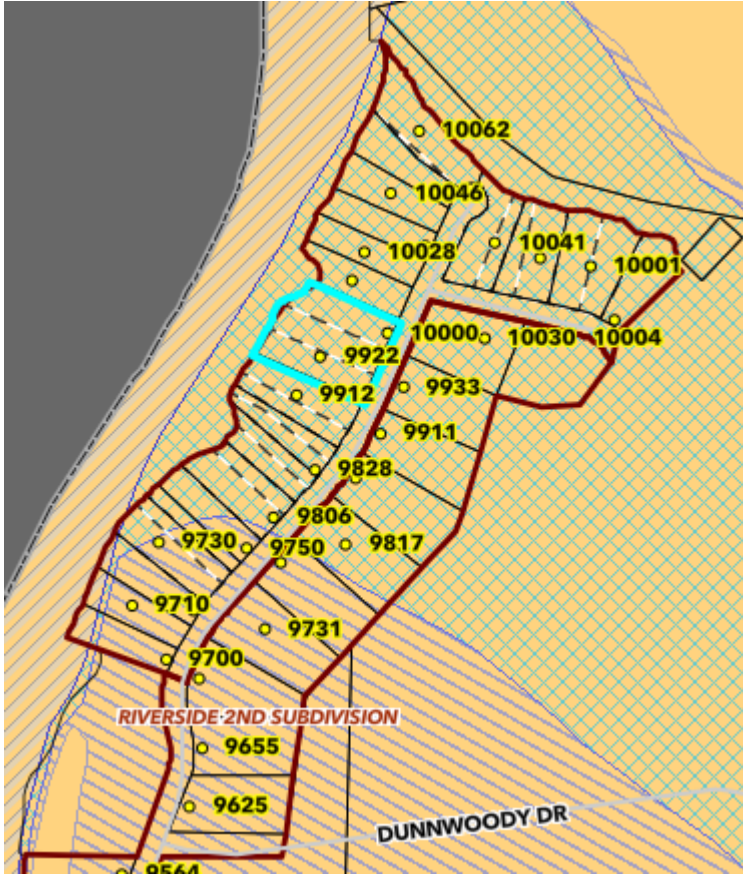
Hartmann Final Plat



Agenda Item 5.1

Application for a Final Short – Plat Subdivision

Project Summary

Public Hearing Agenda:	Hartmann subdivision – A one (1) lot subdivision
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Paul Hartmann
Engineer	Dayne Solem – Bartlett & West
Location:	Lots 12, 13, & 14, Block 1, Riverside Subdivision in Sections 27 & 28, Township 140 North, Range 81 West
	Attachment 5-1-1 Location Map



PLANNING AND ZONING
COMMISSION

March 13, 2024

Project Size:		2.22 acres more or less R1-Rural Single Family Residential
Petitioners Request		Approval of the final plat. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners
Public Hearing Notifications	Surrounding Property Owners – Bismarck Tribune Burleigh County Website	2/29/2024 2/29 & 3/7/2024 3/1/2024

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

History/Description

The petitioner approached Burleigh County regarding building on his property addressed as 9922 Island Road. The property was originally platted in 1985 (see attachment 5-1-2). Each lot containing 40,000 sf. In 1985, 40,000 square foot R1 lots were allowed. These lots were combined for tax purposes, but not combined to create one (1) lot containing 2.22 acres. A section line was also located across the three (3) lots.

Staff advised the petitioners the lots would need to be combined to build. Located in a platted subdivision, the lots could be combined using Article 33, Section 12 Short-Form Plat, which does not require a preliminary plat. As separate lots they did not meet the requirements of the Burleigh County Zoning Ordinance for the following reasons:

1. The location of the proposed build was located across a lot line and the section line Right-of-Way.
2. The location of the proposed build would be located on an unattached single-family lot. The petitioners would be required to apply for a variance to build on the lot.



PLANNING AND ZONING
COMMISSION

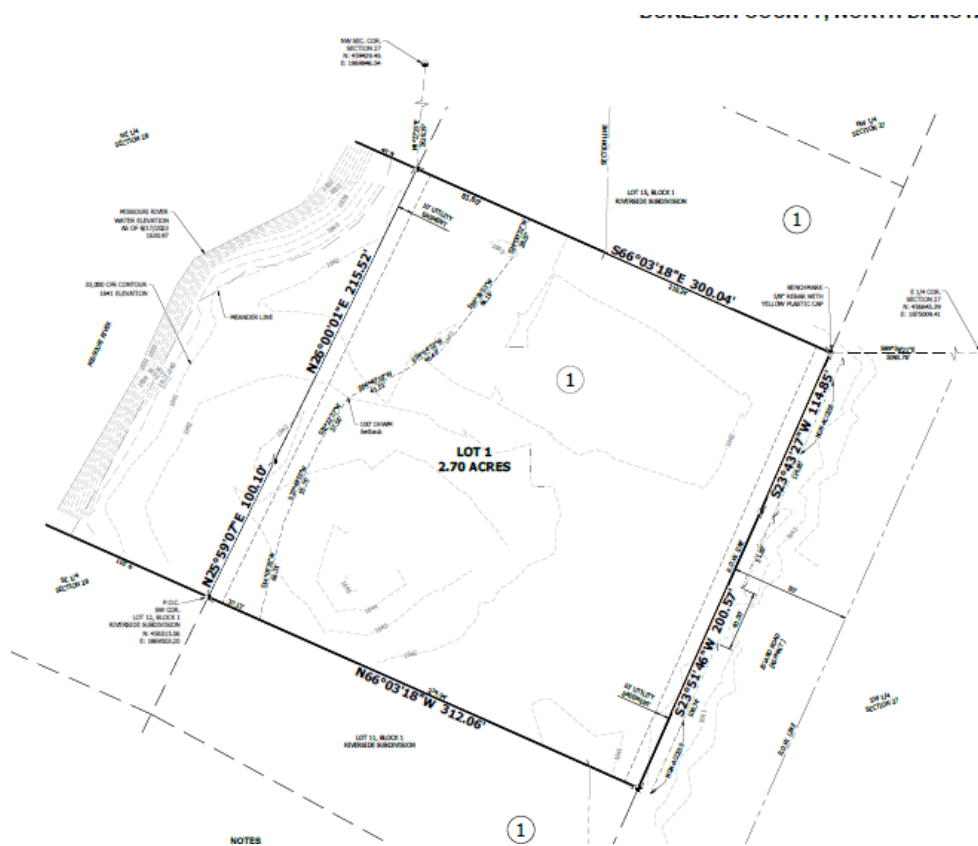
March 13, 2024

3. A section line runs through all the lots, making the lot unbuildable.

The petitioners would also be required to vacate the section line if they decided to combine their lots to build.

The petitioners applied to vacate the section line (see attachment 5-1-3). The Board of Burleigh County Commissioners granted a section line vacation on February 5, 2024.

The petitioners submitted their plat for review as on February 22, 2024. The Hartmann Subdivision meets the requirements of Article 33, Section 12 – Short Form platting. It contains three (3) lots, and is in a platted subdivision. (see attachment 5-1-4)



Attachment 5-1-4 Final Plat



PLANNING AND ZONING
COMMISSION

March 13, 2024



Attachment 5-1-5 Site Map

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 Section 12 of the Burleigh County Zoning Ordinance.
 - Originally platted in a subdivision
 - Combining three (3) lots to make a 2.22 acre lot
2. Zoning will not be changed.



PLANNING AND ZONING COMMISSION

March 13, 2024

3. The section line has been vacated
4. The final plat reflects the vacation of the section line.
5. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.

Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 33, Section 12. Staff recommends approval of the final plat with a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

Planning Commission Action

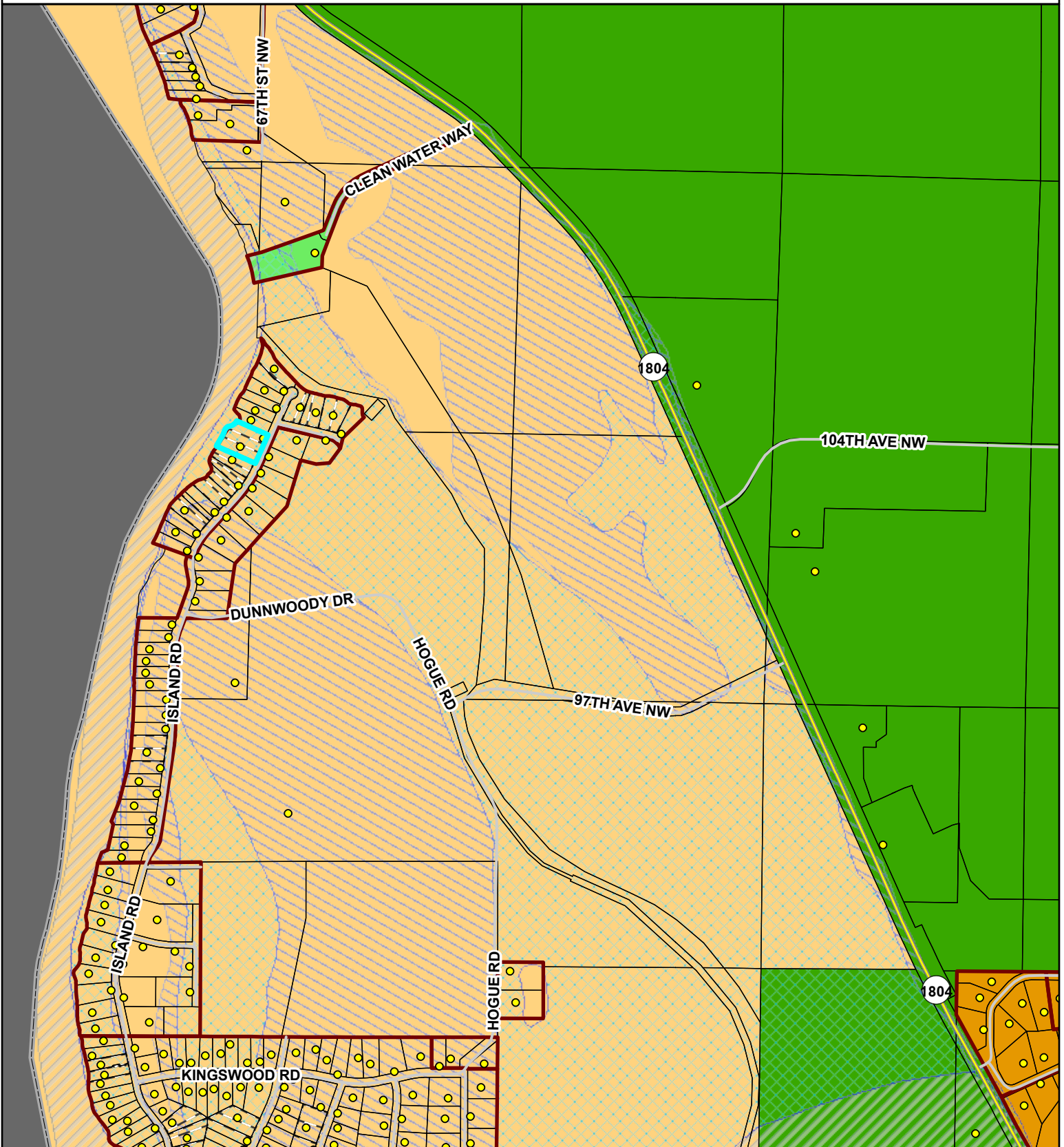
The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat with 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.

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

Attachment 5-1-1

N
3/1/2024



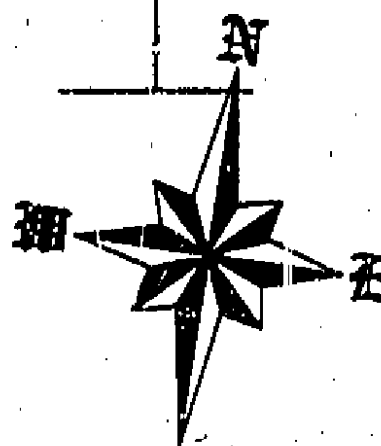
PARCEL ID: 45-137-79-00-17-421 OWNER: USA ACRES: 160
SITE ADDRESS:
MAIL ADDRESS: , ,
LEGAL: MISSOURI TOWNSHIP Section 17 S1/2NW1/4-NE1/4NW1/4-SW1/4NE1/4 17-137-79

RIVERSIDE SUBDIVISION

SECTION 27 & 28 T. 140 N., R. 81 W.

BURLEIGH COUNTY, NORTH DAKOTA

Attachment 5-1-2



SCALE 1" = 100'
NOV. 26, 1984

CURVE DATA				
A	B	C	D	EXT.
33°-20'-00"	75'-09'-43"	234.97'	460.77'	800.00'
16°-50'-00"	4°-18'-58"	187.67'	371.32'	1150.00'
48°-00'-00"	28°-38'-52"	84.90'	169.87'	200.00'

DESCRIPTION

ALL THAT PART OF SECTION 27 AND SECTION 28, TOWNSHIP 140 NORTH, RANGE 81 WEST, BURLEIGH COUNTY, NORTH DAKOTA SHOWN ON THE SURVEY OF SARGENT ISLAND AS RECORDED IN THE BURLEIGH COUNTY COURT HOUSE AS DOCUMENT NO. 139893 AND THAT LIES WITHIN THE FOLLOWING DESCRIBED TRAVERSE:
BEGINNING SOUTH 71 DEGREES 22 MINUTES 33 SECONDS WEST A DISTANCE OF 2561.10 FEET AND SOUTH 88 DEGREES 51 MINUTES 19 SECONDS EAST A DISTANCE OF 1113.45 FEET, MEASURED ALONG AND PERPENDICULAR TO THE LINE BETWEEN THE NORTHWEST CORNER OF SECTION 27 AND THE SOUTHWEST CORNER OF SECTION 34 FROM THE NORTHWEST CORNER OF SECTION 27; THENCE SOUTH 45 DEGREES 31 MINUTES 12 SECONDS WEST A DISTANCE OF 300.00 FEET; THENCE SOUTH 11 DEGREES 54 MINUTES 40 SECONDS WEST A DISTANCE OF 107.53 FEET; THENCE SOUTH 36 DEGREES 24 MINUTES 39 SECONDS WEST A DISTANCE OF 183.46 FEET; THENCE SOUTH 88 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 136.00 FEET; THENCE NORTH 76 DEGREES 09 MINUTES 58 SECONDS WEST A DISTANCE OF 139.89 FEET; THENCE SOUTH 16 DEGREES 34 MINUTES 21 SECONDS WEST A DISTANCE OF 117.88 FEET; THENCE NORTH 68 DEGREES 25 MINUTES 30 SECONDS WEST A DISTANCE OF 175.88 FEET; THENCE SOUTH 23 DEGREES 34 MINUTES 30 SECONDS WEST A DISTANCE OF 210.54 FEET; THENCE SOUTH 61 DEGREES 20 MINUTES 37 SECONDS WEST A DISTANCE OF 112.68 FEET; THENCE SOUTH 1 DEGREES 26 MINUTES 43 SECONDS EAST A DISTANCE OF 290.85 FEET; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 66.89 FEET; THENCE SOUTH 81 DEGREES 34 MINUTES 30 SECONDS WEST A DISTANCE OF 140.00 FEET; THENCE SOUTH 42 DEGREES 04 MINUTES 30 SECONDS WEST A DISTANCE OF 422.51 FEET; THENCE SOUTH 9 DEGREES 04 MINUTES 30 SECONDS WEST A DISTANCE OF 114.03 FEET; THENCE NORTH 73 DEGREES 23 MINUTES 10 SECONDS WEST A DISTANCE OF 275.00 FEET; THENCE NORTH 53 DEGREES 02 MINUTES 39 SECONDS WEST A DISTANCE OF 84.78 FEET; THENCE NORTH 71 DEGREES 22 MINUTES 33 SECONDS WEST A DISTANCE OF 375 FEET, MORE OR LESS TO THE EASTERLY BANK OF THE MISSOURI RIVER; THENCE NORTHEASTERLY ALONG SAID RIVER BANK A DISTANCE OF 2850 FEET, MORE OR LESS TO THE WESTERLY BANK OF AN ABANDONED CHANNEL OF THE MISSOURI RIVER; THENCE SOUTHEASTERLY ALONG SAID ABANDONED RIVER CHANNEL BANK A DISTANCE OF 1420 FEET, MORE OR LESS TO THE POINT OF BEGINNING.
THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 42 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, EDWARD W. HAGEN, A REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON OCTOBER 17, 1984, AND THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SWENSON, HAGEN AND COMPANY
CONSULTING ENGINEERS
909 BASIN AVENUE - P.O. BOX 1135
BISMARCK, NORTH DAKOTA 58502

EDWARD W. HAGEN
REGISTERED PROFESSIONAL
ENGINEER & LAND SURVEYOR
ND REGISTRATION NO. 850



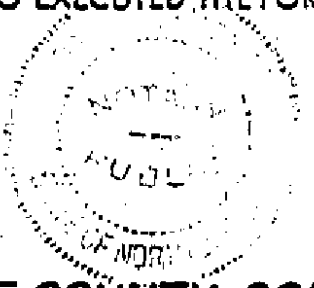
STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH
HEREBY CERTIFY THAT THE WITHIN INSTRUMENT
WAS FILED IN THIS OFFICE FOR RECORD ON
AT 10:00 O'CLOCK A.M. AND
RECORDED AS DOCUMENT NO. 260261
BY [Signature]
REGISTER OF DEEDS



STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH) SS

ON THIS 23rd DAY OF APRIL, 1985, BEFORE ME PERSONALLY APPEARED EDWARD W. HAGEN, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATIENCE - NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: 7-24-86



APPROVAL OF BOARD OF COUNTY COMMISSIONERS

THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON AND HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF BURLEIGH COUNTY.
THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 3rd DAY OF APRIL, 1985.

ROBERT KNEIFEL - CHAIRMAN

BERNICE ASBRIDGE - COUNTY AUDITOR

APPROVAL OF PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE COUNTY OF BURLEIGH ON THE 16th DAY OF MARCH, 1985, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF BURLEIGH COUNTY, NORTH DAKOTA AND REGULATIONS ADOPTED BY SAID PLANNING COMMISSION.

BUANE BOHRER - CHAIRMAN

BERNICE ASBRIDGE - COUNTY AUDITOR

APPROVAL OF COUNTY ENGINEER

I, JON MILL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, STATE OF NORTH DAKOTA, HEREBY APPROVE "RIVERSIDE SUBDIVISION" AS SHOWN ON THE ANNEXED PLAT.

JON MILL - COUNTY ENGINEER

OWNER'S CERTIFICATE

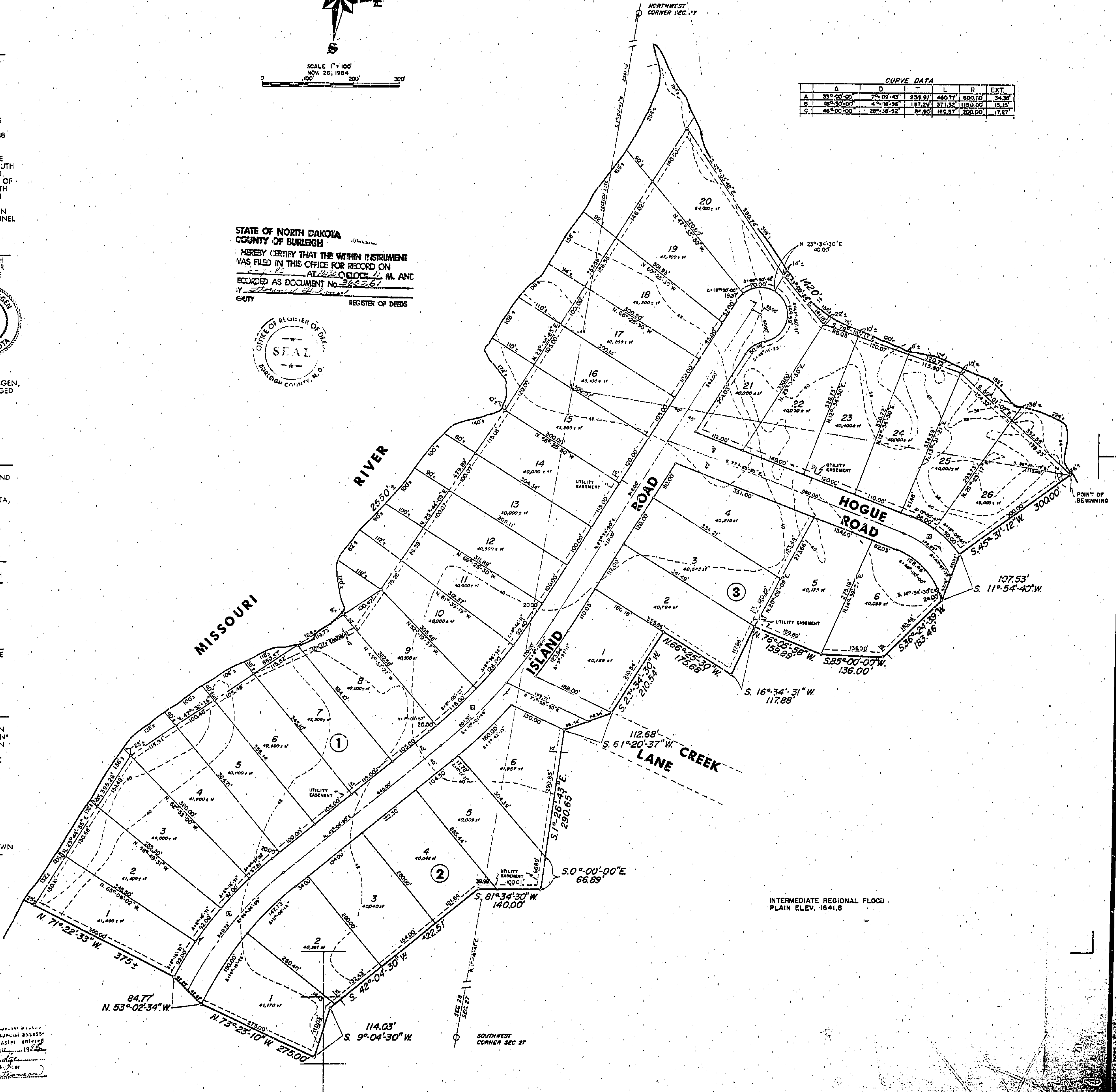
KNOW ALL MEN BY THESE PRESENTS THAT PETER HOGUE, STAR ROUTE 9 - BOX 205, BISMARCK, NORTH DAKOTA, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN ON THE ANNEXED PLAT HAS CAUSED THAT PORTION DESCRIBED HEREON AND SHOWN ON THE ANNEXED PLAT TO BE SURVEYED AND PLATTED AS "RIVERSIDE SUBDIVISION" AND DOES SO DEDICATE STREETS, INCLUDING SEWERS, CULVERTS, AND OTHER UTILITIES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.
HE ALSO DEDICATES EASEMENTS TO RUN WITH THE LAND, FOR WATER, SEWER, GAS, ELECTRIC OR OTHER PUBLIC UTILITIES OR SERVICES UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENTS".

PETER HOGUE
Star Route 9, Box 205
Bismarck, ND

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH) SS

ON THIS 1st DAY OF APRIL, 1985, BEFORE ME PERSONALLY APPEARED PETER HOGUE, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATIENCE - NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: 7-24-86



INTERMEDIATE REGIONAL FLOOD
PLAIN ELEV. 1641.8

Payment taxes and transfer fees
made by instrument of special assess-
ments paid for and transfer entered
into on 04/21/85
Burleigh County Auditor
Bernice Asbridge

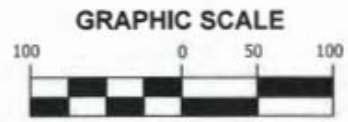
RIVERSIDE SUBDIVISION

SECTION LINE VACATION EXHIBIT
 LOCATED IN LOTS 12,13 & 14, BLOCK 1 OF RIVERSIDE SUBDIVISION
 IN SECTIONS 27 & 28, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH P.M.,
 BURLEIGH COUNTY, NORTH DAKOTA



- FOUND MONUMENT
- MONUMENT (TO BE SET)
- COMPUTED POINT

AREA OF REQUESTED SECTION LINE VACATION		
Section 27	11244.68 S.F.	0.26 Acres
Section 28	11245.33 S.F.	0.26 Acres
Total	22490.01 S.F.	0.52 Acres



(IN FEET)
 1 inch = 100 ft.

Prepared By:
Bartlett & West
 3416 E. Century Ave. Bismarck,
 North Dakota 58503 701-258-1110
 FAX 701-258-1111 www.bartwest.com

HARTMANN SUBDIVISION

A PLAT OF LOTS 12,13 & 14, BLOCK 1 OF RIVERSIDE SUBDIVISION IN SECTIONS 27 & 28, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH P.M., BURLEIGH COUNTY, NORTH DAKOTA

attachment 5-1-4

DESCRIPTION

All that certain real property situated in Lots 12, 13 and 14, Block 1 of Riverside Subdivision in Section 27 and 28, Township 140 North, Range 81 West of the 5th P.M., Burleigh County, North Dakota described as follows:

Beginning at the Southwest Corner of said Lot 12; thence N25°59'07"E, along the west line of said Lot 12, a distance of 100.10 feet to the Southwest Corner of said Lot 13; thence N26°00'01"E, along the west line of said Lot 13, a distance of 215.52 feet to the Northwest Corner of said Lot 14; thence S66°03'18"E, along the north line of said Lot 14, a distance of 300.04 feet to the Northeast Corner of said Lot 14; thence S23°43'27"W, along the east line of said Lot 14 and the westerly right-of-way line of Island Road, a distance of 114.85 feet to the Southeast Corner of said Lot 14; thence S23°51'46"W, along said west right-of-way line, a distance of 200.57 feet to the Southeast Corner of said Lot 12; thence N66°03'18"W, along the south line of said Lot 12, a distance of 312.06 feet to the Point of Beginning and containing 2.70 acres, more or less.

OWNER'S CERTIFICATE

Know all men by these presents: Paul Hartmann and Jeralyn Heiser are the owners of all the land herein platted as Hartmann Subdivision, and that the plat and survey thereof was made at the request of Paul Hartmann for the purpose of establishing the platted subdivision. Paul Hartmann and Jeralyn Heiser also certify that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

They 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".

I do dedicate all public rights-of-ways as shown hereon to Burleigh County use forever.

Paul Hartmann _____, 2024
Date _____, 2024

Jeralyn Heiser _____, 2024
Date _____, 2024

STATE OF _____)
COUNTY OF _____) JSS

On this _____ day of _____, 2024, before me the undersigned officer, personally appeared Paul Hartmann and Jeralyn Heiser, known to me to be the persons described in, and who executed the foregoing instrument and acknowledged that they executed the same.

Notary Public _____

APPROVAL OF COUNTY PLANNING & ZONING COMMISSION

The County Planning and Zoning Commission of Burleigh County, North Dakota, hereby approves the Hartmann 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 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 _____, 2024.

Dennis Agnew, Chairman

Attest: Mitch Flanagan, Building Official-Director

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.

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 Commissioners of Burleigh County, North Dakota, was taken by resolution approved on the _____ day of _____, 2024.

Brian Bitner, Chair

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 Hartmann Subdivision, Burleigh County, North Dakota as shown on this plat.

Dated this _____ day of _____, 2024.

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

SURVEYOR'S CERTIFICATE

I, Dayne Solem, a Professional Land Surveyor in and for the State of North Dakota, do hereby certify that at the request of Paul Hartmann, and under his direction, did complete a survey of the property described on this plat as Hartmann Subdivision. The platted subdivision has the numbered lots, locations, dimensions and designations as shown on the plat which is correct to the best of my knowledge and belief. That all monuments shown thereon have been set, and that all dimensional and geodetic details are correct.

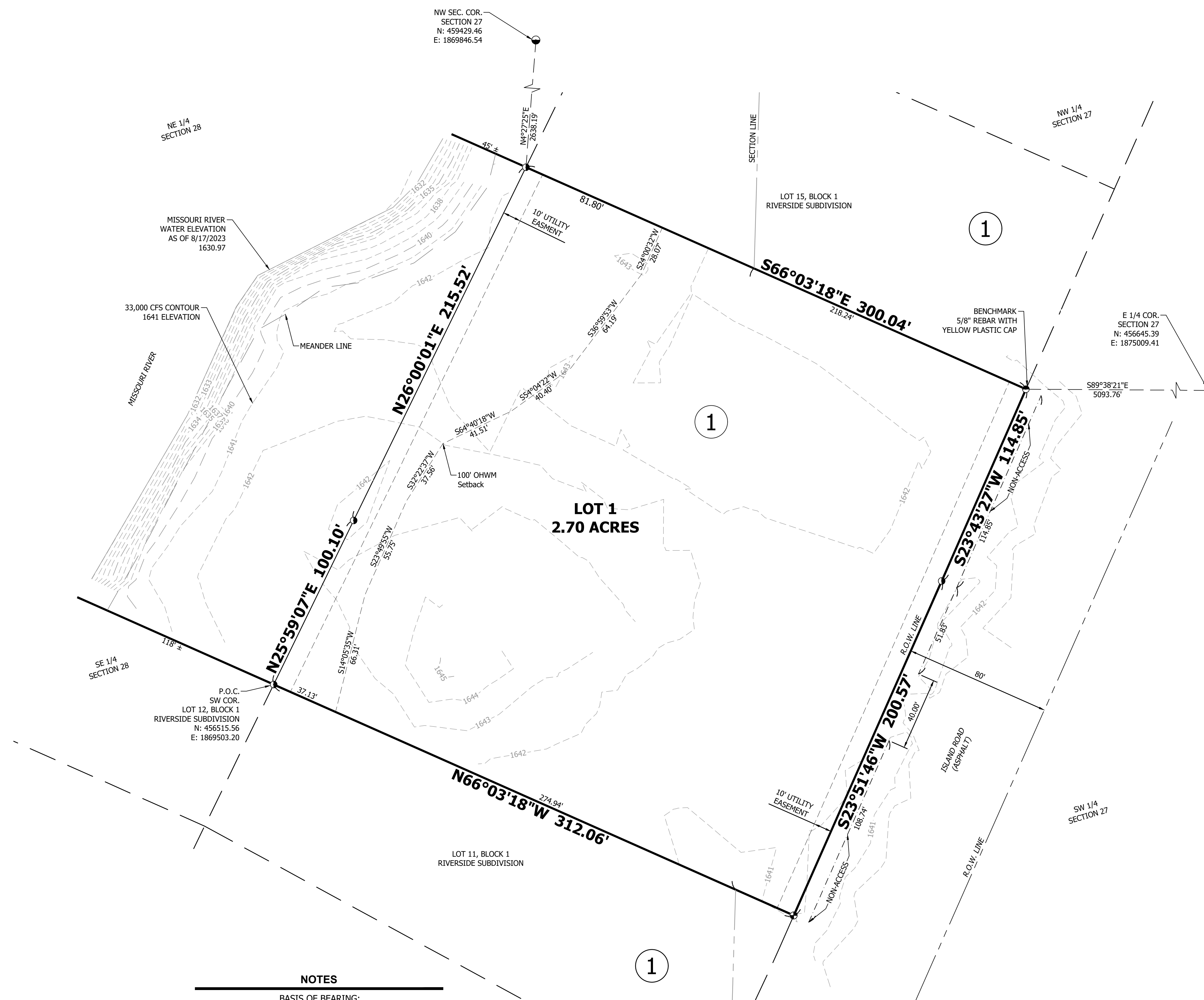
Dated this _____ day of _____, 2024.

Dayne Solem, LS-8423

STATE OF NORTH DAKOTA)
COUNTY OF _____) JSS

On this _____ day of _____, 2024, before me the undersigned officer, personally appeared Dayne Solem, known to me to be the person who is described in, and who executed the foregoing instrument and acknowledged that they executed the same.

Notary Public _____



NOTES

BASIS OF BEARING:
BEARINGS SHOWN ARE GRID BEARINGS BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH ZONE INTERNATIONAL FEET

VERTICAL DATUM: NAVD 88

*PROPERTY SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.

FLOODPLAIN INFORMATION

FEMA FLOOD INSURANCE RATE MAP
PRELIMINARY COMMUNITY PANEL NUMBER 38015C0570E
DATED 5/13/2022 - ZONE AE
BASE FLOOD ELEVATION: 1642.50
PER BURLEIGH COUNTY BOARD

OWNER

PAUL HARTMANN & JERALYN HEISER
9922 ISLAND ROAD
BISMARCK, ND 58503

SURVEYOR

DAYNE SOLEM, PLS
BARTLETT & WEST
3456 E. CENTURY AVE
BISMARCK, ND 58503
701-258-1110

LEGEND

- SET 5/8"x18" REBAR W/ PLS CAP
STAMPED "D. SOLEM PLS 8423"
- FOUND IRON MONUMENT W/ LS 2363 CAP
- FOUND 5/8" REBAR
- SECTION CORNER
- COMPUTED CORNER

BENCHMARK

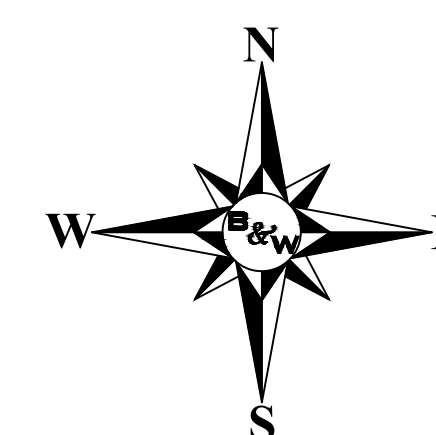
ELEVATION: 1641.12 (NAVD 88)
5/8" REBAR WITH YELLOW PLASTIC CAP
NE CORNER LOT 1 BLOCK 1

AREA

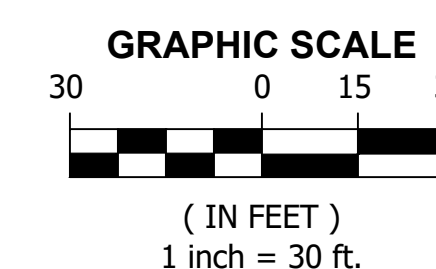
LOTS	117,201 S.F.	2.70 ACRES
STREETS	0 S.F.	0.00 ACRES
TOTAL	117,201 S.F.	2.70 ACRES

ACREAGE

SW1/4 SEC. 27	31,269 S.F.	0.72 ACRES
SE1/4 SEC. 28	85,749 S.F.	1.97 ACRES
NE1/4 SEC. 28	183 S.F.	0.01 ACRES
TOTAL	117,201 S.F.	2.70 ACRES



DATE: JANUARY 18, 2024



Project #21400.000

Prepared By:

Bartlett & West

3456 E. Century Ave. Bismarck,
North Dakota 58503 701-258-1110
FAX 701-258-1111 www.bartlettwest.com

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

Attachment 5-1-5

N
3/4/2024



PARCEL ID: 23-140-81-65-01-120

OWNER: HARTMANN, PAUL & HEISER, JERALYN

ACRES: 2.77

SITE ADDRESS: 9922 ISLAND RD

MAIL ADDRESS: 9922 ISLAND ROAD, BISMARCK, ND 58503-9226

LEGAL: RIVERSIDE BLOCK 11 LOTS 12-14 556750

Floodplain Amendment

ORDINANCE 24-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 21 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA

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

ARTICLE 21 FP - FLOODPLAIN DISTRICT REGULATIONS

In any FP - floodplain district, the following regulations shall apply:

Section 1. Statement of Purpose

It is the purpose of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;
- f. To help maintain a stable tax base by providing for the use and development of special flood hazard areas so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is located in a special flood hazard area;
- h. To ensure that those who occupy the special flood hazard areas assume responsibility for their actions; and
- i. To provide an increased level of protection in anticipation of future increases in the base flood elevation (BFE).

Section 2 Methods of Reducing Flood Losses

In order to accomplish its purposes, this article includes methods and provisions for:

- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood water elevations or flow velocities;
- b. Requiring that uses vulnerable to flooding, including attendant utilities and facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or convey flood waters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards in other areas.

Section 3. Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

” Accessory Structure” for floodplain management purposes means structures that are on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. Accessory structures are a single-story structure that may only be used for parking or storage, represent a minimal investment by owners, and have low damage potential. Structures that include the following uses are not considered accessory structures for floodplain management purposes: habitable spaces, bathrooms, toilet rooms, laundry facilities, and entertainment and recreational spaces including but not limited to workshops and game rooms.

“Agricultural Structure” for floodplain management purposes means structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.

“Attendant utilities and equipment” mean utilities, electrical, plumbing, heating, ventilation, and air conditioning equipment, as well as facilities and services associated with new construction.

"Base flood or 100-year flood" means the flood having a one per cent (1%) chance of being equaled or exceeded in any given year.

“Base flood elevation (BFE)” means the height of the base flood or 100- year flood, usually in feet above mean sea level, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by the storm water management plan prepared for the area in which the property is located.

“Basement” means any area of a building having its floor subgrade (below ground level) on all sides.

“Best available data (BAD)” means water elevation information from any source used to estimate or determine the base flood elevation (i.e., high water mark).

“Community” means any political subdivision that has the authority to zone, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction

“Conveyance or hydraulic conveyance” means a geometric characteristic of a river or watercourse at a given location that determines the flow-carrying capacity at that location.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

“Existing Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Expansion to an Existing Manufactured Home Park or Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Fill” means materials such as soil, gravel, or crushed stone that is placed in an area and increases the ground elevation, whether or not that was the intention.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood insurance rate map” (FIRM) or digital flood insurance rate map (DFIRM)” means the official map issued by the Federal Emergency Management Agency (FEMA) where special flood hazards areas are designated as Zone A, AE, AO, AH, A1-A30 or A99.

“Flood insurance study (FIS)” means the official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the flood insurance rate map (FIRM), and the water surface elevation of the base flood.

“Floodplain or flood-prone area” means any land area susceptible to partial or complete inundation by water from any source.

“Floodplain Administrator” means the person designated by Burleigh County to administer the County’s floodplain regulations.

“Flood proofing (dry)” means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight to two (2) feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

“Floodproofing (wet)” means the use of flood damage resistant materials and construction techniques to minimize flood damage to structures by intentionally allowing floodwater to enter and exit automatically (without human intervention) to minimize unequal pressure of water on walls (hydrostatic load or pressure). Wet floodproofing also requires structures to be anchored to resist flooding, have mechanical and utility equipment elevated or protected, and have flood openings installed in walls.

“Floodway or regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Letter of map amendment (LOMA)” means an official amendment to the currently effective flood insurance rate map (FIRM) which establishes that a property is not located in a special flood hazard area. A letter of map amendment (LOMA) is issued by FEMA.

“Letter of map revision (LOMR)” means an official amendment to the currently effective flood insurance rate map (FIRM) which is issued by FEMA and changes flood zones, delineations and elevations. A letter of map revision based on fill (LOMR)(f) is a LOMR issued by FEMA based on the placement of fill.

“Lowest floor” means the lowest floor of a structure including the basement and/or crawl space.

“Manufactured home” means a structure transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a recreational vehicle but does include a mobile home.

“New construction” means structures for which the "start of construction" commenced on or after the effective date of this article.

“New Manufactured Home Park or Subdivision” means a manufactured home park or *subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

“Non-conversion agreement” means an agreement signed by applicants and property owners, affirming that the owners agree not to convert or modify in any manner that is inconsistent with approved permit (and variance conditions, when applicable).

“Non-residential” means any building or structure or portion thereof that is not classified as residential.

“Pre-FIRM Building” means a building for which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial Flood Insurance Rate Map (FIRM).

“Principal structure” for floodplain management purposes means a structure that is not an accessory structure. All principal structures must be constructed in accordance with the requirements applicable to residential construction or nonresidential construction as determined by the use of the structure.

“Post-FIRM Building” means a building for which construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

“Reasonably safe from flooding” means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

“Recreational vehicle” means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. designed to be self-propelled or permanently towable by a light duty truck;
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
- e. travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

“Residential” means:

- a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- b. Residential structures, including but not limited to one and two-family dwellings, multifamily dwellings, group dwellings, bed and breakfast facilities, hotels and motels; and
- c. Institutional facilities where people are cared for or live on a 24- hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, nursing homes, group homes, congregate care facilities, hospitals, medical centers, jails and detention centers.

“Special flood hazard area (SFHA)” means an area of land that would be inundated by a flood having two tenths of one percent (0.2%) or greater chance of being equaled or exceeded in any given year (500-year flood).

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring

of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms.

“Storage tank” means any closed vessel used to store gases or liquids.

“Storm water management plan” means a document prepared in accordance with the provisions of Article 33 (Subdivision Regulations) to evaluate surface water runoff and flood risks within a development, plat or watershed; to document special flood hazard areas; and to determine the systems required to convey or control flood flows within and through the area.

"Structure" means a walled and roofed building, including manufactured homes and gas or liquid above- ground storage tanks.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed fifty percent (50%) of the market value as assessed of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value as assessed of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this article that permits construction in a manner that would otherwise be prohibited by this article.

Section 4. General Provisions

- a. **Jurisdiction.** This article shall apply to all special flood hazard areas within the jurisdiction of Burleigh County, including all lands within Burleigh County's zoning jurisdiction pursuant to Article 5, but excluding the corporate limits of the City of Bismarck or any other incorporated city and the extraterritorial jurisdiction of those cities as provided for in Section 40-47-01.1 of the North Dakota Century Code.

- b. **Basis for establishing the special flood hazard areas.** The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report titled "The Flood Insurance Study for Burleigh County, North Dakota and Incorporated Areas", dated August 4, 2014 with an accompanying flood insurance rate map (FIRM), and as subsequently updated by any Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR) and/or Letter of Map Revision Based on Fill (LOMR(f)) issued by the Federal Emergency Management Agency (FEMA), is hereby adopted by reference and declared to be a part of this article. The Flood Insurance Study (FIS) is on file in the office of the Floodplain Administrator. Special flood hazard areas may also be designated in a storm water management plan prepared for a development, plat or watershed.
- c. **Compliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations, unless a valid building permit was in place prior to May 7, 2012, except as provided for in subsection 6(b)(5) (additions to existing structures).
- d. **Greater restrictions.** This article is not intended to repeal, remedy, or impair any existing easements, covenants or deed restrictions. However, where this article and another article of the County Zoning Ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- e. **Interpretation.** In the interpretation and application of this article, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of Burleigh County; and
 3. Deemed neither to limit nor repeal any other powers granted to Burleigh County under the North Dakota Century Code.
- f. **Warning and disclaimer of liability.** The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of Burleigh County, any officer or employee thereof, or the Federal Emergency Management Agency (FEMA) for any flood damages that result from reliance on this article, or any administrative decision lawfully made thereunder.

- g. **Letter of Map Revision (LOMR).** Development on any parcel for which a Letter of Map Revision (LOMR) has been issued shall comply with all of the requirements and recommendations as contained therein. Development on any parcel for which a LOMR has been issued shall be constructed in accordance with the provisions of FEMA Technical Bulletin 10-01.

- h. **Non-conforming Status.** Any structure constructed with the lowest floor elevated as required by the regulations in effect at the time of construction shall not be considered a non-conforming structure for the purposes of this section, provided the lowest floor of said structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation.

Section 5. Administration

- a. **Establishment of a development permit.** A development permit shall be obtained before construction or development begins within any special flood hazard area established in subsection 4(b) of this article (basis for establishing the special flood hazard areas). Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
 - 1. Elevation in relation to mean sea level in NAVD88 or NGVD29 of the lowest floor (including basements and/or crawl spaces) of all structures;
 - 2. Elevation in relation to mean sea level in NAVD88 or NGVD29 to which any structure has been flood proofed;
 - 3. Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in subsection 6(b)(2) of this article (nonresidential construction); and
 - 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

- b. **Establishment of a non-structural development permit.** A non- structural development permit shall be obtained before any land disturbing activity begins within any special flood hazard area established in subsection 4(b) of this article (basis for establishing the special flood hazard areas). Application for a nonstructural development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; proposed elevations upon completion of the land disturbing activity; the type of fill being used, if fill is proposed; and a description of the extent to which any watercourse will be altered or relocated as a result of proposed land disturbing activity.

- c. **Designation of the Floodplain Administrator.** The Building Official is hereby appointed to administer and implement this article by granting or denying development permit and non-structural development permit applications in accordance with the applicable provisions.
- d. **Duties and responsibilities of the Floodplain Administrator.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:
1. Permit application review.
 - a. Review all development permit applications and non- structural development permit applications to determine that the permit requirements of this article have been satisfied;
 - b. Review all development permit applications and non- structural development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and
 - c. Review all development permit applications and non- structural development permit applications to determine if the proposed development or land disturbing activity is located in the floodway. If located in the floodway, assure that the encroachment provisions of this article are met.
 2. Use of other base flood data. When base flood elevation data has not been provided in accordance with subsection 4(b) of this article (basis for establishing the special flood hazard areas), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available (known as best available data (BAD)) from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development in the floodplain is administered in accordance with subsection 6(b) of this article (specific standards).
 3. Information to be obtained and maintained.
 - a. Obtain and record the actual elevation in relation to mean sea level in NAVD88 or NGVD29 of the lowest floor (including basement and/or crawl space) of all new or substantially improved structures, and whether or not the structure contains a basement and/or crawl space.
 - b. For all new or substantially improved flood proofed structures:
 1. Obtain and record the actual elevation in relation to mean sea level in NAVD88 or NGVD29 to which the structure has been flood proofed; and

2. Maintain the flood proofing certifications required in subsection 6(b) of this article (specific standards).
 - c. Maintain for public inspection all records pertaining to the provisions of this article.
4. Alteration of watercourses. The Floodplain Administration shall:
 - a. Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood- carrying capacity is not diminished; and
5. Interpretation of flood insurance rate map (FIRM) or digital flood insurance rate map (DFIRM) boundaries. Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection 7 of this article (appeal and variance procedures). The Floodplain Administrator may require information be submitted by a registered land surveyor.

Section 6. Provisions for Flood Hazard Reduction

- a. **General standards.** In all special flood hazards areas, the following standards are required:
 1. Anchoring.
 - a. All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure; and
 - b. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over- the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 2. Construction materials and methods.
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and
 - c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Such facilities shall be located in areas that have been elevated on fill to at least two (2) feet above the base flood elevation for residential structures and manufactured homes.
3. Utilities.
- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 - c. All new and replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Subdivision proposals.
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
 - d. Base flood elevation data shall be provided for all subdivision proposals and other proposed developments. Elevation data must be provided in NAVD88 or NGVD29 for areas with a flood insurance rate map (FIRM) or other base flood elevation data in that datum; and
 - e. All roadways within and providing access to subdivisions shall be constructed in accordance with County engineering standards.
- b. **Specific standards.** In all special flood hazards areas where base flood elevation data have been provided as set forth in subsection 4(b) of this article (basis for establishing the special flood hazard areas) or subsection 5(d)(2) of this article (use of other base flood data), the following provisions are required:
- 1. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement and/or crawl

space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation.

2. Nonresidential construction. New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed to at least two (2) feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator as set forth in subsection 5(d)(3) of this article (information to be obtained and maintained).
3. Manufactured homes.
 - a. Manufactured homes shall be anchored in accordance with subsection 6(a)(1) of this article (anchoring).
 - b. All manufactured homes or those to be substantially improved shall be on a permanent foundation, have the lowest floor of the manufactured home elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation system.
4. Attached garages, decks and landings providing primary access, and accessory buildings.
 - a. Garages attached to any residential structure, non-residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it is attached.
 - b. Decks and landings providing access to the primary entrance of a residential structure, non-residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it provides access.
5. Accessory structures.
 - a. Accessory structures defined within this section that are not greater than 600 square feet in area may be constructed with the lowest floor below the base flood elevation in accordance with the following wet floodproofing requirements:

- i. Must be anchored to resist floatation, collapse and lateral movement.
 - ii. Must have structural and non-structural components constructed of flood damage resistant material to an elevation of at least two feet above the base flood elevation. Flood damage materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;
 - iii. Must be provided with flood openings designed to equalize the hydrostatic pressure of flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. Flood opening designs must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 1;
 - iv. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and,
 - v. Prior to the issuance of a building permit for the structure, 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.
- b. Accessory structures defined within this section that are greater than 600 square feet in area may be constructed with the lowest floor one foot above the base flood elevation in accordance with the following requirements.
 - i. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and
 - ii. Prior to the issuance of a building permit for the structure, 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.
- c. Accessory structures that are not enclosed and do not have more than one ridged wall may be constructed at grade in accordance with the following requirements.
 - i. Must have structural and non-structural components constructed of flood damage resistant material to an elevation of at least two feet above the base flood elevation. Flood damage materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;
 - ii. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to

prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and

- iii. Prior to the issuance of a building permit for the structure, 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.

5. Additions to existing structures.

- a. Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory structure that is considered a post-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure, provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation. Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory structure that is considered a pre-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure.

- c. **Floodways.** Floodways are designated areas located within the special flood hazard areas established in subsection 4(b) of this article (basis for establishing the special flood hazard areas). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and
2. If the preceding subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection 6 of this article (provisions for flood hazard reduction).

Section 7. Appeal and Variance Procedure

- a. Board of Appeals. The Board of County Commissioners shall act as the Board of Appeals. The Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this article.

- b. Appeals. An appeal may be filed by any person, firm or corporation aggrieved by any order, requirement, determination or final decision made by the Floodplain Administrator in the enforcement or administration of this article, in accordance with the provisions of Article 27 (Appeal Procedure).

- c. Variances. An application for a variance from the requirements of this article may be made by any person, firm or corporation with a legal interest in the property for which the variance is being sought, in accordance with the provisions of Article 28 (Variances).

1. Required Findings. In considering applications for a variance, and in addition to the requirements of outlined in Article 28 (Variances), the Board of Appeals shall consider all technical evaluations, all relevant factors, and the standards specified in this article, including:

- a. The danger to life and property due to flooding or erosion damage;
- b. The danger that materials may be swept onto other lands to the injury of others;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with the existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges

- I. Any other factor deemed relevant by the Board of Appeals.
2. Upon consideration of the factors in subsection(7)(c)(1) and the purposes of this article, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose of this article.
3. Conditions for variances.
 - a. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this subsection.
 - b. Variances shall not be issued within the identified floodplain if any significant increase in flood levels during the base flood discharge would result.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - e. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation lower than two (2) feet above the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

Section 8. Penalties for Violations

Penalties for violation of this article shall be in accordance with the provisions of Article 31 (Penalties for Violation).

Section 9. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Agri-Tourism

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 28 AGRI-TOURISM

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

Section 28 Agri-Tourism

Agri-Tourism and Agriculture Recreation may be permitted in an Agricultural District as a special use. All persons, entities or organizations wishing to establish the use of Agri-Tourism 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 Recreation. An agriculture recreation use combines agricultural production with commercial recreation uses that are ancillary to the primary agricultural use and in conjunction with a single-family dwelling.

Agri-Tourism. Agritourism involves any agriculturally based operation or activity that brings the public, as visitors, to a farm or ranch.

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

Events

1. Burleigh County Commission is authorized to grant a special use permit for the following uses:
 - a. Celebration, ceremony, wedding, reception,
 - b. Hayrides, farm animal viewing and petting, tours of grounds and facilities,
 - c. Corporate function, or similar activity for the benefit of someone other than the property owner, involving the gathering of individuals assembled for the common purpose of said event,
 - d. "Farmstay"- Air B&B or short-term rental,
 - e. Number of events must be tied to parking requirements.

Permanent Uses

1. Burleigh County Commission is authorized to grant an Agriculture Recreation Special use permit for;
 - a. U-Pick orchard or farm: any farm, ranch, orchard or green house with a seasonally recurring ancillary recreational use and/or direct sale to customers,

- b. Production or manufacture of value-added products derived, in part, from produce or animals grown on site, or on land within **region,**
- c. Storage of products allowable for sale in this section,
- d. Domestic Winery as licensed through NDCC -5-01-17,
- e. Domestic Distillery as licensed through NDCC 5-01-19,
- f. Brewery Taproom as licensed through NDCC 5-01-21,
 - i. **Section 1.d.e.f would be restricted to number of events per year.**
 - i.a. **Minimum per 12 times on season.**
 - i.b. **Must be tied to available parking.**

2. Agriculture Recreation may be permitted in any A – Agricultural District as a special use, provided:

- a. The use is ancillary to the primary agricultural use and in conjunction with an owner-occupied single-family dwelling.
- b. The lot in which the use is located is at least (40) acres in area, or the aliquot part of a corrective section intended to compromise a quarter-quarter section, provided such aliquot part is not less than thirty-five (35) acres in size.
- c. Registration with the North Dakota Secretary of State as an agricultural use or ranch.
- d. Site design and building(s) must conform to all applicable requirements of the **ND State Building Codes as adopted by Burleigh County.**
- e. The use of all setbacks a minimum of **100'** feet from all adjacent properties.
- f. Sound generated by the use shall meet the requirements outlined in NDCC.
- g. Outdoor light fixtures shall be directed so that there will not be any direct light visible above a height of five feet beyond any property lines. Light fixtures near adjacent property may require special shielding devices to prevent light trespass.
- h. Parking on grass and agricultural areas may be permitted for limited seasonal events; however, parking areas shall be gravel and parking ratios shall be determined in accordance with Article 10 Automobile Parking, for on-seasonal events occurring more than twelve (12) times per year.
- i. **Under certain circumstances, application of mitigation for dust control may be a requirement as directed by the County Engineer.**

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

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

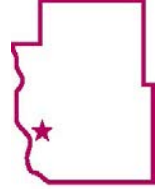
Mark Splonskowski, Burleigh County Auditor/Treasurer

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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AGENDA

April 10, 2024

1. Roll Call
2. Approval of the March Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Peaceful View Subdivision
 - 3-2 Fleck Subdivision
 - 3-3 The Hill Top PUD
4. Public Hearing Agenda
 - 4-1 Baker Subdivision
 - 4-2 Article 21 – Floodplain District
 - 4-3 Burnt Creek Farm Special Use Permit
5. Other Business:
 - 5-1 Notification Distance
6. Adjourn – Next meeting – May 8, 2024




PLANNING AND ZONING
COMMISSION

April 10, 2024

Agenda Item 3-1 Peaceful View Subdivision
Zoning Change

Application for a Preliminary Subdivision and Zoning Change

Project Summary	
Consent Agenda:	Peaceful View Subdivision and Zoning Change from A to R1
Status:	Request for a public hearing
Petitioner/Developer	Duane Small
Engineer	Mark Isaacs, Independent Land Surveyors
Location: Exhibit 3-1.1 Location Map 	<i>Part of the South 1/2 of Section 11, Part of Lot B and Part of the North 1/4 of Section 14, Township 137 North, Range 80 W in Burleigh County</i>
Project Size:	17.89 acres divided into two (2) lots

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



History/Description

Burleigh County was approached in March regarding the platting of 17 acres into a two (2) lot subdivision. A preliminary review was held with the county review staff and the petitioner. Attending the review meeting were: County Planning and Engineering Staff, Rural Fire and Mark Isaacs-Independent Land Surveyor representing Duane Small

The proposed subdivision offers some challenges because of its location and the location of several buildings on the property. The original homestead was developed before the county section lines were in place. Because of this the house and several buildings are located in what would become the county section line right of way. The Burleigh County Planning and Zoning Commission January 10, 2024 meeting requested the Burleigh County State Attorney's opinion on whether the section line could be vacated on the plat with the following note:

1. No construction of new structures allowed in designated Public Right of Way.
2. Structures existing in Public Right of Way on or before filing of this plat may remain.

The State Attorney opinioned the section line to be vacated before the property could be platted. (attachment 3-1-2) The section line was vacated by the Board of Burleigh County Commissioners at the March 4, 2024 meeting. (see attachment 3-1-3) 's

The preliminary plat was resubmitted on March 21, 2024 for the April 10, 2024 meeting. The section line has been vacated and alternative access to the US Army Corp of Engineers land located on the west side of the property has been provided.

The zoning change request from A-Agricultural Zoning to R1- Rural Single Family Residential is an appropriate zoning change. The proposed lots are under ten (10) acres and will not qualify for A-Agricultural Zoning which requires a minimum of ten (10) acres. The surrounding properties are a mix of A-Agricultural and R1-Rural Single Family Residential.



Exhibit 3-1-5 Subdivision Site Map

Staff Findings:
Preliminary Plat

1. This subdivision fulfills the requirements for a Preliminary Plat as per Article 33, of the Burleigh County Zoning Ordinance.
2. The Stormwater Management Plan or Waiver must be submitted.
3. A paving waiver will be requested
4. A section line vacation has been approved.
5. This preliminary plat has been submitted to all reviewing entities. Changes and corrections have been addressed.



PLANNING AND ZONING COMMISSION

April 10, 2024

Staff Findings: Zoning Change

1. The zoning change from A-Agricultural to R1-Rural Single Family Residential fulfills the requirements of Article 12 of the Burleigh County Zoning Ordinance.
2. The zoning change is consistent with properties in the surrounding area.

Planning Staff Recommendation

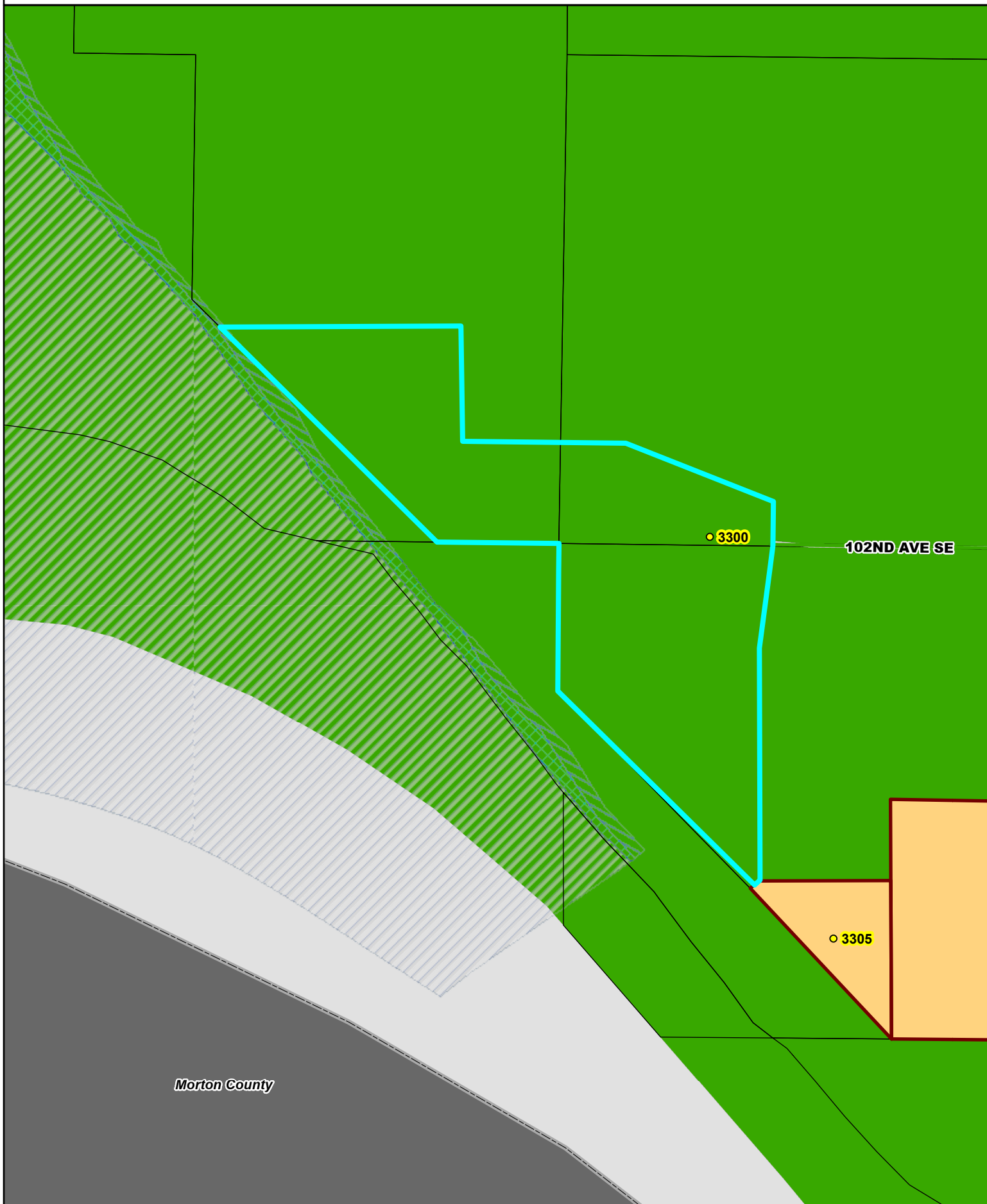
The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 12 & 33. Staff recommends approval of the preliminary plat and zoning change and requests for a public hearing.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

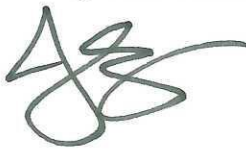


BURLEIGH COUNTY STATE'S ATTORNEY

JULIE LAWYER
STATE'S ATTORNEY

Memo

To: Burleigh County Planning and Zoning Commission

From: Julie Lawyer, State's Attorney 

Date: January 30, 2024

Re: Opinion and guidance on section lines in Burleigh County

You had requested a legal opinion regarding specific questions related to section lines. Please see the answers to your questions below.

1. Should section line right of ways be considered vacated when the section line right of way was established after a building was constructed?

The law does not allow for the automatic vacation of a section line, other than through the platting of townsites, additions to townsites, or a subdivision pursuant to N.D.C.C. Ch. 40-50.1. If the plat is such, then section lines are eliminated as discussed below in favor of the public streets and alleys that are part of the townsite or subdivision.

If the plat does not fall within the exception, the procedure for vacating a section line pursuant to N.D.C.C. § 24-07-03 must be followed. That would require a petition to the Board of County Commissioners by a person having an interest in the adjoining land or portion of the adjoining land. There must be a public hearing and a finding by the commissioners of "public benefit", the section line may be closed. "Public benefit" is not defined by statute.

Your example regarding Peaceful View Subdivision indicates a home and buildings were built within the section line before the section line was established. "Congressional section lines" was made in 1866 to grant the right of way for highways over public lands. See *Walcott Township v. Skauge*, 6 N.D. 382, 71 N.W. 544 (1897). That would mean the structures were built prior to 1866. It would also indicate the buildings were erected on public lands. "Public benefit" could include the preserving of historical buildings, even if there is no declaration of the buildings as a historical site.

2. Does platting of property over a section line eliminate the section line if an alternative access / road is platted or available?

Pursuant to N.D.C.C. § 24-07-03, "the congressional section lines are considered public roads open for public travel to the width of thirty-three feet on each side of the section lines." This does not include section lines within the limits of incorporated cities, or platted townsites, additions, or platted subdivisions recorded prior to July 1, 1987 under former

N.D.C.C. Ch. 40-50 or recorded after July 1, 1987 pursuant to N.D.C.C. § 40-50.1-01 through 40-50.1-17.

Former Chapter 40-50 and current N.D.C.C. Ch. 40-50.1 is for the platting of townsites, additions to townsites, or a subdivision. Only those plats can eliminate a section line as those plats are required to include all streets, alleys, and public grounds. Any other plat of land that is not platted pursuant to N.D.C.C. Ch. 40-50.1 cannot eliminate a section line.

a) If platting eliminates the section line, does the section line still need to be noted on the plat?

N.D.C.C. Ch. 40-50.1 does not require section lines to be noted on the plat.

b) Does the section line right of way have to be vacated before platting of the subdivision or does the platting over the section line remove the requirement of a vacation?

If the plat is not for a townsite, addition to a townsite, or a subdivision pursuant to N.D.C.C. Ch. 40-50.1, the section lines must be included in the plat and, if the landowner wants the section line vacated, they must petition the Burleigh County Commission who must hold a public hearing and make findings as required in N.D.C.C. § 24-07-03.

If the section line is vacated, the vacation should be noted on the plat.

3. When platting a subdivision with buildings built on or in a section line right of way allow a notation for the buildings to exist, but not be enlarged, or rebuilt if deemed over 50% destroyed by fire, natural disaster, or other means.

A note regarding the existence of buildings on the section line is not advisable. If a building is going to be allowed on a section line, the procedures for vacating that portion of the section line, at a minimum, should be followed. N.D.C.C. § 24-06-28 prohibits the placement of a permanent obstruction within the vertical plane of thirty-three feet of any section line or within the right of way of any highway. In order to do so, the person must obtain written permission from the board of county commissioners or the board of township supervisors, as appropriate. The section line either must be closed pursuant to N.D.C.C. § 24-07-03 or the topography of the land along the section line is such that construction of a road is impracticable.

While there is no requirement regarding what constitutes "written permission", a note on the plat is not the most appropriate way to provide the written permission. It would be best to have the board consider whether to close the section line or provide its opinion and basis for the opinion that the topography is such that construction of a road is impracticable.



964212

\$0.00
Page: 1 of 2
3/19/2024 1:05 PM
Burleigh County

AFFIDAVIT OF SECTION LINE CLOSURE

AFD 24-004

The Burleigh County Commission at a regular scheduled meeting on March 5, 2024, duly closed the following listed section line as appearing below.

Witness my hand and seal this 19 day of March, 2024



Mark Splonskowski,
Burleigh County Auditor

SECTION LINE CLOSURE

The section line vacation is as described below:

The section line situated on the common line between Sections 11 and 14, Township 137 North Range 80 West of the 5th Principal Meridian, Burleigh County, ND.



COUNTY PLANNING

AFFDT

Brandi Chambers Deputy

964212

\$0.00

Page: 2 of 2

3/19/2024 1:05 PM

Burleigh County



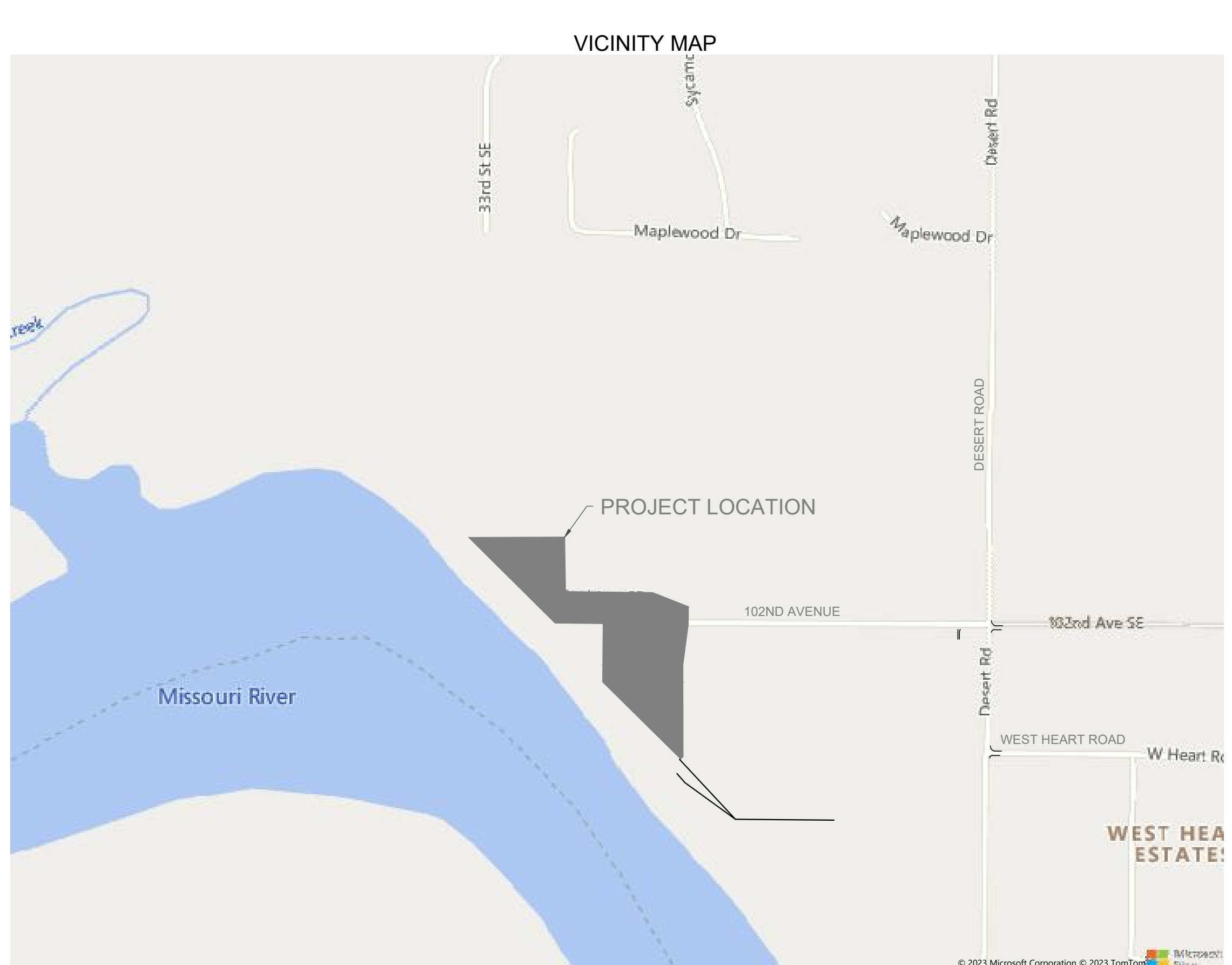
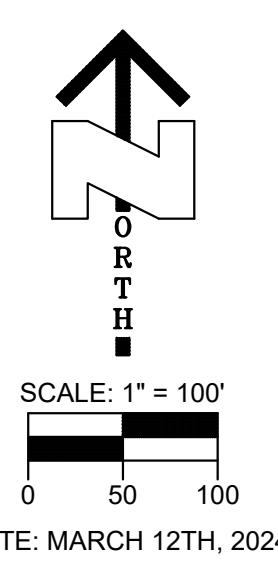
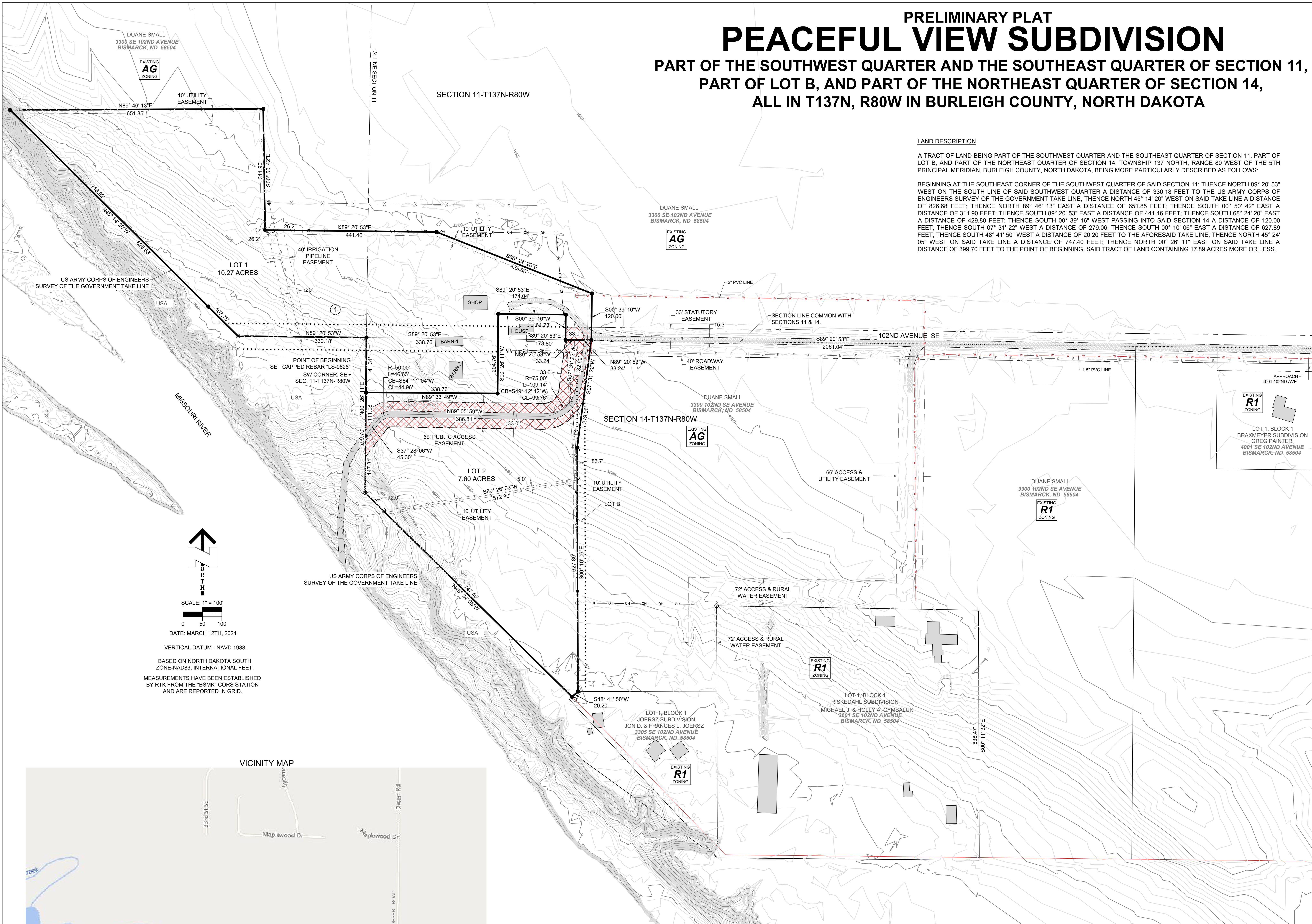
PRELIMINARY PLAT PEACEFUL VIEW SUBDIVISION

PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11,
PART OF LOT B, AND PART OF THE NORTHEAST QUARTER OF SECTION 14,
ALL IN T137N, R80W IN BURLEIGH COUNTY, NORTH DAKOTA

LAND DESCRIPTION

A TRACT OF LAND BEING PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, PART OF LOT B, AND PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 137 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 11; THENCE NORTH 89° 20' 53" WEST ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 330.18 FEET TO THE US ARMY CORPS OF ENGINEERS SURVEY OF THE GOVERNMENT TAKE LINE; THENCE NORTH 45° 14' 20" WEST ON SAID TAKE LINE A DISTANCE OF 826.68 FEET; THENCE NORTH 89° 46' 13" EAST A DISTANCE OF 651.85 FEET; THENCE SOUTH 00° 50' 42" EAST A DISTANCE OF 311.90 FEET; THENCE SOUTH 89° 20' 53" EAST A DISTANCE OF 441.46 FEET; THENCE SOUTH 68° 24' 20" EAST A DISTANCE OF 429.80 FEET; THENCE SOUTH 00° 39' 18" WEST PASSING INTO SAID SECTION 14 A DISTANCE OF 120.00 FEET; THENCE SOUTH 07° 31' 22" WEST A DISTANCE OF 279.06; THENCE SOUTH 00° 10' 06" EAST A DISTANCE OF 627.89 FEET; THENCE SOUTH 48° 41' 50" WEST A DISTANCE OF 20.20 FEET TO THE AFORESAID TAKE LINE; THENCE NORTH 45° 24' 05" WEST ON SAID TAKE LINE A DISTANCE OF 747.40 FEET; THENCE NORTH 00° 26' 11" EAST ON SAID TAKE LINE A DISTANCE OF 399.70 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 17.89 ACRES MORE OR LESS.



LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- EXISTING BUILDING
- EXISTING GRAVEL
- EXISTING FENCE
- EXISTING IRRIGATION PIPELINE
- EXISTING OVERHEAD ELECTRIC
- EXISTING UNDERGROUND ELECTRIC
- EXISTING WATER LINES
- EXISTING POWER POLE
- EXISTING PEDESTAL
- VACATED LOT LINES
- PUBLIC ACCESS EASEMENT

ACREAGE TABLE

	SE 1/4 SEC 11	SW 1/4 SEC 11	NE 1/4 SEC 14
LOT 1	10.27 ACRES	2.67 ACRES	6.51 ACRES
LOT 2	7.62 ACRES	0.27 ACRES	7.35 ACRES
TOTAL	17.89 ACRES		

- 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 - AGRICULTURAL
 4. THE 66' PUBLIC ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF THE PUBLIC.
 5. THE SECTION LINE THAT RUNS THROUGH LOT 1, BLOCK 1 HAS BEEN VACATED PER RESOLUTION #

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

PEACEFUL VIEW SUBDIVISION
PART OF THE S. 1/2 SEC. 11-137-80
PART OF THE N. 1/2 SEC. 14-137-80
BURLEIGH, NORTH DAKOTA

SHEET: 1 OF 1 JOB NUMBER: 23154
SCALE: 1" = 100' DWG REVISION DATES
DRAWN BY: MRS - - -
DWG DATE: 11/10/23 - - -
DWG NAME: 23154 Preliminary Plat.dwg

Independent Land Surveying & Engineering

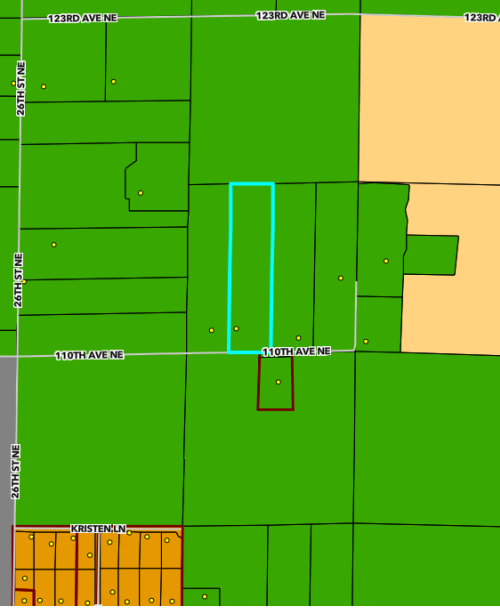
4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-563-5194
Cell: 701-595-2078
mark@surveyind.com

OWNER:
DUANE SMALL
3300 SE 102ND AVE
BISMARCK, ND 58504

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Agenda Item 3-2

Application for a Preliminary Subdivision

Project Summary	
Consent Agenda:	Fleck Subdivision – A three (3) lot subdivision
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Kurt & Dana Fleck
Engineer	Mark Isaacs Independent Land Surveying and Engineering
Location:	Part of the SE 1/4, Section 7 and Part of the NE 1/4, Section 18, All in T137N, Range 79W, Burleigh County Attachment 4-1 Location Map
	
Project Size:	40 acres more or less A- Agricultural Zoning
Petitioners Request	Approval of the preliminary plat. Call for a public hearing

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

April 10, 2024



Attachment 3-2-3 Site Map



PLANNING AND ZONING COMMISSION

April 10, 2024

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. Zoning will not be changed.
3. A paving waiver will be requested
4. A Stormwater Management Plan or Waiver Request must be submitted.
5. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.

Planning Staff Recommendation

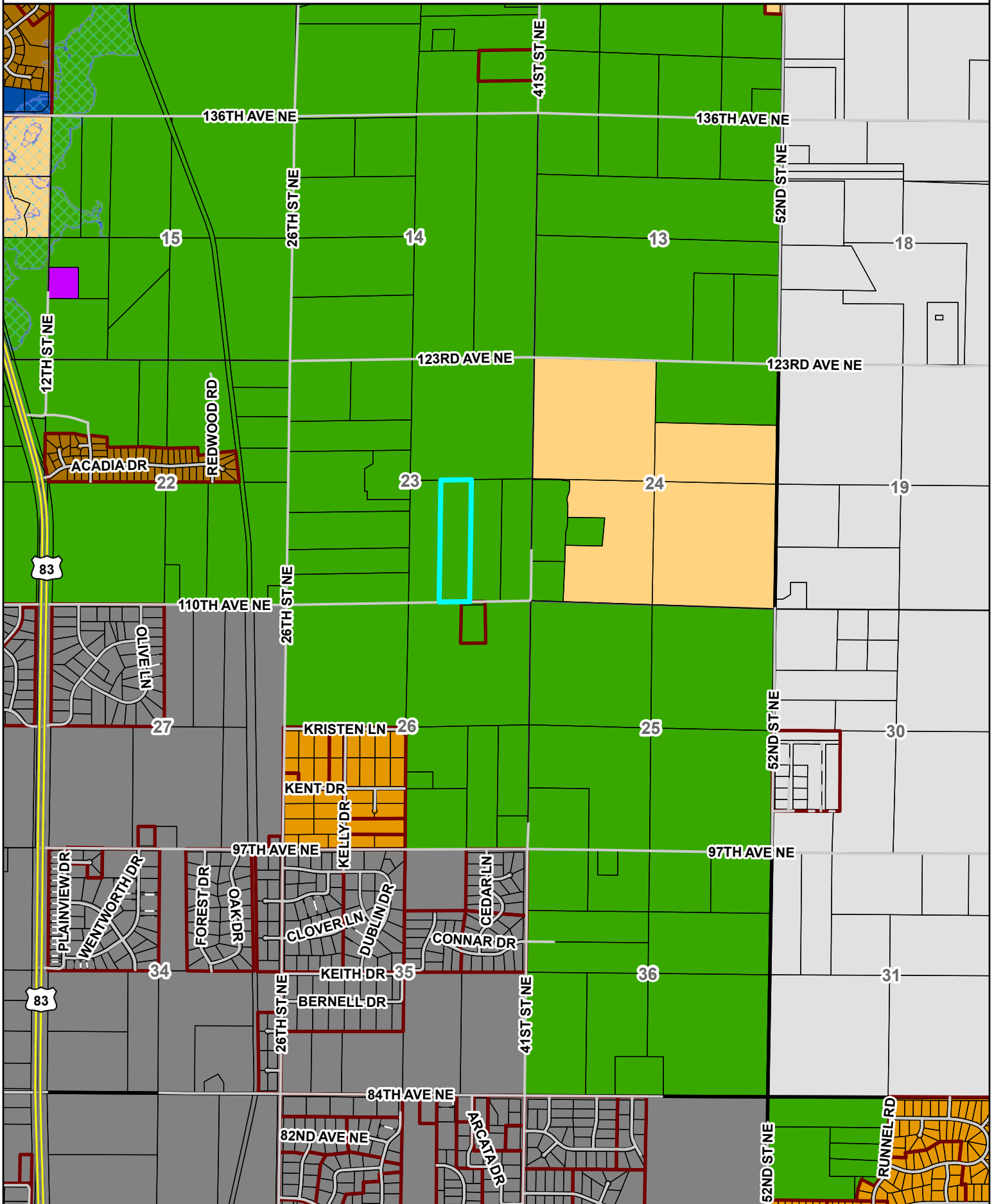
The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 33. Staff recommends approval of the preliminary plat and calling for a public hearing.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

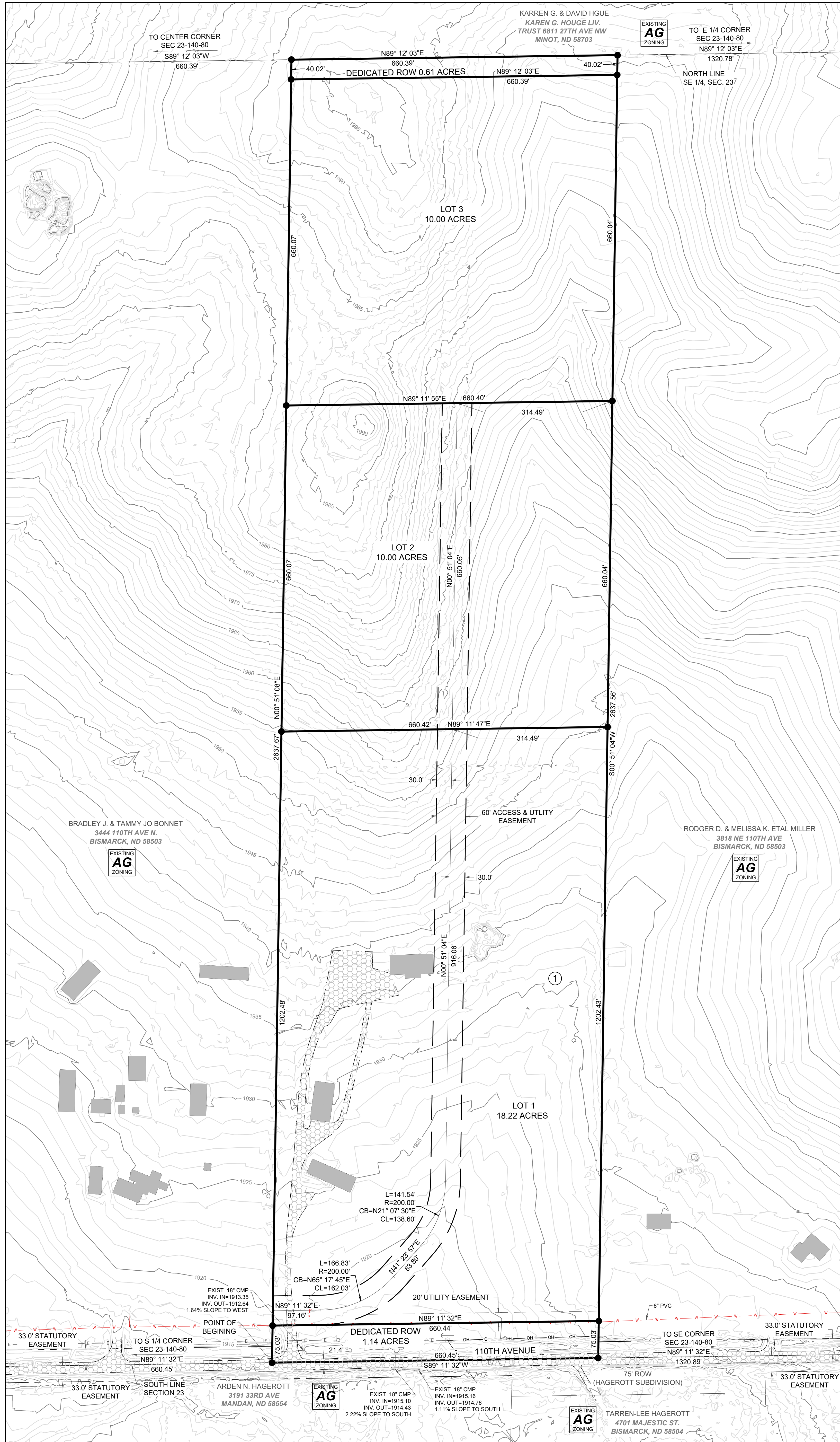
1. Approve the preliminary plat. Call for a public hearing.
2. Approve the preliminary plat with conditions and call for a public hearing after all condition have been completed.
3. Deny the preliminary plat with reason.
4. Table the preliminary plat for more information.

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



PRELIMINARY PLAT FLECK SUBDIVISION

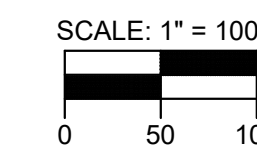
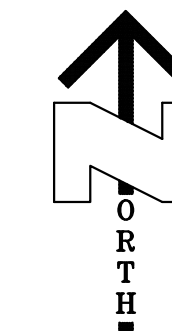
PART OF THE SE 1/4 SECTION 23 T140N, R80W IN BURLEIGH COUNTY, NORTH DAKOTA



LAND DESCRIPTION

A TRACT OF LAND BEING THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 140 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 89° 11' 32" EAST ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 660.45 FEET TO THE SOUTHWEST CORNER OF SAID HALF-HALF-QUARTER AND THE POINT OF BEGINNING; THENCE NORTH 00° 51' 08" EAST ON THE WEST LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 2637.66 FEET TO THE NORTHWEST CORNER OF SAID HALF-HALF-QUARTER; THENCE NORTH 89° 12' 03" EAST ON THE NORTH LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 660.39 FEET TO THE NORTHEAST CORNER OF SAID HALF-HALF-QUARTER; THENCE SOUTH 00° 51' 04" WEST ON THE EAST LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 2637.56 FEET TO THE SOUTHWEST CORNER OF SAID HALF-HALF-QUARTER; THENCE SOUTH 89° 11' 32" WEST ON THE SOUTH LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 660.45 FEET TO THE POINT OF BEGINNING; SAID TRACT OF LAND CONTAINING 39.97 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



DATE: MARCH 5TH, 2024

VERTICAL DATUM - NAVD 1988.

BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.

MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE "BSMK" CORS STATION AND ARE REPORTED IN GRID.

LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- EXISTING BUILDING
- ▨ EXISTING GRAVEL
- x- EXISTING FENCE
- - - EXISTING WATER LINE
- o-o- EXISTING OVERHEAD ELECTRIC
- EXISTING POWER POLE
- ⊠ EXISTING PEDESTAL
- ★ EXISTING DRIVE APPROACH
- ▨ FRESHWATER EMERGENT WETLAND
- ▨ NATIONAL WETLANDS INVENTORY PER THE NWI MAPPER

OWNER:
KURT & DANA FLECK
3566 110TH AVENUE N
BISMARCK, ND 58503

ACREAGE TABLE

LOT 1	10.00 ACRES
LOT 2	10.00 ACRES
LOT 3	18.22 ACRES
DEDICATED ROW	1.75 ACRES
TOTAL	39.97 ACRES

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 - AGRICULTURAL
4. THE ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOTS 1, 2, AND 3, BLOCK 1.

VICINITY MAP



PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

FLECK SUBDIVISION
PART OF SE 1/4 SEC. 23-140-80
BURLEIGH, NORTH DAKOTA

SHEET: 1 OF 1 JOB NUMBER: 24012
SCALE: 1" = 100'
DRAWN BY: MRS. DATE: 2/20/24
DWG DATE: 2/20/24
DWG NAME: 24012_Survey.dwg

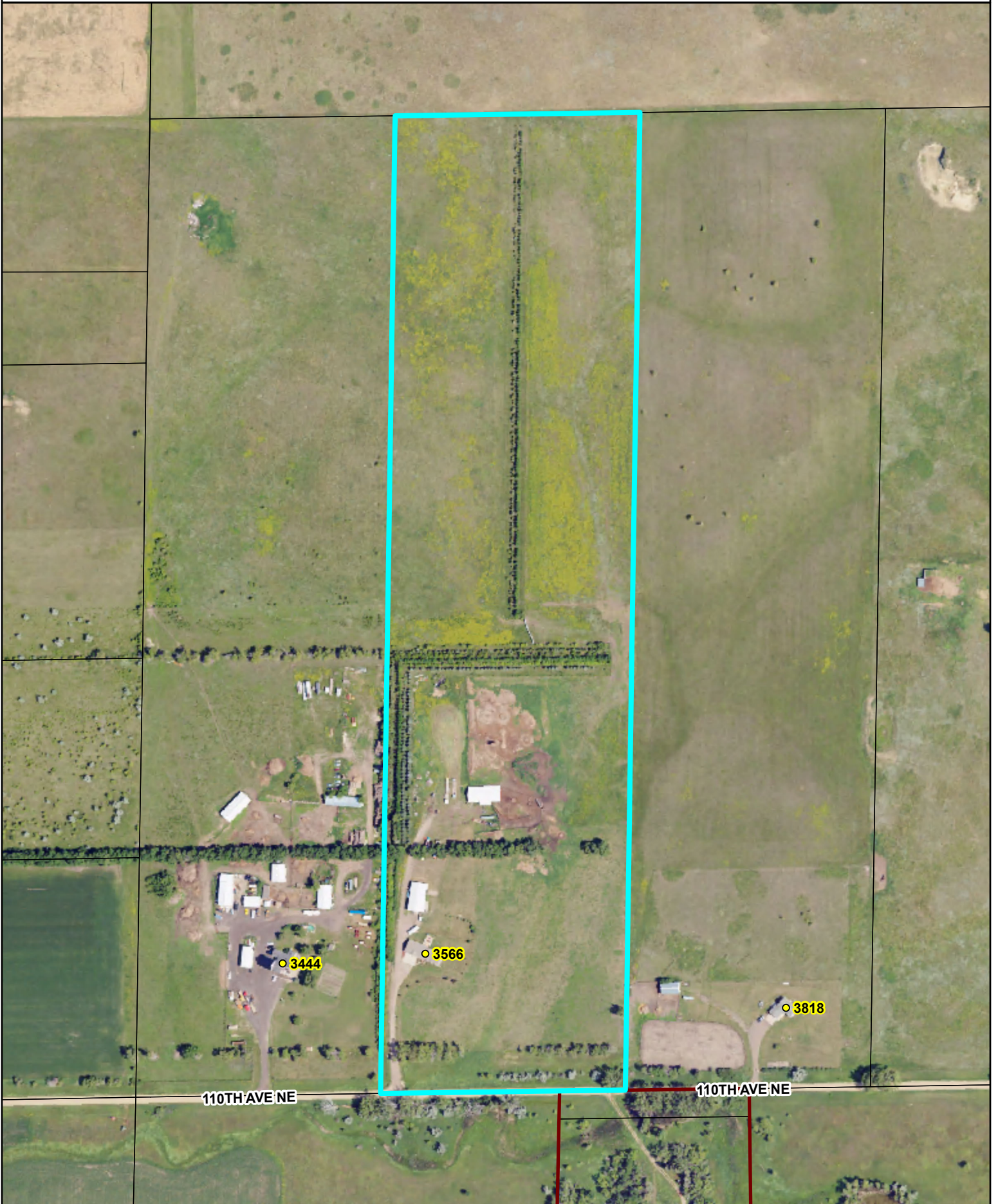
Independent
Land
Surveying &
Engineering

4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-663-5184
Cell: 701-595-2079
mark@isurveynd.com

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

EX 3-2-3

N
3/26/2024



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Agenda Item 3.-3

Application for a Preliminary Zoning Change

Project Summary	
Consent Agenda:	The Hilltop Zoning Change A-Agricultural to PUD
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Elliot Carvell and Kyle Ova
Engineer	Toman Engineering
Location:	<i>Part of Burnt Creek Township, Section 05, Lot D in S 1/2</i>
<p>Exhibit 3.3-3-1Location Map</p> 	<p>Addressed as: 800 NW 149th Ave.</p>
Project Size:	9.3 acres more or less
Petitioners Request	Approval of the PUD, call for a public hearing.

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



History/Description

Burleigh County was approached by Elliot Carvell and Kyle Ova regarding their plans for a wedding/events location in Burleigh County. They would like to plat the 42 acres located at 800 149th Ave. NW. The subdivision would create two (2) separate lots. Lot 1 containing 9.3 acres more or less. Lot 2 containing 33 acres more or less. The developers requested a zoning change from A-Agricultural to Commercial. Burleigh County Planning staff did not recommend a zoning change to C-Commercial because of the allowable uses did not conform to the surrounding zoning. Staff recommended a PUD zoning which would strictly limit the uses on the property. Lot 1 would be rezoned as a PUD – Planned Unit Development to hold weddings and events. During the pre-application review meeting with county staff it was determined there were several items that would be required before platting, including but not limited to adjusting the Master Roadway Plan. The items discussed in the pre-application meeting will add additional costs to the project.

It was recommended by county staff to apply for the PUD zoning change as the first step in the development of their project. The developers submitted a preliminary plat with the acreage for the PUD outlined, with proposed buildings overlaid on the plat, (see Attachment 3-3-2) and the proposed PUD. (see Attachment 3-3-3) Preliminary Development Plan Attachment 3-3-4.



Exhibit 3-3-2 PUD Area



Staff Findings:

1. This request fulfills the requirements of Article 20 – PUD Planned Unit Development.
2. Property is located on 149th Ave NW, a paved asphalt road.
3. Surrounding area has low population
4. Surrounding properties are 40 acre parcels on average. There are eight (8) properties within ¼ mile of the property.
5. 149th Ave NW and Highway 83 have designated turn lanes
6. The PUD zoning will stay with the land, but has strict limitation of the uses allowed in the PUD Zoning.
7. It is allowable to change the zoning on a property before platting. Property must be platted before the PUD is recorded and in effect.

Planning Staff Recommendation

The petition for a PUD Zoning Change meets all the requirements of Article 20 of the Burleigh County Zoning Ordinances. Staff recommends approve the Preliminary PUD and call for a public hearing.

Planning Commission Action

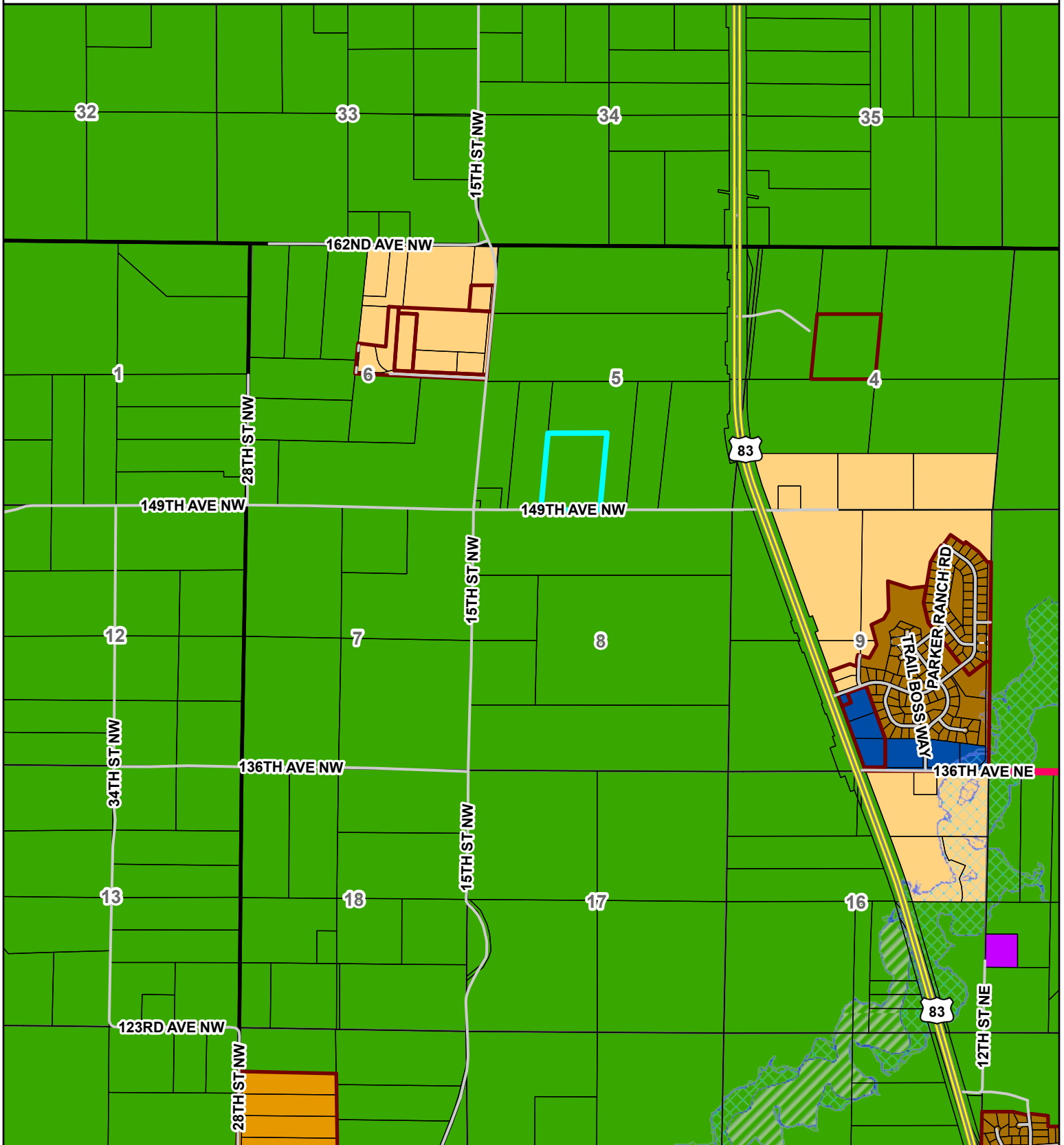
The Burleigh County Planning and Zoning Commission can:

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

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

EX 3-3-1

N
4/1/2024



PARCEL ID: 24-140-80-00-05-600 OWNER: CARVELL, ELLIOT C & KATHERINE M ACRES: 42.35
SITE ADDRESS: 800 NW 149TH AVE
MAIL ADDRESS: 800 149TH AVE NW, BISMARCK, ND 58503
LEGAL: BURNT CREEK TOWNSHIP Section 05 LOT D IN S1/2 IRR PLAT 255240; 816677 05-140-80



Planned Use Development Proposal

Event Venue

Summary:

This proposal is written on behalf of Elliot Carvell and Kyle Ova hereinafter referred to as the 'owners' and or the 'developers'. These developers are pursuing county permission to construct a wedding venue on property north of Bismarck. This property currently is 42.35 acres located at 800 149th Avenue NW, Bismarck and is the primary residence of Carvell which is zoned agricultural.

The owners are specifically seeking initial approval by the Planning and Zoning Commission via the use of Planned Unit Development (PUD) and ultimate approval by the Burleigh County Commission. The owners are not opposed to the alternative route of seeking a commercial zoning change for the land acres proposed for this project. The owners have followed necessary steps at this point by working with Toman Engineering for civil platting work, Plainview Design and Build for architectural and building support, both of which are in progress and ongoing.

This PUD requests the following permissions. This is, to allow construction and operation of a rural event venue that can accommodate weddings and corporate events such as meetings, fundraisers, and the like. Maximum seating will be set at five hundred persons, but it is not expected to commonly reach this maximum capacity. Basic elements of this venture will require a private driveway, graveled parking lot, venue building and outdoor space to accommodate outdoor weddings and gatherings. This PUD will cover approximately 10 acres of the existing 42.35 agricultural lot. The proposed venue building is estimated at 8,000 to 11,500 sq. ft., built to modern code and specifications. Two options for construction were proposed by Plainview and the owners have decided on 'option two, The Hilltop' option. See 'Plainview Design Overview' for these proposed details.

The owners have researched other venue applications that have not been successful in Burleigh County. The owners feel that this property has true potential to be approved due to multiple factors that are in its benefit. First is that the property is situated on 149th Ave NW which is a well-traveled paved asphalt roadway eliminating any concerns that gravel roadways may cause regarding dust mitigation. Current traffic is frequent throughout all hours of the day as this road serves as a through road to the private landfill located on 14108 34th St. NW. Currently heavy truck traffic is observed daily operating at this landfill. Secondly, this area is sparsely populated with no primary residences to the South, North, East, or West of the property on these forty-acre or larger neighboring plats. Lastly, this address is located within one half mile of Highway 83 North providing quick and easy access while not obstructing current traffic patterns. Highway 83 North and 149th Ave NW already have existing safety measures to include a Northbound, Southbound, and Westbound turn lane that can accommodate increased traffic flows from these proposals.

The physical building structure is still malleable at this point in design. However, the anticipated square feet is 8,000 to 11,500 encompassing .18 to .26 acres. Amenities and facilities will incorporate modern needs while preserving the rustic, rural and private charm of a countryside venue. More specific amenities that relate to this venue's clients will include:

- Restrooms
- Bridal suite
- Groom's lounge
- Commercial catering kitchen
- Ample parking; 200-250 spaces, gravel, assuming 1.5 to 2.5 acres or 350 sq. ft. per car
- ADA accessibility & modern fire code standards
- Entrance/ Vestibule
- Bar
- Reception and gathering areas both indoor and outdoor
- Breakout rooms

Scenic landscaping will utilize the natural landscape to enhance the venue's appeal. Consideration will be given to neighboring landowners to protect privacy and reduce noise. Other areas shall include appropriate and reasonable lighting both indoor and outside, seating areas and decorative foliage and landscaping where applicable.

The intent of this PUD proposal by its' developers is to clearly state its objectives, notify surrounding landowners and ultimately seek county approval. This PUD is narrowly focused and as it has and will describe, desires to develop, create and operate to county standards and expectations a unique countryside venue close to Bismarck. This venue will cater to the reasonable needs of its' commercial clients to provide weddings and host business and corporate events as desired. No overnight or lodging will be provided. This PUD request is tailored specifically to short term events that are expected to be most common on evenings and weekends. We believe that this objective is achievable and reasonable.

Portions of:

Burnt Creek Township, Section 05, Lot D in S1/2 IRR PLAT 255240; 816677 05-140-80
Parcel ID: 24-140-80-00-05-600

This PUD is subject to the following:

PUD Development Standards:

Location: See legal descriptions above.
Use: PUD request for 9.13 acre event hosting venue.
Lot size: 397,583 square feet or 9.13 acres.

Density: 1 planned PUD Plat for commercial purposes.
Lot Area Coverage: 3% of lot principal and accessory building.
Accessory buildings: Allowed per county standards.
Capacity: 500 person maximum capacity.

Accessory Buildings in Floodplain: Not in the floodplain, not applicable.

Building Height: Two story maximum, not to exceed 70' in height for principal building.

Foundations: All structures shall be built with frost protected foundations. In determining soil conditions for this lot, a site-specific design by a Registered Design Professional for the foundation system will be acceptable.

Architectural Drawings: Following approval of this PUD, the owners will begin detailed architectural design. Architectural drawings may be submitted and will provide sufficient detail to obtain all necessary building permits per Burleigh County standards.

This PUD shall:

1. Maintain a singular and site-specific sewer system.
2. Maintain retention/detention ponds if required by the stormwater management plan.

Sewer System: An individual septic system shall be allowed on this lot separate from any existing sewer systems present. PUD Developers shall install and maintain by the owners per Burleigh County Building Department regulations.

- a. Private Sewage System:
 - i: Individual septic system: This individual private septic system shall be designed by a registered design professional.

Lot Access: Fixed approaches, as per initial design, may only be modified and/or moved with the special approval of the Burleigh County Engineer and Highway Department. The driveway approach shall be permitted as issued by Burleigh County Highway Department.

1. The approach shall be a fixed single approach private driveway.
2. U.S. Post Office approved mail receptacle shall be provided in predetermined location.

Platting: Any development shall be platted to ensure future conformity with the PUD and to give Burleigh County assurance this PUD shall only be amended in accordance with Article 20 Section 5 (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Burleigh County Planning & Zoning Commission.

- a. Flood Plains and SFHA:
 - i. Not applicable

Lot Modifications: Any subsequent significant modification of lots shall be subject to the requirements of Article 33 Section 12. of Burleigh County Zoning Ordinance of Ordinances.

Phasing: Development shall be developed in phases.

Issuance of Building Permits: Building permits shall not be issued until all development standards for each phase are approved and completed to current Burleigh County standards.

Zoning: After PUD approval, parcels shall be zoned as a PUD per Burleigh County zoning regulations.

Green Space: Green spaces reserved for open land, private sewage system, and stormwater detention/retention areas shall be owned by the property owner and subject to the discounted tax rate as per determined and common practice by the Burleigh County Auditor/Assessor. The owners may elect to use green spaces for hosting outdoor wedding ceremonies or gatherings as an extension to the principal and accessory buildings.

- a. Site Plan: A minor site plan shall be provided that contains insofar as applicable, the following minimum information:
 - i. Areas which are to be conveyed within to be used for this PUD purpose.
 - ii. Proposed exterior PUD property line boundaries.
 - iii. Private driveway and parking lot.
 - iv. Surrounding land uses, zoning and ownership.

Infrastructure Installation: Developer shall install an individual septic system and water facilities per the Burleigh County Zoning Ordinance. The private gravel driveway shall be built to Burleigh County standards. The Developer shall submit all necessary design documents for the approval of the storm water plans.

- a. A utility service plan shall be provided showing existing utilities in place and all existing and proposed easements.

Infrastructure Funding: Any development shall fund the cost of initial engineering design, sanitary sewer, grading, water, and road installation.

Infrastructure Maintenance and Repair: The private landowner shall be responsible for future repairs and maintenance of the private driveway and parking area. The private owner shall be responsible for future repairs and maintenance of sanitary sewer facility, storm water management and for mowing of detention/retention pond and common areas.

- a. A site plan will detail proposing driveway, parking and building locations.

Parking and Traffic Rules and Regulation: Parking and enforcement shall conform to Article 10, Burleigh County Zoning Ordinance.

Snow Removal: Snow removal on private property is the responsibility of the owner.

Garbage Collection: Garbage collection shall be the responsibility of the individual property owner.

Monument Signs: No monument signs will be required to be installed but may be at the discretion of the developer.

Internal Nocturnal Illumination: No street lighting will be required to be installed but may be installed at a later date.

Easements: All easements shall be shown on the plat.

Capital Improvement & Maintenance Fund: All future repairs and maintenance of this private property shall be the responsibility of the owner.

Grantor/Grantee of Easements: The only easement constructed will be at the approval of the Highway Engineer and the Burleigh County Zoning and Planning committee.

Contractors Office: No contractor's office is proposed for this project.

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

Section 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage and adoption.

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

Final Passage and Adoption:

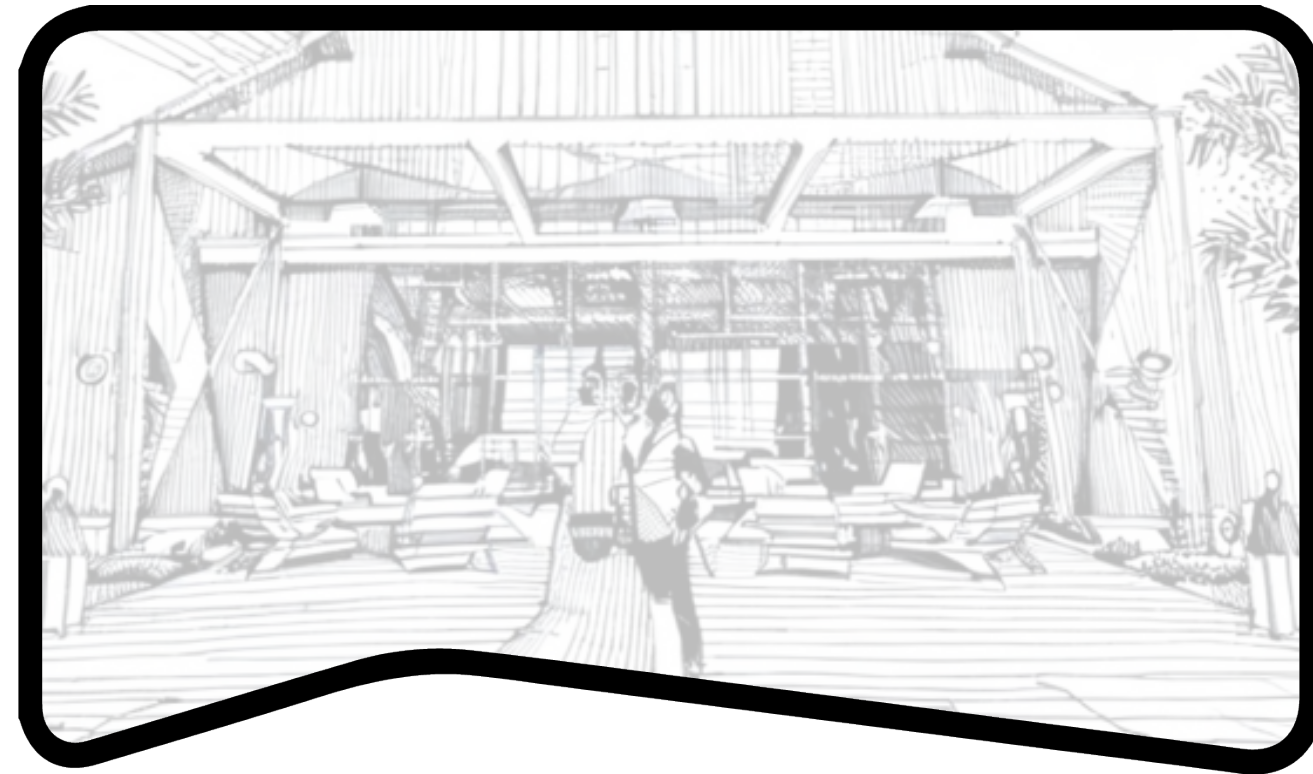
I, Mark Splonkowski, do hereby certify that I am the duly elected auditor, of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting on to be determined.

____ day of _____

IN WITNESS WHEREOF, I have hereto set my hand and seal of Burleigh County

this _____ day of _____, 2024.

Mark Splonkowski
Burleigh County Auditor/Treasurer





Site:

Address | 800 149th Ave Nw, Bismarck, nd 58503

Client:

- Elliot Carvell
- Kyle Ova

Project Overview: Create an enchanting and picturesque wedding venue in a rural setting that offers a unique and romantic experience for couples seeking a rustic and charming backdrop for their special day. The venue should encapsulate the tranquility and natural beauty of the countryside while providing modern amenities and services for hosting weddings and related events.

Client Profile: The target clientele includes couples seeking a rustic, outdoor, or countryside-themed wedding experience. The venue should cater to weddings of varying sizes, accommodating intimate gatherings to larger celebrations of up to 500 guests. Clientele may include local residents, destination wedding seekers, and those desiring a serene countryside ambiance for their wedding festivities. The space will double to also target clientele seeking a venue to host private/corporate events, fundraisers, conferences, etc.

Key Objectives:

400-500 Guest Capacity.

- 8,000 - 10,000 sq. ft. (.18-.22 acres)

Amenities and Facilities: Incorporate modern facilities and amenities while preserving the rustic charm. This includes restrooms, bridal suite, groom's lounge, catering kitchen, ample parking, and wheelchair accessibility.

- Entrance / Vestibule
- Restrooms
- kitchen
- Bar
- Reception / gathering space (6000 sq. ft.)
- Breakout rooms/ Bride and Groom suite

Parking: 200-250 spaces.

- Gravel
- Assume 1.5-2.5 acres for parking
- 350 sq. ft. per car
- 250 cars
- 87500 sq. ft. or 2 acres.

Scenic Landscaping: Utilize the natural landscape to enhance the venue's appeal. Consider elements like pathways, lighting, seating areas, and decorative foliage to create visually stunning and photogenic spots. Engage the Tree row in both options.



INSPIRATION / MOOD



Inspo Rural Barn

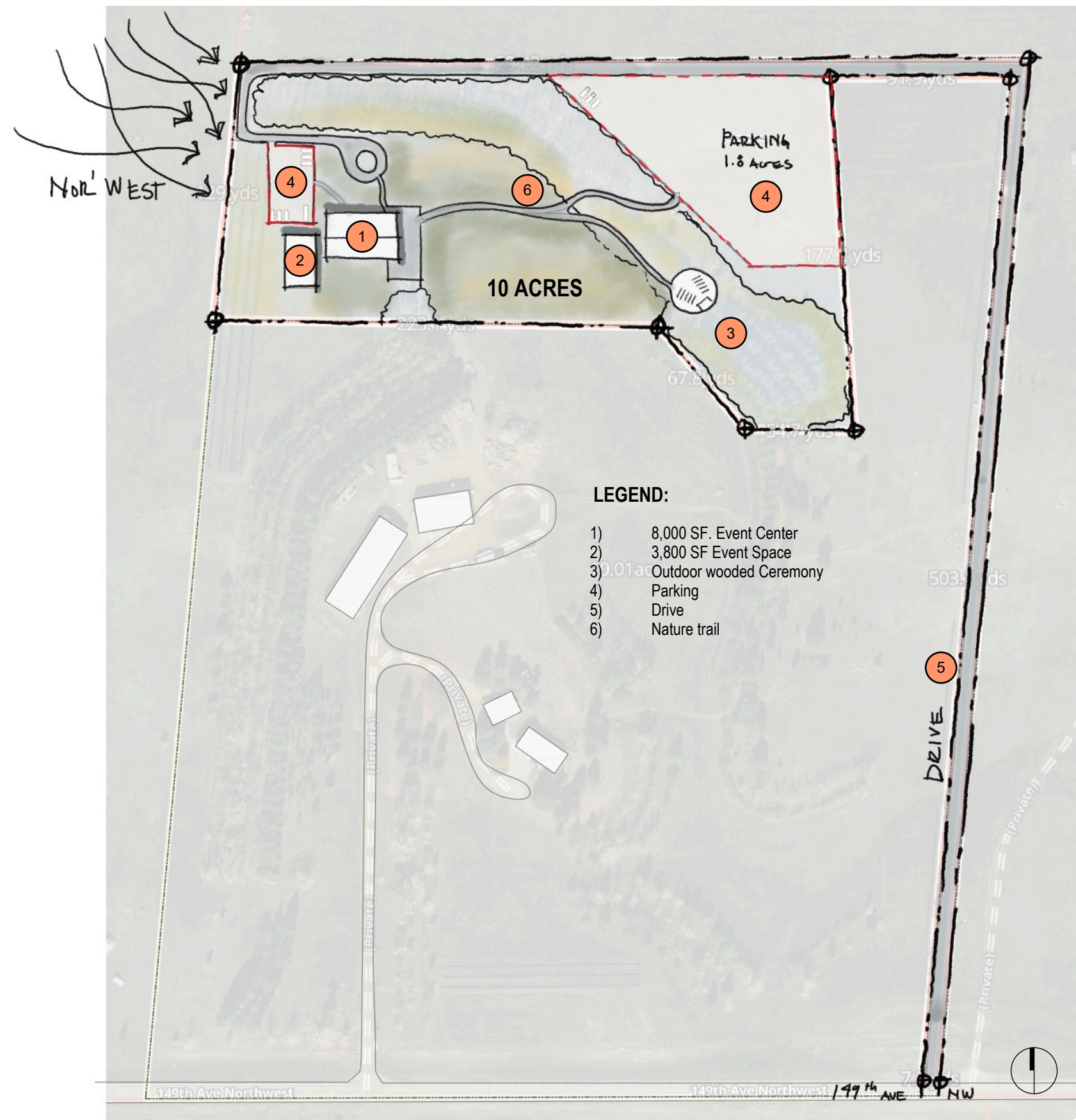




Inspo| Agricultural Winery







The Meadow | 10 acres

Nestled in a rural oasis, this wedding venue is a serene escape surrounded by majestic wooded trees. The setting exudes natural charm, offering a perfect blend of rustic allure and modern comforts.

Location Overview:

Situated on 10 Acres, the venue is strategically placed to offer seclusion and tranquility while being easily accessible. The meadow is gently sloped, providing natural vantage points for guests to enjoy panoramic views of the surrounding landscape.

Entrance and Parking:

A stretched out gravel driveway leads guests from the entrance gate to the heart of the venue. Ample parking areas, discreetly positioned and bordered by trees, ensure convenient and organized parking arrangements without compromising the natural aesthetics of the site.

Ceremony Space:

Nestled within the meadow's heart, a cleared area bordered by a natural tree line serves as the secondary ceremony space. A simple yet elegant wooden arbor or ceremonial structure may be placed here, providing a focal point for exchanging vows against a backdrop of swaying trees and open skies. The primary Ceremony space will be situated inside the permanent structure situated at the top of the meadow.

Reception Area:

In a spacious indoor area adjacent to the ceremony space, the reception festivities unfold. Beneath a canopy of twinkling lights suspended across the room, tables adorned with charming rustic decor eagerly await the guests. Within this setting, attendees can immerse themselves in the celebrations, surrounded by the serene ambiance of the indoor space.

Bridal Suite and Groom's Quarters:

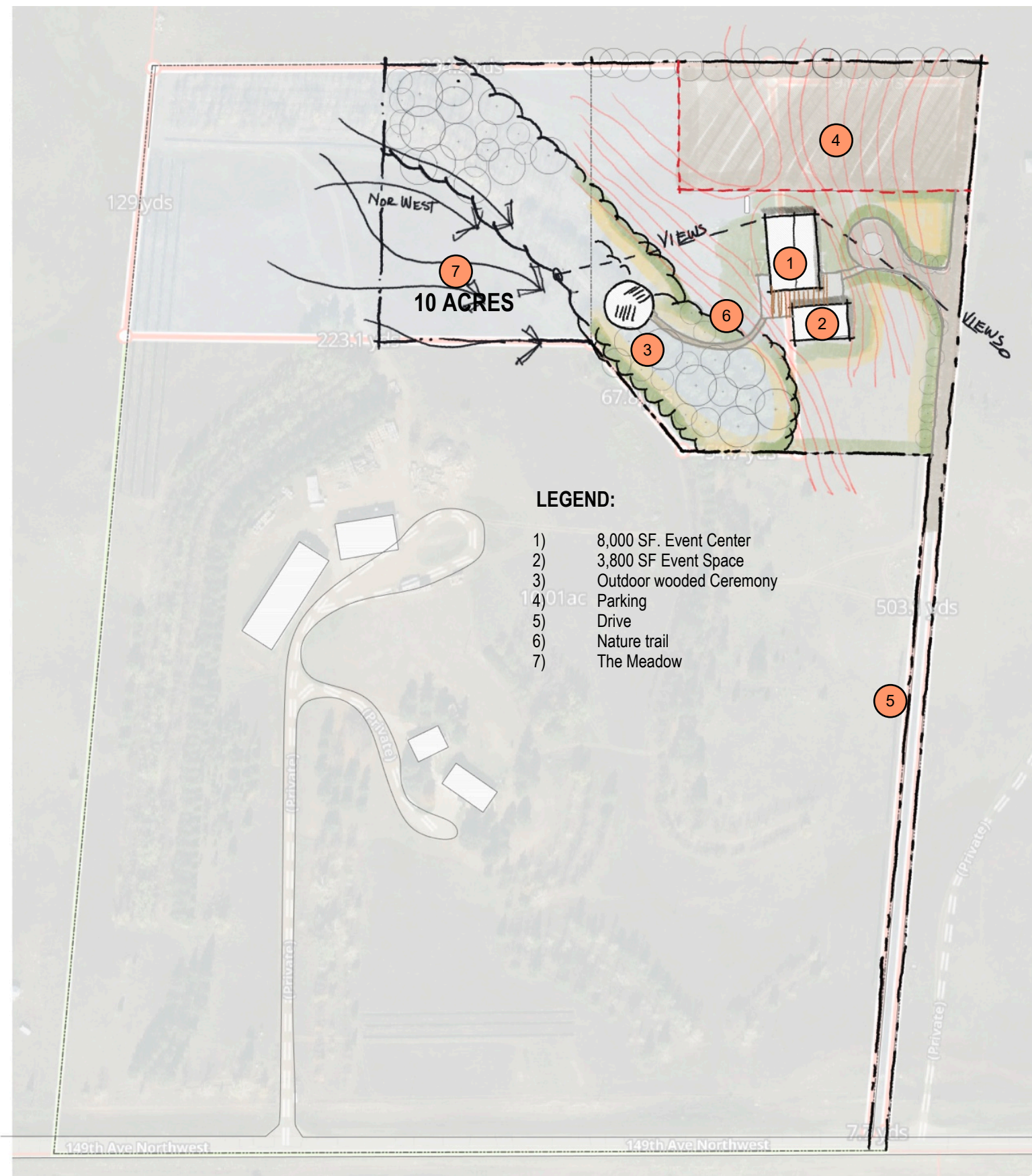
Tucked away in a secluded part of the venue, separate rooms serve as the bridal suite and groom's quarters. These spaces offer privacy and comfort for the wedding party to prepare and relax before the ceremony, while still being close to the celebration area.

Amenities and Facilities:

To ensure the convenience and comfort of guests, additional amenities will include restroom facilities discreetly placed within the venue. Additionally, a designated area for catering services and a dance floor will be arranged within the reception space..







The Hilltop | 10 acres

Nestled in a rural oasis, this wedding venue is a serene escape surrounded by majestic wooded trees. It rests atop a natural hill overlooking the meadow with panoramic views to the south. The setting exudes natural charm, offering a perfect blend of rustic allure and modern comforts.

Location Overview:

Situated on 10 Acres, the venue is strategically placed to offer seclusion and tranquility while being easily accessible. The hill is gently sloped, providing natural vantage points for guests to enjoy panoramic views of the surrounding landscape.

Entrance and Parking:

A stretched out gravel driveway leads guests from the entrance gate to the heart of the venue. Ample parking areas, discreetly positioned and bordered by trees, ensure convenient and organized parking arrangements without compromising the natural aesthetics of the site.

Ceremony Space:

Nestled within the hilltops heart, a cleared area bordered by a natural tree line serves as the secondary outdoor ceremony space. A simple yet elegant wooden arbor or ceremonial structure may be placed here, providing a focal point for exchanging vows against a backdrop of swaying trees and open skies. The primary Ceremony space will be situated inside the structure atop the hill.

Reception Area:

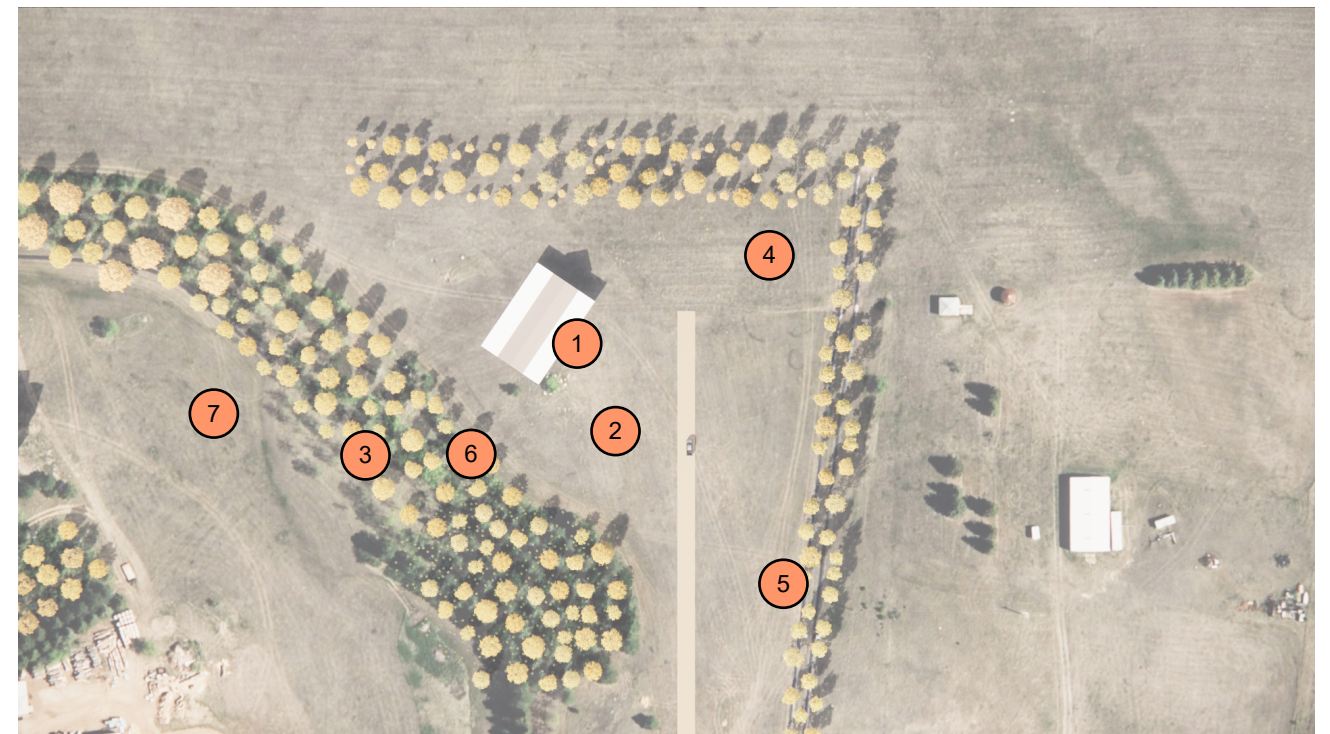
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Bridal Suite and Groom's Quarters:

Tucked away in a secluded part of the venue, separate rooms serve as the bridal suite and groom's quarters. These spaces offer privacy and comfort for the wedding party to prepare and relax before the ceremony, while still being close to the celebration area.

Amenities and Facilities:

To ensure the convenience and comfort of guests, additional amenities will include restroom facilities discreetly placed within the venue. Additionally, a designated area for catering services and a dance floor will be arranged within the reception space.






THANK YOU!

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Agenda Item 4.1

Application for a Final Subdivision

Project Summary	
Public Hearing Agenda:	Baker Subdivision – A two (2) lot subdivision
Status:	Public Hearing
Petitioner/Developer	Dorothy Baker
Engineer	Mark Isaacs Independent Land Surveying and Engineering
Location:	Part of the SE 1/4, Section 7 and Part of the NE 1/4, Section 18, All in T137N, Range 79W, Burleigh County
	Attachment 4-1-1 Location Map
Project Size:	69 Acres more or less A- Agricultural Zoning
Petitioners Request	Approval of the final plat. Give a "Do Pass" recommendation
Publication:	Bismarck Tribune 3/29 & 4/4/2024 Property Owners 3/28/2024 Burleigh Co Website 3/28/2024

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

April 10, 2024



Attachment 4-1-3 Site Map

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A public hearing was approved by the Burleigh Co. Planning and Zoning Commission on March 13, 2024. Approved 8 - 0
3. Zoning will not be changed.
4. A paving waiver has been granted by the Board of Burleigh County Commissioners on February 17.
5. A Storm Water Management Waiver was approved March 22, 2024
6. The section line was vacated and recorded.
7. The final plat reflects the vacation of the section line.



PLANNING AND ZONING COMMISSION

April 10, 2024

8. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.

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, with a "Do Pass" recommendation to Board of Burleigh County Commissioners.

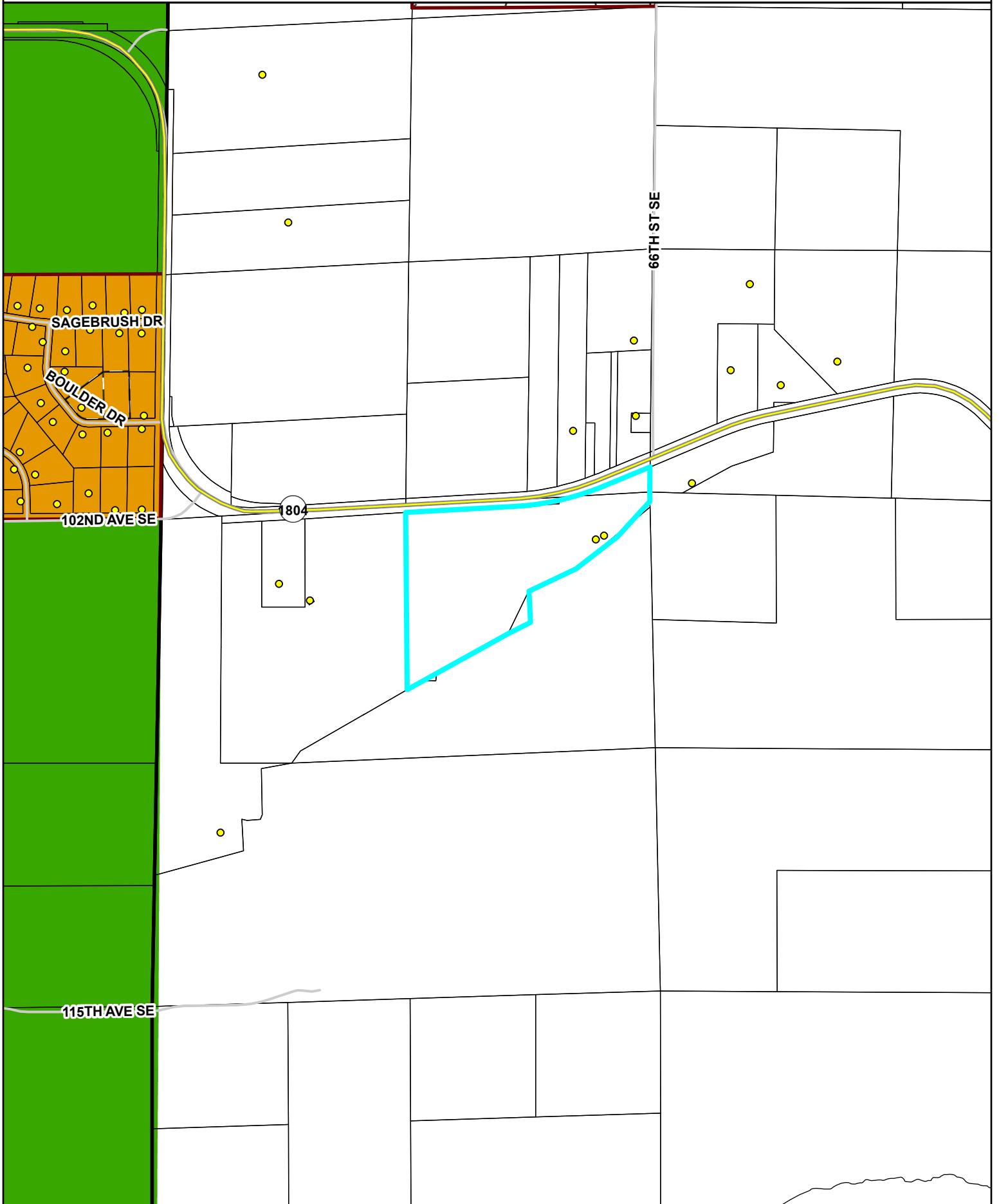
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat. Give a "Do Pass" recommendation to the BCC
2. Approve the final plat with conditions. 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.

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

EX 4-1-1



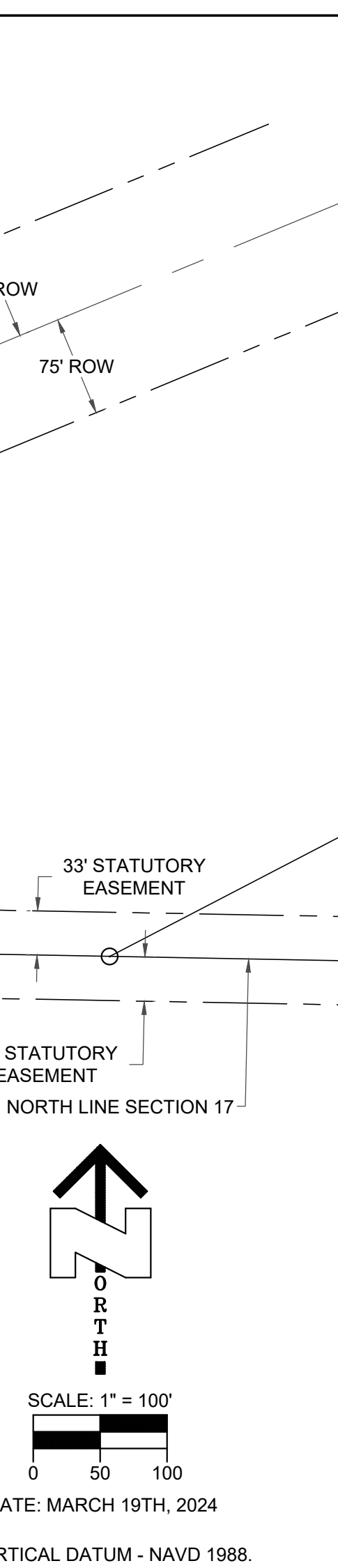
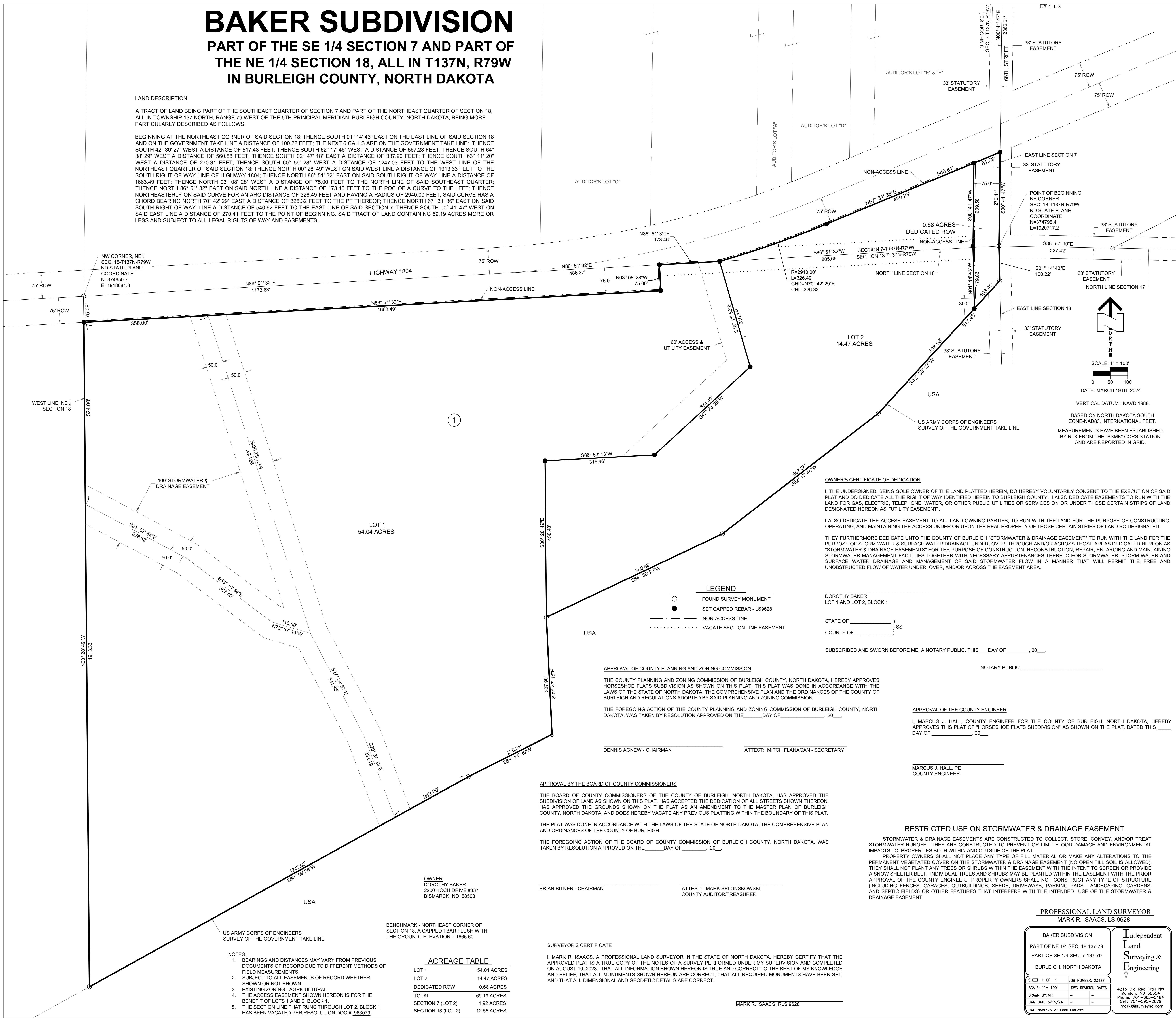
BAKER SUBDIVISION

PART OF THE SE 1/4 SECTION 7 AND PART OF THE NE 1/4 SECTION 18, ALL IN T137N, R79W IN BURLEIGH COUNTY, NORTH DAKOTA

LAND DESCRIPTION

A TRACT OF LAND BEING PART OF THE SOUTHEAST QUARTER OF SECTION 7 AND PART OF THE NORTHEAST QUARTER OF SECTION 18, ALL IN TOWNSHIP 137 NORTH, RANGE 79 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 18; THENCE SOUTH 01° 14' 43" EAST ON THE EAST LINE OF SAID SECTION 18 AND ON THE GOVERNMENT TAKE LINE A DISTANCE OF 100.22 FEET; THE NEXT 6 CALLS ARE ON THE GOVERNMENT TAKE LINE: THENCE SOUTH 42° 30' 27" WEST A DISTANCE OF 517.43 FEET; THENCE SOUTH 52° 17' 46" WEST A DISTANCE OF 567.28 FEET; THENCE SOUTH 64° 38' 29" WEST A DISTANCE OF 560.88 FEET; THENCE SOUTH 02° 47' 18" EAST A DISTANCE OF 337.90 FEET; THENCE SOUTH 63° 11' 20" WEST A DISTANCE OF 270.31 FEET; THENCE SOUTH 60° 59' 28" WEST A DISTANCE OF 1247.03 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 18; THENCE NORTH 00° 28' 49" WEST ON SAID WEST LINE A DISTANCE OF 1913.33 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIGHWAY 1804; THENCE NORTH 86° 51' 32" EAST ON SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 1663.49 FEET; THENCE NORTH 03° 08' 28" WEST A DISTANCE OF 75.00 FEET TO THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 86° 51' 32" EAST ON SAID NORTH LINE A DISTANCE OF 173.46 FEET TO THE POC OF A CURVE TO THE LEFT; THENCE NORTHEASTERLY ON SAID CURVE FOR AN ARC DISTANCE OF 326.49 FEET AND HAVING A RADIUS OF 2940.00 FEET, SAID CURVE HAS A CHORD BEARING NORTH 70° 42' 29" EAST A DISTANCE OF 326.32 FEET TO THE PT THEREOF; THENCE NORTH 67° 31' 36" EAST ON SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 540.62 FEET TO THE EAST LINE OF SAID SECTION 7; THENCE SOUTH 00° 41' 47" WEST ON SAID EAST LINE A DISTANCE OF 270.41 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 69.19 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



NW CORNER, NE 1/4 SEC. 18-T137N-R79W ND STATE PLANE COORDINATE
N=374650.7
E=1918081.8

POINT OF BEGINNING NE CORNER SEC. 18-T137N-R79W ND STATE PLANE COORDINATE
N=374795.4
E=1920717.2

HIGHWAY 1804

0.68 ACRES DEDICATED ROW

LOT 1
54.04 ACRES

LOT 2
14.47 ACRES

LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- NON-ACCESS LINE
- VACATE SECTION LINE EASEMENT

OWNER'S CERTIFICATE OF DEDICATION

I, THE UNDERSIGNED, BEING SOLE OWNER 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. I 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".

I ALSO DEDICATE THE ACCESS EASEMENT 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.

THEY FURTHERMORE DEDICATE UNTO THE COUNTY OF BURLEIGH "STORMWATER & DRAINAGE EASEMENT" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM WATER & SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORMWATER & DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORMWATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERETO FOR STORMWATER, STORM WATER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORMWATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER, AND/OR ACROSS THE EASEMENT AREA.

DOROTHY BAKER
LOT 1 AND LOT 2, BLOCK 1

STATE OF _____)
COUNTY OF _____) SS

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS ____ DAY OF _____, 20__.

NOTARY PUBLIC

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, HEREBY APPROVES HORSESHOE FLATS 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 _____, 20__.

DENNIS AGNEW - CHAIRMAN

ATTEST: MITCH FLANAGAN - SECRETARY

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES THIS PLAT OF "HORSESHOE FLATS SUBDIVISION" AS SHOWN ON THE PLAT, DATED THIS ____ DAY OF _____, 20__.

MARCUS J. HALL, PE
COUNTY ENGINEER

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 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 ____ DAY OF _____, 20__.

BRIAN BITNER - CHAIRMAN

ATTEST: MARK SPLONSKOWSKI,
COUNTY AUDITOR/TREASURER

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 AUGUST 10, 2023. 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

OWNER:
DOROTHY BAKER
2200 KOCH DRIVE #337
BISMARCK, ND 58503

BENCHMARK - NORTHEAST CORNER OF SECTION 18, A CAPPED TBAR FLUSH WITH THE GROUND. ELEVATION = 1665.60

ACREAGE TABLE

LOT 1	54.04 ACRES
LOT 2	14.47 ACRES
DEDICATED ROW	0.68 ACRES
TOTAL	69.19 ACRES
SECTION 7 (LOT 2)	1.92 ACRES
SECTION 18 (LOT 2)	12.55 ACRES

NOTES:

- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
- SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
- EXISTING ZONING - AGRICULTURAL.
- THE ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOTS 1 AND 2, BLOCK 1.
- THE SECTION LINE THAT RUNS THROUGH LOT 2, BLOCK 1 HAS BEEN VACATED PER RESOLUTION DOC # 963079.

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

BAKER SUBDIVISION		
PART OF NE 1/4 SEC. 18-137-79		
PART OF SE 1/4 SEC. 7-137-79		
BURLEIGH, NORTH DAKOTA		
SHEET: 1 OF 1	JOB NUMBER: 23127	4215 Old Red Trail NW Mandan, ND 58554 Phone: 701-663-5184 Cell: 701-985-2079 mark@isurveynd.com
SCALE: 1" = 100'	DWG REVISION DATES	
DRAWN BY: MRS		
DWG DATE: 3/19/24		
DWG NAME: 23127 Final Plat.dwg		

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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 Ordinance
Date: 3-28-2024
From: Mitch Flanagan, Burleigh County Planning Director.

ITEM 1

Public Hearing to Amend Article 21 Floodplain Regulations

It has become necessary to amend the current Article 21 Floodplain Regulations to correct and position our ordinance in line with North Dakota Department of Water Resource Model D Ordinance and FEMA technical requirements.

Article 21 draft ordinance was presented to the Planning Commissions on February 14,2024.

ACTION REQUESTED: CONSIDER TO MOVE 1ST DRAFT- ARTICLE 21 FP FLOODPLAIN DISTRICT REGULATIONS TO A 2ND PUBLIC HEARING.

Attachments:
Ex. 1- Article 21 FP Regulations draft ordinance.

ORDINANCE 24-0-----

AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 21 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA

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

ARTICLE 21 FP - FLOODPLAIN DISTRICT REGULATIONS

In any FP - floodplain district, the following regulations shall apply:

Section 1. Statement of Purpose

It is the purpose of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;
- f. To help maintain a stable tax base by providing for the use and development of special flood hazard areas so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is located in a special flood hazard area;
- h. To ensure that those who occupy the special flood hazard areas assume responsibility for their actions; and
- i. To provide an increased level of protection in anticipation of future increases in the base flood elevation (BFE).

Section 2 Methods of Reducing Flood Losses

In order to accomplish its purposes, this article includes methods and provisions for:

- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood water elevations or flow velocities;
- b. Requiring that uses vulnerable to flooding, including attendant utilities and facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or convey flood waters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards in other areas.

Section 3. Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

"Accessory Structure" for floodplain management purposes means structures that are on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. Accessory structures are a single-story structure that may only be used for parking or storage, represent a minimal investment by owners, and have low damage potential. Structures that include the following uses are not considered accessory structures for floodplain management purposes: habitable spaces, bathrooms, toilet rooms, laundry facilities, and entertainment and recreational spaces including but not limited to workshops and game rooms.

"Agricultural Structure" for floodplain management purposes means structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.

"Attendant utilities and equipment" mean utilities, electrical, plumbing, heating, ventilation, and air conditioning equipment, as well as facilities and services associated with new construction.

"Base flood or 100-year flood" means the flood having a one per cent (1%) chance of being equaled or exceeded in any given year.

"Base flood elevation (BFE)" means the height of the base flood or 100- year flood, usually in feet above mean sea level, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by the storm water management plan prepared for the area in which the property is located.

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Best available data (BAD)" means water elevation information from any source used to estimate or determine the base flood elevation (i.e., high water mark).

"Community" means any political subdivision that has the authority to zone, or any Indian tribe or authorized tribal organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction

"Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given location that determines the flow-carrying capacity at that location.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

"Enclosure" means enclosed walled in areas below the lowest floor of an elevated building that are constructed of flood-resistant materials and designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Fill" means materials such as soil, gravel, or crushed stone that is placed in an area and increases the ground elevation, whether or not that was the intention.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood insurance rate map" (FIRM) or digital flood insurance rate map (DFIRM)" means the official map issued by the Federal Emergency Management Agency (FEMA) where special flood hazards areas are designated as Zone A, AE, AO, AH, A1-A30 or A99.

"Flood insurance study (FIS)" means the official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the flood insurance rate map (FIRM), and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to partial or complete inundation by water from any source.

"Floodplain Administrator" means the person designated by Burleigh County to administer the County's floodplain regulations.

"Flood proofing (dry)" means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight to two (2) feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

"Floodproofing (wet)" means the use of flood damage resistant materials and construction techniques to minimize flood damage to structures by intentionally allowing floodwater to enter and exit automatically (without human intervention) to minimize unequal pressure of water on walls (hydrostatic load or pressure). Wet floodproofing also requires structures to be anchored to resist flooding, have mechanical and utility equipment elevated or protected, and have flood openings installed in walls.

"Floodway or regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Letter of map amendment (LOMA)" means an official amendment to the currently effective flood insurance rate map (FIRM) which establishes that a property is not located in a special flood hazard area. A letter of map amendment (LOMA) is issued by FEMA.

"Letter of map revision (LOMR)" means an official amendment to the currently effective flood insurance rate map (FIRM) which is issued by FEMA and changes flood zones, delineations and elevations. A letter of map revision based on fill (LOMR)(f) is a LOMR issued by FEMA based on the placement of fill.

"Lowest floor" means the lowest floor of a structure including the basement and/or crawl space.

"Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle but does include a mobile home.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this article.

"New Manufactured Home Park or Subdivision" means a manufactured home park or *subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"Non-conversion agreement" means an agreement signed by applicants and property owners, affirming that the owners agree not to convert or modify in any manner that is inconsistent with approved permit (and variance conditions, when applicable).

"Non-residential" means any building or structure or portion thereof that is not classified as residential.

"Pre-FIRM Building" means a building for which construction or substantial improvement occurred on or before September 18, 1985, or the effective date of the initial Flood Insurance Rate Map (FIRM).

"Principal structure" for floodplain management purposes means a structure that is not an accessory structure. All principal structures must be constructed in accordance with the requirements applicable to residential construction or nonresidential construction as determined by the use of the structure.

"Post-FIRM Building" means a building for which construction or substantial improvement occurred after September 18, 1985 the effective date of the initial Flood Insurance Rate Map (FIRM) whichever is later.

"Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

"Recreational vehicle" means a vehicle which is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal uses. Recreational vehicles include, but are not limited to, travel trailers, trailers on wheels, park-model trailers and other similar vehicles.

"Recreational vehicle" means a vehicle which is:

- a. built on a single chassis;

- b. 400 square feet or less when measured at the largest horizontal projection;
- c. designed to be self-propelled or permanently towable by a light duty truck;
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
- e. travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

“Residential” means:

- a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- b. Residential structures, including but not limited to one and two-family dwellings, multifamily dwellings, group dwellings, bed and breakfast facilities, hotels and motels; and
- c. Institutional facilities where people are cared for or live on a 24- hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, nursing homes, group homes, congregate care facilities, hospitals, medical centers, jails and detention centers.

"Special flood hazard area (SFHA)" means an area of land that would be inundated by a flood having two tenths of one percent (0.2%) or greater chance of being equaled or exceeded in any given year (500-year flood).

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms.

“Storage tank” means any closed vessel used to store gases or liquids.

“Storm water management plan” means a document prepared in accordance with the provisions of Article 33 (Subdivision Regulations) to evaluate surface water runoff and flood risks within a development, plat or watershed; to document special flood hazard areas; and to determine the systems required to convey or control flood flows within and through the area.

"Structure" means a walled and roofed building, including manufactured homes and gas or liquid above- ground storage tanks.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed fifty percent (50%) of the market value as assessed of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure- that occurs within a consecutive two (2) year period, the cost of which equals or exceeds fifty percent (50%) of the market value as assessed of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this article that permits construction in a manner that would otherwise be prohibited by this article.

"Violation" means the failure of a structure or other development to be fully compliant with the floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by the floodplain management ordinance is presumed to be in violation until such time as that documentation is provided.

Section 4. General Provisions

- a. **Jurisdiction.** This article shall apply to all special flood hazard areas within the jurisdiction of Burleigh County, including all lands within Burleigh County's zoning jurisdiction pursuant to Article 5, but excluding the corporate limits of the City of Bismarck or any other incorporated city and the extraterritorial jurisdiction of those cities as provided for in Section 40-47-01.1 of the North Dakota Century Code.

Basis for establishing the special flood hazard areas. The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report titled "The Flood Insurance Study for Burleigh County, North Dakota and Incorporated Areas", dated August 4, 2014 June 6, 2024 with an accompanying flood insurance rate map (FIRM), and as subsequently updated by any Letter of Map Amendment (LOMA), and or Letter of Map Revision (LOMR) and/or Letter of Map Revision Based on Fill (LOMR(f)) issued by the Federal Emergency Management Agency (FEMA), is hereby adopted by reference and declared to be a part of this article. The Flood Insurance Study (FIS) is on file in the office of the Floodplain Administrator. Special flood hazard areas may also be designated in a storm water management plan prepared for a development, plat or watershed.

Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations, unless a valid building permit was in place prior to May 7, 2012, except as provided for in subsection 6(b)(5) (additions to existing structures).

b. Greater restrictions. This article is not intended to repeal, remedy, or impair any existing easements, covenants or deed restrictions. However, where this article and another article of the County Zoning Ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Interpretation. In the interpretation and application of this article, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of Burleigh County; and
3. Deemed neither to limit nor repeal any other powers granted to Burleigh County under the North Dakota Century Code.

c. Warning and disclaimer of liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article section does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of Burleigh County, any officer or employee thereof, or the Federal Emergency Management Agency (FEMA) for any flood damages that result from reliance on this article, or any administrative decision lawfully made thereunder.

~~g. Letter of Map Revision (LOMR) and Letter of Map Amendment (LOMA). Development on any parcel for which a LOMR or LOMA has been issued shall comply with all of the requirements and recommendations as continued therein. Development on any parcel for which a LOMR or LOMA has been approved by FEMA, and for which a building permit was not issued prior to May 7, 2012, shall be subject to all provisions of this article~~

d. Letter of Map Revision (LOMR). Development on any parcel for which a Letter of Map Revision (LOMR) has been issued shall comply with all of the requirements and recommendations as contained therein. Development on any parcel for which a LOMR has been issued shall be constructed in accordance with the provisions of FEMA Technical Bulletin 10-01.

e. Non-conforming Status. Any structure constructed with the lowest floor elevated as required by the regulations in effect at the time of construction shall not be considered a non-conforming structure for the purposes of this section, provided the lowest floor of said structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation.

Section 5. Administration

- a. Establishment of a development permit.** A development permit shall be obtained before construction or development begins within any special flood hazard area established in subsection 4(b) of this article (basis for establishing the special flood hazard areas). Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
- ~~Elevation in relation to mean sea level~~ **Elevation in the same datum as the current FIRM, or** elevation in relation to mean sea level in NAVD88 of the lowest floor (including basements and/or crawl spaces) of all structures;
 - ~~Elevation in relation to mean sea level~~ **Elevation in the same datum as the current FIRM, or** elevation in relation to mean sea level in NAVD88 to which any structure has been flood proofed;
 - Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in subsection 6(b)(2) of this article (nonresidential construction); and

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- b. **Establishment of a non-structural development permit.** A non- structural development permit shall be obtained before any land disturbing activity begins within any special flood hazard area established in subsection 4(b) of this article (basis for establishing the special flood hazard areas). Application for a nonstructural development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; proposed elevations upon completion of the land disturbing activity; the type of fill being used, if fill is proposed; and a description of the extent to which any watercourse will be altered or relocated as a result of proposed land disturbing activity.
- c. **Designation of the Floodplain Administrator.** The Building Official is hereby appointed to administer and implement this article by granting or denying development permit and non-structural development permit applications in accordance with the applicable provisions.
- d. **Duties and responsibilities of the Floodplain Administrator.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:
 1. Permit application review.
 - a. Review all development permit applications and non- structural development permit applications to determine that the permit requirements of this article have been satisfied;
 - b. Review all development permit applications and non- structural development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and
 - c. Review all development permit applications and non- structural development permit applications to determine if the proposed development or land disturbing activity is located in the floodway. If located in the floodway, assure that the encroachment provisions of this article are met.
 2. Use of other base flood data. When base flood elevation data has not been provided in accordance with subsection 4(b) of this article (basis for establishing the special flood hazard areas), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available (known as best available data (BAD)) from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development in the

floodplain is administered in accordance with subsection 6(b) of this article (specific standards).

3. Information to be obtained and maintained.
 - a. Obtain and record the actual elevation in relation to elevation in the same datum as the current FIRM, mean sea level in NAVD88 of the lowest floor (including basement and/or crawl space) of all new or substantially improved structures, and whether or not the structure contains a basement and/or crawl space.
 - b. For all new or substantially improved flood proofed structures:
 1. Obtain and record the actual elevation in relation to elevation in the same datum as the current FIRM, mean sea level in NAVD88 to which the structure has been flood proofed; and
 2. Maintain the flood proofing certifications required in subsection 6(b) of this article (specific standards).
 - c. Maintain for public inspection all records pertaining to the provisions of this article.
4. Alteration of watercourses. The Floodplain Administration shall:
 - a. Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood- carrying capacity is not diminished; and
5. Interpretation of flood insurance rate map (FIRM) or digital flood insurance rate map (DFIRM) boundaries. Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection 7 of this article (appeal and variance procedures). The Floodplain Administrator may require information be submitted by a registered land surveyor.

Section 6. Provisions for Flood Hazard Reduction

- a. **General standards.** In all special flood hazards areas, the following standards are required:
1. Anchoring.
 - a. All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure; and
 - b. All manufactured homes must be elevated and anchored to resist flotation, collapse and lateral movement of the structure. Methods of anchoring may include, but are not limited to, use of over- the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 2. Construction materials and methods.
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and
 - c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Such facilities shall be located in areas that have been elevated on fill to at least two (2) feet above the base flood elevation for residential ~~structures~~ **construction**, and ~~manufactured homes~~.
 3. Utilities.
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 - c. All new and replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision proposals.
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
 - d. Base flood elevation data shall be provided for all subdivision proposals and other proposed developments. Elevation data must be provided in **elevation in the same datum as the current FIRM**, NAVD88 for areas with a flood insurance rate map (FIRM) or other base flood elevation data in that datum; and
 - e. All roadways within and providing access to subdivisions shall be constructed in accordance with County engineering standards.

Specific standards. In all special flood hazards areas where base flood elevation data have been provided as set forth in subsection 4(b) of this article (basis for establishing the special flood hazard areas) or subsection 5(d)(2) of this article (use of other base flood data), the following provisions are required:

5. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation.
6. Nonresidential construction. New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed to at least two (2) feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator as set forth in subsection 5(d)(3) of this article (information to be obtained and maintained).

7. Manufactured homes.

a. Manufactured homes shall be anchored in accordance with subsection 6(a)(1) of this article (anchoring).

~~b. All manufactured homes or those to be substantially improved shall be on a permanent foundation, have the lowest floor of the manufactured home elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation system.~~

b. All manufactured homes or those to be substantially improved shall be on a permanent foundation, as referenced in FEMA P-85 / 2009, have the lowest floor bottom of the frame of the manufactured home elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation system. However, within a Pre-FIRM manufactured home park, a newly placed manufactured home or those to be substantially improved shall be on a permanent foundation, have the bottom of the frame of the manufactured home elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation, and be securely anchored to an adequately anchored foundation system.

8. Recreational Vehicles.

a. All recreational vehicles to be placed on a site must be on the site for less than 180 consecutive days; AND be fully licensed and highway ready.

9. Enclosures. New construction and substantial improvements may have enclosures with areas below the base flood elevation, that are less than 300 square feet and usable solely for building access and utility service connections serving the building, if constructed in accordance with the following requirements:

a. Must have structural and non-structural components constructed of flood damage resistant material. Flood damage resistant materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;

b. Must be provided with flood openings designed to equalize the hydrostatic pressure of flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. Flood opening designs must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 1;

- c. Must have mechanical, electrical, and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and,
- d. Prior to the issuance of a building permit, 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.

10. 4. Attached garages, decks and landings providing primary access, and accessory buildings.

- a. Garages attached to any residential structure, non- residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it is attached.
- b. Decks and landings providing access to the primary entrance of a residential structure, non-residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it provides access.

7. Accessory structures.

- a. Accessory structures defined within this section that are not greater than 600 square feet in area may be constructed with the lowest floor below the base flood elevation in accordance with the following wet floodproofing requirements:
 - i. Must be anchored to resist floatation, collapse and lateral movement.
 - ii. Must have structural and non-structural components constructed of flood damage resistant material to an elevation of at least two feet above the base flood elevation. Flood damage materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;
 - iii. Must be provided with flood openings designed to equalize the hydrostatic pressure of flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. Flood opening designs must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 1;
 - iv. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components

during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and,

- v. Prior to the issuance of a building permit for the structure, 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.
- b. Accessory structures defined within this section that are greater than 600 square feet in area may be constructed with the lowest floor one foot above the base flood elevation in accordance with the following requirements.
- i. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and
 - ii. Prior to the issuance of a building permit for the structure, 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.
- c. Accessory structures that are not enclosed and do not have more than one ridged wall may be constructed at grade in accordance with the following requirements.
- i. Must have structural and non-structural components constructed of flood damage resistant material to an elevation of at least two feet above the base flood elevation. Flood damage materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;
 - ii. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and
 - iii. Prior to the issuance of a building permit for the structure, 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.

8. ~~5~~. Additions to existing structures.

- a. Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory

structure that is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure, ~~provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation.~~

- c. **Floodways.** Floodways are designated areas located within the special flood hazard areas established in subsection 4(b) of this article (basis for establishing the special flood hazard areas). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and
 2. If the preceding subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection 6 of this article (provisions for flood hazard reduction).

Section 7. Appeal and Variance Procedure

- a. Board of Appeals. The Board of County Commissioners shall act as the Board of Appeals. The Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this article.
- b. Appeals. An appeal may be filed by any person, firm or corporation aggrieved by any order, requirement, determination or final decision made by the Floodplain Administrator in the enforcement or administration of this article, in accordance with the provisions of Article 27 (Appeal Procedure).
- c. Variances. An application for a variance from the requirements of this article may be made by any person, firm or corporation with a legal interest in the property for which the variance is being sought, in accordance with the provisions of Article 28 (Variances).
 1. Required Findings. In considering applications for a variance, and in addition to the requirements of outlined in Article 28 (Variances), the Board of Appeals shall consider all technical evaluations, all relevant factors, and the standards specified in this article, including:

- a. The danger to life and property due to flooding or erosion damage;
 - b. The danger that materials may be swept onto other lands to the injury of others;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with the existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges
 - l. Any other factor deemed relevant by the Board of Appeals.
2. Upon consideration of the factors in subsection(7)(c)(1) and the purposes of this article, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose of this article.
 3. Conditions for variances.
 - a. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this subsection.

- b. Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;
 - c. Variances shall not be issued within the identified floodplain if any significant increase ~~any designated regulatory floodway~~ if any significant increase in flood levels during the base flood discharge would result
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - e. Variances shall only be issued upon:
 - i A showing of good and sufficient cause;
 - ii A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation lower than two (2) feet above the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.
 5. **Encroachment Analysis.** When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 8. Penalties for Violations

Penalties for violation of this article shall be in accordance with the provisions of Article 31 (Penalties for Violation).

Section 9. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 10. 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 11. 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

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

Mark Splonskowski, Burleigh County Auditor/Treasurer


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Agenda Item 4.3 Burnt Creek Farm

Application for a Special Use Permit

Project Summary

Public Hearing Agenda:	Special Use Permit
Status:	Public Hearing
Petitioner/Developer	Dave Lehman
Property Owner:	Dave Lehman
Location: 	Burnt Creek Township, Section 24, PT SW 1/4 Tract #1 Addressed as: 11501 NE 41 st Street
<div style="border: 1px solid black; padding: 2px; width: fit-content;">Exhibit 4-3-1 Location Map</div>	
Parcel Size:	30.81 acres A- Agricultural Zoning
Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a Conditional Special Use Permit for Events
Posted Dates	Bismarck Tribune 3/29 & 4/4/2024 Surrounding Property Owners 3/28/2024 Burleigh County Website 3/28/2024



History

Burleigh County Planning and Building Staff have been working with Dave Lehman for some time regarding his Burnt Creek Farm. He has made several improvements and added buildings to his property. This will be the second public hearing for the Burnt Creek Farm Special Use Permit

Because Mr. Lehman submitted large revisions to his original plans, a 2nd request for the Planning and Zoning Commission to hold a public hearing was scheduled for the April 10th meeting of the Planning and Zoning Commission. Public hearing notices were sent to forty-two (42) residents along 110th Ave NE. (See Attachment 4-3-2).

ANALYSIS OF BURNT CREEK FARMS SUP APPLICATION 4-10-2024

Because of unusual size or safety hazards, infrequent occurrence, effect on surrounding area, petitions that are reviewed under Burleigh County Planning and Zoning Commission's discretionary powers, require that certain uses, if allowed, can be considered under a Special Use Permit. Though Agri-Tourism use may be on the increase in other parts of the Country, Burleigh County has not yet received a request or issued a permit for this type use.

Analysis

Burnt Creek Farm is located approximately 1 mile to the east of the City of Bismarck ETA. The proposed project site lies within the A-Agricultural District.

FACING EAST ON 110TH AVE NE





Surrounding Land Uses

The proposed project area is surrounded by A-Agricultural Districts to the west, northwest and south. Is adjoined by a 500+ acre parcel to the north, east, northeast that is zoned R1- Rural Single-Family Residential District.



BURNT CREEK FARM- FACING NORTH ON 41ST ST.

Future Land Use

The Burleigh County Comprehensive Plan does not specifically mention tourism or the commercializing of agricultural property.

Explanation of 1st Public Hearing

The Burnt Creek Farm SUP application was denied by an 8-1 vote at the Planning Commission meeting on 1-10-2024, based on these findings of fact;

- | | |
|---------|-------------------|
| Dust | Concerns for fire |
| Traffic | Vehicle safety |
| Noise | Overuse of land. |



Appeal

On February 5, 2024, Dave Lehman petitioned the Burleigh County Commission on appeal. The County Board considered his request and instructed to table the Public Hearing back to the Planning Commission, while issuing a directive for Mr. Lehman to reach a compromise with the opponents of the SUP prior to the Public Hearing; (“allow the developer to work with those residents to see if they could come to some sort of resolution on their own”).

2 stakeholder meetings were held Feb. 26th & March 20th, the following differences were defined:

At Issue	Resolution
Dust control. Safety of road.	Willing to share cost of dust control.
Condition of road, i.e.: steep ditches, narrow width.	Willing to share cost of road maintenance.
Fire Risks: smoking, sod or grass for parking areas. Chance of fires to neighbors.	Req’ designated smoking areas. Provide low cut grass parking areas. Provide fire breaks. Reduce Fuel Loads.
Impact of scale and size of events Some neighbors are opposed to having any events.	Limit 2 events per year-200 people Limit 1 event per week-100 people.
Trespassing from participants.	Open discussion. No consensus.
BCF is not contained, ability to contain the people.	Open discussion. No consensus.
Effect of weekend and evening events. Noise	Open discussion. No consensus.
Costs and impact events could have on neighbors.	Open discussion. No consensus.
Traffic on the road. Provide Traffic Study	Open discussion. No consensus.

A revised plan was submitted on March 22 (See Attachment 4-3-4). The revised plan includes the following:

1. 200 People Events = 2 times per year
2. All Other Events = 100 Attendees Cap
3. Limited to one (1) Event per week.
4. Direct traffic to 97th Avenue and 26th Street which are paved.
Utilize shuttle services whenever possible.



5. Dust control will include directing traffic to 97th Avenue and 26th Street and utilize shuttle services whenever possible. Dust control measures are in place on 110th Ave from Highway 83 to 26th Street.

Staff Recommendations

1st Recommendation: Approve Special Use Permit,

If the Planning & Zoning Commission chooses to recommend approval of the SUP, staff suggests the following requirements:

1. limit hours of operation for all activities; _____ AM to _____PM
2. limit days of operation from; _ _____ to _____.
3. limit months of operation from; _____ to _____.
4. limit amount of people to; _____.
5. to minimize dust, Burnt Creek Farms as directed by the County Engineer, shall apply calcium chloride, magnesium chloride or similar chemical to some or all portions of 110th Ave NE route, approximately 0.9-mile.
6. require site plan: see exhibit 4-3-3 Site Plan Requirements for SUP.
7. In the future if any development adds impervious areas to the site, applicant would need to submit a SWMP with their site plan or plat.
8. request applicant to submit application through Article 8 Section 28.

2nd Recommendation: _____ Deny the Special Use Permit.

Due to the use not being compatible with surrounding property owners as stated without consensus at the public hearing and the stakeholder group meetings.

See Attachment:

4-3-1 Location Map

4-3-2 Mailing List

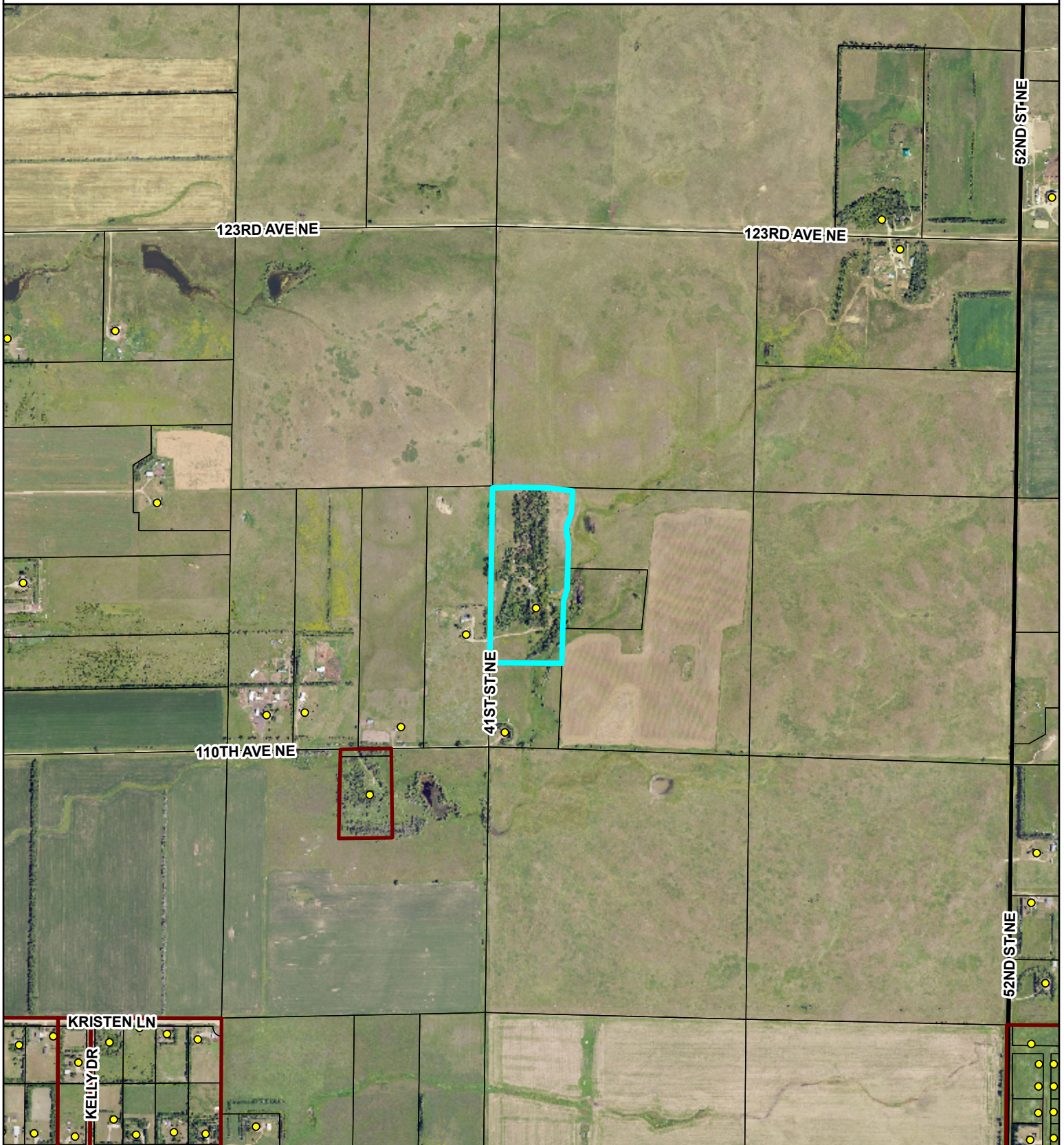
4-3-3 Site Plan Requirements for SUP

4-3-4 Revised Plan Burnt Creek Farm

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

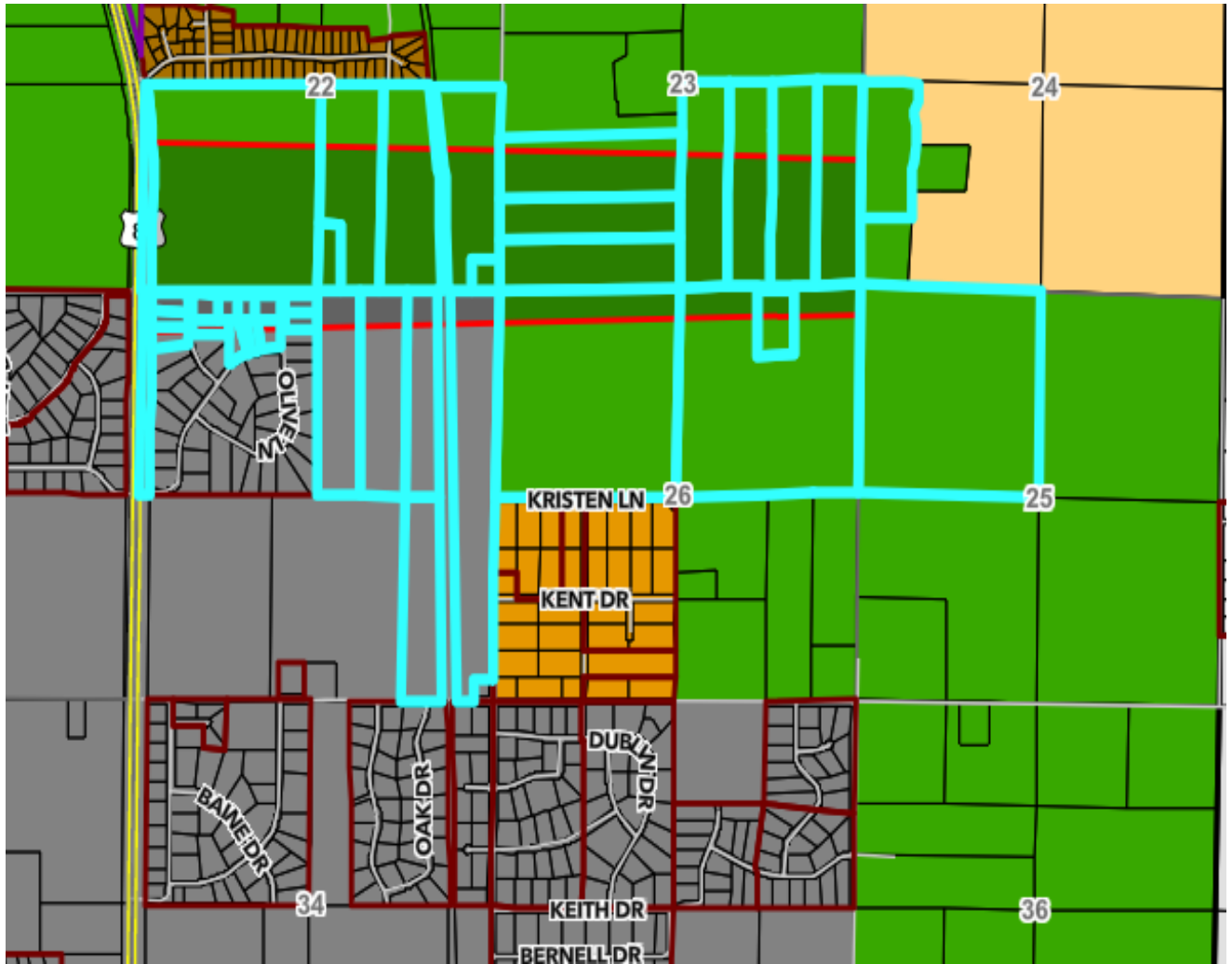
EX 4-3-1

4/2/2024



PARCEL ID: 24-140-80-00-24-610 OWNER: LEHMAN, DAVID ACRES: 30.81
SITE ADDRESS: 11501 NE 41ST ST
MAIL ADDRESS: P.O BOX 7388, BISMARCK, ND 58507-7388
LEGAL: BURNT CREEK TOWNSHIP Section 24 PT SW1/4 - TRACT #1 #455911 24-140-80

2-Mile Polygon
11501 41st Street NE



2-Mile Polygon
11501 41st Street NE

Owner_Name	Property_ID_Number
APPELT, REED D & LISA M	24-140-80-00-27-211
BETO, KEVIN & RHEA	24-140-80-67-02-070
BONNET, BRADLEY J & TAMMY JO	24-140-80-00-23-810
BORGERDING, KATHLEEN & MICHAEL	24-140-80-00-27-200
EBEL, HERBERT C & CHARLOTTE K	24-140-80-67-01-030
ECKLUND, FORREST & ALYCE ETAL	24-140-80-00-22-830
ELLINGSON, JEFFERY L & GENEVIEVE	24-140-80-00-23-602
FLECK, KURT J & DANA	24-140-80-00-23-800
HAGEROTT, ARDEN N	24-140-80-00-26-200
HAGEROTT, TARREN-LEE	24-140-80-49-01-010
HAIDER, DWIGHT D & GINA	24-140-80-67-02-020
HOGUE, KAREN G & HOGUE, DAVID	24-140-80-00-22-600
KIENZLE, CLYDE & DENISE	24-140-80-67-01-010
LEHMAN, DAVID	24-140-80-00-24-610
MARTINESON, WAYNE & KAREN	24-140-80-00-27-210
MELLMER, LUKE & BRIANNE	24-140-80-67-03-010
MILLER, ROGER D & MELISSA K ETAL	24-140-80-00-23-811
PAHLKE, DALE	24-140-80-00-25-400
PARENT DUFOUR, AMANDA& PARENT, NATHANIEL	24-140-80-00-22-800
PETERMANN BRYANT, JULIE E	24-140-80-67-02-010
PETERSON, BRYNN K	24-140-80-67-02-030
PETERSON, ROBERT & KATHLEEN	24-140-80-67-02-040
REIS, PATRICK L & JOAN M	24-140-80-67-02-080
RUTSCHKE, KAREN MARIA	24-140-80-00-23-601
SIGETTE, TROY & JANELLE	24-140-80-67-02-090
STREIFEL, BEATRICE M	24-140-80-00-23-812

DUPLICATE PROPERTY OWNERS HAVE BEEN REMOVED 39 TOTAL PARCELS WITH DUPLICATES

Site Plan Requirements for SUP

One valuable part of a Special Use Permit application is the site plan. As the initial review of the proposed land use, it is important to know:

Site Plan

1. The proximity of proposed and existing building's location onsite, as well as their physical relationship to any proposed structures,
2. Distance of existing and new structures to all lot lines,
3. Show all public ROW's,
4. Parking areas,
5. Designated smoking areas.

Driving Surfaces

1. Entry to property, entry to building and turnaround for 1st responders required to be graveled.
 - a. Req' width of entry road to be County standard.
2. Parking lot or parking area can be compacted dirt with grass cut low:
 - a. Off street parking required,
 - b. Fire break around parking area- 30' wide,
 - c. Provide adequate drainage,
 - d. Provide adequate lighting.

Life Safety

1. Fire and Building Safety:
 - a. Life Safety Inspection is required prior to issuance of special use permit,
 - b. Fire inspections required annually,
 - c. Fire extinguishers tested annually,
 - d. All temporary tents req' fire resistant material,
 - e. Designated smoking areas: 20' from entry of buildings, req' proper disposal,
 - f. No fuel loads near buildings or parking lot.
1. Approach standards for access to residence and within the ROW- min. 20-40' width
https://www.burleigh.gov/media/jujkfuu/approach_permit_construction_standards.pdf
2. There are no standards for driveways/roads within private property. Any proposed road design on site plan, need to consider the turning radius of emergency equipment, the largest tends to be fire trucks.



Burnt Creek Farm

11501 41st St NE Bismarck, ND

David Lehman, Owner

March 2024

Background

Burnt Creek Farm (BCF) Historical Site: *North Dakota has an incredibly rich history as it pertains to agriculture, homesteading, etc. Unfortunately, with each passing year we are losing these historic barns, homes, and outbuildings. North Dakota has many pioneer village type facilities with historic community type buildings, collections of antiques, tractors, and ag equipment displayed. While these are important, tourists don't get an opportunity to see the equipment, tools, vehicles, etc. in a real farm setting. By staging the farm, it gives people a better feel for what the farm actually looked and felt like and provides a better appreciation for what farming was like in the early days of North Dakota. Burnt Creek Farm is one of very few fully intact restored historic farms in North Dakota.*

The North Dakota State Historical Preservation Office has toured the farmstead numerous times and feels confident in its eligibility for the state and national registers of historic places. Due to innovation and progress in agriculture and larger equipment requiring larger facilities, very few farm sites from the early days of agriculture remain intact and preserved. There are 2 or 3 other farmsteads available to tour in the state, however, Burnt Creek Farm differs in that it is a well-preserved example of a 'modern' farmstead built during the mechanization era as farms transitioned from horse to tractor power. This includes the innovation in building construction, running water systems (windmill with gravity feed to areas of the farm), rechargeable 32V battery system powering the farm, and equipment. The farm will be staged as it would have been in the 1920's showing the transition from horse to tractor power. These were all major technological advances in agriculture and an incredibly important era in North Dakota which isn't a focus with other historic sites. Due to the farm's ties to the Non-Partisan League and its role in the inception of the state bank, mill, and elevator, this shift in North Dakota's ag economy will also be covered. Other elements of Burnt Creek Farm which are relatively unique and lend themselves to agritourism tours are the following:

- *1878 Tree claim with evidence that can be easily seen by tourists*
- *Intact 1920's-1950's farmstead*
- *Rare (possibly the only) instance of terracotta structural clay tile and brick use in the farmhouse and bunkhouse construction. The clay tile and brick came from the early days of North Dakota's Hebron Brick factory.*
- *One of the first 'modern' farms in ND with running water and electricity (less than 2% of farms had these amenities in the early 1920's.)*
- *Ties to the Non-Partisan League and Linda Slaughter both heavily involved in the development of the region, state, and upper Midwest.*
- *Unique architecture such as the trench/bunker silo*
- *Filming location of End of the Rope movie*
- *Only historic farm site located close to a major community. Located about a mile outside of Bismarck's extra-terrestrial area and easily accessible from the interstate and highway 83 allows visitors easy access to the facilities while still accessing amenities of a larger community. It also allows Burnt Creek Farm the opportunity to draw more people to promote North Dakota's proud ag history.*

Services

1. Tours: Educating visitors about the history of agriculture in North Dakota is BCF's primary focus. Initial plans would be to offer tours by reservation. It is anticipated there would be demand from schools, commodity groups, organizations, etc. for the tours. While the tours are an important element to the goal of educating others about the history of agriculture in North Dakota, it is not anticipated to be a significant source of traffic or revenue at BCF.

2. Events: Events would primarily be outdoor events. The historical integrity of the buildings will be restored and maintained and as such will not be insulated and no additional construction is planned that would alter the appearance/feel of the historic farmstead. This will limit their utility relative to events. Events are anticipated to include the following:

- Corporate events: It is anticipated there may be some interest in company picnics during the summer.
- Family events: It is anticipated there could be some demand for family get togethers, weddings, picnics, pictures, etc. at BCF.
- Agritourism: Farm tours as well as interest in the orchards, etc.

BCF would plan to do 2 events per year of up to 200 people, with all other events would be capped at 100 people. No more than one event would be allowed per week.

3. Lodging: There is currently a granary that has been converted to a lodge that may be used for traditional lodging or as a bridal suite for the bridal party to prepare for weddings. The lodge is not four seasons and will be winterized each year.

4. Facilities: There is currently an ADA restroom facility, a lodge (same building as the ADA restrooms), a park with a clearing for events, as well as the original buildings. These buildings have limited capacity and are not climate controlled. There are no plans to expand these buildings or renovate beyond the restoration back to their original state due to the historical significance of the structures. They will however be staged as they would have been in the 1920's for tours.

Traffic

When calculating traffic, I assumed 40 cars per week. Taking 40 trips/week times 20 weeks (summer season) comes out to 800 trips per year (to and from BCF) which is similar to that of a family of 2. While the traffic would be more concentrated at specific times, most of the week there would be no noticeable change in the amount of traffic.

From a similar perspective, when the Morris Family owned the farm (1950-1997), they had a family of 6. National studies show that traffic generated is roughly 1 (two-way) trip/person, or 6 trips/day for a family of 6. This amounts to 2190 trips per year which is 2.5 times that generated by BCF. In addition, the family farmed and had construction operations (hauling grain, livestock, coal, aggregate, soil, etc.), so the road also accommodated trucks and heavy equipment (which it doesn't currently see as a result of my occupation). As a result of being a farm operation, most of these trips were concentrated over the same general season as proposed by the events and tours at BCF.

For events, traffic will be directed to use 97th Ave and 26th St, both of which are paved.

Dust

The level of dust generated is expected to be less than that generated by a typical single-family residence. There is currently dust control in use for those homes on 110 Ave near highway 83, however for events, traffic will be directed to use 97th Ave and 26th St, both of which are paved. In addition, shuttles will be utilized, when possible, to accommodate larger groups.

Timeline

2020-ongoing: Farm restoration and development of grounds

2021: Filming of End of the Rope film, Farm tours, and events

2023: Screening for End of the Rope Film, Farm tours, and events

2024: Farm tours and events

Appendix



STATE HISTORICAL SOCIETY
OF NORTH DAKOTA

HISTORY FOR *everyone.*

August 31, 2023

To Whom I may Concern,

I have visited the Burnt Creek Farm located north of Bismarck, North Dakota and reviewed the information provided by Dave Lehman. I have made the preliminary determination that the property is eligible for listing in both the North Dakota State Historic Sites Registry and the National Register of Historic Places. The farm is a rare example of an improved tree claim and demonstrates the evolution of farm technology spanning the prosperous era just before the Great Depression through the recovery following World War II. Additionally, the architectural and engineering designs of the individual buildings and the building systems testify to the innovations of the time. This property is worthy of preservation and certainly contributes to our understanding of history.

If you have any questions, please feel free to contact me at lbmeidinger@nd.gov or 701-328-2089.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Meidinger', written in a cursive style.

Lorna Meidinger
Lead Historic Preservation Specialist

Appendix I: Historical Tidbits

The history of Burnt Creek Farm (BCF) dates back to the early years of Edwinton/Bismarck, Dakota Territory. In the 1870's GW Racek and his brother Chas owned the Racek Bro's harness shop on 4th street in Bismarck (known as Murderers Gulch or Bloody 4th having earned a reputation as one of the wildest cities in the nation resulting from the saloons, brothels, and a cultural clash of soldiers, native Americans, immigrant settlers, rich business men etc.). One of (if not the first) saddle and harness shop in Bismarck, G.W. did leatherwork for the calvary and settlers. They also started the Racek Bro's harness shop in Billings Montana, well known for quality territorial era saddles and leather goods. They also bought a parcel in Medora to capitalize on the gold trade as the Marquis De Mores and others had stage coach service directly to Deadwood and the Black Hills. It is unknown, however, if this business came to fruition.



1870's Photo of Racek Bro's Saddle & Harness Shop located on 4th Street in Bismarck, ND

ND Historical Society



G.W. homesteaded North of Bismarck (around where Stan Puklich is located). To acquire more 'free' land, he staked a tree claim where BCF is located. Per the 1878 Timber Culture Act, settlers were granted a quarter of land for planting 27,000 trees on 10 acres within that quarter and keeping 25% of them alive for 8 years. After planting the trees in the late 1870 or early 1880's, G.W. received title to the quarter in 1889, the year North Dakota was granted statehood. As seen in the picture to the left, ripples in the front yard (and back woods) still show evidence of the 1890 tree claim. Ripples in the land created while planting and watering the 27,000 trees with horse drawn implements are still very noticeable (see photo at left). Note all trees are on the crest of the ripples. GW (George)

Racek passed away not long after establishing the tree claim. The horse drawn breaking plow believed to have been used to plant the trees is currently on display in the ND Heritage center.



Upon G.W.'s passing in 1901, the land transferred to his son J.B Racek, a wealthy banker in Mandan. In 1922, J.B. had the farm built much as it exists today (see photo above). The farm included a brick prairie square (or American foursquare) house, barn, bunkhouse, garage, corn



crib/granary, chicken coop, outhouse, etc. It was extremely rare, being one of less than 2% of the farms at that time with running water and electricity. Running water came from a

windmill/cistern at the top of the hill (still present) which gravity flowed to the barn, house/cistern (a hand pump located in the



J.B Racek's signature on the \$10 bank note from The First National Bank of Mandan. 1 of 11 still known to exist. Owned by Dave Lehman.

kitchen drew water from the cistern, but there was no bathroom initially), and finally the orchard. Electricity to power the farm came from a 32-volt generator and rechargeable glass battery system (photo above) which will also be restored and on display at the farm.

Modern Farm Home
A beautiful, modern country home is being constructed by J. B. Racek of Mandan on his farm a mile east of Arnold. The house contains eight rooms and bath. It has running water and electric lights. The bath room and pantry are being constructed of hollow tile and brick which is brought from the Hebron factory. A fine modern barn will also be constructed. The buildings are situated in the grove on the farm.

Aug 1922 Bismarck Tribune

NDSU ties

According to prior owners of BCF, the farm was designed by the North Dakota Agricultural College (NDAC now NDSU). These claims have yet to be substantiated due to lack of records retention, however, there is evidence that this is a very strong possibility based on the following:

- The roughcut cottonwood fences and buildings (aside from the brick house) are painted white and green similar to NDSU experiment stations.
- The well-designed farm was built by a banker and farmed by a tenant farmer. Being a banker, it is unlikely JB Racek would have had the background to design the farmstead. NDSU archives hold very similar designs for gates/fences, water systems, buildings, etc. dating back to the 1920's.
- Mr. Racek's step children (Luthers) attended NDAC and held various leadership roles, so it's quite possible there was an established relationship. His stepson was president of AGR and student body president and his stepdaughter taught at NDAC.
- The land grant extension service in ND was in its infancy, and unfortunately many records have been lost.

THE SPECTRUM
North Dakota State College
STATE COLLEGE, NORTH DAKOTA, FRIDAY, APRIL 4, 1928
NUMBER 41

Luther Next Commission President

Hundreds Throng Army To Honor Prexy Sheppard
Made Permanent Head of School By State Board Monday
CONGRATULATED AT CONVOCATION
Representative Group Praises Selection of Most Able Leader

McGrath, May Have Places of Honor In Junior Prom Line
Tickets Will Go On Sale Monday for Formal Party
Herese McGrath and Leo May will be third and fourth in line in the

ERIC NORDSTROM WINS FREE THROW TROPHY
Eric Nordstrom was presented with the free throw trophy by the athletic department for garnering the most attempts from the free throw line during the past season.
Eric, a member of Alpha Kappa Phi Fraternity, was the spark plug of the team after the injury of Vern Goodwin and from then on proceeded to set the pace in scoring.
The cup was awarded on a percentage basis over the longest time played. With several men in the contest, Eric was finally determined winner with 87% of his shots good. Leo Thomason and George Fairhead both had a 100%, Thomason making the out of five or million rest of

Over 600 Votes Polled During Student Election
"Voting Is Closest Recorded Here," According to Madsen
NEW COMMISSION TAKES OFFICE MON.
Art Cayou Chosen Fresh Publication Member By Single Vote

Miss Vivian Luther, who has been visiting her mother, Mrs. John Racek of Bismarck, and friends in Mandan, left Tuesday for Fargo, where she is an instructor in the dramatic department of the North Dakota Agricultural college.

Mandan Shorts
Mrs. William Sullivan and her mother, Mrs. A. W. Farr, will entertain members of St. Anne's court, Lady Foresters, at a dinner this evening at the Sullivan home.
Leonard A. Luther was named president of Alpha Gamma Rho fraternity at the North Dakota Agricultural college, Fargo, according to word received by his mother, Mrs. J. B. Racek.



In 1950, the farm was sold to Robert Morris. Under his ownership, BCF was featured in The Farmer magazine (a national/regional publication) on a couple of occasions due to its unique and progressive design. The Farmer magazine featuring the trench silo (left) due to its unique architecture and diverse range of utility. The roof on the 15'x65' building was removable so silage could be added. When it did not have silage, it was used for farrowing hogs and 4H 'barn' dances. The back was later converted to a shop. This silo's architecture was identified as one of the farms features qualifying for the state and national register.

The section of land the farm resides on is of importance for other reasons as well. Somewhat ironically, it was more so noteworthy due to the women involved rather than the men. At a time when women maybe weren't afforded the same opportunities as men, these women had a major impact in their respective spheres of influence.

1. Florence Borner: In the 1910's, ND farmers felt taken advantage of by 'Big Business' and created the Non-Partisan League (NPL). The NPL, a socialist movement, took control of the state government (and much of the upper Midwest). They felt that by creating the State Mill and Elevator and the Bank of North Dakota they could gain control over commodity prices. These are businesses are still in operation today. Florence Borner was a league poet and an integral part of the propaganda machine for the NPL. The Borners spent a lot of time at the BCF, so many discussions of the NPL and construction of the State Mill and Elevator, and BND likely occurred at the kitchen table at BCF. The Borner farm which bordered Burnt Creek Farm was later purchased by J.B. Racek and added to the farm's acreage.

THE PRAIRIES	THE DEAR OLD FARM
<p>The prairies seem so lonely like To some, but not to me; I think they are the only place Where I could happy be; Here in my little old sod shack I lead a peaceful life; And have no need to feel alarm At this world's care and strife.</p>	<p>I read a picce the other day That made me kind of warm, It told about the money made, Upon the dear old farm. It said the farmers all were rich, Excepting those who shirked, And 'lowed we'd all been millionaires If harder we had worked.</p>
<p>The people here live far apart, For miles and miles around, There's naught save lonely prairies, Or perhaps you hear the sound Of a coyote calling to his mate, Upon some distant hill, Or a hoot owl's screech as he flits past Then every-thing is still.</p>	<p>It spoke of softly lowing kine, And fields of new-mown hay, Of how the chickens always laid So many eggs a day. It mentioned fields of golden grain, Fruit hanging on the vine, And written down in words like that The "dear old farm" sounds fine.</p>
<p>I love the rolling prairies, Where the wind blows wild and free; None of your crowded city homes, Or big hotels for me; I want to live a lonely life, Upon the prairie sod; It seems to me that I am here, Much nearer to my God.</p>	<p>It said the farmer is a king, The monarch of the land, It told of lovely sylvan dells, Great trees on every hand. It said the farmer owed no one, Looked each man in the face, Called him the son of honest toil— A credit to his race.</p>
<p><i>Excerpts from Borner's book Modern Poems for Modern People when she lived by BCF. Published in 1919, this book contained poems about farm life, the NPL, and the struggles of the era.</i></p>	

1. Linda (Warfel) and Dr. Ben Slaughter (Gov Burgum's great grandparents) established the 'Burleigh County Poor Farm' and post office bordering the farm. Ben was a post surgeon assigned to the region's earliest military posts, including Camp Greeley/Hancock and Fort Rice. Linda Warfel Slaughter was known for the following:

- Founded the first ND historical society, which merged with the State Historical Society of North Dakota.
- First woman to vote in a national convention for a presidential candidate.
- Started the first Sunday school in 1872
- Started the Bismarck Academy in 1873, the first Bismarck public school
- First teacher and superintendent of schools in Burleigh County.
- First postmistress of Bismarck
- Crafted a bill in 1881 creating a board of education.
- Involved in the temperance movement and close personal friend of Susan B. Anthony.
- Wrote the words to the state song.

<p style="text-align: center;">Two Evils.</p> <p>SLAUGHTER, N. D., July 31, 1890.—After a swing around the circle, taking in Conger, Croft and Cromwell, and noting the excellent crops—at least, excellent in appearance, I was impressed with at least two major evils, of which one at least could easily be remedied. I refer to the condition of farms owned by non-residents, some of which are being pre-empted by noxious weeds and wild mustard, that are disfiguring the face of the country. Handsome trees of vigorous growth waiting to be blackened and dissipated by the first prairie fire, for the want of a little care. Infinitely preferable the untouched virgin sward of indestructible native grasses.</p> <p>These land owners should be made to pay for this ruthless disfigurement of our fair domain. If in no other way, let the tax gatherer reach out for them until our incoming legislature can help us.</p> <p>Many tree claims that have been proved up on are permitted to go to weeds and grass, which will soon be their funeral pyre. There are some tree claim holders who richly deserve the blessing of the people in their respective communities—such as Asklund in Ecklund, Pollock in township 141, Racek in township 140 and a few others. These bright oases on the prairie make our hearts go out to them as substantial benefactors.</p> <p>The reckless waste and neglect of farm machinery makes the heart grow sick. At one place I counted a mower, hay rake, double sulky plow and a reaper and binder</p>	<p>and but for the tall weeds that sheltered them from the pitiless rain and burning sun, might have counted more. I learned that this man had quit farming. He is one who ought to have quit ere he began. Why our farmers do not pay more attention to tree culture around their homes passeth my understanding. They have teams and woods are near, wells with abundance of water at hand when the rains are too tardy in coming. I notice some few have wells a little distance from their houses, but it seems never to have occurred that a group of trees around it, to shade and add sylvan beauty, would furnish pleasure to the eye and enhance the value of their property. They should not let another fall pass by without this addition. If late, it is not too late.</p> <p style="text-align: right;">S.</p> <p><i>A columnist for the Bismarck Tribune, Linda Warfel-Slaughter criticized tree claims due to poor management but gave praise to G.W Racek for his good management practices.</i></p>
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For additional information regarding Burnt Creek Farm, please visit the Facebook page at: <https://www.facebook.com/burntcreekfarm>

Burnt Creek Farm



3/21/24

Burleigh Co. Building/Planning/Zoning Dept.
PO Box 5518
Bismarck, ND 58506-5518

Dear Burleigh County Planning Commission Members:

Please accept this application in consideration for a Special Use permit to allow agritourism and events to continue at Burnt Creek Farm. Anticipated activity relative to this permit would include the following:

1. Tours:
 - Historical
 - Agritourism

2. Events such as:
 - Corporate events
 - Family events (reunions, birthdays, weddings, etc.)
 - Events for the public (assisted living, schools, etc.)

3. Lodging

While Burnt Creek Farm has been in operation with various tours and events of up to 200 people since 2020, I would like to continue to operate. Burnt Creek Farm's focus lies in educating the public about North Dakota's strong agricultural history as well as providing memories for all of those that visit. Thank you for your consideration!

Sincerely,



David Lehman

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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: Notification Distance
Date: 3-25-2024
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Notification Distance for Public Hearings

The numbers in the attached exhibits were put together as samples for notification purposes on Dave Lehman's Burnt Creek Farms. It is a little over 2 miles of gravel road from his property to Hwy 83.

Exhibit 1 measured -in a ½ mile circular distance and counted 15 people. Exhibit 2 measured along 110th Ave to Hwy 83 in a straight line that used 2 borders (polygonal) to count the houses that are adjacent to 83, this amounted to 39 people. The Exhibit 3 was measured in a 2-mile circular distance, which amounted to 355 people.

Besides the notifications that we send, there should be a consideration that Burleigh County also:

1. Advertises these public hearings twice in 10 days,
2. Posts the hearing notice on our website,
3. Provides the availability to subscribe to an agenda notifications (email) for every meeting for every Board in Burleigh County.

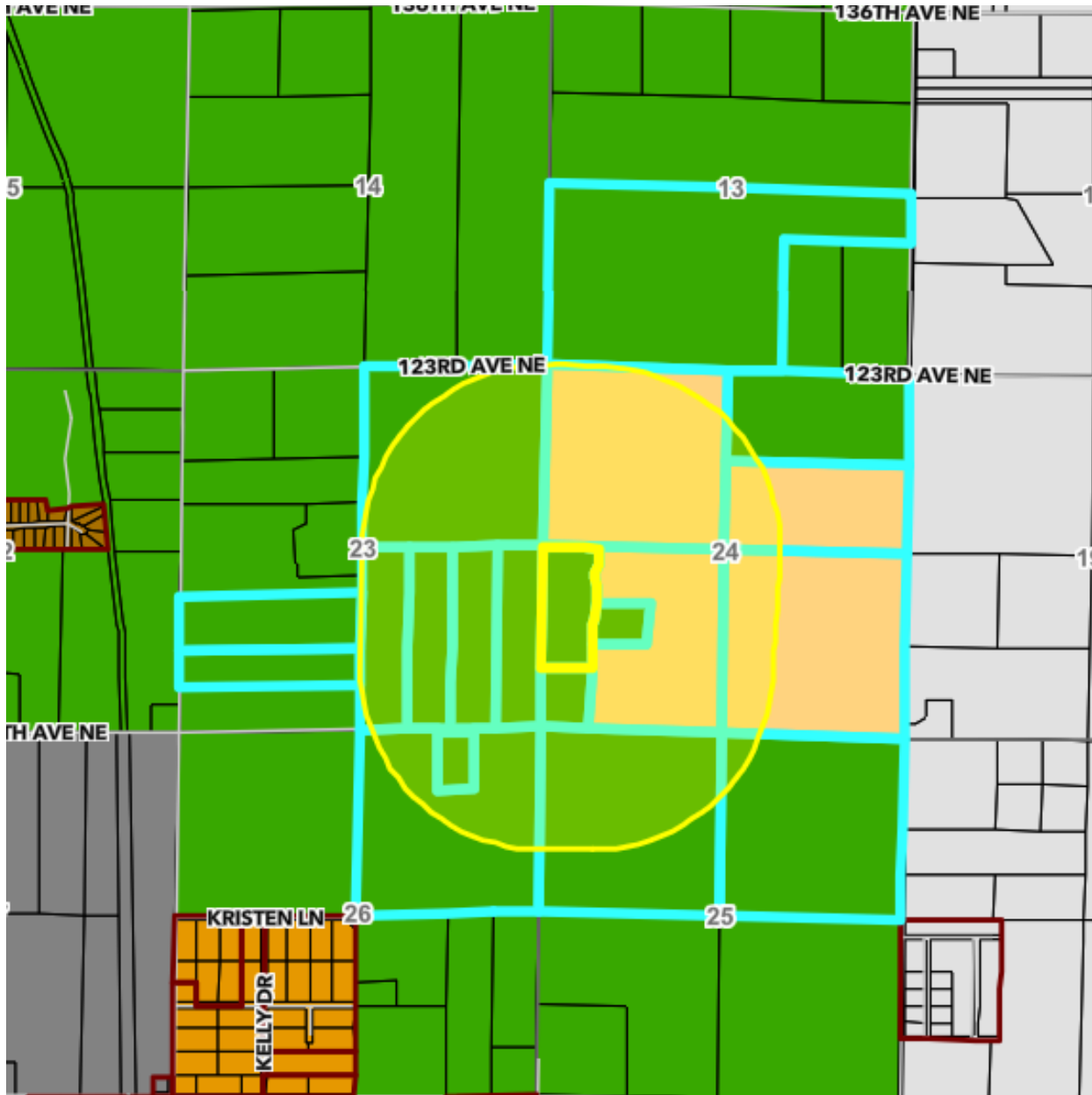
ACTION REQUESTED:

No action is required

Attachments:

- Ex. 1. ½ mile circular notification distance
- Ex. 2. 2- mile straight line notification distance
- Ex. 3. 2- mile circular notification distance.

1/2 -Mile Circle
11501 NE 41st Street

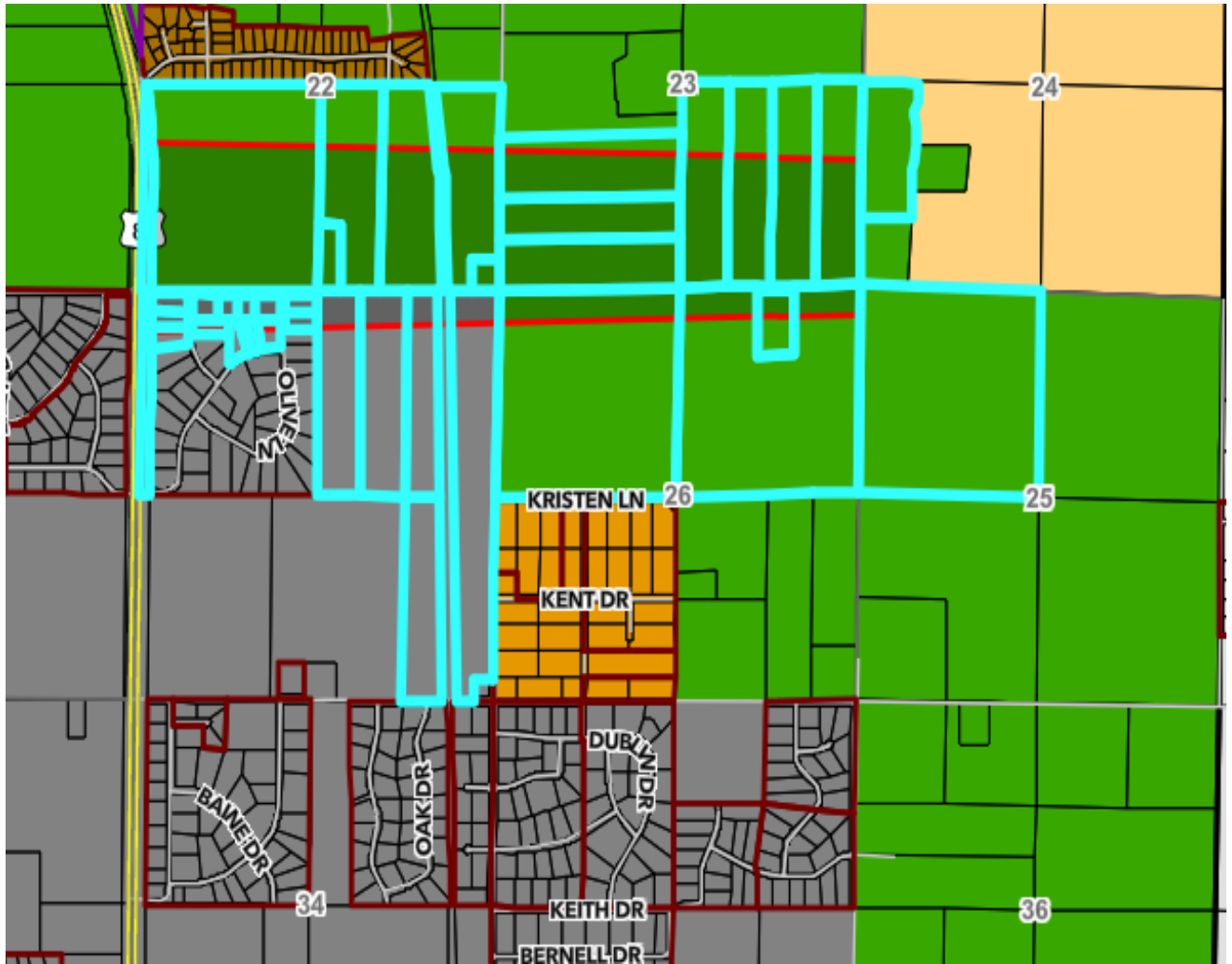


1/2 Mile Circle
11501 NE 41st Street

Owner_Name	Property_ID_Number
8N2E PROPERTIES LLP	24-140-80-00-24-600
BONNET, BRADLEY J & TAMMY JO	24-140-80-00-23-810
DIETRICH, EJ & ANDERSON, CA	24-140-80-00-13-600
ELLINGSON, JEFFERY L & GENEVIEVE	24-140-80-00-23-602
FLECK, KURT J & DANA	24-140-80-00-23-800
HAGEROTT, ARDEN N	24-140-80-00-26-200
HAGEROTT, TARRIN-LEE	24-140-80-49-01-010
HOGUE, KAREN G & HOGUE, DAVID	24-140-80-00-23-200
LEHMAN, DAVID	24-140-80-00-24-610
MILLER, ROGER D & MELISSA K ETAL	24-140-80-00-23-811
PAHLKE, DALE	24-140-80-00-25-400
RUTSCHKE, KAREN MARIA	24-140-80-00-23-601
SANDNESS, AMBER & SETH	24-140-80-00-24-601
STREIFEL, BEATRICE M	24-140-80-00-23-812
THOMPSON, MARK T & JULIE K	24-140-80-00-24-200

2-Mile Polygon

11501 41st Street NE

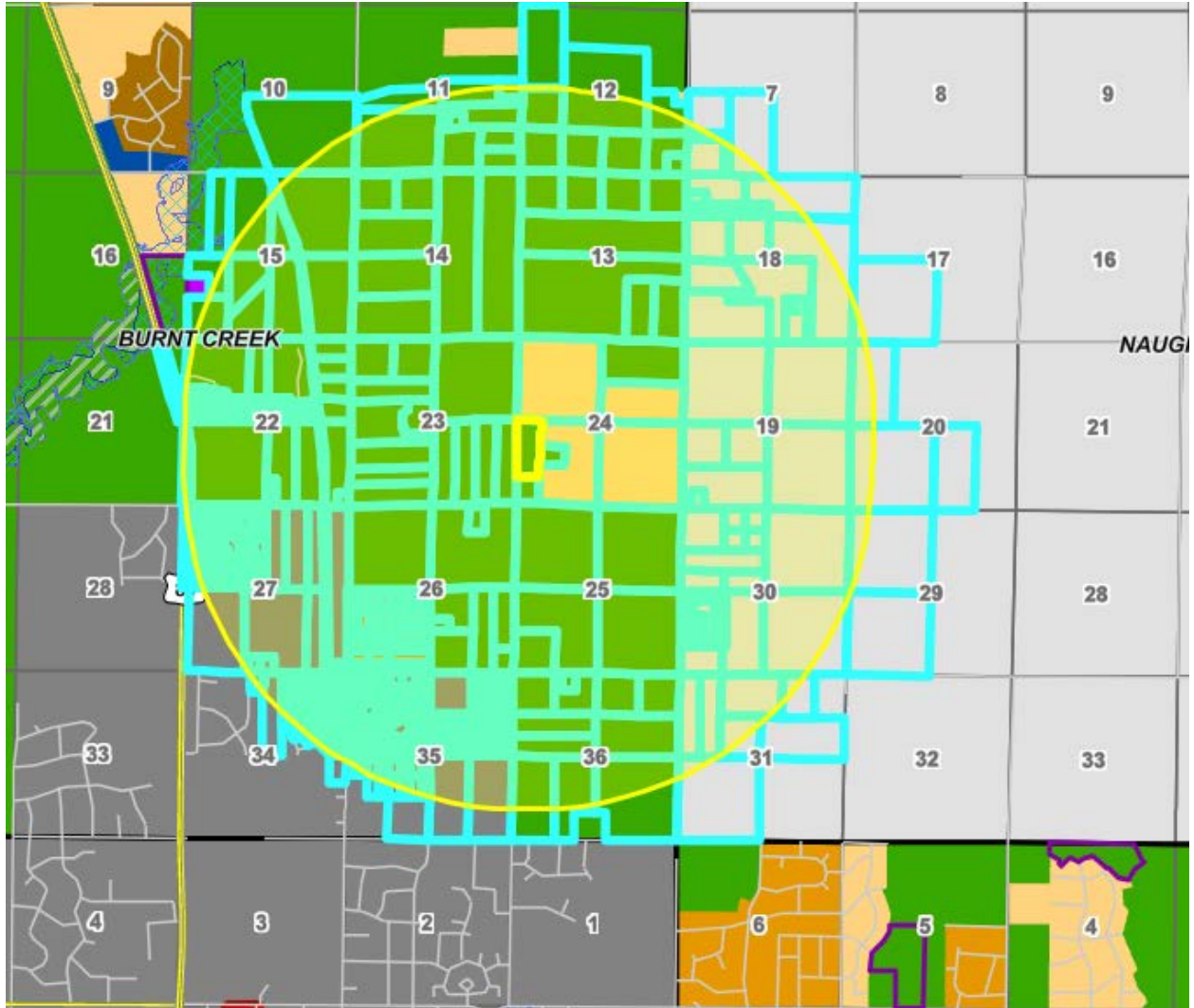


2-Mile Polygon
11501 41st Street NE

Owner_Name	Property_ID_Number
APPELT, REED D & LISA M	24-140-80-00-27-211
BETO, KEVIN & RHEA	24-140-80-67-02-070
BONNET, BRADLEY J & TAMMY JO	24-140-80-00-23-810
BORGERDING, KATHLEEN & MICHAEL	24-140-80-00-27-200
EBEL, HERBERT C & CHARLOTTE K	24-140-80-67-01-030
ECKLUND, FORREST & ALYCE ETAL	24-140-80-00-22-830
ELLINGSON, JEFFERY L & GENEVIEVE	24-140-80-00-23-602
FLECK, KURT J & DANA	24-140-80-00-23-800
HAGEROTT, ARDEN N	24-140-80-00-26-200
HAGEROTT, TARREN-LEE	24-140-80-49-01-010
HAIDER, DWIGHT D & GINA	24-140-80-67-02-020
HOGUE, KAREN G & HOGUE, DAVID	24-140-80-00-22-600
KIENZLE, CLYDE & DENISE	24-140-80-67-01-010
LEHMAN, DAVID	24-140-80-00-24-610
MARTINESON, WAYNE & KAREN	24-140-80-00-27-210
MELLMER, LUKE & BRIANNE	24-140-80-67-03-010
MILLER, ROGER D & MELISSA K ETAL	24-140-80-00-23-811
PAHLKE, DALE	24-140-80-00-25-400
PARENT DUFOUR, AMANDA& PARENT, NATHANIEL	24-140-80-00-22-800
PETERMANN BRYANT, JULIE E	24-140-80-67-02-010
PETERSON, BRYNN K	24-140-80-67-02-030
PETERSON, ROBERT & KATHLEEN	24-140-80-67-02-040
REIS, PATRICK L & JOAN M	24-140-80-67-02-080
RUTSCHKE, KAREN MARIA	24-140-80-00-23-601
SIGETTE, TROY & JANELLE	24-140-80-67-02-090
STREIFEL, BEATRICE M	24-140-80-00-23-812

DUPLICATE PROPERTY OWNERS HAVE BEEN REMOVED 39 TOTAL PARCELS WITH DUPLICATES

2- Mile Circle
11501 NE 41st Street



2- Mile Circle
11501 NE 41st Street

Owner_Name	Property_ID_Number
100 HILLS LLLP	24-140-80-00-34-802
8N2E PROPERTIES LLP	24-140-80-00-24-210
ALVESHHERE, MARVIN & DIANE	24-140-80-36-00-142
ANDERSON, JOY L & DARYL L	24-140-80-51-01-070
ANDRE, BYRON R	25-140-79-00-30-440
ANDRE, PAUL R	24-140-80-77-01-090
APPELT, REED D & LISA M	24-140-80-00-27-220
BACKMAN, THOMAS L & SHELLAE A	24-140-80-51-01-040
BARNES, JOHN F III & MOLLY	24-140-80-67-04-100
BARNETT, MELVIN V & SHIRLEY L	24-140-80-00-13-605
BASARABA, ANDREW L & LYNN	24-140-80-84-02-010
BAUER, RYAN & BAUER, KENDALL	24-140-80-77-01-100
BEAR, RONALD E	24-140-80-83-00-150
BEATY, JAMES R & BARBARA K	25-140-79-00-07-600
BENCHMARK DEVELOPMENTS LLC	24-140-80-51-01-060
BENFIET, K; BENFIET, S; MORMANN, P	24-140-80-83-00-130
BENNES, BYRON M & JUSTINE F	24-140-80-35-00-010
BERGAN, DELRAY & DEBORAH	24-140-80-67-04-020
BERNARDT-WHEELER, MARY L	24-140-80-36-00-071
BERRETH, PHYLLIS R	24-140-80-00-27-600
BETO, KEVIN & RHEA	24-140-80-67-02-070
BLANCHARD, JOEL H & MARIE ANNE	24-140-80-50-01-040
BLANCHARD, STEPHANE R & AMANDA L	24-140-80-50-04-140
BLATTER, SANDRA	24-140-80-67-04-060
BLEES, JEFFREY A & KRISTEN M	24-140-80-67-04-030
BONNET, BRADLEY J & TAMMY JO	24-140-80-00-23-810
BOOTS, CLINTON J & KVAS, SUSAN	25-140-79-01-01-030
BOPP, PETER & KAITLYN	24-140-80-77-01-060
BORGERDING, KATHLEEN & MICHAEL	24-140-80-00-27-200
BREHM, TIMOTHY R & DEBRA J	24-140-80-00-13-220
BREKKEN, TAD & SALEM, JONI	24-140-80-50-03-050
BRENDEL, TERRY & LINDONA	24-140-80-67-03-100
BROTHERS, TRAVIS W & CORI R	24-140-80-78-03-060
BROWN, CARL	24-140-80-00-14-400
BROWN, ELAINE	24-140-80-00-14-610
BROWN, ELAINE, JERRY & CARL	24-140-80-00-14-401
BROWN, TROY D ETAL	24-140-80-00-14-600
BULLER, TIMOTHY & KYLA	24-140-80-50-04-110
BURNT CREEK NURSERY LLC	24-140-80-00-14-410
CAPITAL ELECTRIC COOP INC	25-140-79-00-18-800
CARGO, JEREMY & LACEY	24-140-80-83-00-120
CARLSON, CLEO; CARLSON, MELISSA T	24-140-80-36-00-051
CARLSON, SHAWN M	24-140-80-67-03-120
CASSIDY,BRIAN & TERRIE ET AL	24-140-80-85-08-080
CHAMBERLAIN, JEFFREY & MEGHANN	24-140-80-75-02-050

2- Mile Circle
11501 NE 41st Street

CHMIELEWSKI, STEVEN & CONNIE	24-140-80-85-08-120
CHRISTENSON, GARY C & ROSALIE	24-140-80-50-04-100
CHRISTIANSON, ROGER & MAVIS	24-140-80-84-02-030
CLOOTEN, CRAIG	24-140-80-00-36-600
COLLINS, ROGER L	24-140-80-00-12-830
CROUSE, MICHAEL & SHANNA	24-140-80-50-02-020
CURT, SHIRLEY & MICHAEL	24-140-80-85-09-060
DALLY, JUSTIN & TRISKA, HOLLY	24-140-80-67-01-110
DASILVA, MATTHIAS & CHRISTINA	24-140-80-85-08-040
DAVIS, AMBER & JAMES	24-140-80-55-01-010
DECOTEAU, GORDON & MARGARET	24-140-80-67-03-140
DEGNER, GALYNN R & RACHELLE M	24-140-80-78-02-040
DELZER, DAVID & ANDREA	25-140-79-00-07-610
DEMARIA, ROBERT L & CHARLENE K	24-140-80-77-01-070
DEWITT, JASON W & TAMMY L	24-140-80-51-04-050
DIETRICH, BETTY	24-140-80-00-23-401
DIETRICH, EJ & ANDERSON, CA	24-140-80-00-13-200
DIETRICH, ELIZABETH J	25-140-79-00-18-605
DIETRICH, GARY H IRREVOCABLE >	24-140-80-00-23-400
DOLL, JUSTIN R & LINDSAY G	24-140-80-67-04-040
DOPPLER, LEO & SUSAN	24-140-80-00-22-230
DUFF, JESSICA MARIE & BRANDYN	24-140-80-84-05-070
DUNCAN, JEFFREY & LAURIE	24-140-80-50-04-130
DURICK, PATRICK & MARY ANN	24-140-80-36-00-161
DVORAK, RONALD G & CLARK, PATRICIA A	24-140-80-83-00-140
EBEL, HERBERT C & CHARLOTTE	24-140-80-67-01-020
ECKLUND, FORREST & ALYCE ETAL	24-140-80-00-22-820
ECKMAN PROPERTIES LLC	24-140-80-50-03-080
ECKROTH, JESSE J & TRISHA N	24-140-80-76-02-050
ELGAEN, MONTEL & ELGAEN, TOM	24-140-80-36-00-101
ELLINGSON, JEFFERY L & GENEVIEVE	24-140-80-00-23-602
ENGELHARD, BRANDYN S & MICHELLE M	25-140-79-01-01-060
ENGSTROM, JODIE M	24-140-80-50-04-150
ENGWICHT, MARK P & LAURA L	24-140-80-82-01-010
ERHARDT, BLAINE D & TONI R.	24-140-80-67-03-150
ESPOSITO, DAVID G	25-140-79-00-17-600
FASCHING, STEVEN & SKYE	24-140-80-85-09-080
FERNOW, WALLY & VERONICA ET AL	24-140-80-67-01-040
FETTIG, PAUL & DORIS	24-140-80-16-05-011
FISHER, LINDA L	24-140-80-67-01-080
FISHER, TROY J	24-140-80-50-04-040
FLECK, KURT J & DANA	24-140-80-00-23-800
FOLDEN, MARK & KELLY	24-140-80-85-08-070
FOX, STEPHEN J & ERNATT, ABIGAIL C	24-140-80-51-01-130
FRANK, DANIEL & CHERIE A	24-140-80-00-21-215
FREADRICH, CHRISTINE	24-140-80-76-03-050
FREBORG, RICHARD & JACKIE	24-140-80-67-01-120

2- Mile Circle
11501 NE 41st Street

FREDERICKS, COLEMAN & KIMBERLI M	24-140-80-36-00-131
FUELLER, JERON	24-140-80-85-08-010
FYFE, ALISTAIR & TANYA P	24-140-80-00-36-415
FYFE, IAN C	24-140-80-50-01-030
G & J KUNTZ PROPERTIES LLP	25-140-79-00-07-620
GERMAIN, CHRIS R & LAURA R	25-140-79-01-01-020
GOLDADE, MICHAEL W & DIANN	24-140-80-78-03-030
GRAMM, DAVID & CHERYL	24-140-80-76-01-020
HAGEROTT, ARDEN N	24-140-80-00-27-800
HAGEROTT, TARREN-LEE	24-140-80-49-01-010
HAHN, BRIAN D & KAREN P	24-140-80-67-04-090
HAIDER, DWIGHT D & GINA	24-140-80-67-02-020
HANSON, JEFFREY & ROXANNE	24-140-80-77-01-010
HARMSTEAD, SCOTT R & MICHELLE L	24-140-80-85-09-090
HARSTAD, STEVEN J & CHARITY	24-140-80-75-01-030
HAUSSLER, JAMES P & JULIE M	24-140-80-00-36-201
HAYTER, WILMAR & IONE	24-140-80-83-00-010
HEDBERG, GERALD & SANDRA	24-140-80-84-05-110
HEID, TODD C & DENISE D	24-140-80-35-00-080
HEINLE, NEIL C & FRANCINE L	24-140-80-67-03-170
HERITAGE RESERVE ASSOCIATION	24-140-80-51-01-010
HERMANSON, AARON & KRISTIN	24-140-80-84-05-060
HETTICH, DALE	24-140-80-77-01-120
HIEB, ERIC D & HARDY, KALI L	25-140-79-01-01-050
HILGER, CONNIE L LIVING TRUST	24-140-80-51-01-080
HINKEL, JESSICA	24-140-80-00-13-400
HOFFMAN, JEANETTE C	25-140-79-00-30-410
HOGUE FARM LIMITED PARTNERSHIP	25-140-79-00-31-600
HOGUE, TIM J; HOGUE, TODD I; HOGUE, TONY R	25-140-79-00-19-602
HOGUE, TIMOTHY J	25-140-79-00-30-600
HOGUE, TONY R	25-140-79-00-31-201
HOGUE, KAREN G & HOGUE, DAVID	24-140-80-00-22-600
HOHBEIN, JEROME & SUZANNE E	24-140-80-00-12-240
HOLZER, THOMAS J	24-140-80-36-00-062
HOLZWORTH, LAURA	24-140-80-35-00-150
HOUGHTON, DUANE & MARLYS	24-140-80-16-05-010
HUCK, KENNETH & DIANE	24-140-80-67-03-180
HURT, DALE A & MELISSA J	24-140-80-85-06-020
IHEARTMEDIA TOWER CO I LLC	25-140-79-00-18-810
IVERSON, KEVIN C & CARRIE A	24-140-80-36-00-111
JOHANSON, DOUGLAS & KARLA	24-140-80-84-04-020
JOHNSON, LISA & TRAVIS	24-140-80-51-05-030
JOHNSON, KELLY	24-140-80-00-11-850
JOHNSON, ROGER J & CONNIE A	24-140-80-85-07-010
JOHNSON, RYAN E & LYNETTE M	24-140-80-76-02-030
JONES, JUSTIN & KRAFT, DIANE	24-140-80-67-03-080
JORDAN, JESSE & RACHEL	24-140-80-76-01-040

2- Mile Circle
11501 NE 41st Street

JOSE, LAYNE J & VICKI L	24-140-80-00-23-402
JUNDT, VALERIE M & WAYNE M	24-140-80-00-35-605
KALBERER FAMILY REVOCABLE LIVING TRUST	24-140-80-85-09-010
KARY, DAVID J & JODI L	24-140-80-50-04-120
KASTNER, ASHLEY & RYBERG, CHRISTIAN	24-140-80-85-09-070
KESSLER, DUANE D & MARILYN A	24-140-80-00-11-800
KIENZLE, CLYDE & DENISE	24-140-80-67-01-010
KING, JAMES W & JOANNE S REVOCABLE TRUST	24-140-80-83-00-060
KLEIN, SCOTT A & KIMBERLY J	24-140-80-83-00-020
KOLEGRAF, DEBBIE S	24-140-80-00-36-400
KOPP, CHRISTOPHER & REBECCA	24-140-80-78-01-030
KOTTRE, ROBY L & MARGARET	24-140-80-50-03-070
KRAFT, SHANE & BERKLEY	25-140-79-00-18-400
KREIN, LELAND L & MARELLA A	24-140-80-78-03-020
KRIEGER, DANIEL J & DAWN K	24-140-80-84-05-120
KRUEGER, CURTIS L & NANCY A	24-140-80-51-05-020
KRUEGER, DUSTIN & RHONDA	24-140-80-67-02-060
LANDERS, MARGO E	24-140-80-50-03-030
LANG, CORY & MICHELLE	24-140-80-75-02-020
LANG, ROBERT A	24-140-80-78-02-060
LARSON, LANCE	24-140-80-77-01-040
LAXDAL, NOEL & MARLA	24-140-80-50-04-090
LEDGER, CHARLES R & KIMBERLY M	24-140-80-36-00-141
LEE, CHARLES R & LINDSEY K	24-140-80-84-05-030
LEFOR, DOUGLAS & CONNIE	24-140-80-51-05-040
LEHMAN, DAVID	24-140-80-00-24-612
LEMIER, L PAUL	24-140-80-00-26-805
LENERTZ, DIANE M	24-140-80-00-26-802
LENSEGRAV, TROY	24-140-80-85-06-050
LEVCHAK, PAUL & DEBORAH	24-140-80-84-02-040
LIND, JIM & LORI	24-140-80-85-09-020
LINDSAY, SOLOMAN & DELORME, BRANDIE	24-140-80-50-04-070
LIPP, DENNIS & BETH	24-140-80-84-03-020
LOGAN, KEVIN & KATIE	24-140-80-84-05-050
LONGHURST, ALANNA RAE & NEAL DAVIS	24-140-80-75-02-030
LONNING, GARY G & KARLA	24-140-80-00-15-420
LORENZ, KEVIN M & T RENEE	24-140-80-50-04-020
LUGER, JOSHUA C & STEBNER, SABRINA K	24-140-80-84-05-040
MARKWED, MICHAEL & JENNIFER	24-140-80-75-02-090
MARQUART,S; PUFFER,K; MARQUART,D	24-140-80-00-13-410
MARTIN, KEVIN J & EBY MARTIN, LORI	24-140-80-67-03-090
MARTINESON, WAYNE & KAREN	24-140-80-00-27-210
MARTINESON, WAYNE P	25-140-79-00-18-210
MARTINSON, HATTIE	24-140-80-36-00-102
MASTEL, CHRISTOPHER J	24-140-80-67-04-050
MASTEL, JOSEPH	24-140-80-00-22-240
MCCOMMON, DONALD JR & BETTY	24-140-80-36-00-122

2- Mile Circle
11501 NE 41st Street

MCDONOUGH, DRS STEPHEN L & >	24-140-80-50-03-020
MCINTYRE, MICHAEL & MELVA	24-140-80-35-00-050
MCKAY, GREGORY R & DORIS	24-140-80-00-15-605
MCMERTY, MICHAEL & MCMERTY, L	24-140-80-36-00-091
MEDUNA, GREGORY L	24-140-80-76-01-030
MEIER, TRAVIS & RONDA	24-140-80-00-11-600
MELLMER, LUKE & BRIANNE	24-140-80-67-03-010
MERTZ, SARAH & BALAS, CALEB	24-140-80-85-09-040
MERTZ, TERRY	24-140-80-51-01-030
METZ, DAVID & CATHERINE	24-140-80-50-03-060
MEYER, DAVID C & SHERYL M	24-140-80-67-02-050
MEYHOFF, BRETT J	24-140-80-35-00-012
MICHLITSCH, ANTHONY J II & LINDI	24-140-80-50-01-020
MILLER, JON W & MILLER, JENI L	24-140-80-00-25-601
MILLER, LLOYD & SANDRA	24-140-80-36-00-121
MILLER, ROBERT L & SHELLY R	25-140-79-00-30-420
MILLER, ROGER D & MELISSA K ETAL	24-140-80-00-23-811
MINNKOTA POWER COOP INC	25-140-79-00-19-603
MODIN, RANDAL & KATHY	24-140-80-67-01-060
MODIN, SCOTT L	24-140-80-85-09-030
MORGAN, DON & SHANDA	24-140-80-00-15-606
MORLOCK, COREY	24-140-80-75-02-080
MORMANN, JOSEPH ALAN	24-140-80-85-08-100
MORRIS, BO	25-140-79-00-30-404
MORRIS, BRETT	25-140-79-00-30-402
MORRIS, LANCE	25-140-79-00-30-400
MORRIS, RENEE M	24-140-80-35-00-030
MORRIS, TIFFANE	25-140-79-00-30-406
MORROW, DWIGHT Z & HAYLEY	24-140-80-78-01-010
MOSER, PERRY & DIANA	24-140-80-00-12-215
MUND, KAREN	24-140-80-78-01-040
MUNDSTOCK, KYLE & LENORA	24-140-80-77-01-080
MYERS, DAVID L & SHEILA A	24-140-80-67-01-070
MYHRE, PATRIC O & JANET C	24-140-80-50-04-010
NAGEL, KENNETH A & DELORES M	24-140-80-84-05-010
NEIBAUER, BRANDON & KELSIE	24-140-80-76-03-020
NELSON, JAMES & CONNIE	24-140-80-67-01-100
NEMECEK,CAMERON &WINKLER,CAROL	24-140-80-50-04-160
NICHOLS-JOHNSON, HEIDI &>	24-140-80-00-36-200
NIELSEN, ERIC W & REBECCA L	24-140-80-67-03-110
OCHSNER, TERRY & MARY KAY	24-140-80-51-02-020
O'HANLON, MICHAEL & DEZARAE	24-140-80-83-00-030
OLSON, CHRISTOPHER J & REBEKAH	24-140-80-00-15-607
OLSON, REBEKAH	24-140-80-00-15-600
O'SHEA, LINDA	24-140-80-00-23-403
O'SHEA, TREVOR	24-140-80-00-23-404
OVA, DAVID R & KATHY S	24-140-80-78-02-020

2- Mile Circle
11501 NE 41st Street

PAHLKE, DALE	24-140-80-00-25-200
PARENT DUFOUR, AMANDA& PARENT, NATHANIEL	24-140-80-00-22-800
PATRICK, DALE P & DOROTHY J	24-140-80-75-01-040
PAUL, CHARLES & LINDA	24-140-80-36-00-112
PEDERSON, RONALD & CONSTANCE	24-140-80-50-03-040
PENNINGTON, CHAD & MARIA	24-140-80-85-09-050
PETERMANN BRYANT, JULIE E	24-140-80-67-02-010
PETERSON, BRYNN K	24-140-80-67-02-030
PETERSON, ROBERT & KATHLEEN	24-140-80-67-02-035
PFAFF, NICHOLAS J	24-140-80-51-04-010
PFAFF, STEVEN D & CHERISE J	24-140-80-51-01-020
PIEPER FAMILY TRUST	24-140-80-84-05-080
PITTMAN, DARREL & MARLETTE	24-140-80-83-00-110
POCHANT, MICHAEL K & MACHELLE	24-140-80-76-01-010
PRUESS, RYAN T & WOLFER,TRACEY	24-140-80-76-03-040
PRUSSING, JAYLIA & JON	24-140-80-67-03-160
RAILSBACK, ROBERT & JUDITH	24-140-80-83-00-050
REIKOW, ROBERT K & DEANNA K	24-140-80-76-03-010
REIS, PATRICK L & JOAN M	24-140-80-67-02-080
REISWIG FAMILY LLLP	24-140-80-00-35-210
REUPPEL, SCOTT & CHARLOTTE M	24-140-80-67-03-050
RICHTER FAMILY LLLP	24-140-80-00-35-800
RIEPL, KIMBERLY L	24-140-80-19-01-010
RISAN, MICHAEL & HELEN	24-140-80-50-03-010
ROETHLER, DONALD P & CINDY A	24-140-80-00-12-600
ROGSTAD, MICHAEL G & LOUISE M	25-140-79-00-31-240
ROST, DAVID C & KELSY M	24-140-80-51-01-140
RUTSCHKE, KAREN MARIA	24-140-80-00-23-601
SAILER, VIRGIL & FLORENCE	24-140-80-85-07-030
SANDAL, MICHAEL W & LORRI A	24-140-80-67-03-030
SANDNESS, AMBER & SETH	24-140-80-00-24-601
SATTLER FAMILY LLLP	24-140-80-00-36-610
SCHAAF, SAMUEL D & TANIA R	24-140-80-76-02-010
SCHAFER, WILLIAM & SUZANN	24-140-80-85-08-110
SCHAFFER, LAURA L & DEREK J	24-140-80-51-01-050
SCHAFFNER, PRESTON & LACEY	24-140-80-84-05-020
SCHETTLER, MYLES & STEFANIE	24-140-80-75-01-020
SCHIMKE, RICHARD W & ROBIN J	24-140-80-76-02-020
SCHLOSSER, RYAN & PATRICIA	24-140-80-75-01-050
SCHMALTZ, KEITH D & WENDY A	24-140-80-67-04-070
SCHMIDT, STEVEN R & RACHEL R	24-140-80-77-01-050
SCHMITT, JASON & APRIL	24-140-80-78-03-010
SCHMITZ, DAVID P & LINDA C	24-140-80-35-00-041
SCHNABEL, KYLIN K & WHITNEY M	24-140-80-00-13-620
SCHONERT, GREGORY P	24-140-80-00-22-200
SCHONERT, PAMELA	24-140-80-00-22-220
SCHROEDER, NATHANIEL R & PHULLIS J	24-140-80-51-04-070

2- Mile Circle
11501 NE 41st Street

SCHULZ, ALBERT & GEORGIA	24-140-80-00-10-600
SCHUMACHER, LEO & MARY JANE	24-140-80-78-02-010
SCHWALBE, DAVID & CHAFFEE, ELLEN	25-140-79-00-31-210
SCHWINDT, MICHAEL R & SHARON J	24-140-80-00-26-800
SEAMANDS, ERIC & MAGGIE	24-140-80-00-27-620
SEBASTIAN, JOHN JR & PATRICIA	24-140-80-83-00-040
SENNE, RUSSELL	24-140-80-35-00-040
SHEETS-NYGARD, MELISSA &	24-140-80-50-02-010
SHELDON, TODD A & LAVONNE A	24-140-80-00-12-601
SICKLER, WARREN A & KIMBERLE A	24-140-80-50-04-060
SIGETTE, TROY & JANELLE	24-140-80-67-02-090
SIMONSON, JEFF & LYNETTE C	24-140-80-76-03-060
SKIBINSKI, CYNTHIA J	24-140-80-50-04-030
SKOR, RYAN & TIFFANY	24-140-80-75-01-060
SMEDBERG, DONALD W & ELIZABETH	25-140-79-01-01-010
SMITH, MICHAEL F & PAMELA K	24-140-80-85-08-050
SNOW, PARKER D & SAMANTHA M	24-140-80-85-06-030
SNYDER, DALE & CORAL	24-140-80-85-06-040
SOLBERG, JOHN W	24-140-80-00-26-801
SOTO, HERBERT ERIC & NICOLE M	24-140-80-00-11-605
SOUPIR, SKYLAR & TATIANA	24-140-80-75-02-010
SPLJ, LLP	24-140-80-00-15-400
SPOONER, WILLIAM A	24-140-80-78-03-050
STANGE, CRAIG M & DIANNE M	24-140-80-84-05-090
STEFANOVSKY, GARY L	24-140-80-35-00-020
STEINWAND, DELTON & JANICE	24-140-80-83-00-070
STORY, GREG A & WANDA L	24-140-80-78-02-050
STREIFEL, BEATRICE M	24-140-80-00-23-812
SUNDBY, ERIC & NATALIE	24-140-80-36-00-132
SWENSON, TODD J	24-140-80-75-02-060
TAPLIN, MARK & ROTH, TANYA	24-140-80-78-01-020
THELEN, KEVIN M & KIMBERLY	25-140-79-00-18-410
THELEN, SCOTT & CHRISTINA	24-140-80-50-04-050
THOMPSON, MARK T & JULIE K	24-140-80-00-24-200
TIEFENTHALER, ROBERT JAMES	24-140-80-85-08-090
TRAPP, HARVEY	24-140-80-36-00-052
TURNBULL, TIMOTHY T & DENISE O	24-140-80-84-03-010
TWEETEN, DARIN D & CHRISTI M	24-140-80-76-02-040
TWEETEN, HOWARD & KATHLEEN	24-140-80-00-36-402
UGLAND, CURTIS C & DENISE M	24-140-80-77-01-110
ULLEDALEN, LAUREN N & BRYAN P	24-140-80-75-02-070
UNBEHAUN, ANDREW D & KATIE A	24-140-80-77-01-030
UTTER, RAY	24-140-80-84-02-020
VAN SICKLE, GUY R & MARY LYNN	24-140-80-84-04-040
VOLK, JOHN & VICKIE	24-140-80-00-13-210
WALCKER, BLAKE & CASSY	24-140-80-75-02-040
WALD, ROBERT S & CARLA M	24-140-80-84-05-100

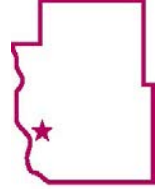
2- Mile Circle
11501 NE 41st Street

WALSH, DALE & DARLENE	24-140-80-50-01-010
WANNER, DARYL W & MARSHA A	24-140-80-85-09-100
WARD, PENNY	24-140-80-35-00-031
WARFORD, JOHN H JR & JENNIFER	25-140-79-00-29-600
WEIGUM, JOSEPH A	24-140-80-75-01-010
WEINMANN, KURT	24-140-80-35-00-081
WEIR, JUDY & MARK	25-140-79-00-18-220
WEISER, TIMOTHY	24-140-80-85-07-050
WERNER, SCOTT	24-140-80-00-36-412
WESTLAKE, TYLER & LINDSAY	24-140-80-78-02-030
WESTRICK, MATTHEW W & CAMI	24-140-80-85-06-010
WHITE, DEAN & LAURA	24-140-80-76-03-030
WHITE, JOSHUA & JOHNSON, HELEN	24-140-80-00-11-820
WIESE, EUGENE P & KATHLEEN F	24-140-80-67-01-050
WILHELM, CODY & MANDI	24-140-80-83-00-160
WILL, TRAVIS C & MEGHAN M	24-140-80-85-07-040
WILSON, RANDY R & LAURALE A	24-140-80-78-03-040
WIRTH, ALEXANDER & WIRTH, HALEY	24-140-80-85-07-020
WOEHL, TROYDELL W & MICHELLE R	24-140-80-36-00-072
WOLF, DENNIS E	24-140-80-84-02-050
WOLFF, ELON E & AMY JO	24-140-80-67-01-090
WOLLAN, GLENN L & SANDRA J	24-140-80-84-04-030
WUITSCHICK, JEFFREY P & >	24-140-80-84-03-030
ZACHER, MATTHEW R & SHEILA H	24-140-80-36-00-061
ZELLER, RANDALL & CARLA	24-140-80-83-00-080
ZIEGLER, DENISE	24-140-80-35-00-021
ZIEGLER, LARRY P & DEBORAH A	24-140-80-35-00-011
ZIMMER, CRAIG D & SANDY A	24-140-80-77-01-020



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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AMENDED AGENDA

May 8, 2024


1. Roll Call
2. Approval of the April 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
4-3 Burnt Creek Farm Special Use Permit Continuation
5. Other Business: *(Addition to the May 8 Agenda)*
5-1 Article 8 – Section 28 - Agricultural Recreation
6. Adjourn – Next meeting – June 12, 2024



Agenda Item 4.3 Burnt Creek Farm

Application for a Special Use Permit

Project Summary

Public Hearing Agenda:	Special Use Permit
Status:	Public Hearing Continued
Petitioner/Developer	Dave Lehman
Property Owner:	Dave Lehman
Location: 	Burnt Creek Township, Section 24, PT SW 1/4 Tract #1 Addressed as: 11501 NE 41 st Street
Exhibit 4-3-1 Location Map	
Parcel Size:	30.81 acres A- Agricultural Zoning
Petitioners Request	"Do Pass" recommendation to the Board of Burleigh County Commissioners for a Conditional Special Use Permit for Events
Posted Dates	Bismarck Tribune 3/29 & 4/4/2024 Surrounding Property Owners 3/28/2024 Burleigh County Website 3/28/2024



History

Burleigh County Planning and Building Staff have been working with Dave Lehman since January regarding his Burnt Creek Farm. He has made several improvements and added buildings to his property. This will be the second public hearing for the Burnt Creek Farm Special Use Permit

Because Mr. Lehman submitted large revisions to his original plans, a 2nd request for the Planning and Zoning Commission to hold a public hearing was re-scheduled for the May 6th meeting of the Planning and Zoning Commission. Public hearing notices were sent to 39 total parcels (with duplicates, duplicate property owners were removed) along 110th Ave NE. (See Attachment 4-3-2).

ANALYSIS OF BURNT CREEK FARMS SUP APPLICATION 5-180-2024

Because of unusual size or safety hazards, infrequent occurrence, effect on surrounding area, petitions that are reviewed under Burleigh County Planning and Zoning Commission's discretionary powers, require that certain uses, if allowed, can be considered under a Special Use Permit. Though Agri-Tourism use may be on the increase in other parts of the Country, Burleigh County has not yet received a request or issued a permit for this type use.

Analysis

Burnt Creek Farm is located approximately 1 mile to the east of the City of Bismarck ETA. The proposed project site lies within the A-Agricultural District.

FACING EAST ON 110TH AVE NE





Surrounding Land Uses

The proposed project area is surrounded by A-Agricultural Districts to the west, northwest and south. Is adjoined by a 500+ acre parcel to the north, east, northeast that is zoned R1- Rural Single-Family Residential District.



BURNT CREEK FARM- FACING NORTH ON 41ST ST.

Future Land Use

The Burleigh County Comprehensive Plan does not specifically mention tourism or the commercializing of agricultural property.

Explanation of 1st Public Hearing

On 1-10-2024, the Burnt Creek Farm SUP application was denied by an 8-1 vote at the Planning Commission meeting, based on these findings of fact;

- | | |
|---------|-------------------|
| Dust | Concerns for fire |
| Traffic | Vehicle safety |
| Noise | Overuse of land. |



Appeal

On February 5, 2024, Dave Lehman petitioned the Burleigh County Commission on appeal. The County Board considered his request and instructed to table the Public Hearing back to the Planning Commission, while issuing a directive for Mr. Lehman to reach a compromise with the opponents of the SUP prior to the Public Hearing; *(“allow the developer to work with those residents to see if they could come to some sort of resolution on their own”).*

At Issue	Resolution
Dust control. Safety of road.	Willing to share cost of dust control.
Condition of road, i.e.: steep ditches, narrow width.	Willing to share cost of road maintenance.
Fire Risks: smoking, sod or grass for parking areas. Chance of fires to neighbors.	Req’ designated smoking areas. Provide low cut grass parking areas. Provide fire breaks. Reduce Fuel Loads.
Impact of scale and size of events Some neighbors are opposed to having any events.	Limit 2 events per year-200 people Limit 1 event per week-100 people.
Trespassing from participants.	Open discussion. No consensus.
BCF is unable to contain the participants.	Open discussion. No consensus.
Effect of weekend and evening events. Noise	Open discussion. No consensus.
Costs and impact events could have on neighbors.	Open discussion. No consensus.
Traffic on the road. Provide Traffic Study	Open discussion. No consensus.

2 stakeholder meetings were held Feb. 26th & March 20th, the following differences were defined:

A revised plan was submitted on March 22 (See Attachment 4-3-5). The revised plan includes the following:

1. 200 People Events = 2 times per year
2. All Other Events = 100 Attendees Cap
3. Limited to one (1) Event per week.
4. Direct traffic to 97th Avenue and 26th Street which are paved.
5. Utilize shuttle services whenever possible.



6. Dust control will include directing traffic to 97th Avenue and 26th Street
7. Dust control measures are in place on 110th Ave from Highway 83 to 26th Street.

Staff Recommendations

1st Recommendation: Approve Special Use Permit,

If the Planning & Zoning Commission chooses to recommend approval of the SUP, staff suggests the following requirements:

1. limit hours of operation for all activities; _____ AM to _____ PM
2. limit days of operation from; _ _____ to _____.
3. limit months of operation from; _____ to _____.
4. limit amount of people to; _____.
5. to minimize dust, Burnt Creek Farms as directed by the County Engineer, shall apply calcium chloride, magnesium chloride or similar chemical to some or all portions of 110th Ave NE route, approximately 0.9-mile.
6. require site plan: see exhibit 4-3-4 Site Plan Requirements for SUP.
7. In the future if any development adds impervious areas to the site, applicant would need to submit a SWMP with their site plan or plat.
8. request applicant to submit application through Article 8 Section 28.

2nd Recommendation: _____ Deny the Special Use Permit.

Due to the use being incompatible with surrounding property owners as stated finding of facts without consensus at the public hearing and the stakeholder group meetings.

See Attachment:

4-3-1 Location Map

4-3-2 Mailing List



- 4-3-3 Burleigh County Staff Analysis of Burnt Creek Farms SUP Application to 3-27-2024
- 4-3-4 Site Plan Requirements for SUP
- 4-3-5 Revised Plan Burnt Creek Farm

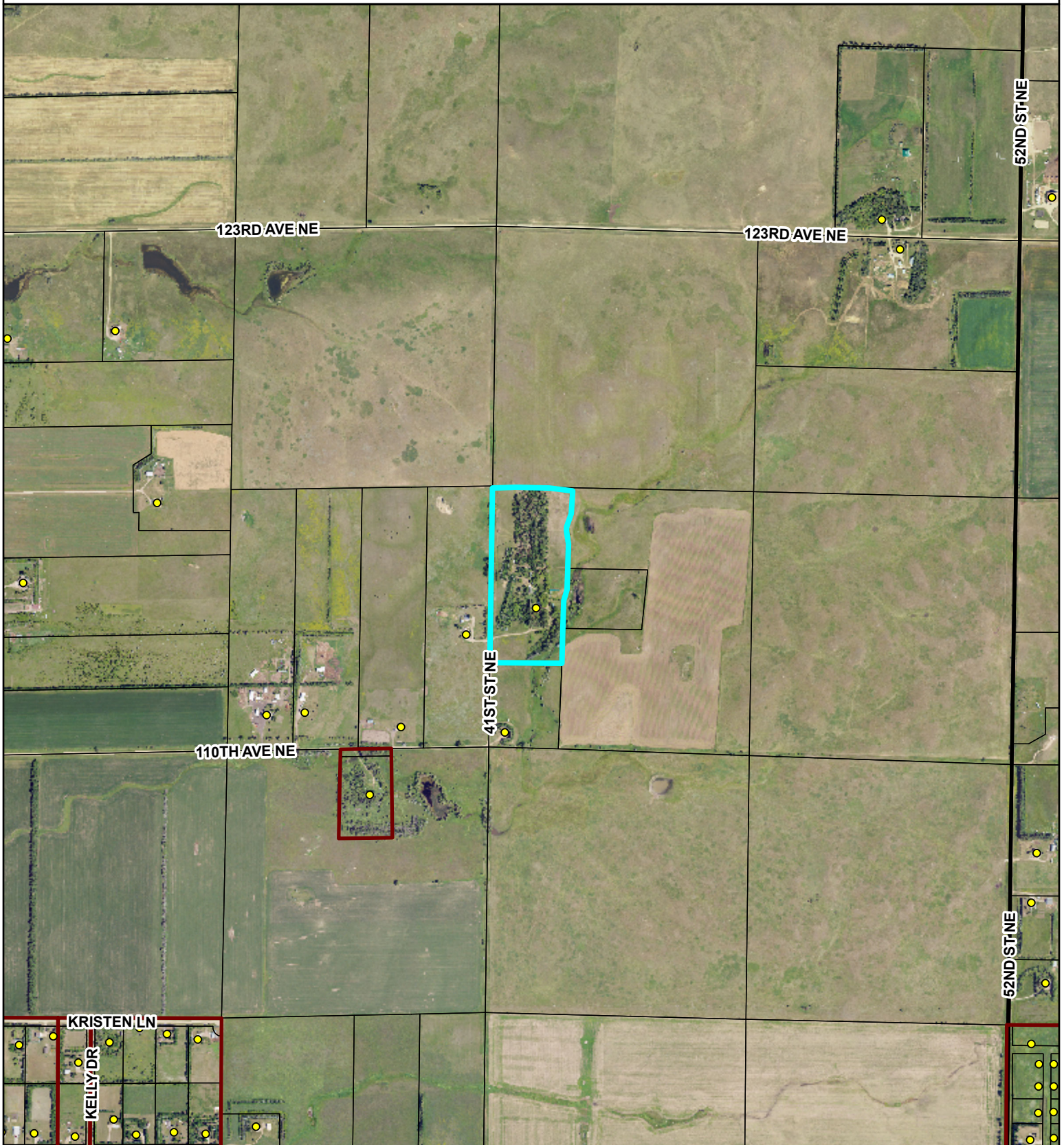
4-3 Burnt Creek Farm Special Use Permit:

April 10th Public Hearing Continuation

On April 19th, Dave Lehman requested a 2nd time in writing, to pull his SUP permit. Since the May 8th meeting public hearing is a continuation of the rescheduled April 10th public hearing, it was described on the May 8th agenda as a Public Hearing, it was also published a 2nd time as public notice- this department does not have the authority to cancel the hearing, only the Planning Commission can.

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

4/2/2024
N



PARCEL ID: 24-140-80-00-24-610 OWNER: LEHMAN, DAVID ACRES: 30.81
SITE ADDRESS: 11501 NE 41ST ST
MAIL ADDRESS: P.O BOX 7388, BISMARCK, ND 58507-7388
LEGAL: BURNT CREEK TOWNSHIP Section 24 PT SW1/4 - TRACT #1 #455911 24-140-80



Burnt Creek Farm

11501 41st St NE Bismarck, ND

David Lehman, Owner

March 2024

Background

Burnt Creek Farm (BCF) Historical Site: North Dakota has an incredibly rich history as it pertains to agriculture, homesteading, etc. Unfortunately, with each passing year we are losing these historic barns, homes, and outbuildings. North Dakota has many pioneer village type facilities with historic community type buildings, collections of antiques, tractors, and ag equipment displayed. While these are important, tourists don't get an opportunity to see the equipment, tools, vehicles, etc. in a real farm setting. By staging the farm, it gives people a better feel for what the farm actually looked and felt like and provides a better appreciation for what farming was like in the early days of North Dakota. Burnt Creek Farm is one of very few fully intact restored historic farms in North Dakota.

The North Dakota State Historical Preservation Office has toured the farmstead numerous times and feels confident in its eligibility for the state and national registers of historic places. Due to innovation and progress in agriculture and larger equipment requiring larger facilities, very few farm sites from the early days of agriculture remain intact and preserved. There are 2 or 3 other farmsteads available to tour in the state, however, Burnt Creek Farm differs in that it is a well-preserved example of a 'modern' farmstead built during the mechanization era as farms transitioned from horse to tractor power. This includes the innovation in building construction, running water systems (windmill with gravity feed to areas of the farm), rechargeable 32V battery system powering the farm, and equipment. The farm will be staged as it would have been in the 1920's showing the transition from horse to tractor power. These were all major technological advances in agriculture and an incredibly important era in North Dakota which isn't a focus with other historic sites. Due to the farm's ties to the Non-Partisan League and its role in the inception of the state bank, mill, and elevator, this shift in North Dakota's ag economy will also be covered. Other elements of Burnt Creek Farm which are relatively unique and lend themselves to agritourism tours are the following:

- 1878 Tree claim with evidence that can be easily seen by tourists
- Intact 1920's-1950's farmstead
- Rare (possibly the only) instance of terracotta structural clay tile and brick use in the farmhouse and bunkhouse construction. The clay tile and brick came from the early days of North Dakota's Hebron Brick factory.
- One of the first 'modern' farms in ND with running water and electricity (less than 2% of farms had these amenities in the early 1920's.)
- Ties to the Non-Partisan League and Linda Slaughter both heavily involved in the development of the region, state, and upper Midwest.
- Unique architecture such as the trench/bunker silo
- Filming location of End of the Rope movie
- Only historic farm site located close to a major community. Located about a mile outside of Bismarck's extra-terrestrial area and easily accessible from the interstate and highway 83 allows visitors easy access to the facilities while still accessing amenities of a larger community. It also allows Burnt Creek Farm the opportunity to draw more people to promote North Dakota's proud ag history.

Services

1. Tours: Educating visitors about the history of agriculture in North Dakota is BCF's primary focus. Initial plans would be to offer tours by reservation. It is anticipated there would be demand from schools, commodity groups, organizations, etc. for the tours. While the tours are an important element to the goal of educating others about the history of agriculture in North Dakota, it is not anticipated to be a significant source of traffic or revenue at BCF.

2. Events: Events would primarily be outdoor events. The historical integrity of the buildings will be restored and maintained and as such will not be insulated and no additional construction is planned that would alter the appearance/feel of the historic farmstead. This will limit their utility relative to events. Events are anticipated to include the following:

- Corporate events: It is anticipated there may be some interest in company picnics during the summer.
- Family events: It is anticipated there could be some demand for family get togethers, weddings, picnics, pictures, etc. at BCF.
- Agritourism: Farm tours as well as interest in the orchards, etc.

BCF would plan to do 2 events per year of up to 200 people, with all other events would be capped at 100 people. No more than one event would be allowed per week.

3. Lodging: There is currently a granary that has been converted to a lodge that may be used for traditional lodging or as a bridal suite for the bridal party to prepare for weddings. The lodge is not four seasons and will be winterized each year.

4. Facilities: There is currently an ADA restroom facility, a lodge (same building as the ADA restrooms), a park with a clearing for events, as well as the original buildings. These buildings have limited capacity and are not climate controlled. There are no plans to expand these buildings or renovate beyond the restoration back to their original state due to the historical significance of the structures. They will however be staged as they would have been in the 1920's for tours.

Traffic

When calculating traffic, I assumed 40 cars per week. Taking 40 trips/week times 20 weeks (summer season) comes out to 800 trips per year (to and from BCF) which is similar to that of a family of 2. While the traffic would be more concentrated at specific times, most of the week there would be no noticeable change in the amount of traffic.

From a similar perspective, when the Morris Family owned the farm (1950-1997), they had a family of 6. National studies show that traffic generated is roughly 1 (two-way) trip/person, or 6 trips/day for a family of 6. This amounts to 2190 trips per year which is 2.5 times that generated by BCF. In addition, the family farmed and had construction operations (hauling grain, livestock, coal, aggregate, soil, etc.), so the road also accommodated trucks and heavy equipment (which it doesn't currently see as a result of my occupation). As a result of being a farm operation, most of these trips were concentrated over the same general season as proposed by the events and tours at BCF.

For events, traffic will be directed to use 97th Ave and 26th St, both of which are paved.

Dust

The level of dust generated is expected to be less than that generated by a typical single-family residence. There is currently dust control in use for those homes on 110 Ave near highway 83, however for events, traffic will be directed to use 97th Ave and 26th St, both of which are paved. In addition, shuttles will be utilized, when possible, to accommodate larger groups.

Timeline

2020-ongoing: Farm restoration and development of grounds

2021: Filming of End of the Rope film, Farm tours, and events

2023: Screening for End of the Rope Film, Farm tours, and events

2024: Farm tours and events

Appendix



STATE HISTORICAL SOCIETY
OF NORTH DAKOTA

HISTORY FOR *everyone.*

August 31, 2023

To Whom I may Concern,

I have visited the Burnt Creek Farm located north of Bismarck, North Dakota and reviewed the information provided by Dave Lehman. I have made the preliminary determination that the property is eligible for listing in both the North Dakota State Historic Sites Registry and the National Register of Historic Places. The farm is a rare example of an improved tree claim and demonstrates the evolution of farm technology spanning the prosperous era just before the Great Depression through the recovery following World War II. Additionally, the architectural and engineering designs of the individual buildings and the building systems testify to the innovations of the time. This property is worthy of preservation and certainly contributes to our understanding of history.

If you have any questions, please feel free to contact me at lbmeidinger@nd.gov or 701-328-2089.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Meidinger', written in a cursive style.

Lorna Meidinger
Lead Historic Preservation Specialist

Appendix I: Historical Tidbits

The history of Burnt Creek Farm (BCF) dates back to the early years of Edwinton/Bismarck, Dakota Territory. In the 1870's GW Racek and his brother Chas owned the Racek Bro's harness shop on 4th street in Bismarck (known as Murderers Gulch or Bloody 4th having earned a reputation as one of the wildest cities in the nation resulting from the saloons, brothels, and a cultural clash of soldiers, native Americans, immigrant settlers, rich business men etc.). One of (if not the first) saddle and harness shop in Bismarck, G.W. did leatherwork for the calvary and settlers. They also started the Racek Bro's harness shop in Billings Montana, well known for quality territorial era saddles and leather goods. They also bought a parcel in Medora to capitalize on the gold trade as the Marquis De Mores and others had stage coach service directly to Deadwood and the Black Hills. It is unknown, however, if this business came to fruition.



1870's Photo of Racek Bro's Saddle & Harness Shop located on 4th Street in Bismarck, ND

ND Historical Society



G.W. homesteaded North of Bismarck (around where Stan Puklich is located). To acquire more 'free' land, he staked a tree claim where BCF is located. Per the 1878 Timber Culture Act, settlers were granted a quarter of land for planting 27,000 trees on 10 acres within that quarter and keeping 25% of them alive for 8 years. After planting the trees in the late 1870 or early 1880's, G.W. received title to the quarter in 1889, the year North Dakota was granted statehood. As seen in the picture to the left, ripples in the front yard (and back woods) still show evidence of the 1890 tree claim. Ripples in the land created while planting and watering the 27,000 trees with horse drawn implements are still very noticeable (see photo at left). Note all trees are on the crest of the ripples. GW (George)

Racek passed away not long after establishing the tree claim. The horse drawn breaking plow believed to have been used to plant the trees is currently on display in the ND Heritage center.





In 1950, the farm was sold to Robert Morris. Under his ownership, BCF was featured in The Farmer magazine (a national/regional publication) on a couple of occasions due to its unique and progressive design. The Farmer magazine featuring the trench silo (left) due to its unique architecture and diverse range of utility. The roof on the 15'x65' building was removable so silage could be added. When it did not have silage, it was used for farrowing hogs and 4H 'barn' dances. The back was later converted to a shop. This silo's architecture was identified as one of the farms features qualifying for the state and national register.

The section of land the farm resides on is of importance for other reasons as well. Somewhat ironically, it was more so noteworthy due to the women involved rather than the men. At a time when women maybe weren't afforded the same opportunities as men, these women had a major impact in their respective spheres of influence.

1. Florence Borner: In the 1910's, ND farmers felt taken advantage of by 'Big Business' and created the Non-Partisan League (NPL). The NPL, a socialist movement, took control of the state government (and much of the upper Midwest). They felt that by creating the State Mill and Elevator and the Bank of North Dakota they could gain control over commodity prices. These are businesses are still in operation today. Florence Borner was a league poet and an integral part of the propaganda machine for the NPL. The Borners spent a lot of time at the BCF, so many discussions of the NPL and construction of the State Mill and Elevator, and BND likely occurred at the kitchen table at BCF. The Borner farm which bordered Burnt Creek Farm was later purchased by J.B. Racek and added to the farm's acreage.

THE PRAIRIES	THE DEAR OLD FARM
<p>The prairies seem so lonely like To some, but not to me; I think they are the only place Where I could happy be; Here in my little old sod shack I lead a peaceful life; And have no need to feel alarm At this world's care and strife.</p>	<p>I read a picce the other day That made me kind of warm, It told about the money made, Upon the dear old farm. It said the farmers all were rich, Excepting those who shirked, And 'lowed we'd all been millionaires If harder we had worked.</p>
<p>The people here live far apart, For miles and miles around, There's naught save lonely prairies, Or perhaps you hear the sound Of a coyote calling to his mate, Upon some distant hill, Or a hoot owl's screech as he flits past Then every-thing is still.</p>	<p>It spoke of softly lowing kine, And fields of new-mown hay, Of how the chickens always laid So many eggs a day. It mentioned fields of golden grain, Fruit hanging on the vine, And written down in words like that The "dear old farm" sounds fine.</p>
<p>I love the rolling prairies, Where the wind blows wild and free; None of your crowded city homes, Or big hotels for me; I want to live a lonely life, Upon the prairie sod; It seems to me that I am here, Much nearer to my God.</p>	<p>It said the farmer is a king, The monarch of the land, It told of lovely sylvan dells, Great trees on every hand. It said the farmer owed no one, Looked each man in the face, Called him the son of honest toil— A credit to his race.</p>
<p><i>Excerpts from Borner's book Modern Poems for Modern People when she lived by BCF. Published in 1919, this book contained poems about farm life, the NPL, and the struggles of the era.</i></p>	

1. Linda (Warfel) and Dr. Ben Slaughter (Gov Burgum's great grandparents) established the 'Burleigh County Poor Farm' and post office bordering the farm. Ben was a post surgeon assigned to the region's earliest military posts, including Camp Greeley/Hancock and Fort Rice. Linda Warfel Slaughter was known for the following:

- Founded the first ND historical society, which merged with the State Historical Society of North Dakota.
- First woman to vote in a national convention for a presidential candidate.
- Started the first Sunday school in 1872
- Started the Bismarck Academy in 1873, the first Bismarck public school
- First teacher and superintendent of schools in Burleigh County.
- First postmistress of Bismarck
- Crafted a bill in 1881 creating a board of education.
- Involved in the temperance movement and close personal friend of Susan B. Anthony.
- Wrote the words to the state song.

<p style="text-align: center;">Two Evils.</p> <p>SLAUGHTER, N. D., July 31, 1890.—After a swing around the circle, taking in Conger, Croft and Cromwell, and noting the excellent crops—at least, excellent in appearance, I was impressed with at least two major evils, of which one at least could easily be remedied. I refer to the condition of farms owned by non-residents, some of which are being pre-empted by noxious weeds and wild mustard, that are disfiguring the face of the country. Handsome trees of vigorous growth waiting to be blackened and dissipated by the first prairie fire, for the want of a little care. Infinitely preferable the untouched virgin sward of indestructible native grasses.</p> <p>These land owners should be made to pay for this ruthless disfigurement of our fair domain. If in no other way, let the tax gatherer reach out for them until our incoming legislature can help us.</p> <p>Many tree claims that have been proved up on are permitted to go to weeds and grass, which will soon be their funeral pyre. There are some tree claim holders who richly deserve the blessing of the people in their respective communities—such as Asklund in Ecklund, Pollock in township 141, Racek in township 140 and a few others. These bright oases on the prairie make our hearts go out to them as substantial benefactors.</p> <p>The reckless waste and neglect of farm machinery makes the heart grow sick. At one place I counted a mower, hay rake, double sulky plow and a reaper and binder</p>	<p>and but for the tall weeds that sheltered them from the pitiless rain and burning sun, might have counted more. I learned that this man had quit farming. He is one who ought to have quit ere he began. Why our farmers do not pay more attention to tree culture around their homes passeth my understanding. They have teams and woods are near, wells with abundance of water at hand when the rains are too tardy in coming. I notice some few have wells a little distance from their houses, but it seems never to have occurred that a group of trees around it, to shade and add sylvan beauty, would furnish pleasure to the eye and enhance the value of their property. They should not let another fall pass by without this addition. If late, it is not too late.</p> <p style="text-align: right;">S.</p> <p><i>A columnist for the Bismarck Tribune, Linda Warfel-Slaughter criticized tree claims due to poor management but gave praise to G.W Racek for his good management practices.</i></p>
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For additional information regarding Burnt Creek Farm, please visit the Facebook page at: <https://www.facebook.com/burntcreekfarm>

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Agenda Item

Article 8 Section 28 Agricultural Recreation

Project Summary

Create Section 28 Agriculture Recreation in Article 8 as draft ordinance	

In coordination with stakeholder group meetings in Burleigh County and the City of Bismarck, County Planning staff have been working on developing the draft Special Use Article 8 Section 28 ordinance, that would allow agriculturally related activities in an AG District for persons, entities or organizations wishing to establish the use of agricultural recreation

ANALYSIS OF ARTICLE 8 SECTION 28

Analysis

There have been requests in the past from persons, entities or organizations intending to use private land for agricultural recreation in an AG District to educate the public about agriculture, agricultural practices, agricultural activities, or agricultural products and to allow the gathering of individuals assembled for the common purpose of events such as pumpkin patch/ hay rides, i.e. similar agriculturally related activities that are specifically intended for individuals other than the property owner.

These requests may seem uncomplicated, but the affect on neighboring properties, infrastructure, emergency responders, etc., could be considerable as the threshold to a commercial use is marginal.



The purpose of Section 28 is to define this type land use within the confines of the application and approval of a Special Use Permit.

Action Requested

Move the draft Article 8 Section 28 to a public hearing.

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 28 AGRI-TOURISM

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

Section 28 Agri-Tourism Agricultural Recreation

Agri-Tourism and Agriculture Recreation may be permitted in an Agricultural District as a special use. All persons, entities or organizations wishing to establish the use of Agri-Tourism, 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 Recreation. An agriculture recreation use combines agricultural production with commercial recreation uses that are ancillary to the primary agricultural use and in conjunction with a single family dwelling.~~

~~Agri-Tourism. Agritourism involves any agriculturally based operation or activity that brings the public, as visitors, to a farm or ranch.~~

Agriculture. The science or practice of cultivating the soil, producing crop, and or raising livestock.

Agriculture Recreation Tier I. Any agriculture-related activity, in conjunction with agricultural production, which is intended to educate the public about agriculture, agricultural practices, agricultural activities, or agricultural products.

Agriculture Recreation Tier II. Any agricultural-related use that combines agriculture production with commercial recreation uses that are ancillary to the primary agricultural use, such as a celebration, ceremony, wedding, reception, corporate function, pumpkin patch, hayrides, domestic winery as licensed through NDCC 5-01-17, domestic distillery as licensed through NDCC 5-01-1, brewery taproom as licensed through NDCC 5-01-21, or similar activity for someone other than the property owner, involving the gathering of individuals assembled for the common purpose of said event.

Agriculture Recreation Tier III. Any agricultural-related use that combines agriculture production with commercial recreation uses that are ancillary to the primary agricultural use, such as a celebration, ceremony, wedding, reception, corporate function, pumpkin patch, hayrides, domestic winery as licensed through NDCC -5-01-17, domestic distillery as licensed through NDCC 5-01-1, brewery taproom as licensed through NDCC 5-01-21, or similar activity for someone other than the property owner, involving the gathering of individuals assembled for the common purpose of said event.

~~All persons, entities or organizations wishing to establish the use of Agriculture Recreation~~

within Burleigh County must apply for and be granted a special use permit for the following:

Events

1. ~~Burleigh County Commission is authorized to grant a special use permit for the following uses:~~
 - a. ~~Celebration, ceremony, wedding, reception,~~
 - b. ~~Hayrides, farm animal viewing and petting, tours of grounds and facilities,~~
 - c. ~~Corporate function, or similar activity for the benefit of someone other than the property owner, involving the gathering of individuals assembled for the common purpose of said event,~~
 - d. ~~“Farmstay”- Air B&B or short-term rental,~~
 - e. ~~Number of events must be tied to parking requirements.~~

2. ~~Permanent Uses~~

1. ~~Burleigh County Commission is authorized to grant an Agriculture Recreation Special use permit for;~~
 - a. ~~U-Pick orchard or farm: any farm, ranch, orchard or green house with a seasonally recurring ancillary recreational use and/or direct sale to customers,~~
 - b. ~~Production or manufacture of value-added products derived, in part, from produce or animals grown on site, or on land within region,~~
 - c. ~~Storage of products allowable for sale in this section,~~
 - d. ~~Domestic Winery as licensed through NDCC 5-01-17,~~
 - e. ~~Domestic Distillery as licensed through NDCC 5-01-19,~~
 - f. ~~Brewery Taproom as licensed through NDCC 5-01-21,~~
 - i. ~~Section 1.d.e.f would be restricted to number of events per year.~~
 - i.a. ~~Minimum per 12 times on season.~~
 - i.b. ~~Must be tied to available parking.~~
2. ~~Agriculture Recreation may be permitted in any A Agricultural District as a special use, provided:_____~~
 - a. ~~The use is ancillary to the primary agricultural use and in conjunction with an owner-occupied single-family dwelling.~~
 - b. ~~The lot in which the use is located is at least (40) acres in area, or the aliquot part of a corrective section intended to compromise a quarter-quarter section, provided such aliquot part is not less than thirty-five (35) acres in size.~~
 - c. ~~Registration with the North Dakota Secretary of State as an agricultural use or ranch.~~
 - d. ~~Site design and building(s) must conform to all applicable requirements of the ND State Building Codes as adopted by Burleigh County.~~
 - e. ~~The use of all setbacks a minimum of 100' feet from all adjacent properties.~~
 - f. ~~Sound generated by the use shall meet the requirements outlined in NDCC.~~
 - g. ~~Outdoor light fixtures shall be directed so that there will not be any direct light visible above a height of five feet beyond any property lines. Light fixtures near adjacent property may require special shielding devices to prevent light trespass.~~

- h. ~~Parking on grass and agricultural areas may be permitted for limited seasonal events; however, parking areas shall be gravel and parking ratios shall be determined in accordance with Article 10 Automobile Parking, for on-seasonal events occurring more than twelve (12) times per year.~~
- i. ~~Under certain circumstances, application of mitigation for dust control may be a requirement as directed by the County Engineer.~~

Special Uses. In order to carry out the purposes of this title, 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 prior to the granting of a building permit or certificate of occupancy and that the county planning commission and the Zoning Administrator (where allowed) are hereby given limited discretionary powers relating to the granting of such a permit or certificate.

1. **Permanent Uses** (planning and zoning commission approval). Burleigh County planning commission is authorized to ~~grant~~ **recommend approval of** special use permits for the following uses:

- aa. Agriculture Recreation Tier II. Agriculture Recreation Tier II may be permitted in any A – Agricultural district as a special use provided:
 - a. The use is ancillary to the primary agricultural use, **and in conjunction with an owner-occupied single-family dwelling.**
 - b. The lot in which the use is located is at least ~~(35)~~ **40** acres in area, **(35 acres aliquot description).**
 - c. Attendance is limited to two hundred (250) persons in attendance at any time.
 - d. No more than twelve (12) events per year.
 - e. Site design and building(s) must conform to all applicable requirements of the International Building Code (IBC) and the International Fire Code (IFC) as adopted by **State of North Dakota**
 - f. All parking areas shall be mowed, and designed to prevent debris from the site entering the public right-of-way, and be arranged to provide for orderly and safe loading or unloading and parking.
 - g. Sound generated by the use shall meet the requirements outlined in NDCC.
 - h. 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.
 - i. The use is setback a minimum of **100 feet to all adjacent properties.**
 - j. A site plan is required.
 - k. If necessary, a stormwater management plan is required to be submitted for review and approval prior to the issuance of a building permit.
 - l. **Off-street parking is required.** Parking on grass and agricultural areas may be permitted for limited seasonal events; however, ~~p~~ **Parking areas shall may be gravel or low-cut grass area.** ~~and p~~ **Parking ratios shall be determined in**

accordance with Article 10 Automobile Parking, for on-seasonal events occurring more than twelve (12) times per year.

~~m. Under certain circumstances, application of mitigation for dust control may be a requirement as directed by the County Engineer.~~

m. Under certain circumstances, items for road/ditch repair and dust control application at the permittees cost may be required.

n. Additional conditions may be included in the Special Use Permit.

o. After approval and issuance of a Special Use Permit, any violations of Section 28 may shall be basis for revocation of the Special Use Permit.

bb. Agriculture Recreation Tier III. Agriculture Recreation Tier III may be permitted in any A – Agricultural district as a special use provided:

a. The use is ancillary to the primary agricultural use, and in conjunction with an owner-occupied single-family dwelling.

b. The lot in which the use is located is at least (35) 40 acres in area, (35 acres aliquot description).

c. Attendance is limited to two hundred (200) persons in attendance at any time.

d. No more than twelve (12) events per year.

e. Site design and building(s) must conform to all applicable requirements of the International Building Code (IBC) and the International Fire Code (IFC) as adopted by State of North Dakota.

f. All parking areas shall be mowed, and designed to prevent debris from the site entering the public right-of-way, and be arranged to provide for orderly and safe loading or unloading and parking.

g. Sound generated by the use shall meet the requirements outlined in NDCC.

h. 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.

i. The use is setback a minimum of 100 feet to all adjacent properties.

j. A site plan is required.

k. If necessary, a stormwater management plan is required to be submitted for review and approval prior to the issuance of a building permit.

l. Off-street parking is required. Parking on grass and agricultural areas may be permitted for limited seasonal events; however, Parking areas shall may be gravel or low-cut grass area. Parking ratios shall be determined in accordance with Article 10 Automobile Parking, for on-seasonal events occurring more than twelve (12) times per year.

~~m. Under certain circumstances, application of mitigation for dust control may be a requirement as directed by the County Engineer.~~

~~n. Under certain circumstances, items for road/ditch repair and dust control application at the permittees cost may be required.~~

m. Location of lot shall be directly adjacent to a paved surface public roadway and have a paved access entry to same lot.

o. Additional conditions may be included in the Special Use Permit.

- p. After approval and issuance of a Special Use Permit, any violations of Section 28 may shall be basis for revocation of the Special Use Permit.

Article 11 "A" Agricultural Zoning District. In an A agricultural district, the following regulations shall apply:

2. Uses Permitted. The following uses are permitted.

i. Agriculture Recreation Tier I

i.a. Agriculture Recreation Tier I shall be allowed on a parcel of land 40 acres in area, (35 acres aliquot description).

3. The following special uses are allowed as per Section 28 hereof:

i. Agriculture Recreation Tier II

ii. Agriculture Recreation Tier III

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 _____

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

DRAFT

5-1-2 EXAMPLE OF DRAFT ORDINANCE

SUBMITTED: Kurt Fleck 5/3/2024

From: [Kurt Fleck](#)
To: [Flanagan, Mitch](#)
Cc: [McMonagle, Marla M.](#)
Subject: Ordinance Example
Date: Thursday, May 2, 2024 2:53:02 PM
Attachments: [Ordinance for Agri-Tourism \(1\).docx](#)

******* CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *********

Good Afternoon, Mitch and Marla, I have attached an example of what all the stakeholders involved with this ordinance feel the ordinance should encompass. Mr. Lehman might disagree, but all those at the meeting and the other 30 in the area would and have agreed that it's a pretty straight forward when reading all the different definitions etc... about Ag-Tourism. Take Care and feel free to call anytime. Thanks

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 28 AGRI-TOURISM

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

Section 28 Agri-Tourism

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 for the production of crops, and raising livestock to provide food, wool or other products.

Agri-Tourism: Agri-tourism use involves any agriculture-based operation or activity that brings the public, as visitors, to a working farm or ranch. Agri-Tourism use combines agricultural production with recreation uses that are ancillary to the primary agricultural use and in conjunction with a single-family dwelling. In general, this is intended to educate the public about agriculture, agricultural practices, agricultural activities, or agricultural products.

Agri-Tourism may be permitted in an Agricultural Zoned District. All persons, entities or organizations wishing to establish the use of Agri-Tourism within Burleigh County must apply for, comply with, and be granted a special use permit. (See Article 8 Special Uses)

**Farms and ranches participating in Agri-Tourism activities are most often working farms and ranches that wish to expand their operations to include tourism activity as a secondary income for their family. These are generally viewed as small-scale, low-impact and education focused. Agri-Tourism activities are not usually designed for large groups of guests with the exception of pumpkin patches, orchards, U-Pick and corn mazes. Other activities may include bed and breakfast, biking, hiking, nature photography, fee hunting or fishing (Ref: North Dakota Department of Commerce).*

All persons, entities or organizations wishing to establish the use of Agri-Tourism within Burleigh County must apply for, be granted, and comply with a special use permit for the following:

Events:

1. Burleigh County Commission is authorized to grant a special use permit for the following uses: Anything that falls within the guidelines of Agri-Tourism as defined by the North Dakota Department of Commerce referenced above. The following would be examples and could include: pumpkin patches, orchards, farm festivals, corn mazes, hayrides, trail rides, U-Pick orchards, on-farm markets, floriculture, demonstration farms, Christmas tree farm, farm stays, farm tours, farm camps, farm-to-table dining, fee and lease pond fishing, hunting leases.

Special Uses: In order to carry out the purposes of this title, the Board of Burleigh 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 Burleigh County Planning and Zoning Commission. Prior to the granting of a building permit or certificate of occupancy, 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. Permanent use. Burleigh County Planning and Zoning Commission is authorized to grant special use permits for the following uses:

Agri-Tourism may be permitted in an A-Agriculture zoned district as a special use provided:

- a. The use is ancillary to primary agricultural use, and in conjunction with an owner-occupied single-family dwelling.
- b. The lot in which the use is located is at least 40 acres in area.
- c. Site design and building(s) must conform to all applicable requirements of the International Building Code (IBC) and the International Fire Code (IFC) as adopted by Burleigh County, State of North Dakota.
- d. Road access to the site must meet certain specifications (e.g., paved highway or gravel road) and the site must have two accesses.
- e. All parking areas shall be mowed and designed to prevent debris from the site entering the public right-of-way and be arranged to provide for orderly and safe loading or unloading and parking.
- f. Sound generated by the use shall meet the requirements outlined in NDCC (cite full reference)
- g. All outdoor light fixtures shall be installed in a manner intended to limit the number of off-site impacts. Light fixtures located near adjacent properties may require special shielding devices to prevent light trespass.
- h. The use will have a minimum setback of 500 feet from all adjacent properties.
- i. A site plan is required.
- j. If necessary, a stormwater management plan is required to be submitted for review and approval prior to the issuance of a building permit.
- k. Off-street parking is required. Parking on grass and agricultural areas may be permitted for limited seasonal events. Parking may be allowed on gravel or low-cut grass areas. Parking rations shall be determined in accordance with Article 10 Automobile Parking.
- l. Under certain circumstances, the permittee(s) may be required to pay the costs of road/ditch repair and dust control application.
- m. Attendance is limited to 50 people at any one time. Events will be limited to no more than twelve events per year with no more than two events per month.
- n. Hours of operation will be limited from 10:00a.m. to 6:00 p.m.
- o. Additional conditions may be included in the Special Use Permit.
- p. After approval and issuance of a Special Use Permit, any violations of Section 28 shall be a basis for revocation of the Special Use Permit.

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 _____

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

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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AGENDA

June 12, 2024

1. Roll Call
2. Approval of the May Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Menoken Farm Facility Zoning Change
A-Agricultural to P-Public Use District
4. Public Hearing Agenda
 - 4-1 Peaceful View Subdivision Final Plat and Zoning Change
A-Agricultural to R1- Single Family Residential
 - 4-2 Fleck Subdivision – Final Plat
 - 4-3 Riverside 3rd Subdivision (formerly known as Hartmann
Subdivision– Continuation March 13, 2024 Short Plat Public
Hearing
 - 4-4 Country Creek 3rd Variance Request
5. Other Business:
6. Adjourn – Next meeting – July 10, 2024

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PLANNING AND ZONING
COMMISSION

June 12, 2024

Agenda Item: 3-1 Menoken Farm Facility Zoning Change

Consent Agenda

Project Summary

Consent Agenda

Menoken Farm Facility – Zoning Change
A-Agricultural to P-Public unit
Development
Request for a public hearing

Status:

Petitioner/Developer

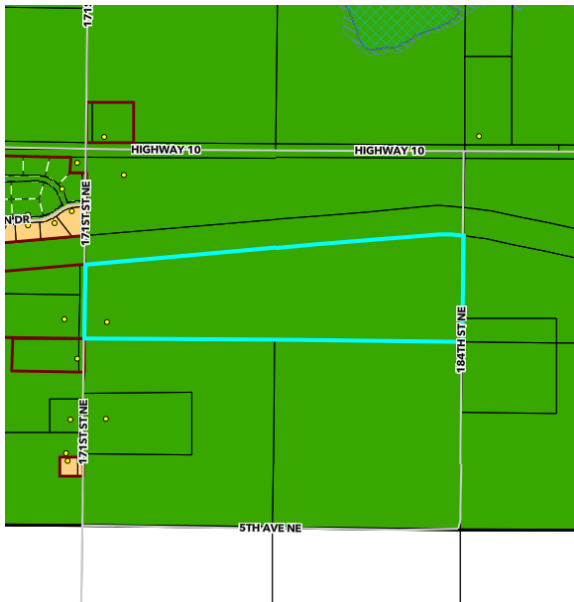
Burleigh County Soil Conservation District

Engineer

N/A

Location:

Menoken Township Section 34 N1/2 lying
South of RR ROW



Attachment 3-1-1 Location Map

Project Size:

150 acres more or less
A- Agricultural Zoning

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 12, 2024

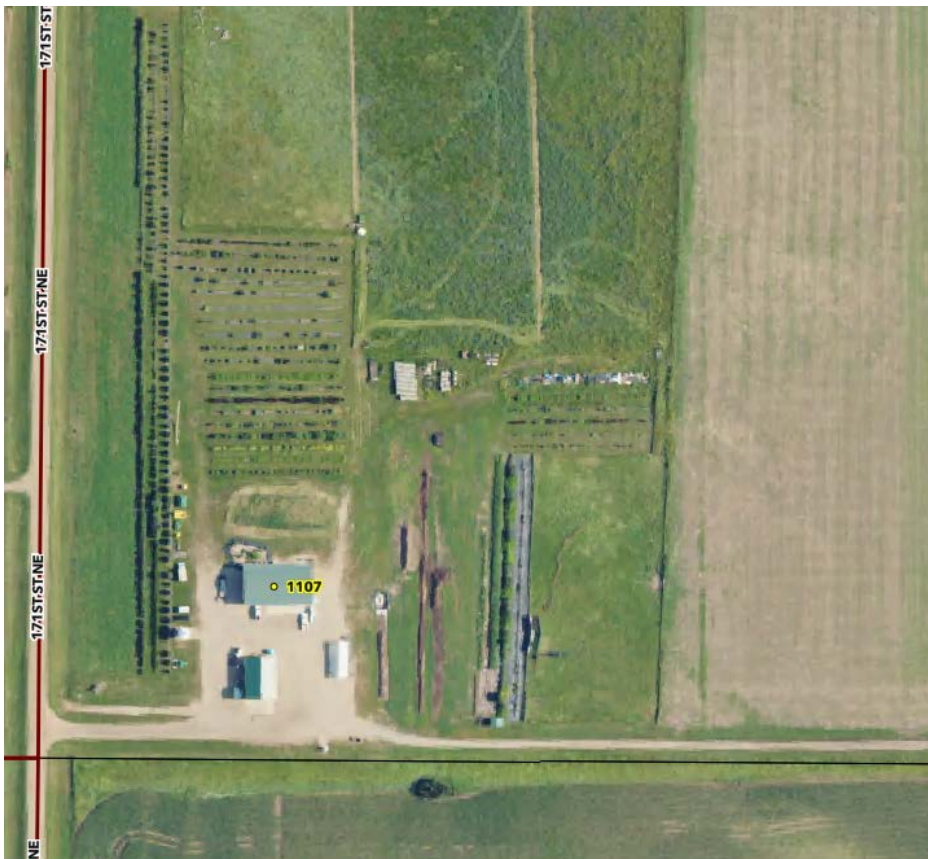
Petitioners Request

Approval of the preliminary zoning change
and call for a public hearing

History

Burleigh County was approached by the Burleigh County Soil Conservation District regarding their plan to build a learning center/assembly area building. The 8,300-sf building will be a public use building with a learning center, larger assembly area and office space.

The building plans have been submitted and a review is starting. A septic system for the site is being designed for the site. The Stormwater Management Plan has been submitted and approved.



3-1-2 Site Map



Analysis

The Menoken Farm Facility combines natural resource education and a systems approach to conservation. The 150-acre property is a demonstration farm established in 2009 to explore soil conservation methods. The farm is owned and operated by the Burleigh County Soil Conservation District. They receive additional funding from:

- Section 319 Nonpoint Source Pollution Control Program through the North Dakota Department of Health/Water Quality Division
- Natural Resources Conservation Service, US Department of Agriculture.

The Menoken Farm Facility holds various events at the site and offers training and education in conservation methods for rural and urban areas. Visitors have two (2) access points the location:

- I94 East to Exit 170, 158th Street NE/County Hwy 10, 171st Street NE
- Main Ave East to 171st Street



PLANNING AND ZONING
COMMISSION

June 12, 2024

Article 20.1 – Public Use District, Burleigh County Zoning Ordinance

The P-Public Use District is established for areas which the principal land use is governmental, civic or institutional uses, including major public facilities. The regulation is intended to prohibit any other use which would diminish its value in serving the needs of the public. P-Public Use District is an alternative zoning classification for public and institutional uses.

The Menoken Farm Facility meets the criteria of Article 20.1 – P – Public Use District Regulations of the Burleigh County Planning and Zoning Ordinance.

The Menoken Farm Facility meets the criteria of the 2014 Burleigh County Comprehensive Plan in the preservation of natural resources, and the promotion of tourism. – Article 4 - Parks & Recreation





Staff Findings:

1. The zoning change from A-Agricultural to P – Public Use District fulfils the requirements of Article 20.1 of the Burleigh County Zoning Ordinance.
2. Stormwater Management plan has been completed.
3. All concerns of the necessary county entities have been addressed.
4. The established use of the parcel will not change.
5. The parcel is owned and operated by a government agency

Planning Staff Recommendation

The requested zoning change meets all the criteria of Article 20.1 – Public Use District of the Burleigh Zoning Ordinance. Staff recommends approving the request of a public hearing.



PLANNING AND ZONING COMMISSION

June 12, 2024

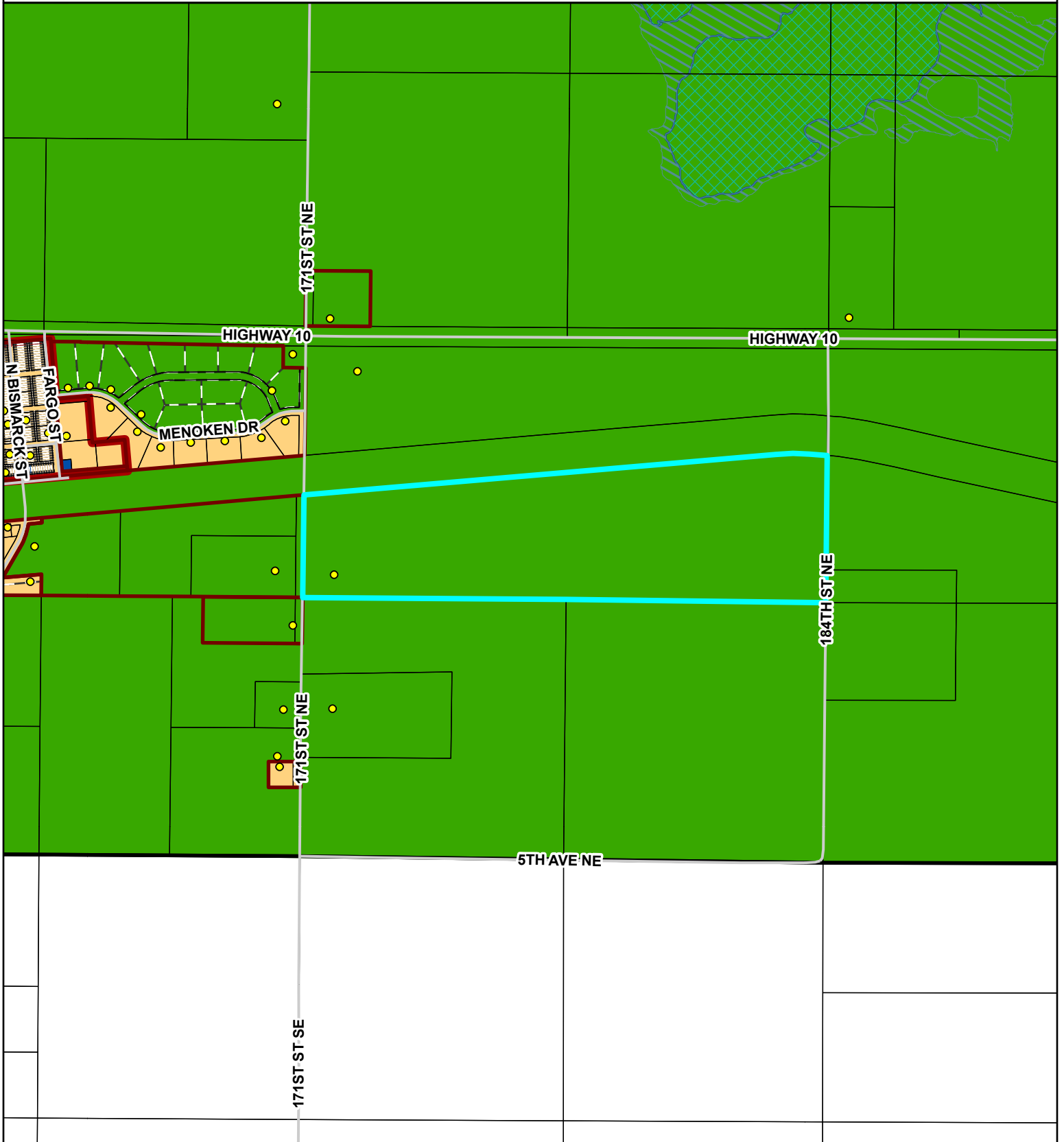
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

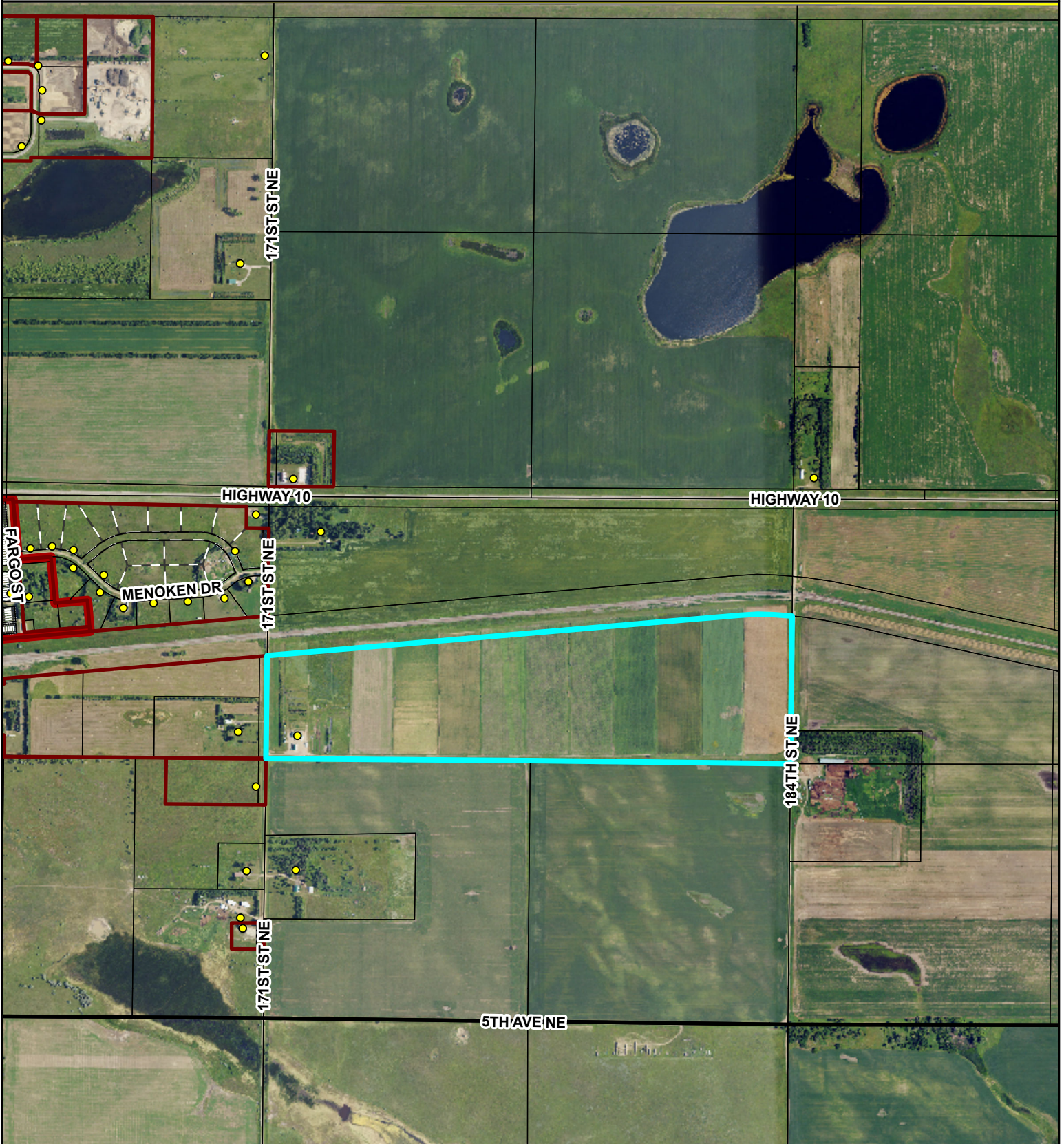
EXHIBITS - MENOKEN FARM FACILITY

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



PARCEL ID: 33-139-78-00-34-220 **OWNER:** BURLEIGH CO SOIL CONS DISTRICT **ACRES:** 150.12
SITE ADDRESS: 1107 NE 171ST ST
MAIL ADDRESS: 916 E INTERSTATE AVE #6, BISMARCK, ND 58503-0560
LEGAL: MENOKEN TOWNSHIP Section 34 N1/2 LYING SOUTH OF RR R/W 701210 34-139-78

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



PARCEL ID: 33-139-78-00-34-220

OWNER: BURLEIGH CO SOIL CONS DISTRICT

ACRES: 150.12

SITE ADDRESS: 1107 NE 171ST ST

MAIL ADDRESS: 916 E INTERSTATE AVE #6, BISMARCK, ND 58503-0560

LEGAL: MENOKEN TOWNSHIP Section 34 N1/2 LYING SOUTH OF RR R/W 701210 34-139-78





Menoken Farm

The Menoken Farm is a conservation demonstration farm located in central North Dakota, owned and operated by the Burleigh County Soil Conservation District

The systems approach management enhances erosion protection, sunlight harvest, plant diversity, carbon, pollinators, beneficial insects, wildlife, salinity control, livestock forage and more

Advancing Soil Health through innovation and education.



Cropping Systems

Menoken Farm is divided into 10 fields, each about 12 acres. The cropping system includes no-till seeding, high crop diversity and rotations with cover crop combinations seeded after harvest and as season-long plantings.



Compost

Each fall compost is made from a number of organic materials, including common ingredients such as hay, straw, wood shavings, fish and manure. Upon completion, the compost is applied to available cropland and gardens.



Windbreaks

A number of windbreaks have been planted and serve as an arboretum for information and education on energy, wildlife and forestry topics.



Grazing Systems

Rotational perennials are part of the crop rotation. These fields are seeded to 21 species of perennial grasses, legumes and flowering forbs. The grazing system is managed with short livestock exposure periods, followed by long plant recovery periods. Livestock are also rotated to season-long cover crops, fall seeded cover crops and crop residue, when available. Paddock size is managed with single-wire electric fence. Each paddock is usually a half acre or larger.



Gardens

Menoken Farm has a high tunnel greenhouse garden and outside garden. The soil health principles and compost are used to manage the gardens. Healthy, fresh produce is donated to the Bismarck/Mandan food pantries, in cooperation with the Hunger Free North Dakota Garden Project.



Education

With continued support from the North Dakota Department of Health and NRCS-USDA, Menoken Farm provides natural resource education. Tours are available from May - October and are open to farmers, ranchers, gardeners, Soil Conservation District employees and supervisors, NRCS employees, Extension Service employees, no-till associations and the general public. Some of the topics our tour participants will learn include: soil health principles; carbon cycle; soil function demonstrations; crop rotations; cover crop combinations; grazing systems; and gardening.

Visit us at: www.menokenfarm.com



The farm is owned and operated by Burleigh County Soil Conservation District. Additional financial and technical support is provided by:

- Section 319 Nonpoint Source Pollution Control Program through the North Dakota Department of Health/Water Quality Division
- Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA)

After identifying a number of resource concerns across the Menoken Farm landscape, work focused on providing these basic building blocks to improve soil health:

- 🌿 Soil armor
- 🌿 Minimal soil disturbance
- 🌿 Plant diversity
- 🌿 Continual live plant/root
- 🌿 Livestock integration

The systems approach management enhances erosion protection, sunlight harvest, plant diversity, carbon, pollinators, beneficial insects, wildlife, salinity control, livestock forage and more.



Menoken Farm

Schedule a Menoken Farm Tour:

- 👤 Darrell Oswald
- ☎ 701-250-4518, ext. 3
701-391-5830
- ✉ darrell.oswald@nd.nacdnet.net
menokenfarm@gmail.com
- 🌐 www.menokenfarm.com

The Menoken Farm address is:

- 📍 Menoken Farm
1107 171st St. N.E.
Menoken, ND 58558

Driving directions to Menoken Farm are:

- From I-94, take Menoken Exit 170 (about 10 miles east of Bismarck, ND)
- 1 mile south to Highway 10
- 1 mile east to St. Hildegard's Church
- 1/2 mile south

*This brochure is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number 68-6633-16-516. USDA is an equal opportunity provider and employer



Menoken Farm

Burleigh County Soil Conservation District, North Dakota

Menoken Farm was established in 2009 and is a combination of natural resource education and systems approach conservation



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PLANNING AND ZONING
COMMISSION

June 12, 2024

Agenda Item: 4-1 Peaceful View Subdivision
Zoning Change

Public Hearing for Subdivision and Zoning Change

Project Summary	
Public Hearing Agenda:	Peaceful View Subdivision and Zoning Change from A to R1
Status:	Request for a "Do Pass" recommendation to the County Commission.
Petitioner/Developer	Duane Small
Engineer	Mark Isaacs, Independent Land Surveyors
Location:	<i>Part of the South 1/2 of Section 11, Part of Lot B and Part of the North 1/4 of Section 14, Township 137 North, Range 80 W in Burleigh County</i>
<p>Exhibit 4-1-1 Location Map</p> 	
Project Size:	17.89 acres divided into two (2) lots

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



History/Description

Burleigh County was approached in March regarding the platting of 17 acres into a two (2) lot subdivision. A preliminary review was held with the county review staff and the petitioner. Attending the review meeting were: County Planning and Engineering Staff, Rural Fire and Mark Isaacs-Independent Land Surveyor representing Duane Small

The proposed subdivision offers some challenges because of its location and the location of several buildings on the property. The original homestead was developed before the county section lines were in place. Because of this the house and several buildings are in what would become the county section line right of way. The section line was vacated by the Board of Burleigh County Commissioners at the March 4, 2024 meeting. (see attachment 4-1-2).

The preliminary plat was resubmitted on March 21, 2024 for the April 10, 2024 meeting. The section line has been vacated and alternative access to the US Army Corp of Engineers land located on the west side of the property has been provided.

The final plat was submitted on April 18th. The plat was reviewed by Burleigh County Staff and outside entities. All corrections have been completed and all entities have approved of the final plat.

The zoning change request from A-Agricultural Zoning to R1- Rural Single Family Residential is an appropriate zoning change. The proposed lots are under ten (10) acres and will not qualify for A-Agricultural Zoning which requires a minimum of ten (10) acres. The surrounding properties are a mix of A-Agricultural and R1-Rural Single Family Residential.

East of the property at approximately one (1) mile is the



Exhibit 4-1-4 Subdivision Site Map

Staff Findings:
Final Plat

1. This subdivision fulfills the requirements for a Preliminary Plat as per Article 33, of the Burleigh County Zoning Ordinance.
2. The Stormwater Management Waiver was granted
3. The section line vacation was approved.
4. The alternative section line ROW was approved.
5. This final plat was submitted to all reviewing entities. Changes and corrections have been addressed. All reviewing entities have approved the final plat.



PLANNING AND ZONING COMMISSION

June 12, 2024

Staff Findings: Zoning Change

1. The zoning change from A-Agricultural to R1-Rural Single Family Residential fulfills the requirements of Article 12 of the Burleigh County Zoning Ordinance.
2. The zoning change is consistent with properties in the surrounding area.

Planning Staff Recommendation

The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 12 & 33. Staff recommends approval of the preliminary plat and zoning change and requests for a public hearing.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

EXHIBITS - PEACEFUL VIEW SUBDIVISION AND ZONING CHANGE



964212

\$0.00
Page: 1 of 2
3/19/2024 1:05 PM
Burleigh County

AFFIDAVIT OF SECTION LINE CLOSURE

AFD 24-004

The Burleigh County Commission at a regular scheduled meeting on March 5, 2024, duly closed the following listed section line as appearing below.

Witness my hand and seal this 19 day of March, 2024



Mark Splonskowski,
Burleigh County Auditor

SECTION LINE CLOSURE

The section line vacation is as described below:

The section line situated on the common line between Sections 11 and 14, Township 137 North Range 80 West of the 5th Principal Meridian, Burleigh County, ND.



COUNTY PLANNING

AFFDT

Brandi Chambers Deputy

964212

\$0.00

Page: 2 of 2

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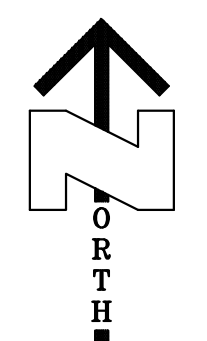
Burleigh County



PEACEFUL VIEW SUBDIVISION

EXHIBIT 4-1-3

A TRACT OF LAND IN PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, AND PART OF LOT B, AND PART OF THE NORTHEAST QUARTER OF SECTION 14, ALL IN T137N, R80W IN BURLEIGH COUNTY, NORTH DAKOTA



SCALE: 1" = 100'
DATE: MAY 6TH, 2024

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

LAND DESCRIPTION

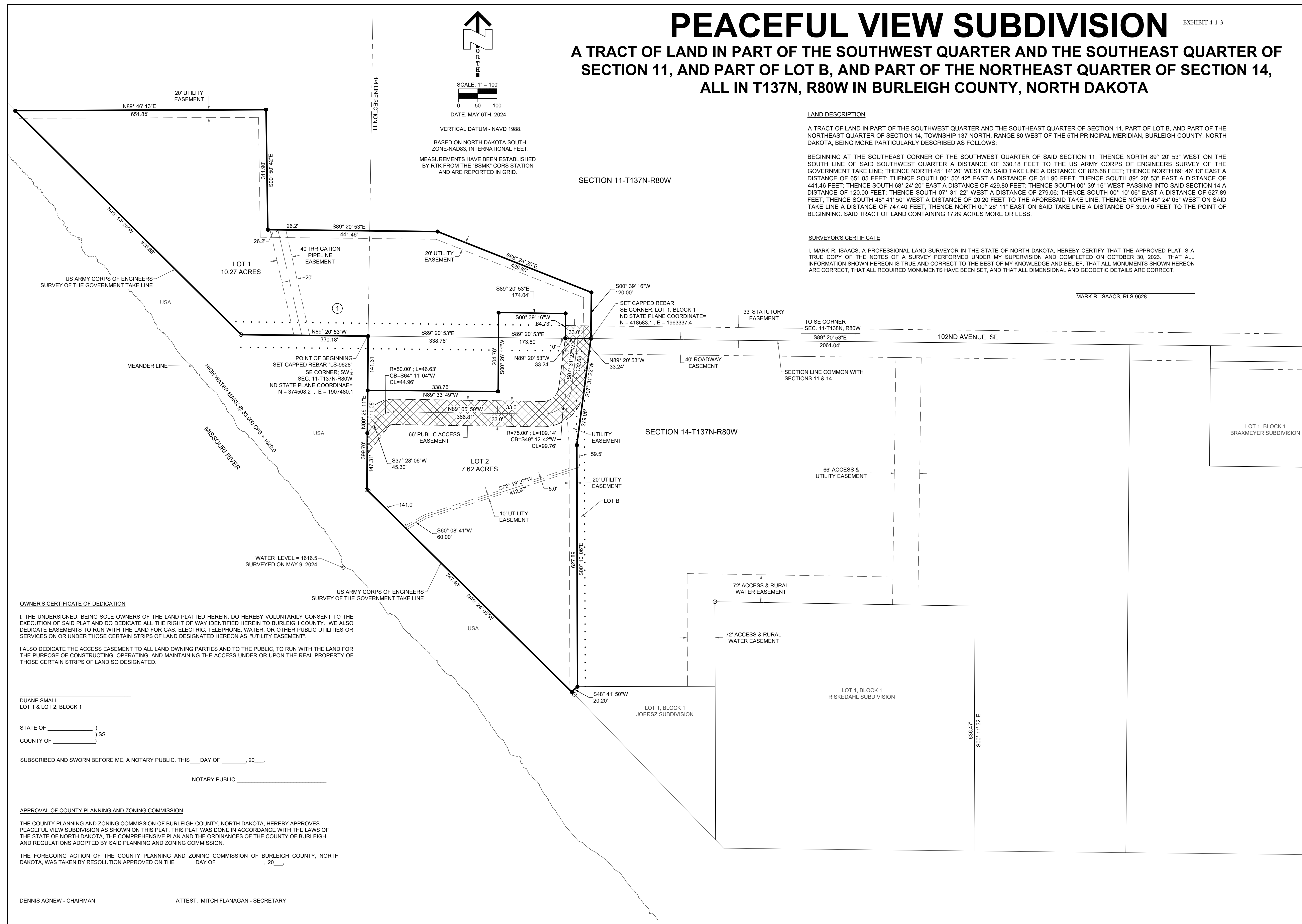
A TRACT OF LAND IN PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, PART OF LOT B, AND PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 137 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 11; THENCE NORTH 89° 20' 53" WEST ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 330.18 FEET TO THE US ARMY CORPS OF ENGINEERS SURVEY OF THE GOVERNMENT TAKE LINE; THENCE NORTH 45° 14' 20" WEST ON SAID TAKE LINE A DISTANCE OF 826.68 FEET; THENCE NORTH 89° 46' 13" EAST A DISTANCE OF 651.85 FEET; THENCE SOUTH 00° 50' 42" EAST A DISTANCE OF 311.90 FEET; THENCE SOUTH 89° 20' 53" EAST A DISTANCE OF 441.46 FEET; THENCE SOUTH 68° 24' 20" EAST A DISTANCE OF 429.80 FEET; THENCE SOUTH 00° 39' 16" WEST PASSING INTO SAID SECTION 14 A DISTANCE OF 120.00 FEET; THENCE SOUTH 07° 31' 22" WEST A DISTANCE OF 279.06 FEET; THENCE SOUTH 00° 10' 06" EAST A DISTANCE OF 627.89 FEET; THENCE SOUTH 48° 41' 50" WEST A DISTANCE OF 20.20 FEET TO THE AFORESAID TAKE LINE; THENCE NORTH 45° 24' 05" WEST ON SAID TAKE LINE A DISTANCE OF 747.40 FEET; THENCE NORTH 00° 28' 11" EAST ON SAID TAKE LINE A DISTANCE OF 399.70 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 17.89 ACRES MORE OR LESS.

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 OCTOBER 30, 2023. 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



OWNER'S CERTIFICATE OF DEDICATION

I, 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".

I ALSO DEDICATE THE ACCESS EASEMENT TO ALL LAND OWNING PARTIES AND TO THE PUBLIC, 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.

DUANE SMALL
LOT 1 & LOT 2, BLOCK 1

STATE OF _____ }
COUNTY OF _____ } SS

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS ____ DAY OF _____, 20__.

NOTARY PUBLIC _____

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, HEREBY APPROVES PEACEFUL VIEW 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 _____, 20__.

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, HAS APPROVED THE GROUNDS 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 ____ DAY OF _____, 20__.

BRIAN BITNER - CHAIRMAN

ATTEST: MARK SPLONSKOWSKI,
COUNTY AUDITOR/TREASURER

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES THIS PLAT OF "PEACEFUL VIEW SUBDIVISION" AS SHOWN ON THE PLAT, DATED THIS ____ DAY OF _____, 20__.

MARCUS J. HALL, PE
COUNTY ENGINEER

ACREAGE TABLE

	SE 1/4 SEC 11	SW 1/4 SEC 11	NE 1/4 SEC 14
LOT 1	10.27 ACRES	2.67 ACRES	6.51 ACRES
LOT 2	7.62 ACRES	0.27 ACRES	1.09 ACRES
TOTAL	17.89 ACRES		

BENCHMARK - SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 11, T137N, R80W, A CAPPED REBAR - "LS9628", FLUSH WITH THE GROUND. ELEVATION = 1690.25

OWNER:
DUANE SMALL
3300 SE 102ND AVE
BISMARCK, ND 58504

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- VACATE SECTION LINE EASEMENT AND LOT B.
- ▨ 66' ACCESS EASEMENT FOR THE BENEFIT OF THE PUBLIC.

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 - AGRICULTURAL
4. THE ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF THE PUBLIC.
5. THE SECTION LINE STATUTORY EASEMENT THAT RUNS THROUGH LOTS 1 & 2, BLOCK 1 HAS BEEN VACATED PER RESOLUTION DOC.# 964212

PEACEFUL VIEW SUBDIVISION
PART OF THE S. 1/2 SEC. 11-137-80
PART OF THE N. 1/2 SEC. 14-137-80
BURLEIGH, NORTH DAKOTA

SHEET: 1 OF 1 JOB NUMBER: 23154
SCALE: 1" = 100' DWG REVISION DATES
DRAWN BY: MR 5/6/24
DWG DATE: 4/11/24
DWG NAME: 23154 Final Plat.dwg

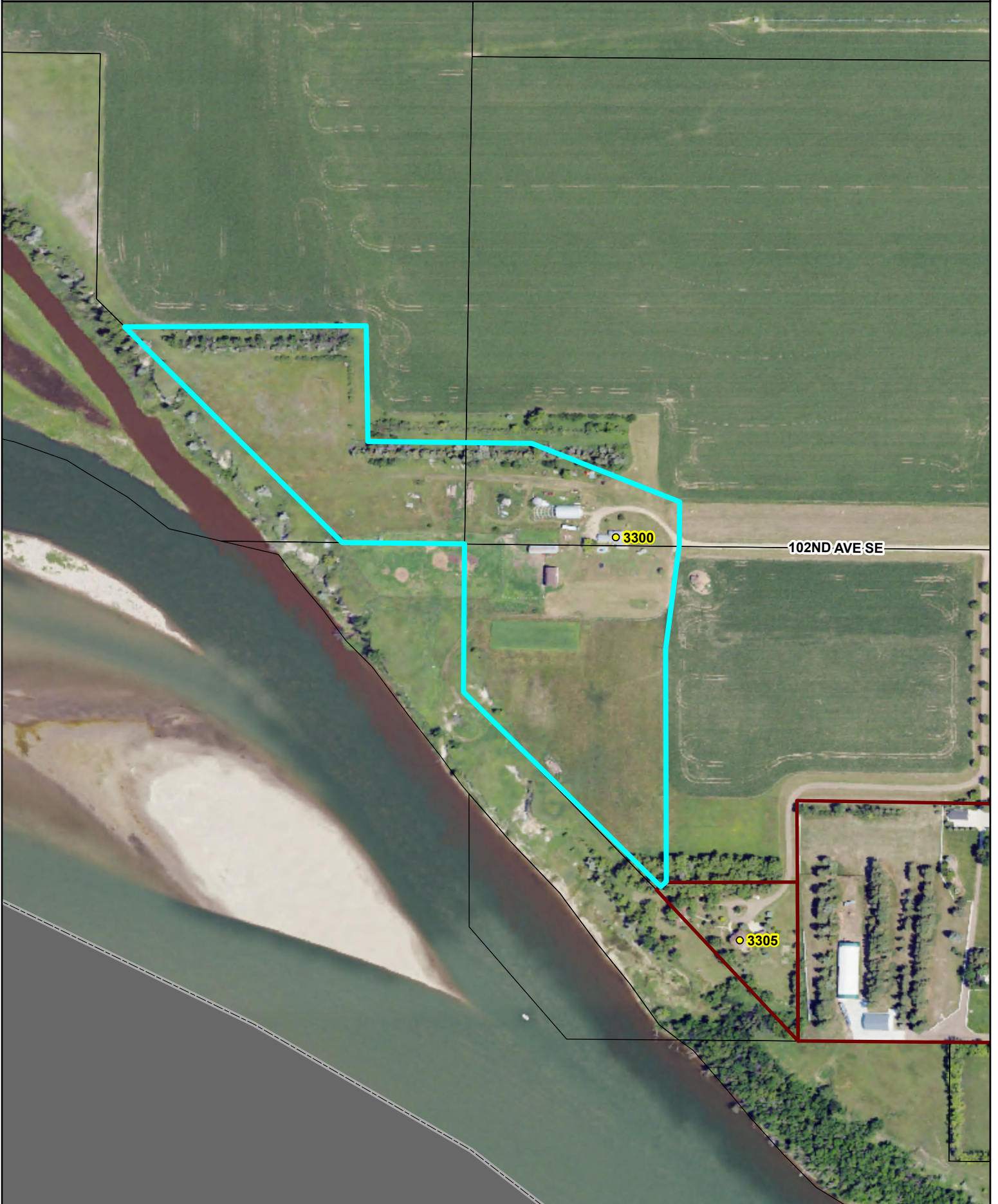
Independent
Land
Surveying &
Engineering

4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-663-5184
Cell: 701-955-2079
mark@isurveynd.com

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

EXHIBIT 4-1-4

N
5/20/2024



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PLANNING AND ZONING
COMMISSION

June 12, 2024

Agenda Item: 4-2 Fleck Subdivision

Public Hearing for Subdivision

Project Summary

Public Hearing Agenda:

Fleck Subdivision – A three (3) lot subdivision

Status:

Public Hearing

Petitioner/Developer

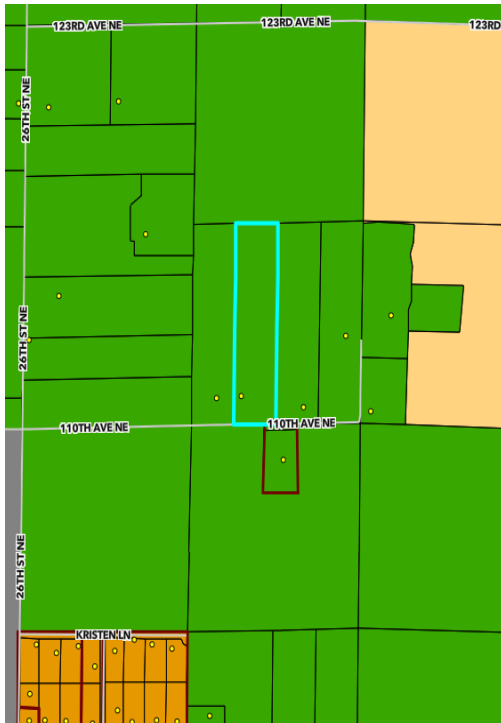
Kurt & Dana Fleck

Engineer

Mark Isaacs
Independent Land Surveying and
Engineering

Location:

Part of the SE 1/4, Section 7 and Part of
the NE 1/4, Section 18, All in T137N,
Range 79W, Burleigh County



Attachment 4-2-1 Location Map

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 12, 2024

Project Size: 40 acres more or less
A- Agricultural Zoning

Petitioners Request Approval of final plat and a "Do Pass"
recommendation to the Board of Burleigh
County Commissioners

History

Mark Isaac, ILSE and the petitioners Kurt and Dana Fleck met with Burleigh County Staff on March 13, 2024 for a pre-application meeting to discuss platting their 40 acres. The Fleck's were interested in platting their property into three (3) lots. Two (2) lots will contain ten (10) acres with the remaining lot containing eighteen (18) acres more or less. A zoning change would not be required if the lot stayed at ten (10) acres or more.

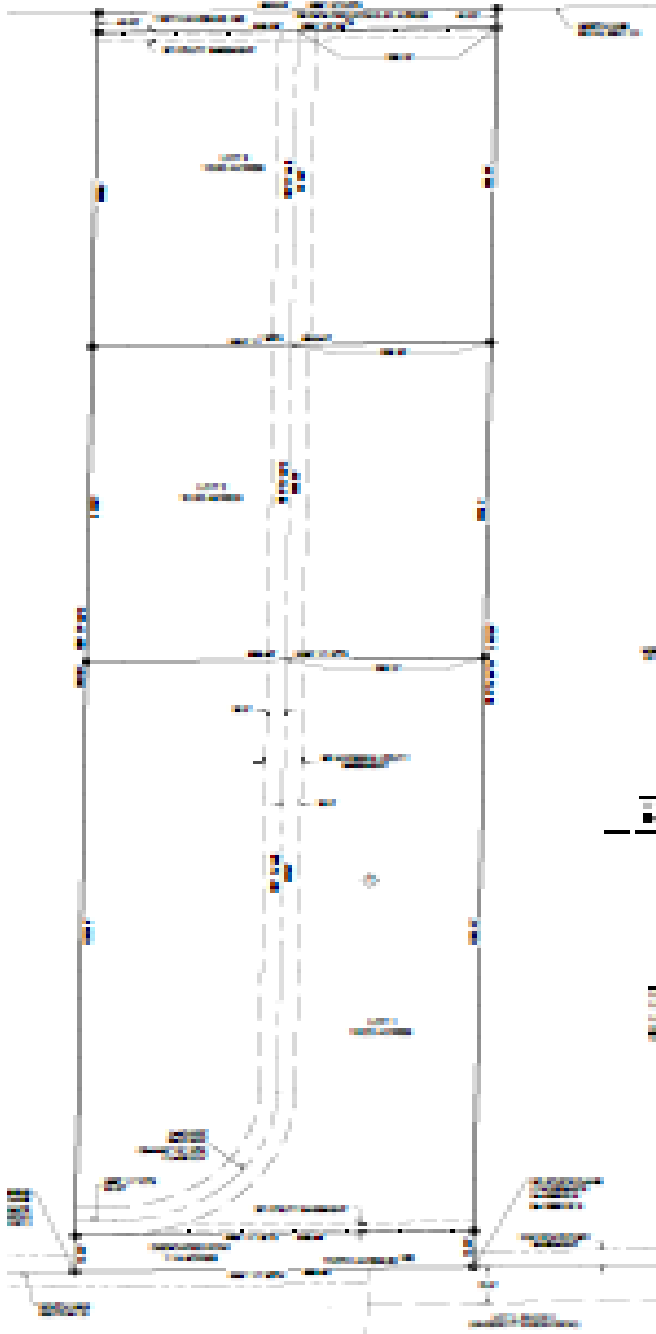
The review committee did not find any irregularities which would cause concern in the platting process. There are three (3) buildings on the property, which will be contained into Lot 1. An access easement for access to Lots 2 and 3, from Lot 1 has been dedicated on the plat. Access from 110th Avenue NE and from 116th Avenue NE will be shared access for each lot.

The Burleigh County Planning and Zoning Commission approved the preliminary plat on April 10, 2024 and called for a public hearing. The final plat was submitted on April 16th. All reviewing entities have signed off and approved the final plat for a public hearing.



PLANNING AND ZONING
COMMISSION

June 12, 2024



Attachment 4-2-2 Final Plat

June 12, 2024



PLANNING AND ZONING
COMMISSION

June 12, 2024



Attachment 4-2-3 Site Map



PLANNING AND ZONING COMMISSION

June 12, 2024

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. Zoning will not be changed.
3. A Stormwater Management Waiver was approved
4. A Paving Waiver Request was submitted on March 27, 2024
5. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.

Planning Staff Recommendation

The final plat of Fleck Subdivision 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.

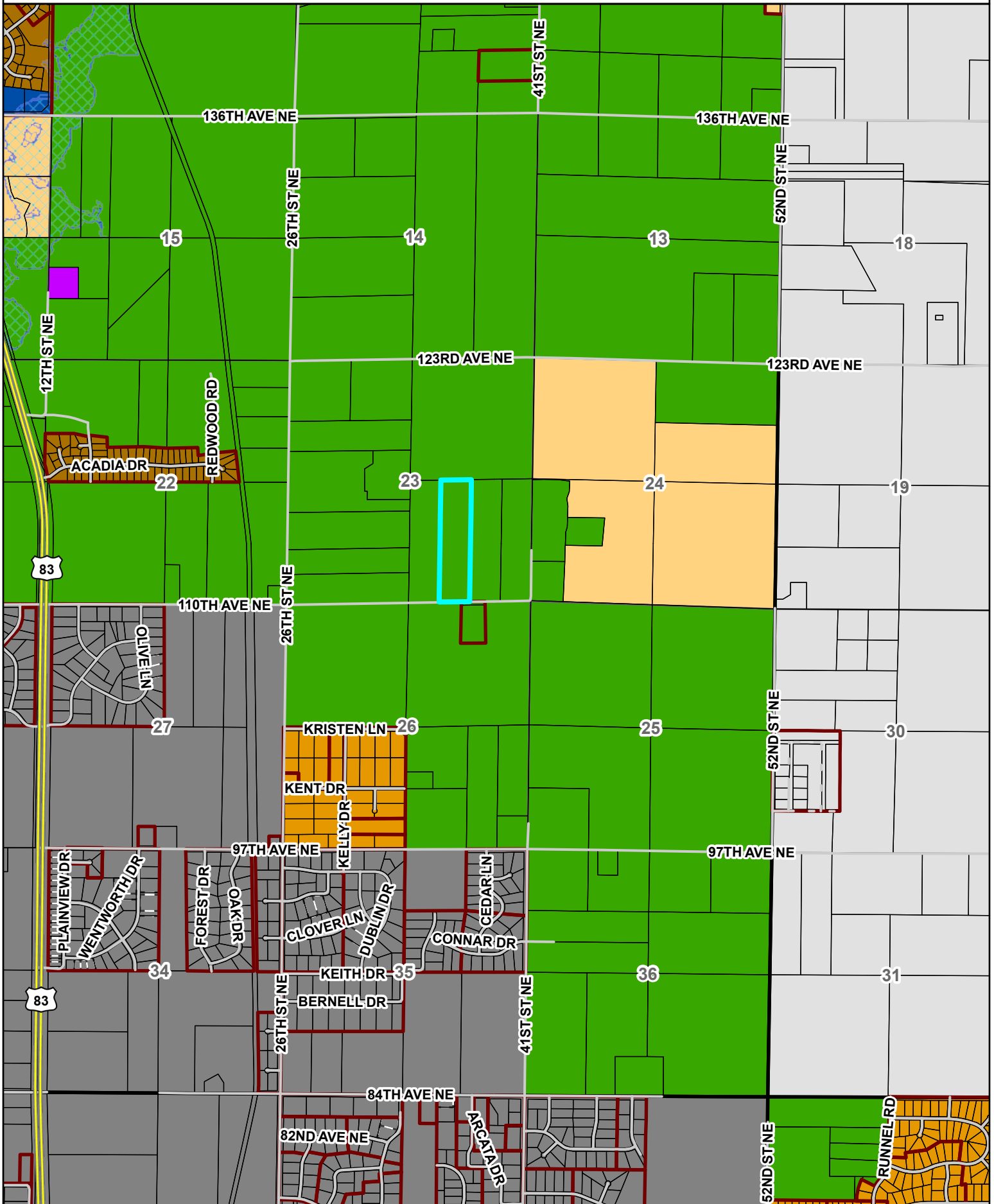
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

EXHIBITS - FLECK SUBDIVISION

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



FLECK SUBDIVISION

A TRACT OF LAND IN EAST 1/2 OF THE WEST 1/2 OF THE SE 1/4 IN SECTION 23 T140N, R80W IN BURLEIGH COUNTY, NORTH DAKOTA

LAND DESCRIPTION

A TRACT OF LAND BEING THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 140 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 89° 11' 32" EAST ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 660.45 FEET TO THE SOUTHWEST CORNER OF SAID HALF-HALF-QUARTER AND THE POINT OF BEGINNING; THENCE NORTH 00° 51' 08" EAST ON THE WEST LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 2637.66 FEET TO THE NORTHWEST CORNER OF SAID HALF-HALF-QUARTER; THENCE NORTH 89° 12' 03" EAST ON THE NORTH LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 660.39 FEET TO THE NORTHEAST CORNER OF SAID HALF-HALF-QUARTER; THENCE SOUTH 00° 51' 04" WEST ON THE EAST LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 2637.56 FEET TO THE SOUTHEAST CORNER OF SAID HALF-HALF-QUARTER; THENCE SOUTH 89° 11' 32" WEST ON THE SOUTH LINE OF SAID HALF-HALF-QUARTER A DISTANCE OF 660.45 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 39.97 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS..

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 AUGUST 10, 2023. 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

OWNER'S CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED, BEING SOLE OWNER 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. I 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".

WE ALSO DEDICATE THE ACCESS EASEMENT 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.

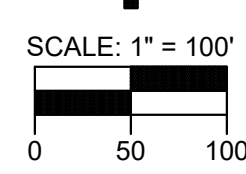
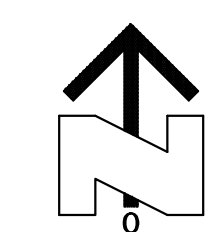
KURT FLECK

DANA FLECK

STATE OF _____)
COUNTY OF _____) SS

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS ___ DAY OF _____, 20__.

NOTARY PUBLIC _____



DATE: MAY 6TH, 2024

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

LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- - - NON-ACCESS LINE

ACREAGE TABLE

LOT 1	18.22 ACRES
LOT 2	10.00 ACRES
LOT 3	10.00 ACRES
DEDICATED ROW	1.75 ACRES
TOTAL	39.97 ACRES

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, HEREBY APPROVES FLECK 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 _____, 20__.

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, HAS APPROVED THE GROUNDS 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 ___ DAY OF _____, 20__.

BRIAN BITNER - CHAIRMAN

ATTEST: MARK SPLONSKOWSKI,
COUNTY AUDITOR/TREASURER

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES THIS PLAT OF "FLECK SUBDIVISION" AS SHOWN ON THE PLAT, DATED THIS ___ DAY OF _____, 20__.

MARCUS J. HALL, PE
COUNTY ENGINEER

BENCHMARK - SOUTHWEST CORNER LOT 1, BLOCK 1, A CAPPED REBAR FLUSH WITH THE GROUND. ELEVATION = 1919.00

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

FLECK SUBDIVISION
PART OF SE 1/4 SEC. 23-140-80
BURLEIGH, NORTH DAKOTA

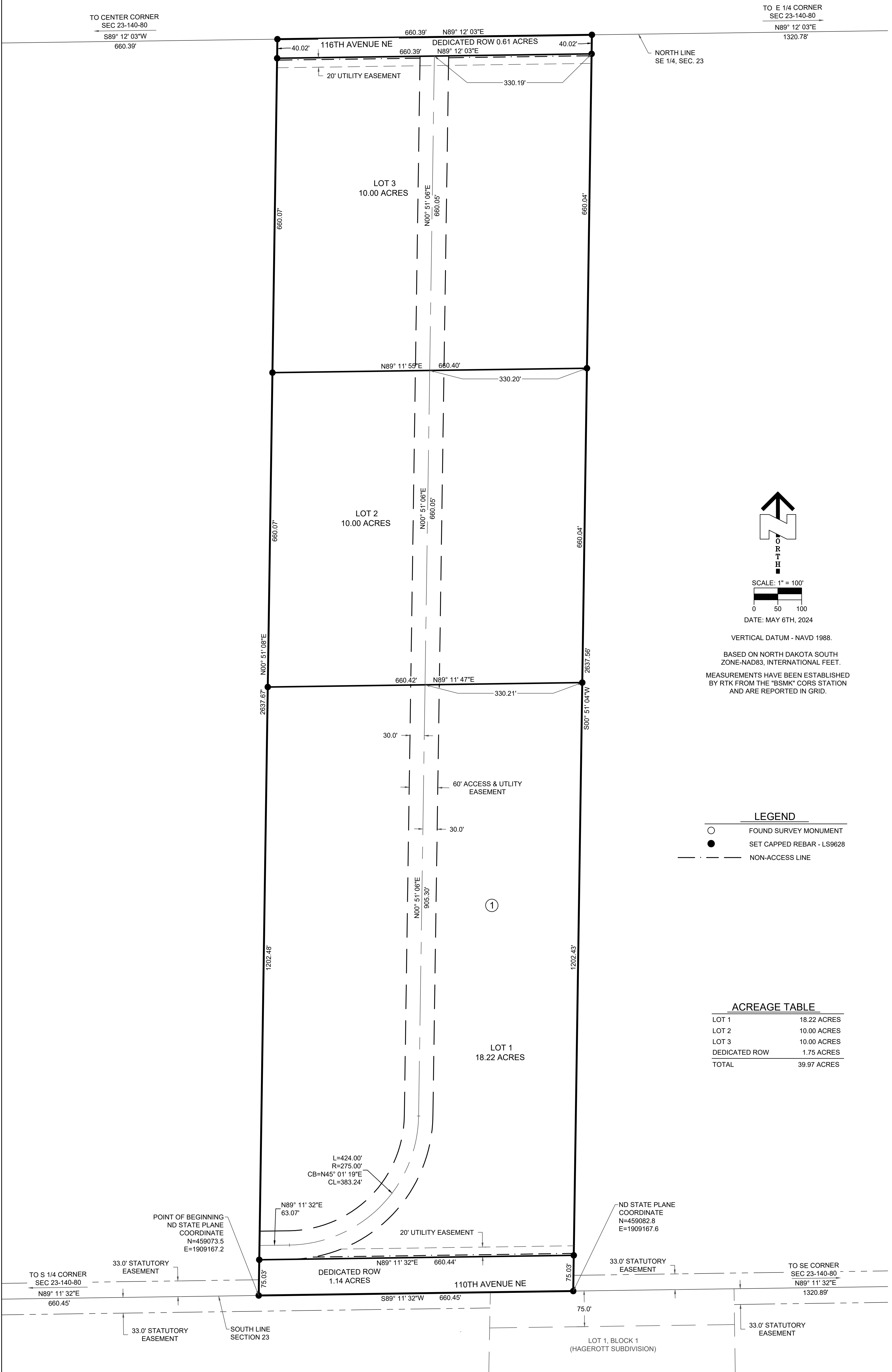
SHEET: 1 OF 1 JOB NUMBER: 24012
SCALE: 1" = 100' DWG REVISION DATES
DRAWN BY: MRS. 3/27/24
DWG DATE: 2/20/24 5/9/24

4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-663-5184
Cell: 701-595-2079
mark@surveynd.com

NOTES:

- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
- SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
- EXISTING ZONING - AGRICULTURAL
- THE ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOTS 1, 2, AND 3, BLOCK 1.

OWNER:
KURT & DANA FLECK
3566 110TH AVENUE N
BISMARCK, ND 58503



TO CENTER CORNER
SEC 23-140-80
S89° 12' 03\"/>

TO E 1/4 CORNER
SEC 23-140-80
N89° 12' 03\"/>

NORTH LINE
SE 1/4, SEC. 23

POINT OF BEGINNING
ND STATE PLANE
COORDINATE
N=459073.5
E=1909167.2

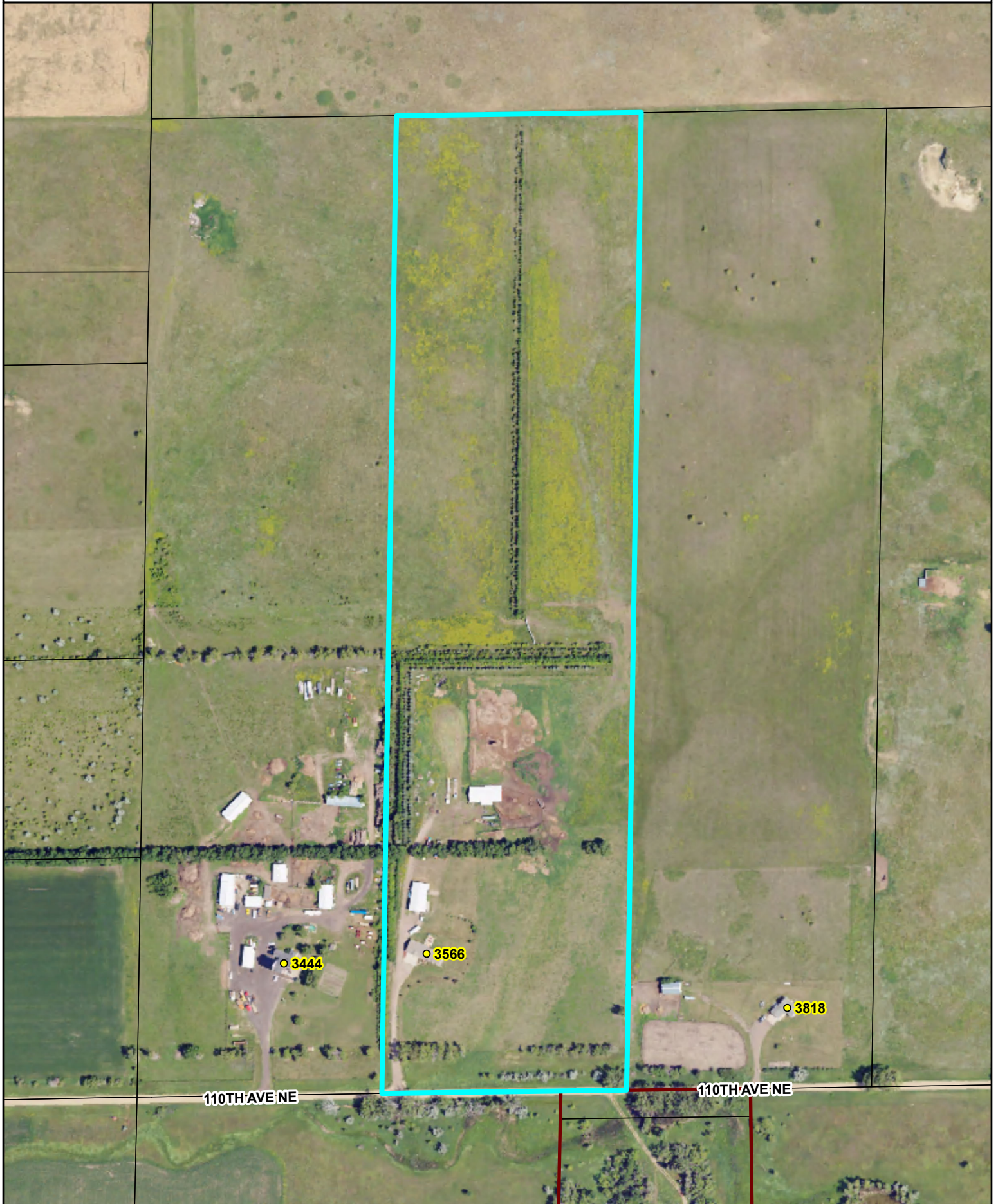
ND STATE PLANE
COORDINATE
N=459082.8
E=1909167.6

TO S 1/4 CORNER
SEC 23-140-80
N89° 11' 32\"/>

TO SE CORNER
SEC 23-140-80
N89° 11' 32\"/>

LOT 1, BLOCK 1
(HAGEROTT SUBDIVISION)

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



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PLANNING AND ZONING
COMMISSION

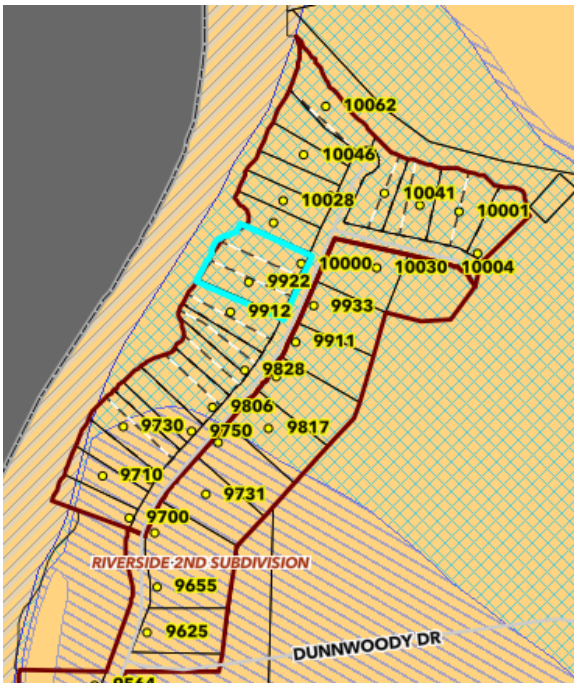
June 12, 2024

Agenda Item 4-3

Application for a Final Short – Plat Subdivision

Continuation of March 13, 2024 Public Hearing

Project Summary	
Public Hearing Agenda:	Riverside 3rd Subdivision – A one (1) lot subdivision
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Paul Hartmann
Engineer	Dayne Solem – Bartlett & West
Location:	Lots 12, 13, & 14, Block 1, Riverside Subdivision in Sections 27 & 28, Township 140 North, Range 81 West Attachment 4-3-1 Location Map



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 12, 2024

Project Size:		2.22 acres more or less R1-Rural Single Family Residential
Petitioners Request		Approval of the final plat. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners
Public Hearing Notifications	Bismarck Tribune	May 29 & June 5, 2024
	Burleigh County Website	May 29, 2024
	Surrounding Property Owners	May 29, 2024

History/Description

The petitioner approached Burleigh County regarding building on his property addressed as 9922 Island Road. The property was originally platted in 1985 (see attachment 5-1-2). Each lot containing 40,000 sf. In 1985, 40,000 square foot R1 lots were allowed. These lots were combined for tax purposes, but not combined to create one (1) lot containing 2.22 acres. A section line was also located across the three (3) lots.

Staff advised the petitioners the lots would need to be combined to build. Located in a platted subdivision, the lots could be combined using Article 33, Section 12 Short-Form Plat, which does not require a preliminary plat. As separate lots they did not meet the requirements of the Burleigh County Zoning Ordinance for the following reasons:

1. The location of the proposed build was located across a lot line and the section line Right-of-Way.
2. The location of the proposed build would be located on an unattached single-family lot. The petitioners would be required to apply for a variance to build on the lot.
3. A section line runs through all the lots, making the lot unbuildable.



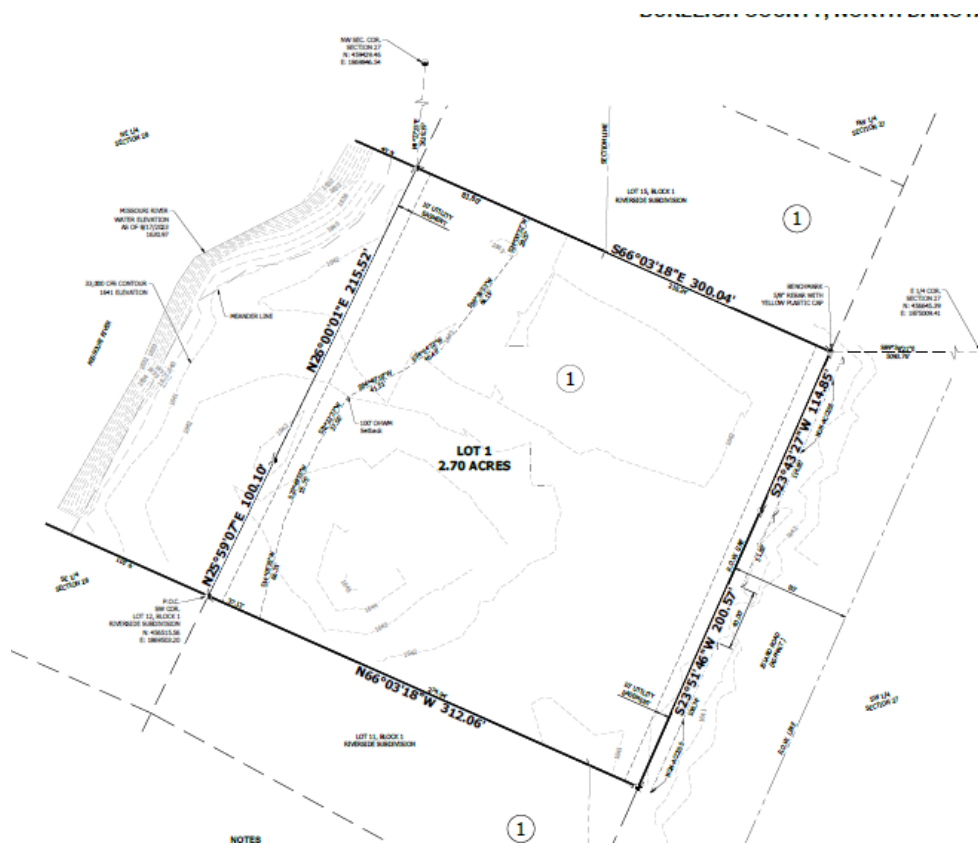
PLANNING AND ZONING
COMMISSION

June 12, 2024

The petitioners would also be required to vacate the section line if they decided to combine their lots to build.

The petitioners applied to vacate the section line. The Board of Burleigh County Commissioners granted a section line vacation on February 5, 2024.

The petitioners submitted their plat for review as on February 22, 2024. The Riverside 3rd Subdivision meets the requirements of Article 33, Section 12 – Short Form platting. It contains three (3) lots, and is in a platted subdivision. (see attachment 4-3-2)



Attachment 4-3-2 Final Plat



PLANNING AND ZONING COMMISSION

June 12, 2024



Attachment 4-3-3 Site Map

ANALYSIS

The Riverside 3rd Subdivision meets all the requirements of Article 33 – Section 12 of the Burleigh County Zoning Ordinance. The section line was vacated by the Board of Burleigh County Commissioners which allows the three (3) lots to be combined into one (1) lot.

Riverside 3rd Subdivision will follow the rules and guidelines of the Riverside 1 and 2 Subdivision Covenant. The property owner has met and agreed to continue as a member of the HOA for Riverside 1 and 2.

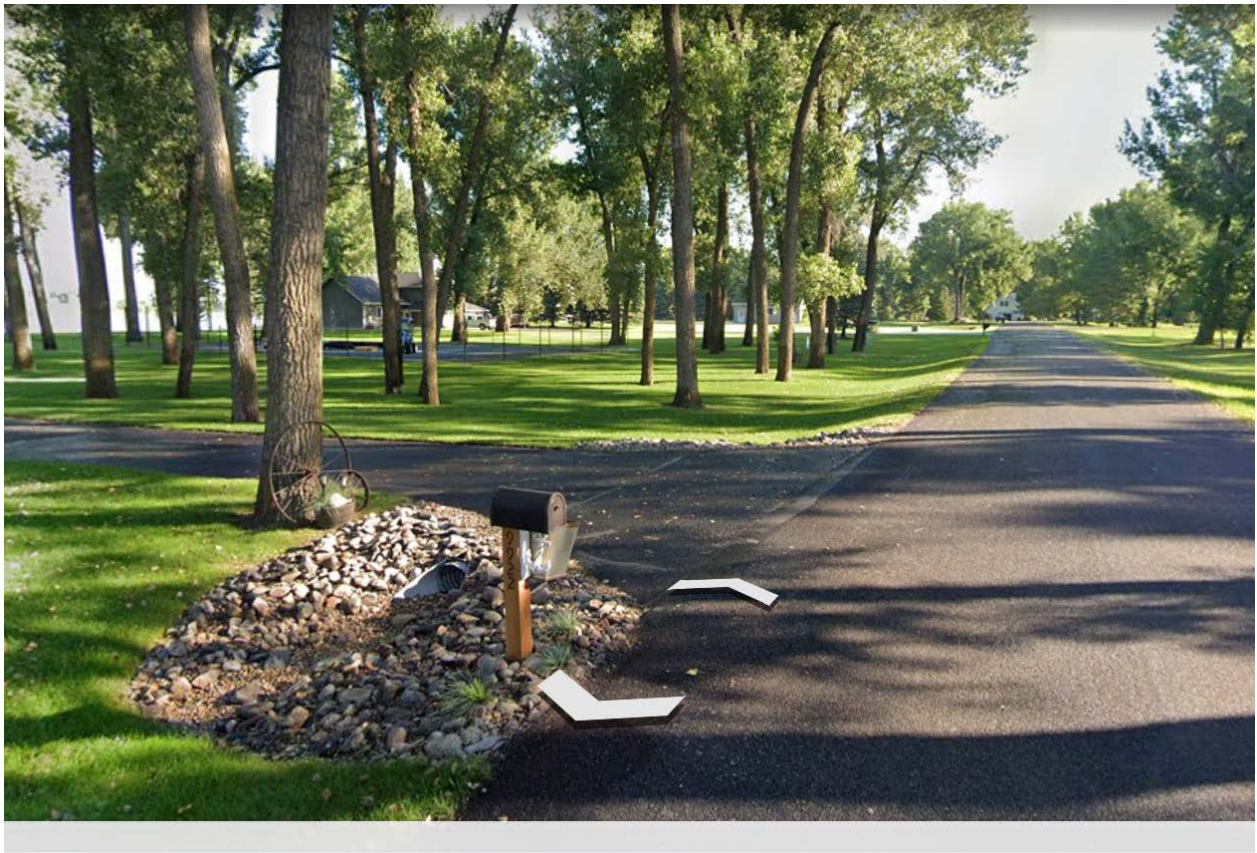


PLANNING AND ZONING
COMMISSION

June 12, 2024

Riverside 3rd Subdivision meets the requirements of the Burleigh County 2014 Comprehensive Plan:

- III Residential Neighborhoods
 - Objective 1 To ensure that the growth of new residential areas and the redevelopment of existing neighborhood should be orderly, systematic and consistent with the need of the County.
 - Objective 2 Encourage the use of sound planning principles and modern practices in subdivision platting and housing market



4-3-4 Street View



Staff Findings:

1. This subdivision fulfills the requirements of Article 33 Section 12 of the Burleigh County Zoning Ordinance.
 - Originally platted in a subdivision
 - Combining three (3) lots to make a 2.22 acre lot
2. Zoning will not be changed.
3. A Stormwater Management Plan Waiver was granted
4. The section line has been vacated
5. The final plat reflects the vacation of the section line.
6. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
7. Property Owner and HOA have come to an agreement on Riverside 3rd Subdivision being included in the covenants for Riverside Subdivisions.



PLANNING AND ZONING COMMISSION

June 12, 2024

Planning Staff Recommendation

The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance Article 33, Section 12. Staff recommends approval of the final plat with a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

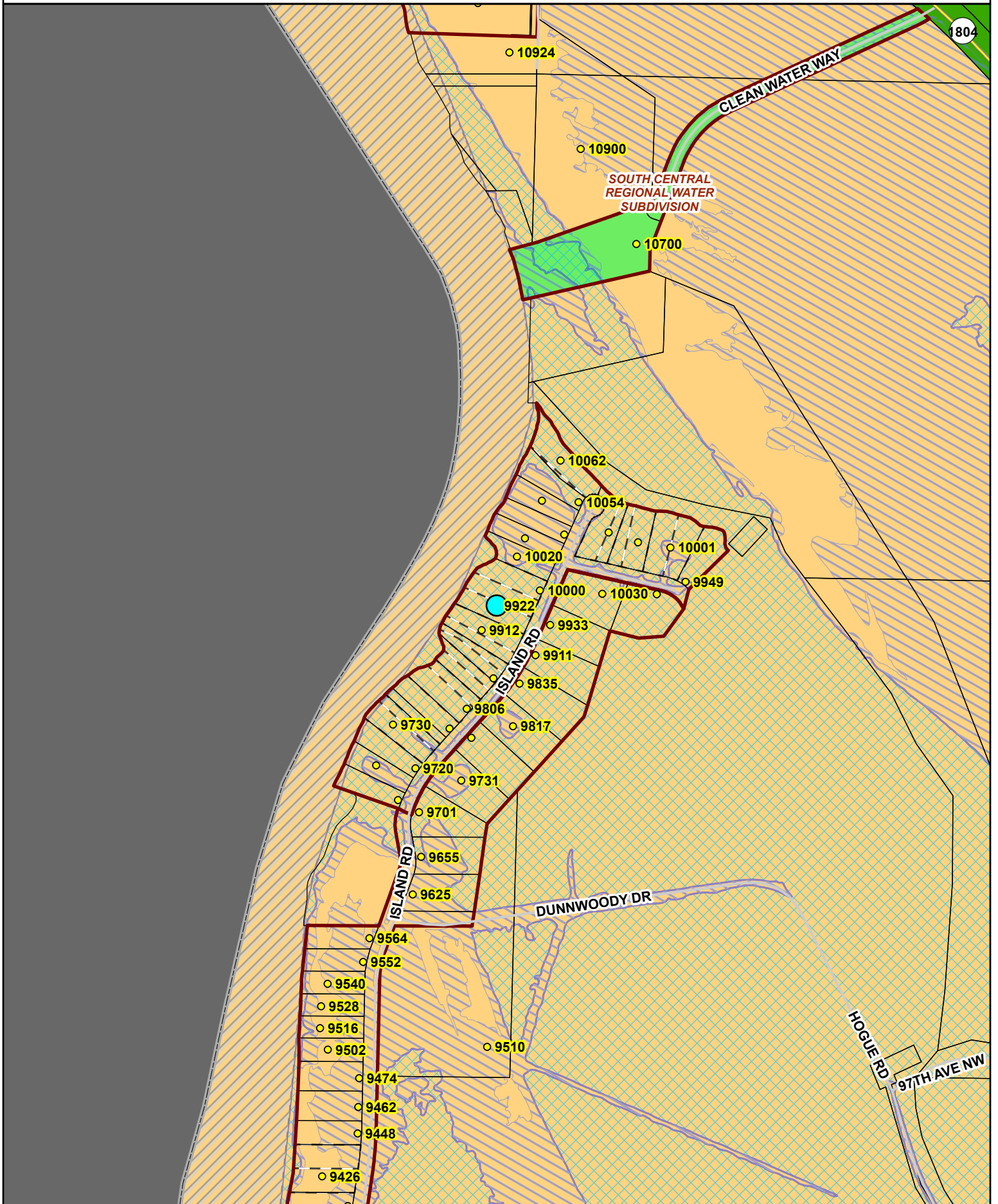
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat with 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.

EXHIBITS - RIVERSIDE 3RD SUBDIVISION

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



RIVERSIDE 3RD SUBDIVISION

A PLAT OF LOTS 12,13 & 14, BLOCK 1 OF RIVERSIDE SUBDIVISION

IN SECTIONS 27 & 28, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH P.M., BURLEIGH COUNTY, NORTH DAKOTA

EXHIBIT 4-3-2

DESCRIPTION

All that certain real property situated in Lots 12, 13 and 14, Block 1 of Riverside Subdivision in Section 27 and 28, Township 140 North, Range 81 West of the 5th P.M., Burleigh County, North Dakota described as follows:

Beginning at the Southwest Corner of said Lot 12; thence N25°59'07"E, along the west line of said Lot 12, a distance of 100.10 feet to the Southwest Corner of said Lot 13; thence N26°00'01"E, along the west line of said Lot 13, a distance of 215.52 feet to the Northwest Corner of said Lot 14; thence S66°03'18"E, along the north line of said Lot 14, a distance of 300.04 feet to the Northeast Corner of said Lot 14; thence S23°43'27"W, along the east line of said Lot 14 and the westerly right-of-way line of Island Road, a distance of 114.85 feet to the Southeast Corner of said Lot 14; thence S23°51'46"W, along said west right-of-way line, a distance of 200.57 feet to the Southeast Corner of said Lot 12; thence N66°03'18"W, along the south line of said Lot 12, a distance of 312.06 feet to the Point of Beginning and containing 2.70 acres, more or less.

OWNER'S CERTIFICATE

Know all men by these presents: Paul Hartmann and Jeralyn Heiser are the owners of all the land herein platted as Riverside 3rd Subdivision, and that the plat and survey thereof was made at the request of Paul Hartmann for the purpose of establishing the platted subdivision. Paul Hartmann and Jeralyn Heiser also certify that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

They 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 herein as "Utility Easement".

I do dedicate all public rights-of-ways as shown hereon to Burleigh County use forever.

Paul Hartmann _____, 2024
Date _____, 2024

Jeralyn Heiser _____, 2024
Date _____, 2024

STATE OF _____)
COUNTY OF _____) JSS

On this _____ day of _____, 2024, before me the undersigned officer, personally appeared Paul Hartmann and Jeralyn Heiser, known to me to be the persons described in, and who executed the foregoing instrument and acknowledged that they executed the same.

Notary Public _____

APPROVAL OF COUNTY PLANNING & ZONING COMMISSION

The County Planning and Zoning Commission of Burleigh County, North Dakota, hereby approves the Riverside 3rd 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 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 _____, 2024.

Dennis Agnew, Chairman

Attest: Mitch Flanagan, Building Official-Director

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.

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 Commissioners of Burleigh County, North Dakota, was taken by resolution approved on the _____ day of _____, 2024.

Brian Bitner, Chair

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 Riverside 3rd Subdivision, Burleigh County, North Dakota as shown on this plat.

Dated this _____ day of _____, 2024.

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

SURVEYOR'S CERTIFICATE

I, Dayne Solem, a Professional Land Surveyor in and for the State of North Dakota, do hereby certify that at the request of Paul Hartmann, and under his direction, did complete a survey of the property described on this plat as Riverside 3rd Subdivision. The platted subdivision has the numbered lots, locations, dimensions and designations as shown on the plat which is correct to the best of my knowledge and belief. That all monuments shown thereon have been set, and that all dimensional and geodetic details are correct.

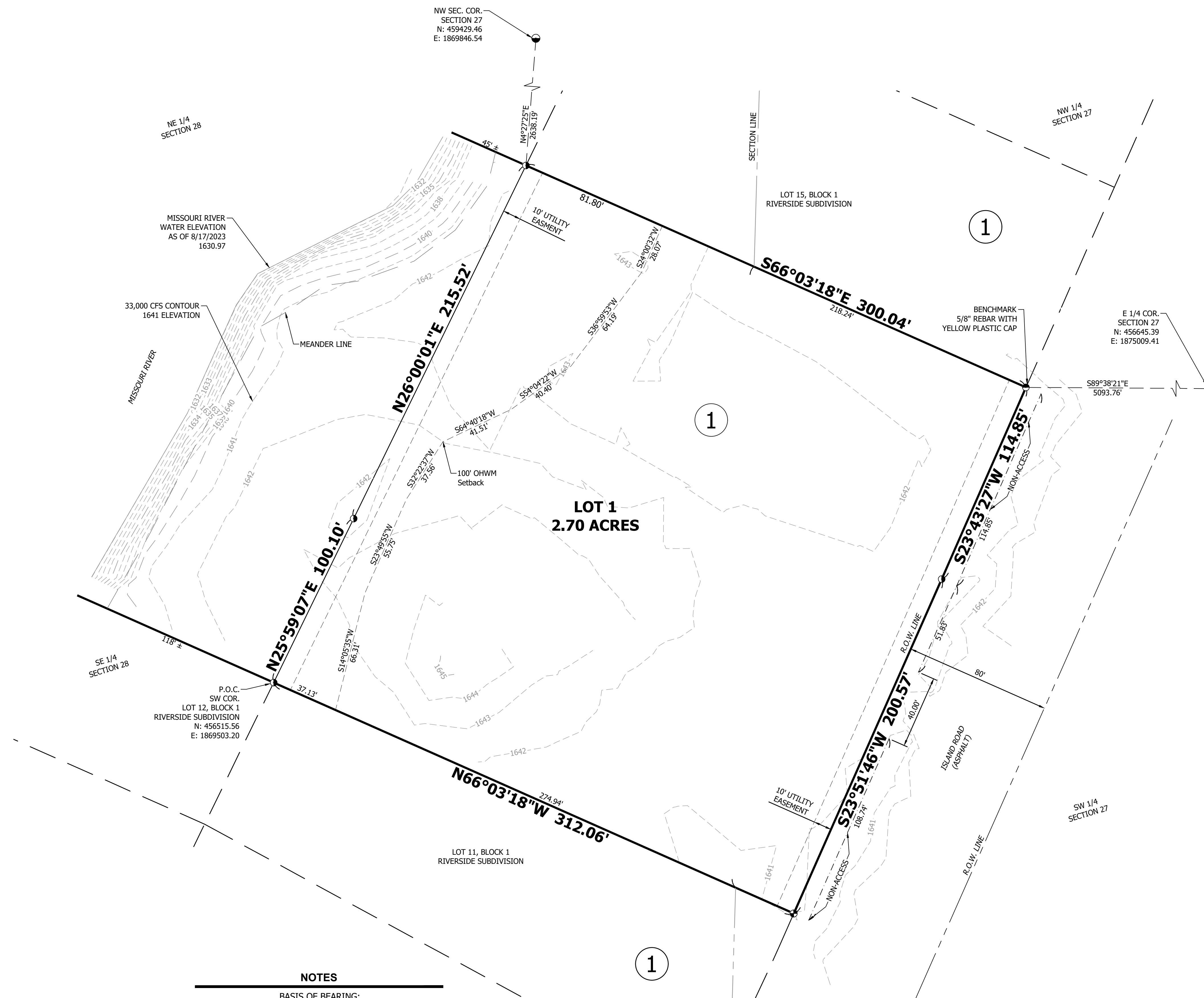
Dated this _____ day of _____, 2024.

Dayne Solem, LS-8423

STATE OF NORTH DAKOTA)
COUNTY OF _____) JSS

On this _____ day of _____, 2024, before me the undersigned officer, personally appeared Dayne Solem, known to me to be the person who is described in, and who executed the foregoing instrument and acknowledged that they executed the same.

Notary Public _____



NOTES

BASIS OF BEARING:
BEARINGS SHOWN ARE GRID BEARINGS BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH ZONE INTERNATIONAL FEET

VERTICAL DATUM: NAVD 88

*PROPERTY SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.

FLOODPLAIN INFORMATION

FEMA FLOOD INSURANCE RATE MAP
PRELIMINARY COMMUNITY PANEL NUMBER 38015C0570E
DATED 5/13/2022 - ZONE AE
BASE FLOOD ELEVATION: 1642.50
PER BURLEIGH COUNTY BOARD

OWNER

PAUL HARTMANN & JERALYN HEISER
9922 ISLAND ROAD
BISMARCK, ND 58503

SURVEYOR

DAYNE SOLEM, PLS
BARTLETT & WEST
3456 E. CENTURY AVE
BISMARCK, ND 58503
701-258-1110

LEGEND

- SET 5/8"x18" REBAR W/ PLS CAP
STAMPED "D. SOLEM PLS 8423"
- FOUND IRON MONUMENT W/ LS 2363 CAP
- FOUND 5/8" REBAR
- SECTION CORNER
- COMPUTED CORNER

BENCHMARK

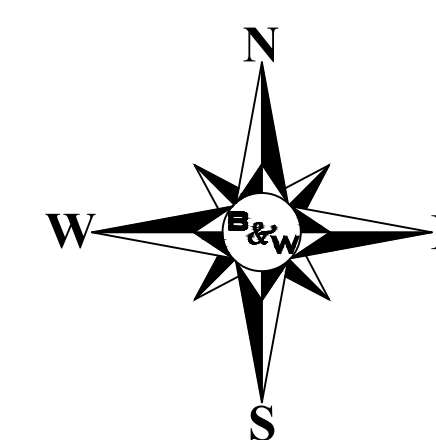
ELEVATION: 1641.12 (NAVD 88)
5/8" REBAR WITH YELLOW PLASTIC CAP
NE CORNER LOT 1 BLOCK 1

AREA

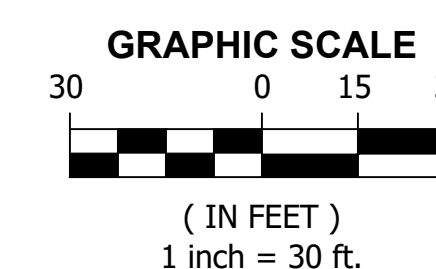
LOTS	117,201 S.F.	2.70 ACRES
STREETS	0 S.F.	0.00 ACRES
TOTAL	117,201 S.F.	2.70 ACRES

ACREAGE

SW1/4 SEC. 27	31,269 S.F.	0.72 ACRES
SE1/4 SEC. 28	85,749 S.F.	1.97 ACRES
NE1/4 SEC. 28	183 S.F.	0.01 ACRES
TOTAL	117,201 S.F.	2.70 ACRES



DATE: JANUARY 18, 2024



Project #21400.000

Prepared By:

Bartlett & West

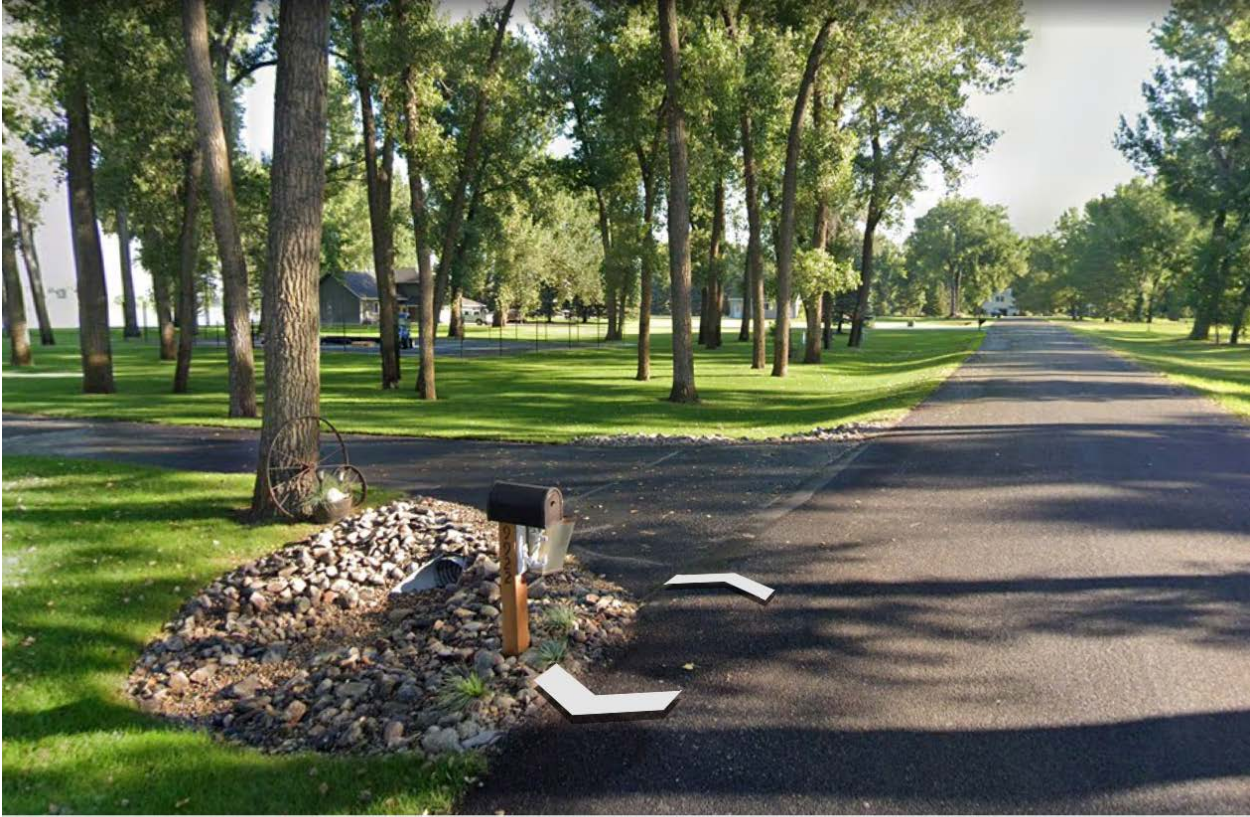
3456 E. Century Ave. Bismarck,
North Dakota 58503 701-258-1110
FAX 701-258-1111 www.bartlettwest.com

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

EXHIBITS 4-3-3

N
6/4/2024





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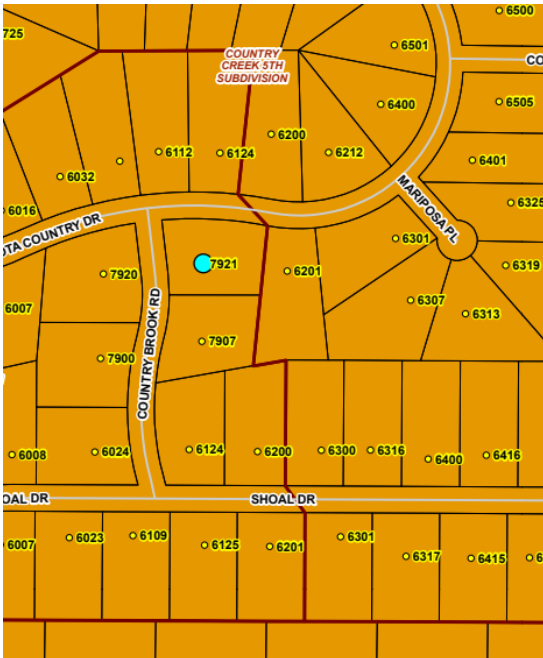
PLANNING AND ZONING
COMMISSION

June 12, 2024

Agenda Item 4-4

Application for a Variance

Project Summary	
Public Hearing Agenda:	Country Creek 3 rd Variance Request 7921 Country Brook Road
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Jacob Hipp, Hopfauf Custom Builders.
Property Owner	Holly Davidson
Location:	Country Creek Third Block 5, Lot 1 Addressed as: 7921 Country Brook Road



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 12, 2024

Project Size:		1.492 Acres 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	May 29 & June 5, 2024
	Burleigh County Website	May 29, 2024
	Surrounding Property Owners	May 29, 2024

History/Description

Jacob Hipp from Hopfauf Custom Builders approached the Burleigh County Building Department wanting to build an accessory building for the property owners. Since the lot is a corner lot, it is considered to have two (2) fronts. One on Country Brook Road and one on Dakota Country Drive. The fronts of the lots require a 40' setback, and the back requires a 50' setback. Because of the two (2) back lots with 50' setbacks it limits the location of the proposed accessory building.

The petitioner would like to change the 50' setback on the east side of the property to 20'. This will allow the builder to set the accessory building away from the house, yet keep within a 15' setback if the east side was considered a side yard.

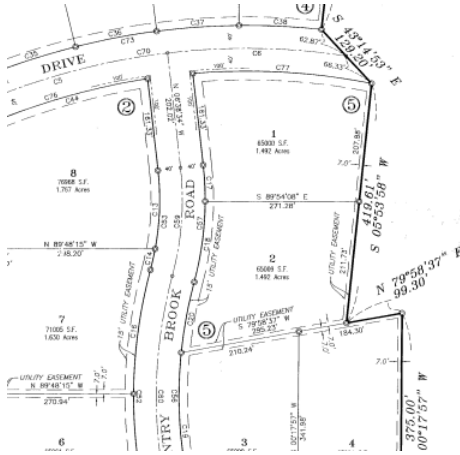
The petitioner has submitted a letter to the Planning and Zoning Commission with a site plan, setback, easements, structures, road specifications, and landscaping.

See Attachment 4-4-2, 3, 4.



PLANNING AND ZONING COMMISSION

June 12, 2024



Attachment 4-4-5 Final Plat

ANALYSIS

The variance request is reasonable and would allow the property owner to use more of the property. The setback of 50' would place the accessory building close to the house. The variance request would still allow 20' from the neighboring property line. 5' more than a normal 15' side yard setback. The variance also allows the property owner to use an established access point. If the accessory building was moved to the northside of the property a second access would need to be granted.



Attachment 4-4-6 Site Map



PLANNING AND ZONING
COMMISSION

June 12, 2024



Street View





PLANNING AND ZONING COMMISSION

June 12, 2024

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 – two (2) front setbacks of 40" and two (2) rear setbacks of 50'
3. Strict applications of the ordinances would deprive the applicant reasonable use of the land and buildings.
4. Granting the variance does not affect traffic
5. 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.

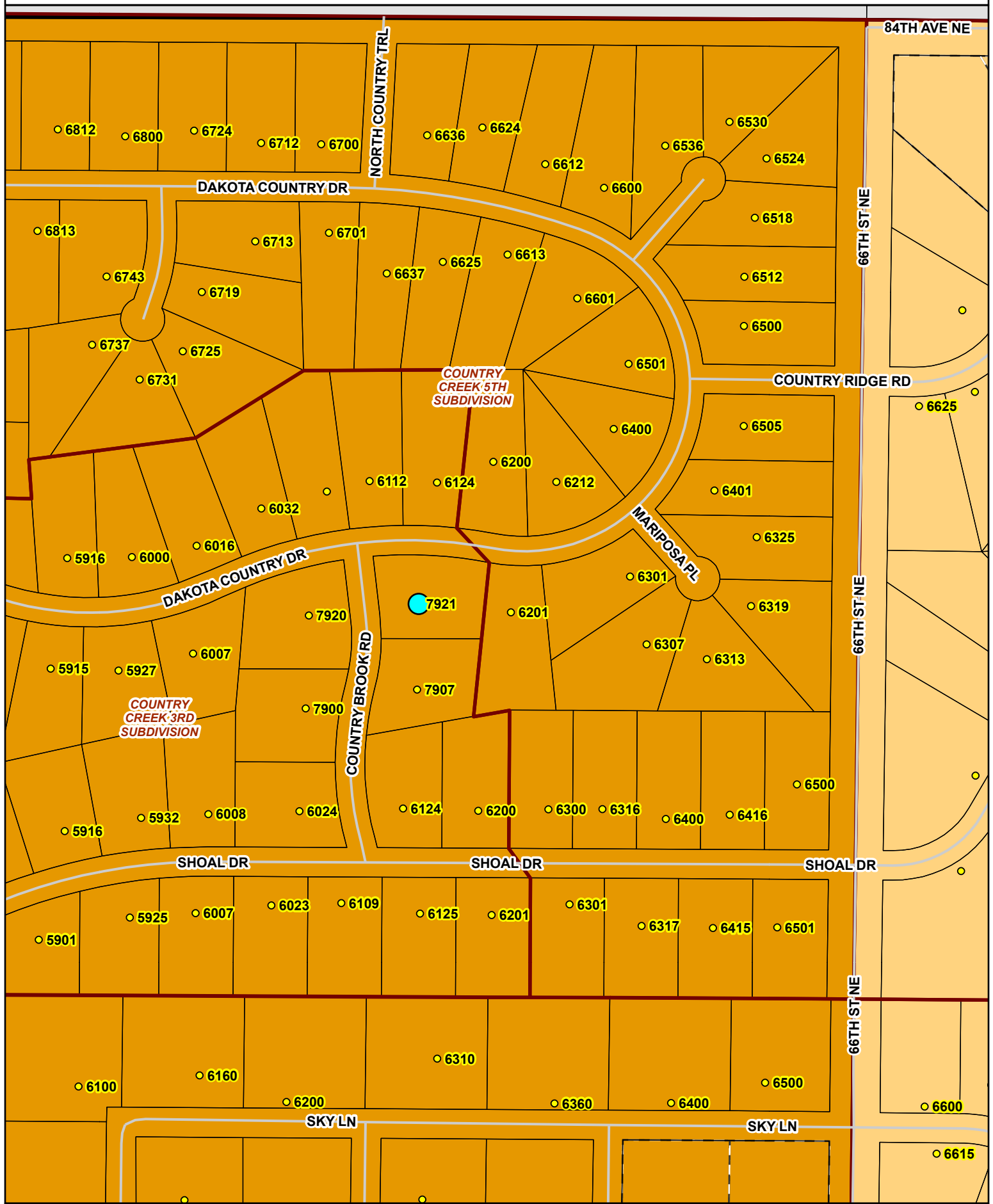
Planning Commission Action

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.

EXHIBITS - COUNTRY CREEK VARIANCE

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



Map created from Burleigh County's web mapping application. This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

May 14, 2024

Subject: Hardship Letter for Variance Application – Request for Lot Setback Modification

Dear Members of the Burleigh County Building Department,

I hope this letter finds you well. I am writing to you today to express my earnest request for a variance regarding the lot setbacks outlined by the Burleigh County Zoning Ordinance and Subdivision Regulations for the property located at 7921 Country Brook Road. After thorough consideration and evaluation of my client's circumstances, I firmly believe that a modification in the setback requirements is necessary due to significant hardship.

The property in question is a corner lot with two 40-foot front setbacks and a 15-foot setback on the south side. However, the setback requirement of 50 feet on the east side poses a substantial challenge in utilizing a significant portion of the lot for the construction of an accessory structure.

The existing setback regulations are imposing severe limitations on their ability to develop the property in a manner that aligns with its full potential. Due to the setback requirements, a large portion of the lot remains unused, hindering our plans to construct an accessory structure that would not only enhance the functionality of the property but also contribute positively to the aesthetics of the neighborhood.

The inability to utilize this space is not only a financial burden but also a source of considerable emotional stress for my client. As responsible property owners, we are eager to make improvements that would not only benefit us but also add value to the surrounding community. However, the current setback requirements are hindering our ability to do so.

Granting a variance in lot setbacks to allow for a reduced setback of 20 feet on the east side would alleviate these hardships and enable my client to responsibly utilize their property. I assure you that any modifications or developments will be carried out in full compliance with all other applicable regulations and standards.

Moreover, it's important to note that granting this variance will not pose any significant adverse effects on the surrounding properties or community. The proposed modification will not compromise the safety, aesthetics, or functionality of the neighborhood.

In conclusion, I respectfully request that you give careful consideration to this application for a variance in lot setbacks. Your understanding and support in this matter would be immensely appreciated and would greatly alleviate the hardships my client is currently facing.

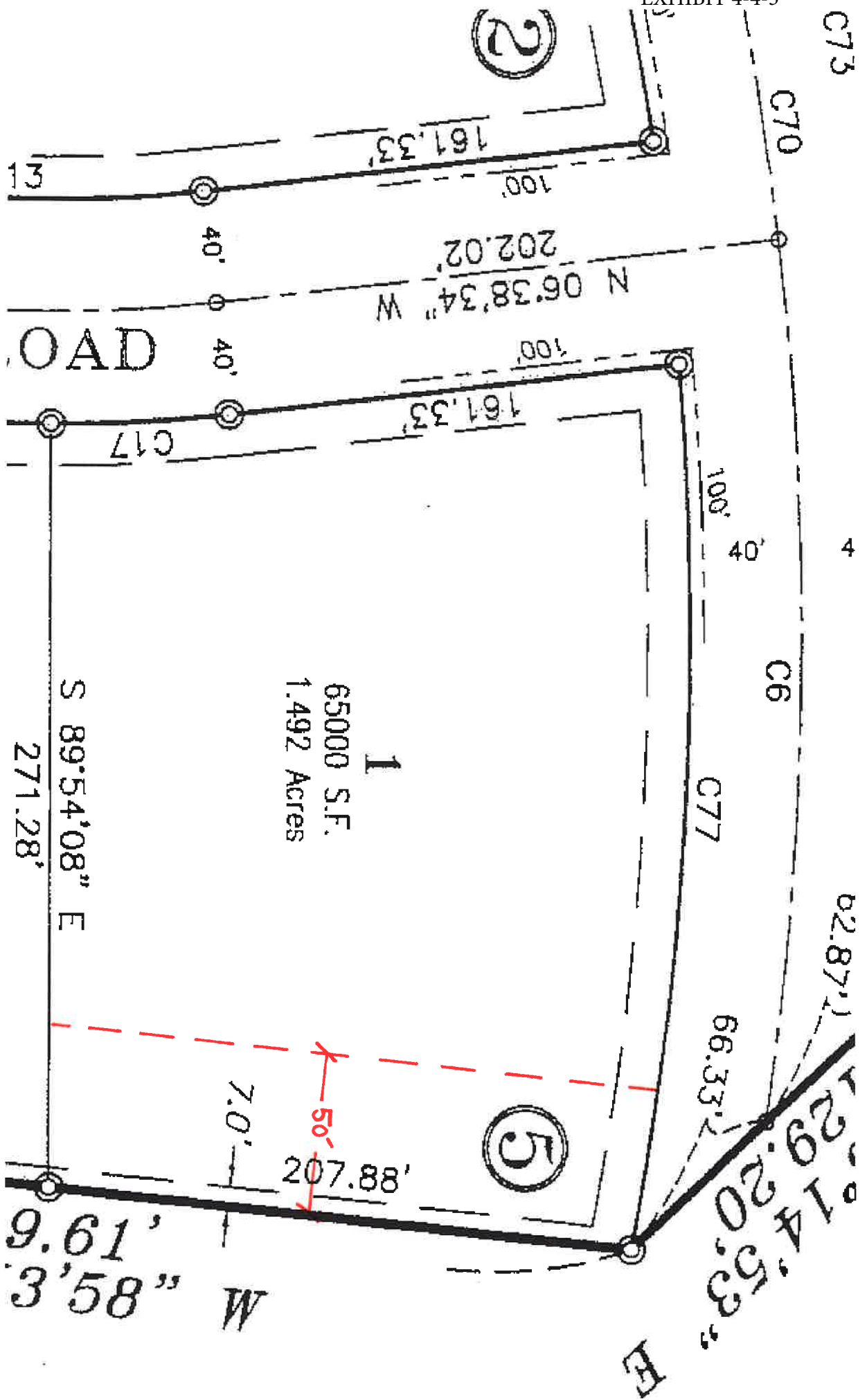
Thank you for taking the time to review my request. Should you require any further information or clarification, please do not hesitate to contact me at 701.663.7691 or jake@hopfaufcustombuilders.com.

Sincerely,

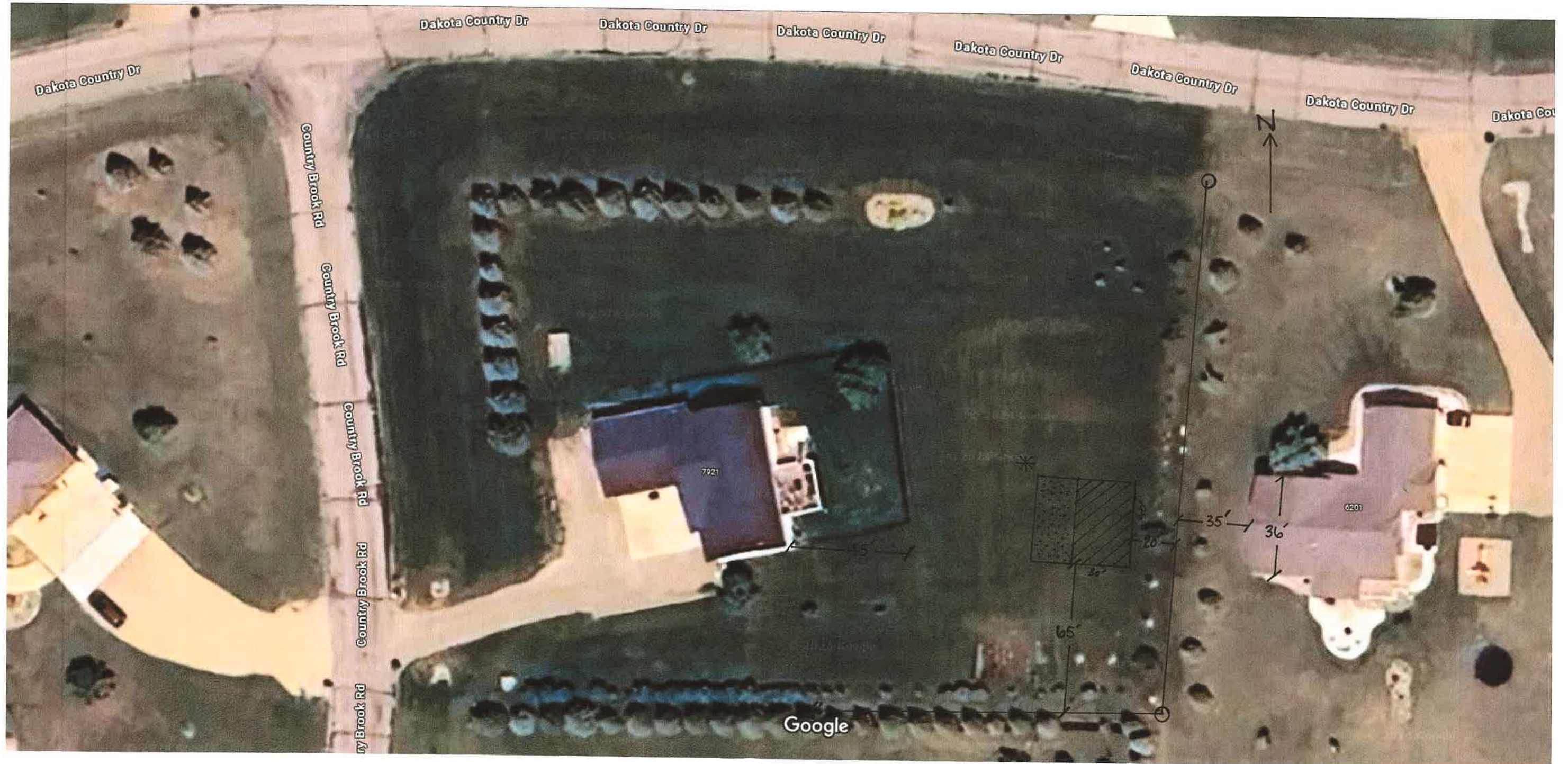
Jacob Hipp

A handwritten signature in black ink that reads "Jacob Hipp". The signature is written in a cursive, flowing style with a large initial "J" and a stylized "H".

Enclosures: Site plan with boundaries, setbacks, easements, structures, road specifications, and landscaping.

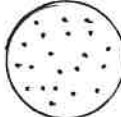


- EXISTING SETBACK ON EAST SIDE OF LOT -



Imagery ©2024 Airbus, Map data ©2024 20 ft

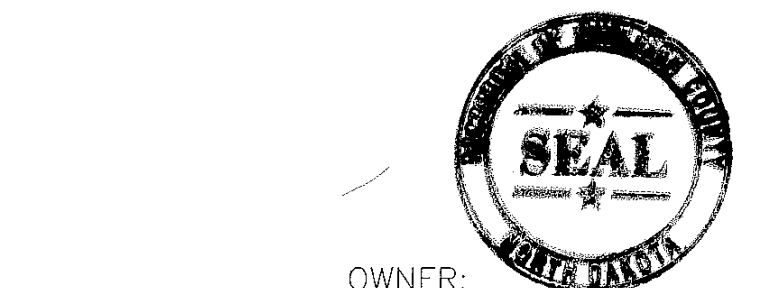
 → ACCESSORY STRUCTURE

 → CONCRETE PAD

* CLIENT IS OPEN TO MOVING STRUCTURE TO THE NORTH TOWARDS FRONT SETBACK

COUNTRY CREEK THIRD SUBDIVISION

A PORTION OF THE NORTHEAST 1/4 AND A PORTION OF THE NORTHWEST 1/4, SECTION 6, TOWNSHIP
139 NORTH, RANGE 79 WEST, BURLEIGH COUNTY, NORTH DAKOTA

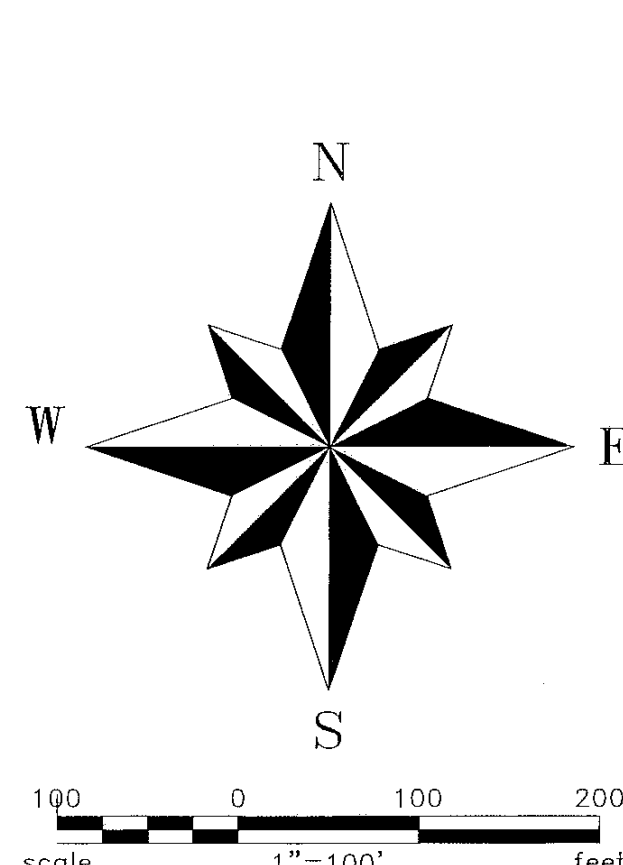


ENGINEER:
KADRMANS, LEE & JACKSON, INC.
128 500 LINE DR.
PO BOX 1157
BISMARCK, NORTH DAKOTA
58502-1157
PHONE: 355-8400

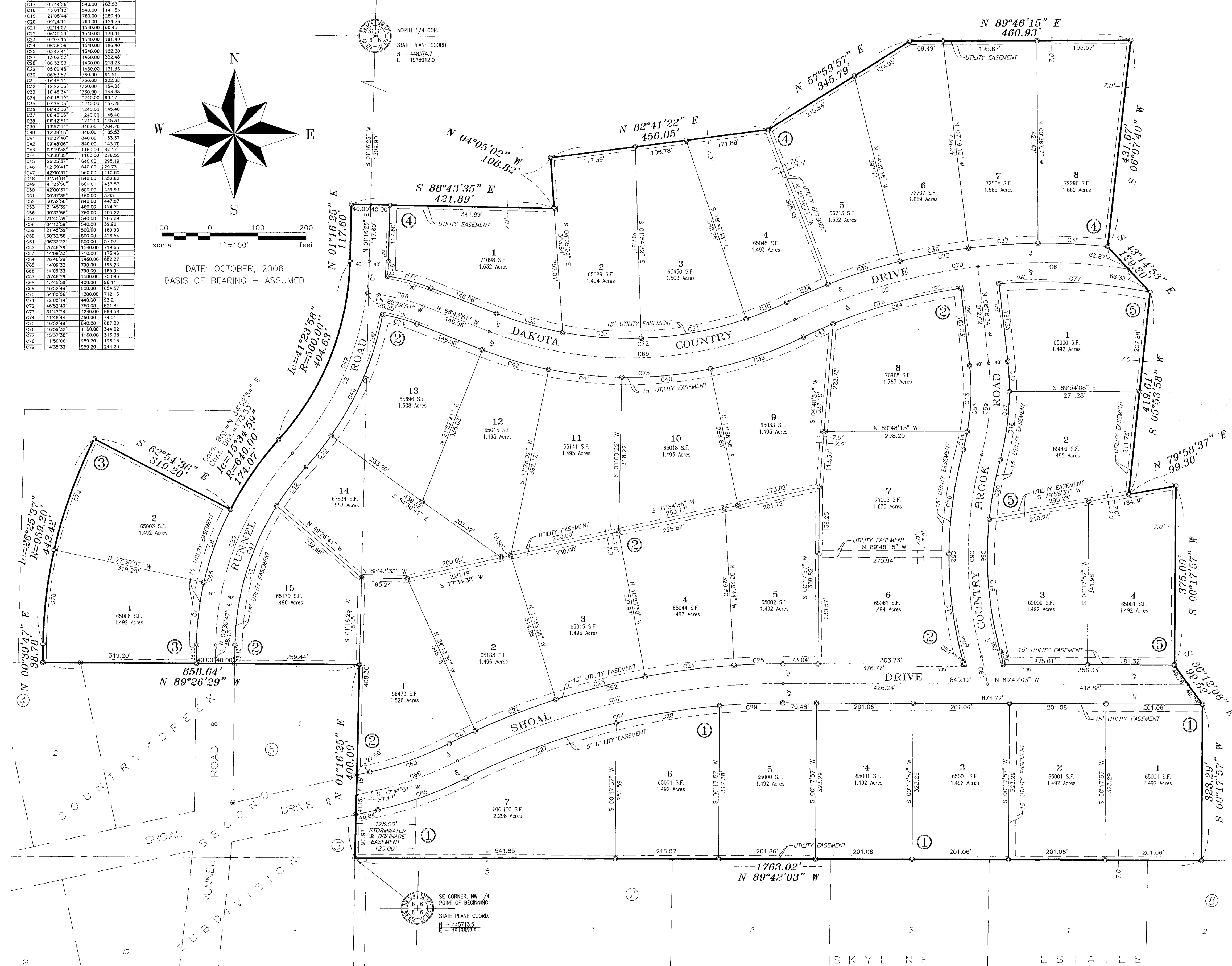
OWNER:
APPLE CREEK, LLP
4512 SHOREVIEW PLACE S.E.
MANDAN, ND

CURVE TABLE

NUMBER	DELTA ANGLE	PIVOT	ARC LENGTH
C1	0°13'44"	600.00	65.23
C2	30°13'44"	600.00	166.31
C3	18°58'06"	1200.00	367.27
C4	18°58'06"	1200.00	314.86
C5	17°50'06"	840.00	132.20
C6	14°30'06"	640.00	163.00
C7	24°23'02"	640.00	272.36
C8	07°11'05"	440.00	86.25
C9	11°33'34"	560.00	308.51
C10	10°18'08"	460.00	183.09
C11	17°10'08"	460.00	137.84
C12	04°30'31"	460.00	38.87
C13	17°30'25"	840.00	228.15
C14	14°50'29"	840.00	218.77
C15	08°42'29"	440.00	83.53
C16	13°01'33"	760.00	141.36
C17	11°04'44"	760.00	289.49
C18	09°24'11"	760.00	124.73
C19	02°48'30"	1540.00	561.45
C20	08°40'29"	1540.00	179.41
C21	07°01'15"	1540.00	121.40
C22	06°56'06"	1540.00	186.40
C23	07°01'15"	1540.00	121.40
C24	08°40'29"	1540.00	179.41
C25	07°50'52"	1460.00	332.48
C26	08°33'50"	1460.00	218.23
C27	08°33'50"	1460.00	218.23
C28	08°33'50"	1460.00	218.23
C29	08°33'50"	1460.00	218.23
C30	08°33'50"	1460.00	218.23
C31	14°45'11"	760.00	222.85
C32	12°22'00"	760.00	164.36
C33	08°46'14"	760.00	143.38
C34	04°18'19"	1240.00	83.17
C35	07°10'03"	1240.00	155.28
C36	08°24'06"	1240.00	145.40
C37	13°53'24"	840.00	142.50
C38	08°42'51"	1240.00	152.31
C39	08°42'51"	1240.00	152.31
C40	12°38'18"	840.00	185.53
C41	10°27'46"	840.00	124.37
C42	09°48'06"	840.00	143.76
C43	09°17'58"	1160.00	87.47
C44	13°30'39"	1160.00	278.55
C45	08°28'31"	840.00	299.19
C46	08°28'31"	840.00	299.19
C47	14°20'37"	840.00	410.80
C48	14°20'37"	840.00	410.80
C49	14°20'37"	840.00	410.80
C50	14°20'37"	840.00	410.80
C51	09°17'35"	460.00	433.53
C52	08°10'33"	600.00	438.93
C53	09°17'35"	460.00	433.53
C54	09°17'35"	460.00	433.53
C55	09°17'35"	460.00	433.53
C56	09°17'35"	460.00	433.53
C57	09°17'35"	460.00	433.53
C58	09°17'35"	460.00	433.53
C59	09°17'35"	460.00	433.53
C60	09°17'35"	460.00	433.53
C61	09°17'35"	460.00	433.53
C62	09°17'35"	460.00	433.53
C63	09°17'35"	460.00	433.53
C64	09°17'35"	460.00	433.53
C65	09°17'35"	460.00	433.53
C66	09°17'35"	460.00	433.53
C67	09°17'35"	460.00	433.53
C68	09°17'35"	460.00	433.53
C69	09°17'35"	460.00	433.53
C70	09°17'35"	460.00	433.53
C71	09°17'35"	460.00	433.53
C72	09°17'35"	460.00	433.53
C73	09°17'35"	460.00	433.53
C74	09°17'35"	460.00	433.53
C75	09°17'35"	460.00	433.53
C76	09°17'35"	460.00	433.53
C77	09°17'35"	460.00	433.53
C78	09°17'35"	460.00	433.53
C79	09°17'35"	460.00	433.53
C80	09°17'35"	460.00	433.53
C81	09°17'35"	460.00	433.53
C82	09°17'35"	460.00	433.53
C83	09°17'35"	460.00	433.53
C84	09°17'35"	460.00	433.53
C85	09°17'35"	460.00	433.53
C86	09°17'35"	460.00	433.53
C87	09°17'35"	460.00	433.53
C88	09°17'35"	460.00	433.53
C89	09°17'35"	460.00	433.53
C90	09°17'35"	460.00	433.53
C91	09°17'35"	460.00	433.53
C92	09°17'35"	460.00	433.53
C93	09°17'35"	460.00	433.53
C94	09°17'35"	460.00	433.53
C95	09°17'35"	460.00	433.53
C96	09°17'35"	460.00	433.53
C97	09°17'35"	460.00	433.53
C98	09°17'35"	460.00	433.53
C99	09°17'35"	460.00	433.53
C100	09°17'35"	460.00	433.53



DATE: OCTOBER, 2006
BASIS OF BEARING - ASSUMED



DESCRIPTION

A PORTION OF THE NORTHEAST 1/4 AND A PORTION OF THE NORTHWEST 1/4, SECTION 6, TOWNSHIP 139 NORTH, RANGE 79 WEST, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF THE SAID NORTHWEST 1/4, WHICH IS THE POINT OF BEGINNING; THENCE FROM THE SAID POINT OF BEGINNING ALONG THE EAST LINE OF SAID NORTHWEST 1/4, N 01°16'25" E, 400.00 FEET TO THE NORTHWEST CORNER OF LOT 1, BLOCK 5, COUNTRY CREEK SECOND SUBDIVISION; THENCE ALONG THE NORTH LINE OF SAID LOT 1, AND ITS WEST-WESTLY EXTENSION, N 89°46'15" E, 460.93 FEET; THENCE N 00°39'47" E, 38.78 FEET; THENCE ALONG A TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 850.20 FEET, AN INTERIOR ANGLE OF 28°25'37"; A DISTANCE OF 442.42 FEET; THENCE S 62°54'36" E, 319.20 FEET; THENCE ALONG A NON-TANGENTIAL CURVE TO THE RIGHT HAVING A RADIUS OF 640.00 FEET, AN INTERIOR ANGLE OF 15°34'59"; A DISTANCE OF 174.07 FEET; THE CHORD OF SAID CURVE BEARS N 34°52'54" E, FOR 123.53 FEET; THENCE ALONG A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 560.00 FEET, AN INTERIOR ANGLE OF 41°23'58"; A DISTANCE OF 404.63 FEET; THENCE TANGENT TO LAST DESCRIBED CURVE, N 01°16'25" E, 117.60 FEET; THENCE S 88°43'35" E, 421.89 FEET; THENCE N 04°05'02" W, 106.82 FEET; THENCE N 82°41'22" E, 456.05 FEET; THENCE N 89°46'15" E, 460.93 FEET; THENCE S 06°07'40" W, 431.67 FEET; THENCE S 43°14'33" W, 129.20 FEET; THENCE S 05°53'58" W, 419.61 FEET; THENCE N 79°58'37" E, 99.30 FEET; THENCE S 00°17'57" W, 375.00 FEET; THENCE S 39°12'00" E, 89.52 FEET; THENCE S 00°17'57" W, 323.29 FEET TO THE NORTH LINE OF BLOCK 8, SKYLINE ESTATES SUBDIVISION; THENCE ALONG NORTH LINE AND ITS WESTERLY EXTENSION, N 89°42'03" W, 1763.02 FEET TO THE POINT OF BEGINNING.
SAID PARCEL CONTAINS 2,844,841 SQUARE FEET OR 65.309 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, KENT A. ORVIG, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A CORRECT REPRESENTATION OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON THE 14TH DAY OF MARCH, 2006, THAT ALL DISTANCES ARE CORRECT AND MONUMENTS ARE PLACED IN THE GROUND AS SHOWN AND THAT THE OUTSIDE BOUNDARY LINES ARE CORRECTLY DESIGNATED ON THE PLAT.

ON THIS 24th DAY OF OCTOBER, 2006, BEFORE ME PERSONALLY APPEARED KENT A. ORVIG, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE WITHIN CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAMON JORGENSEN
Notary Public
State of North Dakota
My Commission Expires Feb. 17, 2010

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK.

THE FOREGOING ACTION OF THE CITY COMMISSION OF BISMARCK, NORTH DAKOTA WAS TAKEN BY RESOLUTION APPROVED THE 24th DAY OF OCTOBER, 2006.

W. C. WOCKEN - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, MELVIN J. BULLINGER, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "COUNTRY CREEK THIRD SUBDIVISION" AS SHOWN ON THE ANNEXED PLAT.

MELVIN J. BULLINGER - CITY ENGINEER

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE 24th DAY OF OCTOBER, 2006, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION.

IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

DAVID BLACKSTEAD - CHAIRMAN
CARL D. HOKENSTAD - SECRETARY

APPROVAL OF 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 THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE COUNTY OF BURLEIGH, NORTH DAKOTA.

THE FOREGOING ACTION OF THE COUNTY COMMISSIONERS OF BURLEIGH, NORTH DAKOTA WAS TAKEN BY RESOLUTION APPROVED THE 24th DAY OF OCTOBER, 2006.

DOUG BUCHHEIT - CHAIRPERSON
KEVIN GLATT - COUNTY AUDITOR

OWNER'S CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT APPLE CREEK, LLP, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN ON THE ANNEXED PLAT HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "COUNTRY CREEK THIRD SUBDIVISION", AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND GAS DISTRIBUTION LINES AND OTHER PUBLIC UTILITY LINES, WHETHER SHOWN HEREON OR NOT, TO THE PUBLIC USE FOREVER.
THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE AND OTHER PUBLIC UTILITIES OR SERVICES ON, ACROSS OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON.

ART MARINER, MANAGING PARTNER,
APPLE CREEK, LLP
4512 SHOREVIEW PLACE S.E.
MANDAN, ND

PLAT LEGEND
● DENOTES MONUMENT FOUND
○ DENOTES MONUMENTS TO BE SET
--- DENOTES 100' NON-ACCESS LINE
- - - DENOTES EASEMENT LINE

PLAT INFORMATION
36 LOTS - 5 BLOCKS
LOT ACREAGE - 55.780 ACRES
STREET ACREAGE - 9.529 ACRES
TOTAL ACREAGE - 65.309 ACRES

DAMON JORGENSEN
Notary Public
State of North Dakota
My Commission Expires Feb. 17, 2010

Kadrmans
Lee &
Jackson
Notary Public
State of North Dakota
Eggen, ex-Surveyors
and Planners

COUNTRY CREEK THIRD SUBDIVISION

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

EXHIBIT 4-4-6

N
6/3/2024

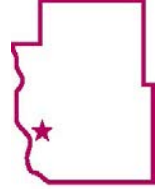






Burleigh County Planning and Zoning Commission Meeting Agenda

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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

AGENDA **July 10, 2024**

1. Roll Call
2. Approval of the June Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Aberle 2nd Subdivision
 - 3-2 Amendment to Zoning Ordinance
 - Article 8 – Special Use, Section 28 - Agri-Recreation
 - 3-3 Amendment to Zoning Ordinance
 - Article 8 – Special Use, Section 29- Solar Farms
4. Public Hearing Agenda
 - 4-1 Menoken Farm Facility Zoning Change
A-Agricultural to P-Public Use District
 - 4-2 Baldwin Greenhouse Special Use Permit
 - Corn Maze for 2024 Session
5. Other Business:
 - 5-1 Draft Ordinance Article 8, Section 30 – Data Centers
 - 5-2 Draft Ordinance Article 8, Section 31 Accessory Dwelling Units on A-Agricultural and R1-Rural Single-Family Residential Zoning Districts.
6. Adjourn – Next meeting – August 14, 2024

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Agenda Item 3-1

Application for a Preliminary Subdivision & Zoning Change

Project Summary	
Consent Agenda:	Aberle 2 nd Subdivision
Status:	Planning and Zoning Commission – Consideration
Petitioner/Developer	Janice Aberle
Engineer	Swenson Hagen & Co.
Location:	Part of the NW 1/4 of Section 29, Township 139 N Range 78 W, Burleigh County, ND
	
Project Size:	6 acres more or less Zoning Change A-Agricultural to R1 Rural Single Family Residential
Petitioners Request	Approval of the preliminary plat and zoning change. Call for a public hearing

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

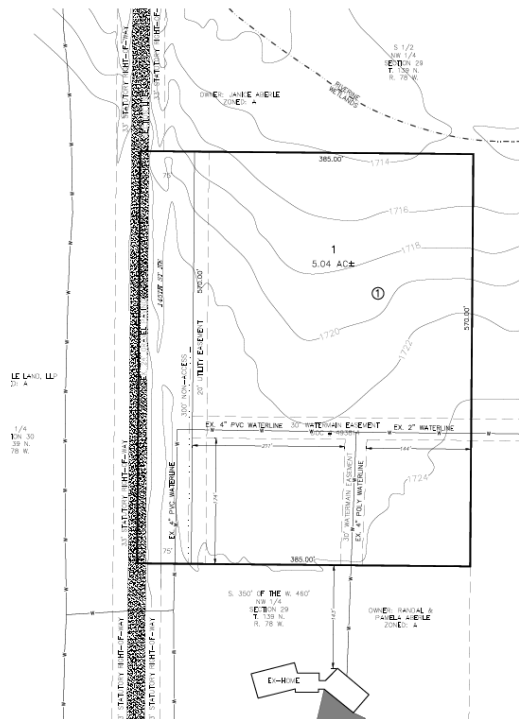
July 10, 2024

History/Description

Burleigh County was approached regarding a one (1) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential.

The review committee did not find issues of concern. A Stormwater Waiver has been requested and approved. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners in May.

The surrounding properties are zoned A- Agricultural, however, the size of the property conforms to similar parcels in the area.

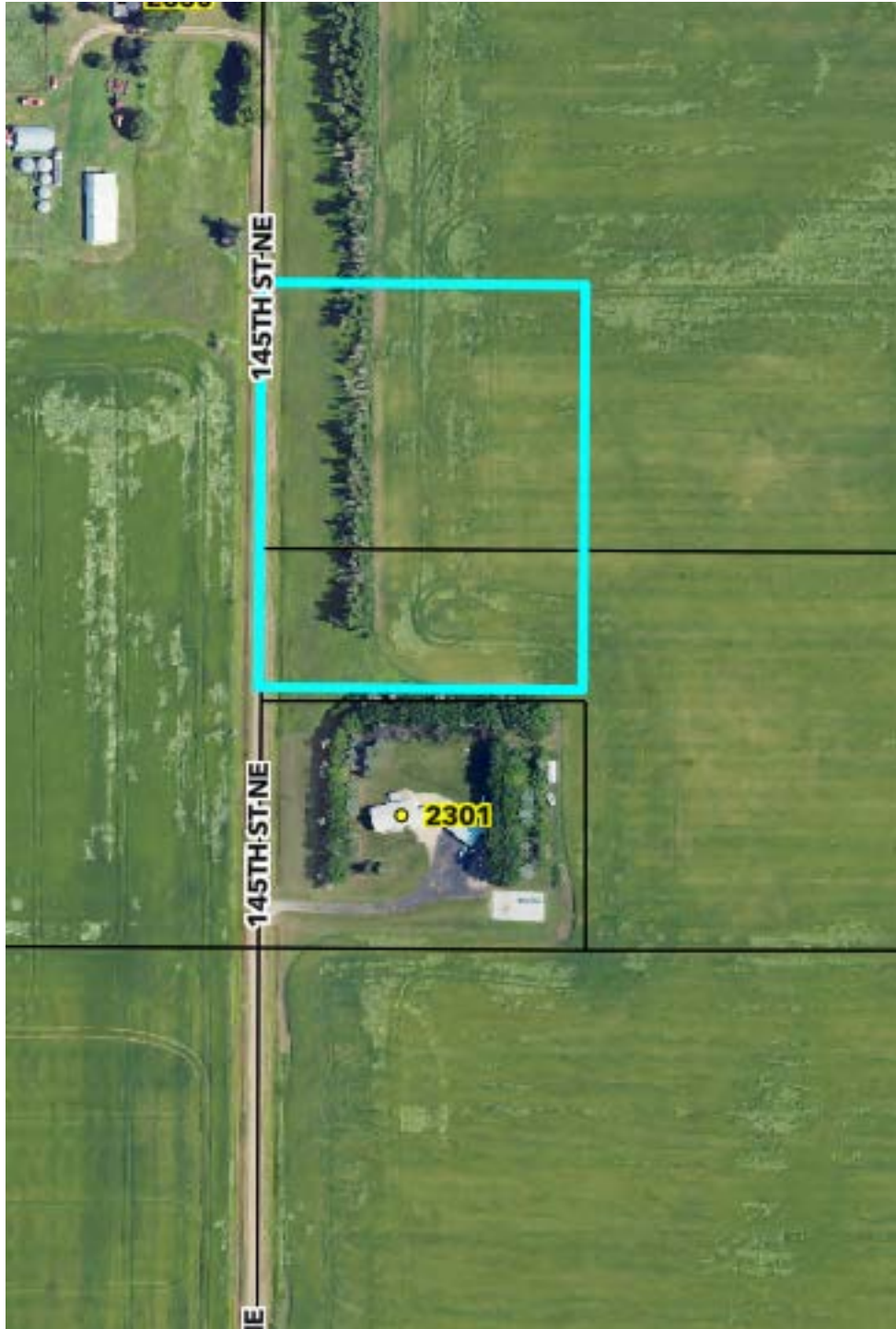


Attachment 3-1-2 Preliminary Plat



PLANNING AND ZONING
COMMISSION

July 10, 2024

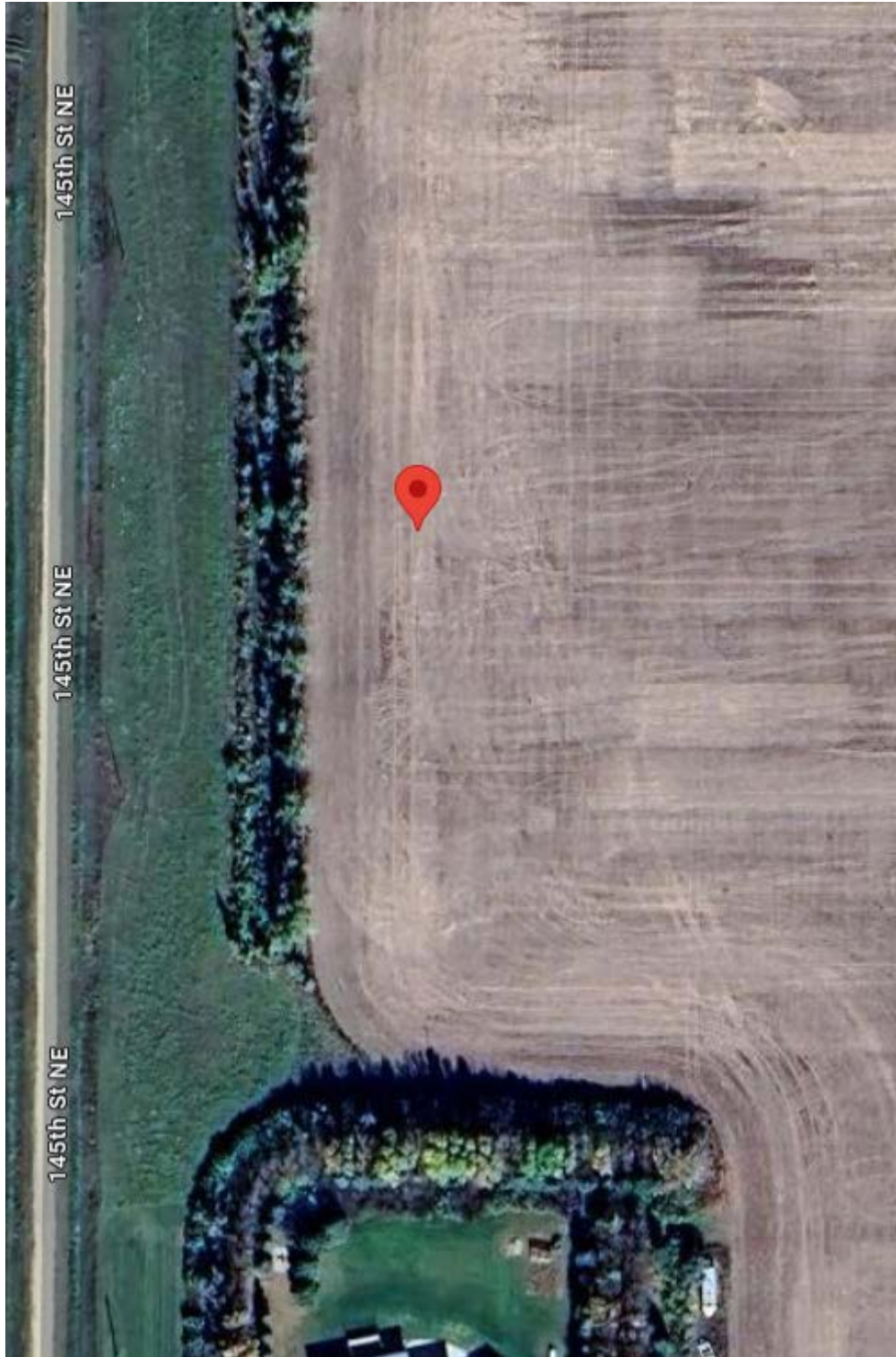


Attachment 3-1-3 Site Map



PLANNING AND ZONING
COMMISSION

July 10, 2024

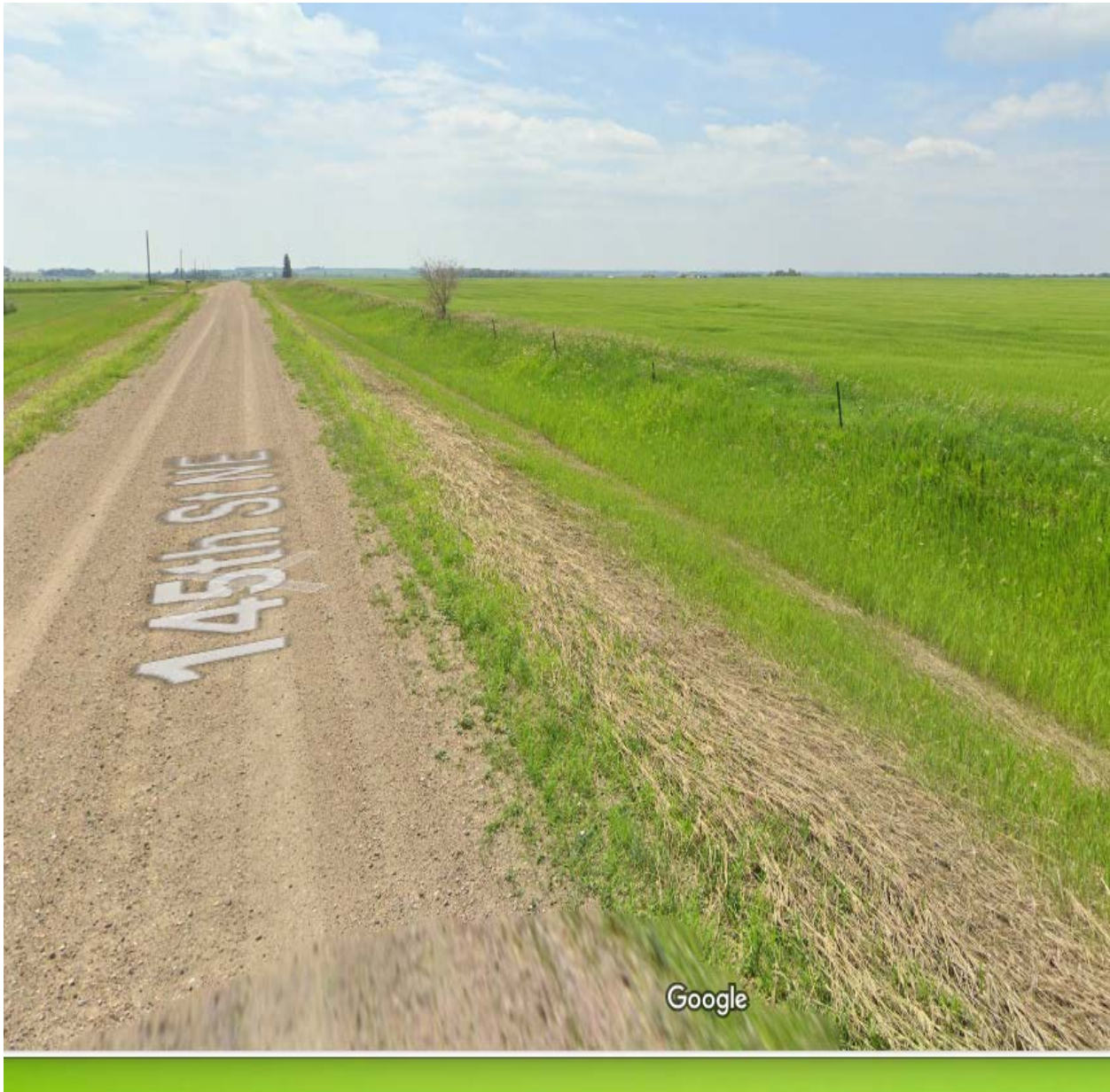


Aerial View –
google maps



PLANNING AND ZONING
COMMISSION

July 10, 2024



South View



North View

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This zoning change fulfills the requirements of Article 12 of the Burleigh County Zoning Ordinance
3. A paving waiver has been granted
4. A Stormwater Management Plan or Waiver Request has been granted
5. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.



PLANNING AND ZONING COMMISSION

July 10, 2024

6. This subdivision and zoning change meet 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 and zoning change meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the preliminary plat and zoning change. and calling for a public hearing.

Planning Commission Action

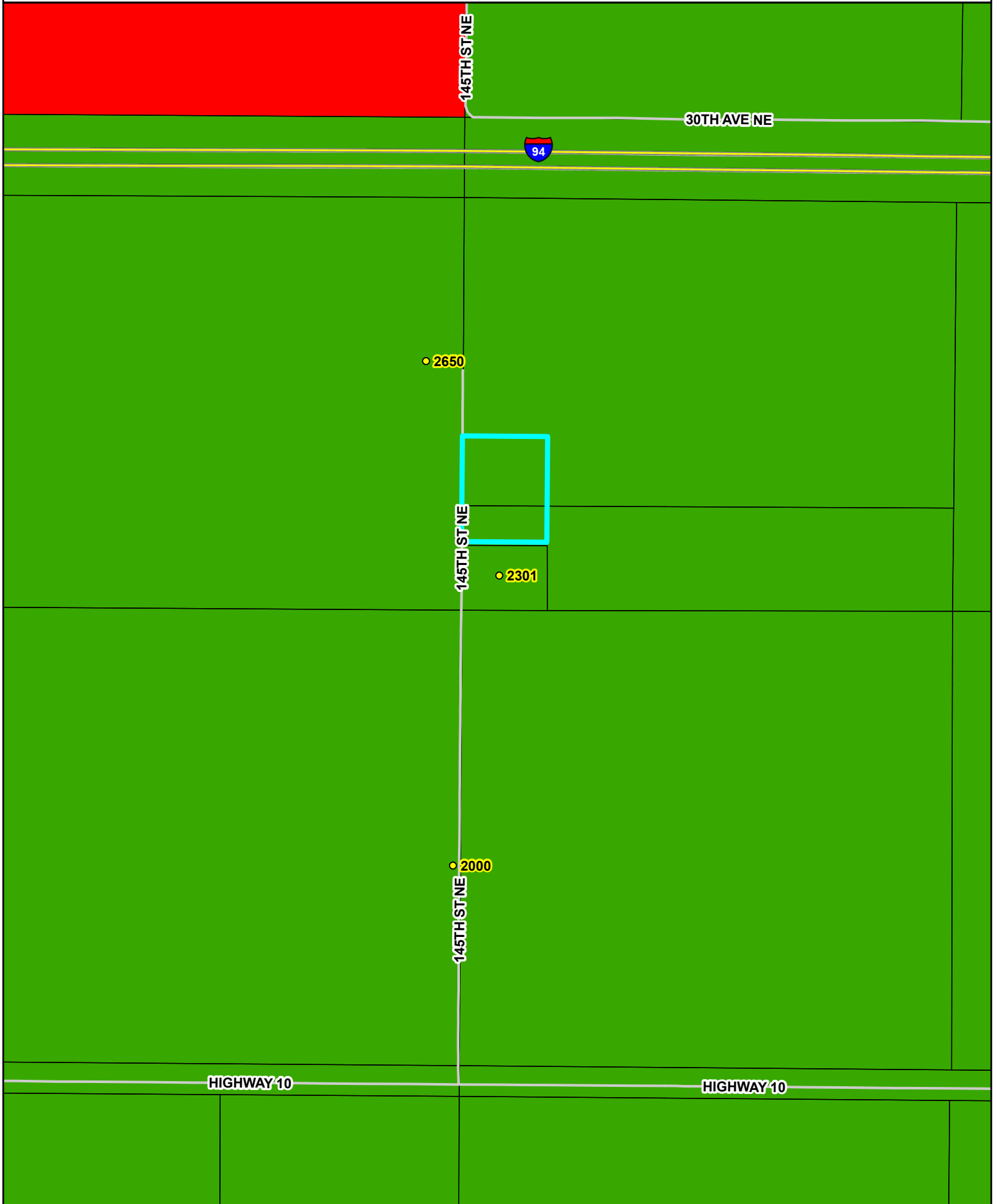
The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and zoning change. Call for a public hearing.
2. Approve the preliminary plat and zoning change with conditions and call 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.

Attachments - Aberle 2nd Subdivision and Zoning Change

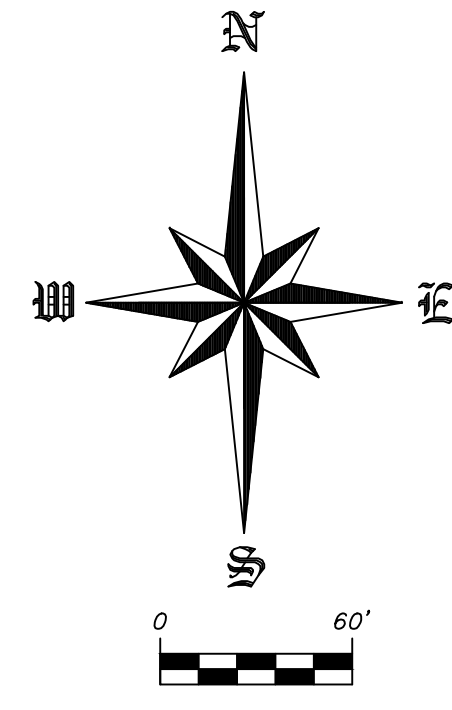
BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

N
7/1/2024



ABERLE SECOND SUBDIVISION

PART OF THE NW 1/4 OF SECTION 29
TOWNSHIP 139 NORTH, RANGE 78 WEST
BURLEIGH COUNTY, NORTH DAKOTA
PRELIMINARY PLAT

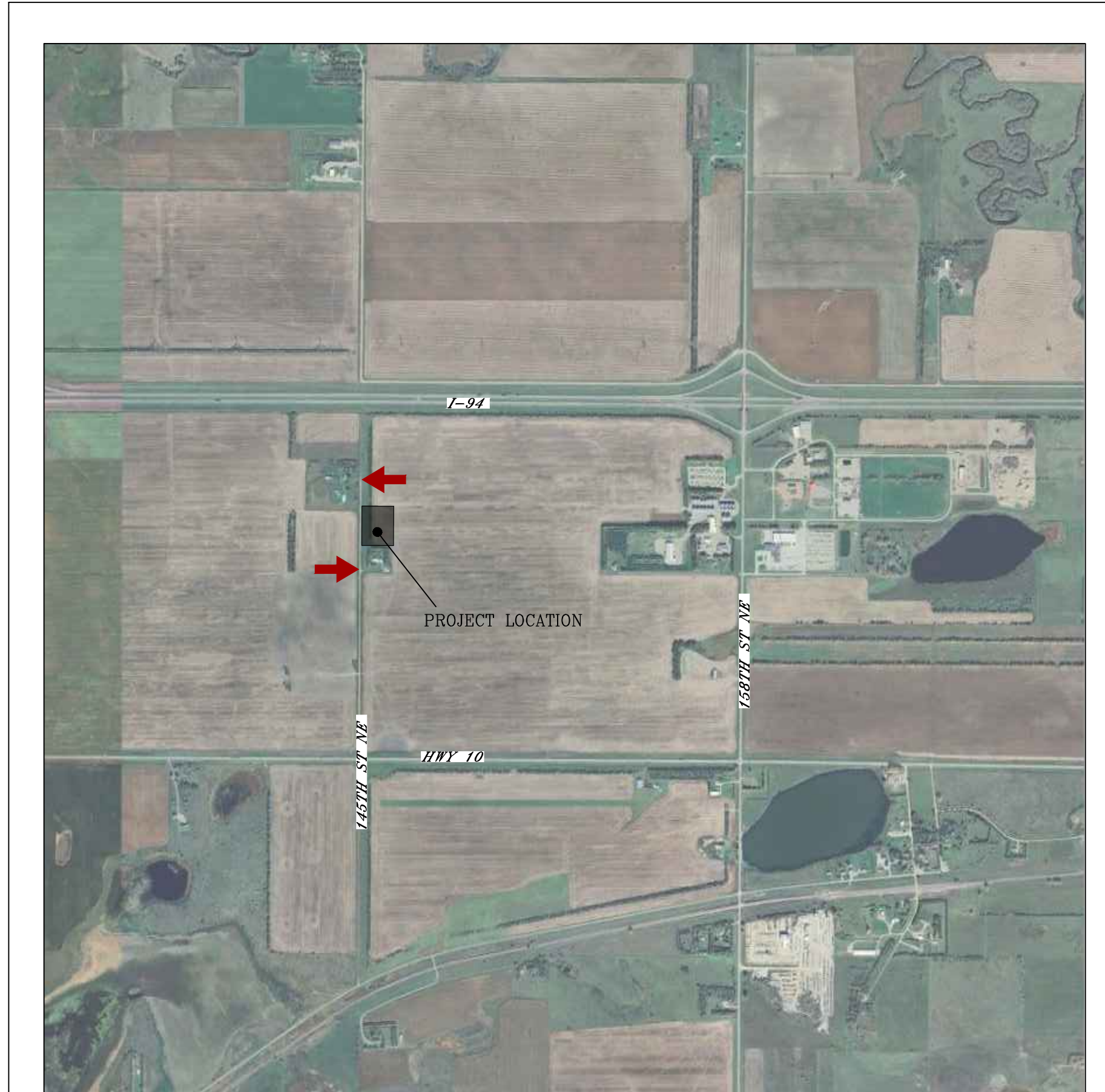


SCALE - 1" = 60'
VERTICAL DATUM: NAVD 88
JUNE 26, 2024

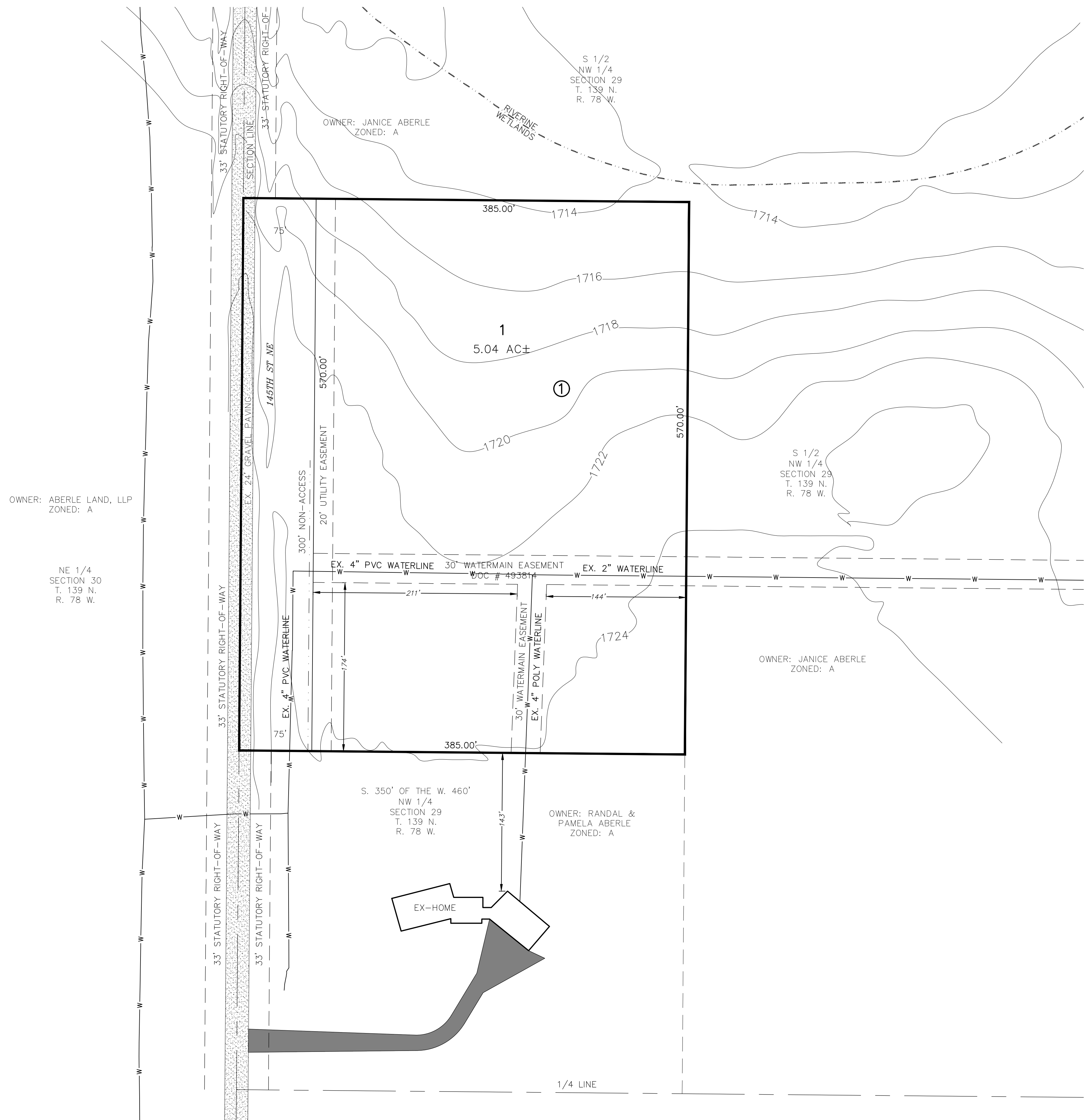
6.00 ACRES
EXISTING ZONING: A
PROPOSED ZONING: R1
1 LOT 1 BLOCK

OWNER: JANICE ABERLE
5801 PRAIRIE ROSE LOOP
BISMARCK, ND 58501

SURVEYOR: SWENSON HAGEN & CO
TERRY BALTZER
909 BASIN AVE
BISMARCK, ND 58504

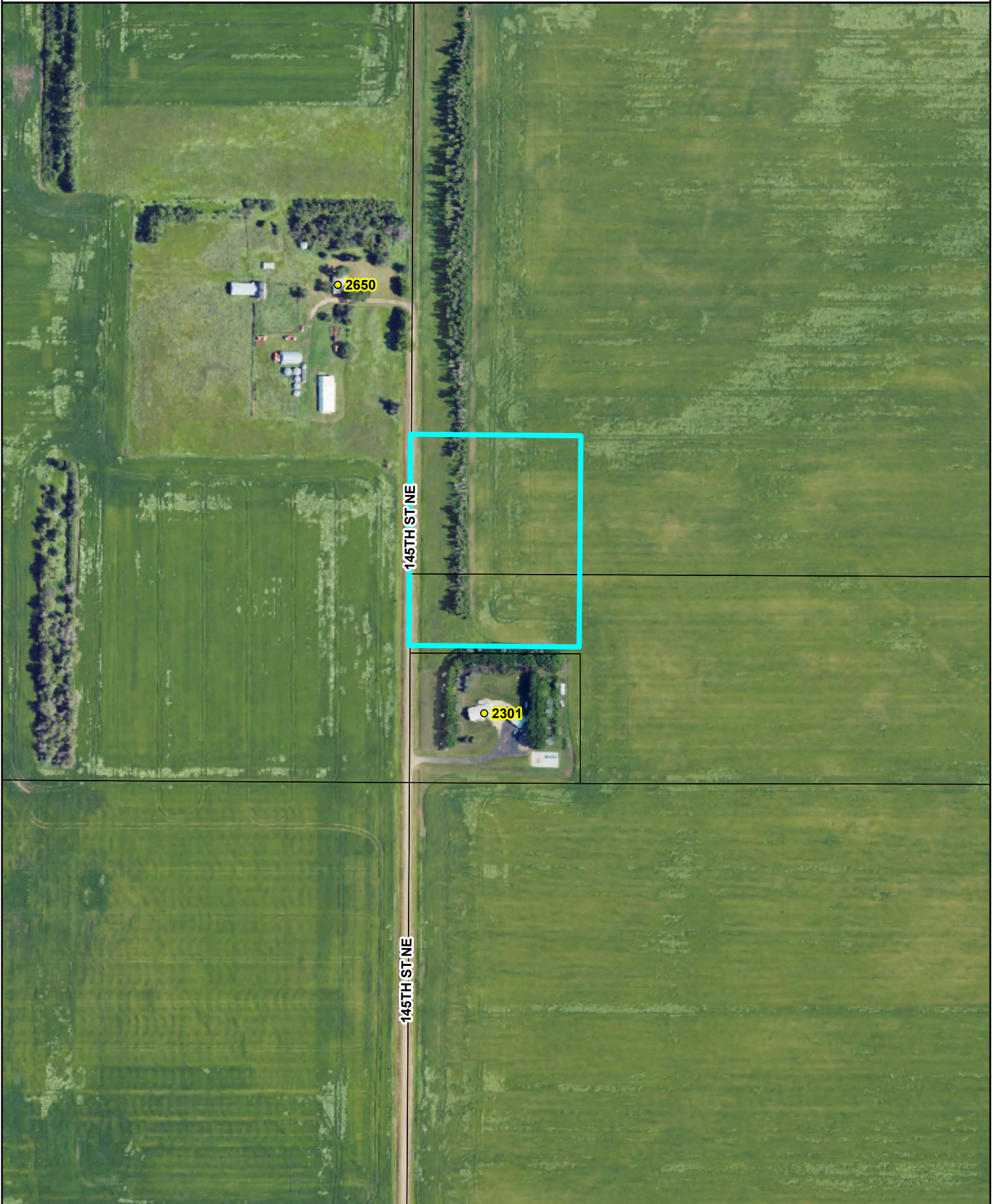


LOCATION MAP



**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

N
7/1/2024



3-1-4 Aerial View



3-1-5 South View



3-1-6 North View



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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 28 AGRICULTURAL RECREATION

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

Section 28 Agriculture Recreation

Agriculture 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 recreational uses that are in common with and ancillary to the primary agricultural use and in conjunction with a single-family dwelling.

Agriculture Recreation Tier 1 Any agriculture-related activity, in conjunction with agricultural production which is intended to educate the public in a singular one-day event about agriculture, agricultural practices, agricultural activities, or agricultural products.

Agricultural Recreation Tier II Any agricultural-related use that combines agriculture production with recreation uses that are in common with and ancillary to the primary agricultural use, such as pumpkin patches, farm festivals, corn mazes, hayrides, trail rides, U-Pick orchards,

on-farm markets, floriculture, demonstration farms, U-Pick Christmas tree farms or similar activities for someone other than the property owner, involving the gathering of individuals assembled for the common purpose of said event.

Special Uses In order to carry out the purposes of this title. 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. **Permanent Uses** (Planning and Zoning Commission approval) Burleigh County Planning and Zoning Commission is authorized to recommend approval of Special Use Permits for the following uses:

A. **Agriculture Recreation Tier II** may be permitted in any A-Agricultural District as a Special Use provided:

1. The use is ancillary to the primary agricultural uses, and in conjunction with an owner-occupied single-family dwelling.
2. The lot in which the use is located is at least forty (40) acres in area, thirty-five (35) acres aliquot description.
3. Attendance is limited to seventy-five (75) persons in attendance at any time.
4. Limited to thirty (30) events per year
5. Site design and building(s) must conform to all applicable requirements of the International Building Code (IBS) and the International Fire Code (IFC) as adopted by the State of North Dakota.
6. The events or activities shall not involve the construction or use of new or permanent structures.
7. All parking areas shall be mowed and designed to prevent debris from the site entering the public right-of-way, and be arranged to provide for orderly and safe loading or unloading and parking.
8. Sound generated by the use shall meet the requirements as outlined in NDCC.
9. 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.

10. The use is setback a minimum of 100 feet to all adjacent properties.
11. A site plan is required.
12. If necessary, a stormwater management plan is required to be submitted for review and approval prior to the issuance of a building permit
13. Off-street parking is required. Parking on grass and agricultural areas may be gravel or low-cut grass area. Parking ratios shall be determined in accordance with Article 10 Automobile Parking.
14. Under certain circumstances, items for road/ditch repair and dust control application at the permittees cost, may be required.
15. Additional conditions may be included in the Special Use Permit.
16. After approval and issuance of a Special Use Permit, any violations of Section 28 may/shall be basis for revocation of the Special Use Permit.

Article 11 A-Agricultural Zoning District In an A-Agricultural District, the following regulations shall apply:

1. Uses Permitted. The following uses are permitted.
 - a. Agricultural Recreation Tier 1
 - i. Agriculture Recreation Tier 1 shall be allowed on a parcel of land forty (40) acres in area, (thirty-five (35) aliquot description.)
2. The following Special Uses are allowed as per Section 28 hereof:
 - a. Agricultural Recreation Tier II

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

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

Mark Splonskowski, Burleigh County Auditor/Treasurer

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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 29 SOLAR FARMS

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

SECTION 29 Solar Energy System Facilities

A solar energy system may be permitted in an Agricultural District upon approval as a special use, provided the 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 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. Photovoltaic System- An active solar energy system that converts solar energy directly into electricity.
6. Roof or Building Mounted SES- Solar Energy System (panels) that are mounted to the roof or building using brackets, stands or other apparatus.
7. 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.
8. 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.
9. 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.
10. Solar Energy- Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
11. Solar Energy System (SES)- 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.

12. 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.
13. Solar Hot Water System- A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including hot water for commercial processes.

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. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
- d. All structures must meet the setback, height and coverage limitations for the district in which the system is located.
- 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 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. These types of systems are permitted and regulated by the North Dakota Public Service Commission and ND State Electrical Board.

- 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. Interconnection. The owner or operator of the solar farm must complete an interconnection agreement with the electric utility in whose service territory the system is located.
 - a. Site Plan Required. The owner or operator of the solar farm must submit to the County a detailed site plan 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.
 - b. 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.

- c. ~~No freestanding accessory solar energy system may exceed 1,000 square feet in area per acre of land in the lot or parcel.~~
- d. 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. All electrical connections to the utility system must meet or exceed the National Electrical Safety Code and any additional requirements set forth by the ND State Electrical Board.
- e. ~~Solar farms that have panels that would cover more than 20 acres of land must meet the approval review and design standards of the North Dakota Public Service Commission and ND State Electrical Board.~~

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.
- c. 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.
- d. 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 and foundations, the removal of all electrical transmission components, 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 standards of the North Dakota Electrical 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. 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 either screened. ~~or painted/coated to match the color of adjacent roofing or siding materials.~~ 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

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

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PLANNING AND ZONING
COMMISSION

July 10, 2024

Agenda Item: 4-1 Menoken Farm Facility Zoning Change

Public Hearing

Project Summary

Public Hearing

Menoken Farm Facility – Zoning Change
A-Agricultural to P-Public unit
Development
Public Hearing

Status:

Petitioner/Developer

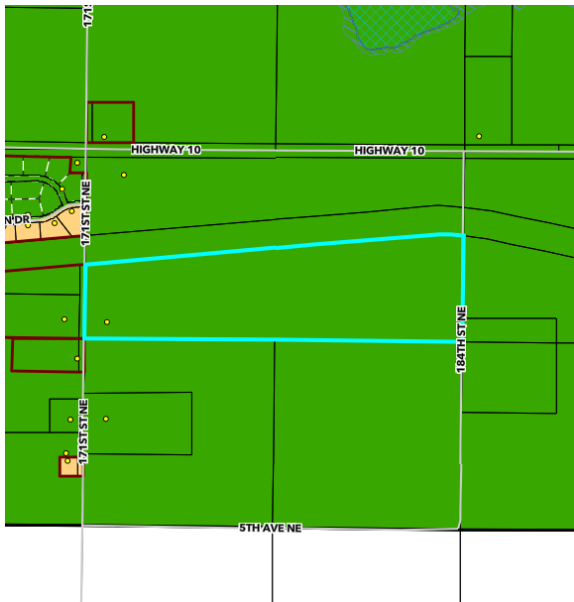
Burleigh County Soil Conservation District

Engineer

N/A

Location:

Menoken Township Section 34 N1/2 lying
South of RR ROW



Attachment 4-1-1 Location Map

Project Size:

150 acres more or less
A- Agricultural Zoning

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 12, 2024

Posted Dates:

Bismarck Tribune - 6/24/2024 & 7/3/2024
Surrounding Property Owners - 6/27/2024
Burleigh County Website - 6/28/2024

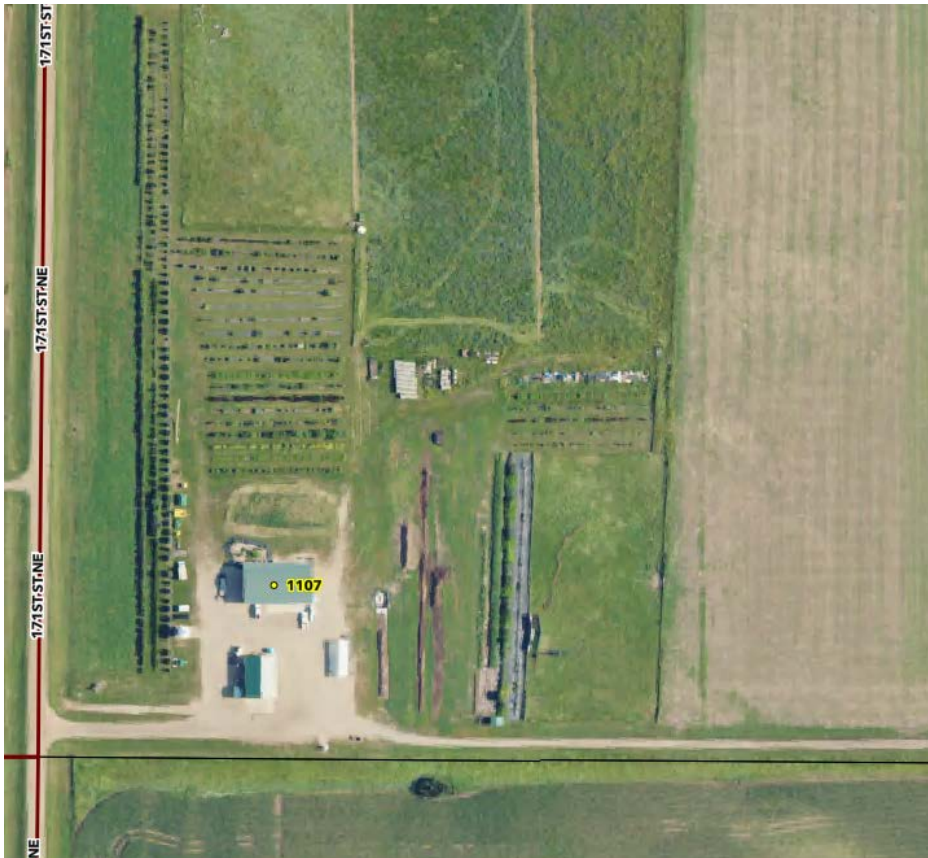
Notification Distance

2 miles - 113 notifications sent

History

Burleigh County was approached by the Burleigh County Soil Conservation District regarding their plan to build a learning center/assembly area building. The 8,300-sf building will be a public use building with a learning center, larger assembly area and office space.

The building plans have been submitted and a review is starting. A septic system for the site is being designed for the site. The Stormwater Management Plan has been submitted and approved.



4-1-2 Site Map



Analysis

The Menoken Farm Facility combines natural resource education and a systems approach to conservation. The 150-acre property is a demonstration farm established in 2009 to explore soil conservation methods. The farm is owned and operated by the Burleigh County Soil Conservation District. They receive additional funding from:

- Section 319 Nonpoint Source Pollution Control Program through the North Dakota Department of Health/Water Quality Division
- Natural Resources Conservation Service, US Department of Agriculture.

The Menoken Farm Facility holds various events at the site and offers training and education in conservation methods for rural and urban areas. Visitors have two (2) access points the location:

- I94 East to Exit 170, 158th Street NE/County Hwy 10, 171st Street NE
- Main Ave East to 171st Street



PLANNING AND ZONING
COMMISSION

June 12, 2024

Article 20.1 – Public Use District, Burleigh County Zoning Ordinance

The P-Public Use District is established for areas which the principal land use is governmental, civic or institutional uses, including major public facilities. The regulation is intended to prohibit any other use which would diminish its value in serving the needs of the public. P-Public Use District is an alternative zoning classification for public and institutional uses.

The Menoken Farm Facility meets the criteria of Article 20.1 – P – Public Use District Regulations of the Burleigh County Planning and Zoning Ordinance. The principal land use is a governmental, civic and institutional.

The Menoken Farm Facility meets the criteria of the 2014 Burleigh County Comprehensive Plan Article 4 - Parks & Recreation Goal: *Conserve and expand the County's recreational and scenic areas, natural features, parks, and open spaces for the benefit and enjoyment of the public.* The Menoken Farm Facilities offers educational seminars and farm tours to the public.



North View



Menoken Farm Facility

Staff Findings:

1. The zoning change from A-Agricultural to P – Public Use District fulfils the requirements of Article 20.1 of the Burleigh County Zoning Ordinance.
2. Stormwater Management plan has been completed.
3. All concerns of the necessary county entities have been addressed.
4. The established use of the parcel will not change.
5. The parcel is owned and operated by a government agency
6. The parcel is in Menoken Township. The township has been notified regarding the zoning change request.
7. The parcel meets the criteria of 2014 Burleigh County Comprehensive Plan



PLANNING AND ZONING COMMISSION

June 12, 2024

Planning Staff Recommendation

The requested zoning change meets all the criteria of Article 20.1 – Public Use District of the Burleigh Zoning Ordinance. Staff recommends approving the request with a “Do Pass” recommendation.

Planning Commission Action

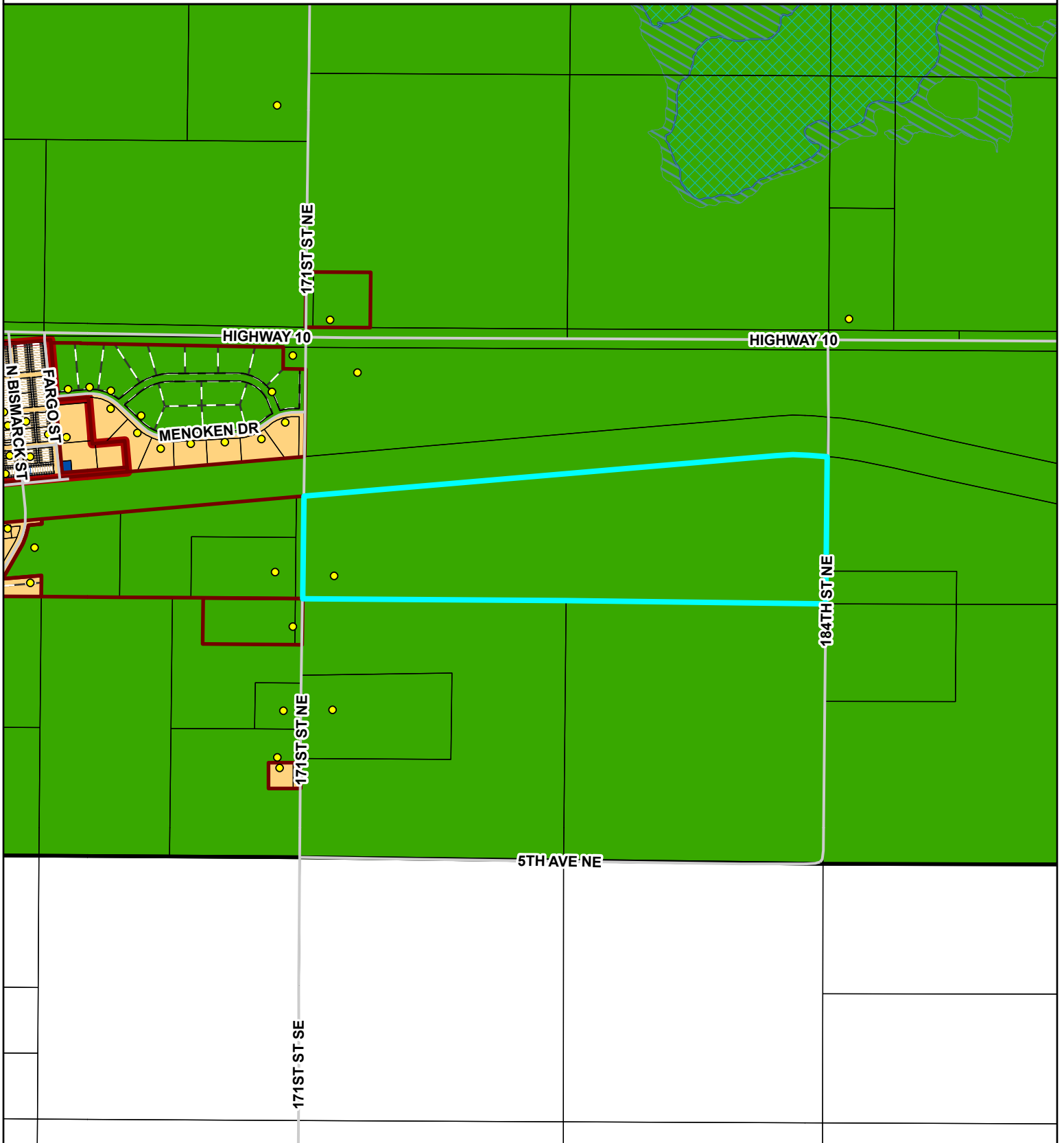
The Burleigh County Planning and Zoning Commission can:

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

Attachments - Menoken Farm Facility - Zoning Change

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

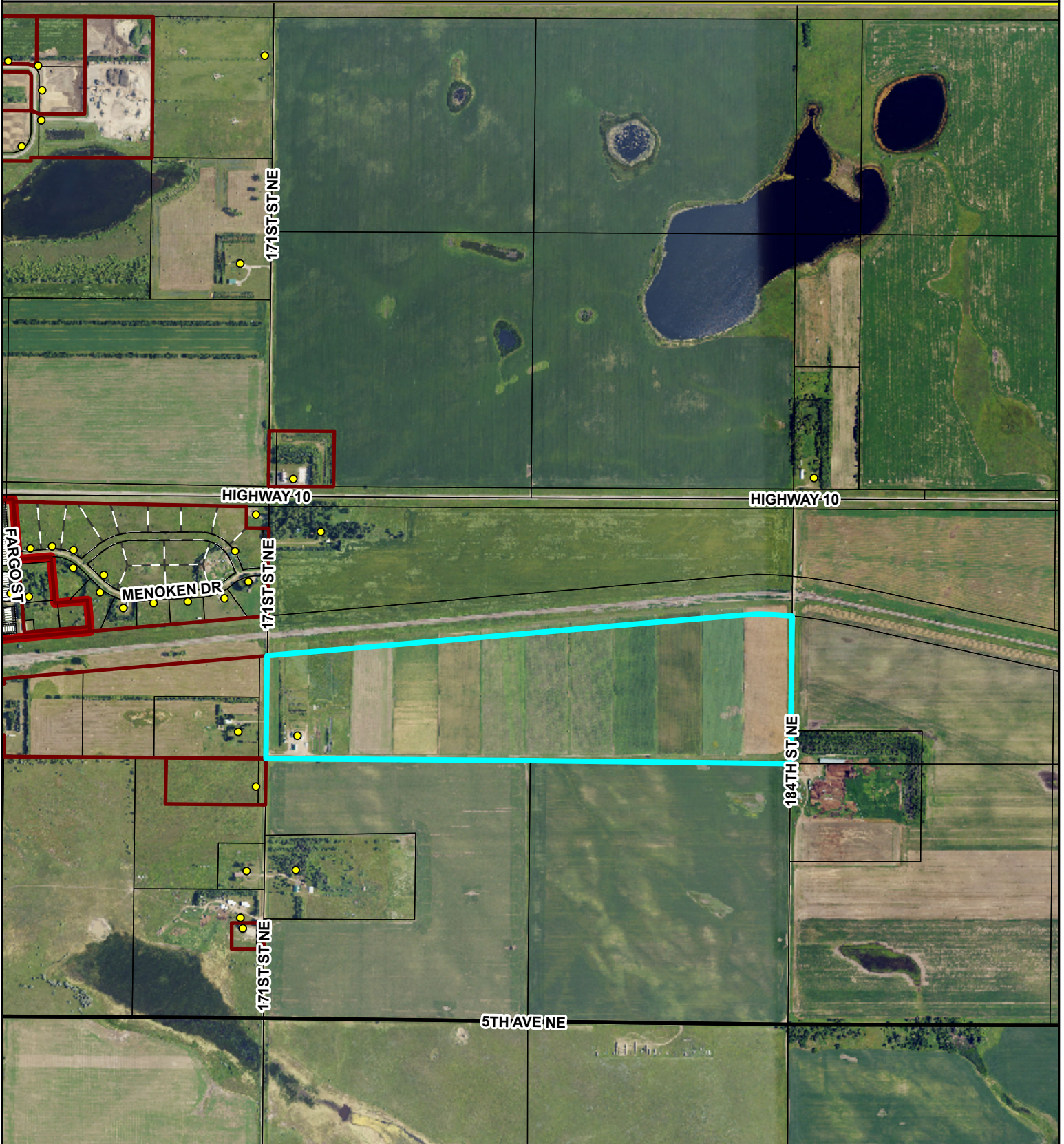
N
5/31/2024



PARCEL ID: 33-139-78-00-34-220 OWNER: BURLEIGH CO SOIL CONS DISTRICT ACRES: 150.12
SITE ADDRESS: 1107 NE 171ST ST
MAIL ADDRESS: 916 E INTERSTATE AVE #6, BISMARCK, ND 58503-0560
LEGAL: MENOKEN TOWNSHIP Section 34 N1/2 LYING SOUTH OF RR R/W 701210 34-139-78

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

N
6/4/2024



PARCEL ID: 33-139-78-00-34-220

OWNER: BURLEIGH CO SOIL CONS DISTRICT

ACRES: 150.12

SITE ADDRESS: 1107 NE 171ST ST

MAIL ADDRESS: 916 E INTERSTATE AVE #6, BISMARCK, ND 58503-0560

LEGAL: MENOKEN TOWNSHIP Section 34 N1/2 LYING SOUTH OF RR R/W 701210 34-139-78





Menoken Farm

The Menoken Farm is a conservation demonstration farm located in central North Dakota, owned and operated by the Burleigh County Soil Conservation District

The systems approach management enhances erosion protection, sunlight harvest, plant diversity, carbon, pollinators, beneficial insects, wildlife, salinity control, livestock forage and more

Advancing Soil Health through innovation and education.



Cropping Systems

Menoken Farm is divided into 10 fields, each about 12 acres. The cropping system includes no-till seeding, high crop diversity and rotations with cover crop combinations seeded after harvest and as season-long plantings.



Compost

Each fall compost is made from a number of organic materials, including common ingredients such as hay, straw, wood shavings, fish and manure. Upon completion, the compost is applied to available cropland and gardens.



Windbreaks

A number of windbreaks have been planted and serve as an arboretum for information and education on energy, wildlife and forestry topics.



Grazing Systems

Rotational perennials are part of the crop rotation. These fields are seeded to 21 species of perennial grasses, legumes and flowering forbs. The grazing system is managed with short livestock exposure periods, followed by long plant recovery periods. Livestock are also rotated to season-long cover crops, fall seeded cover crops and crop residue, when available. Paddock size is managed with single-wire electric fence. Each paddock is usually a half acre or larger.



Gardens

Menoken Farm has a high tunnel greenhouse garden and outside garden. The soil health principles and compost are used to manage the gardens. Healthy, fresh produce is donated to the Bismarck/Mandan food pantries, in cooperation with the Hunger Free North Dakota Garden Project.



Education

With continued support from the North Dakota Department of Health and NRCS-USDA, Menoken Farm provides natural resource education. Tours are available from May - October and are open to farmers, ranchers, gardeners, Soil Conservation District employees and supervisors, NRCS employees, Extension Service employees, no-till associations and the general public. Some of the topics our tour participants will learn include: soil health principles; carbon cycle; soil function demonstrations; crop rotations; cover crop combinations; grazing systems; and gardening.

Visit us at: www.menokenfarm.com



The farm is owned and operated by Burleigh County Soil Conservation District. Additional financial and technical support is provided by:

- Section 319 Nonpoint Source Pollution Control Program through the North Dakota Department of Health/Water Quality Division
- Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA)

After identifying a number of resource concerns across the Menoken Farm landscape, work focused on providing these basic building blocks to improve soil health:

- 🌿 Soil armor
- 🌿 Minimal soil disturbance
- 🌿 Plant diversity
- 🌿 Continual live plant/root
- 🌿 Livestock integration

The systems approach management enhances erosion protection, sunlight harvest, plant diversity, carbon, pollinators, beneficial insects, wildlife, salinity control, livestock forage and more.



Menoken Farm

Schedule a Menoken Farm Tour:

- 👤 Darrell Oswald
- ☎ 701-250-4518, ext. 3
701-391-5830
- ✉ darrell.oswald@nd.nacdnet.net
menokenfarm@gmail.com
- 🌐 www.menokenfarm.com

The Menoken Farm address is:

- 📍 Menoken Farm
1107 171st St. N.E.
Menoken, ND 58558

Driving directions to Menoken Farm are:

- From I-94, take Menoken Exit 170 (about 10 miles east of Bismarck, ND)
- 1 mile south to Highway 10
- 1 mile east to St. Hildegard's Church
- 1/2 mile south

*This brochure is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number 68-6633-16-516. USDA is an equal opportunity provider and employer



Menoken Farm

Burleigh County Soil Conservation District, North Dakota

Menoken Farm was established in 2009 and is a combination of natural resource education and systems approach conservation



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Agenda Item 4-2

Application for a Special Use Permit

Project Summary	
Public Hearing Status:	Baldwin Green House – Corn Maze Planning and Zoning Commission – Consideration
Petitioner/Developer	Stoll Farms LLC – Mary Podoll
Address:	1725 201 st Ave. NE, Baldwin, ND
Location:	Glenview Township, Section 24, W 1/2 E 1/2 NW 1/4 Range 80
	 <p>Attachment 4-2-1 Location Map</p>
Project Size:	40 acres more or less A- Agricultural Zoning
Petitioners Request	Approval of a Special Use Permit and a “Do Pass” recommendation to the Board of Burleigh County Commissioners.
Posted	Bismarck Tribune 6/26 & 7/1/2024 Burleigh County Website 6/28/2024 Surrounding Property Owners 6/28/2024
2-mile notification area – 132 letters	

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



History/Description

The petitioner approached Burleigh County on June 20, 2024 requesting a special use permit to have a commercial corn maze on the grounds of the Baldwin Greenhouse. The corn maze would run from August thru October. Clark Coleman, who in the past has had a corn maze at the Buckstop Junction will run the maze, Friday thru Sunday. Stoll Farms will run the maze the remainder of the week. There will also be a food truck, portable bathrooms, and a gravel parking lot. The last person to enter the maze on any day will be a half hour before sunset.

This is not the first Special Use application we have received from the petitioner. Stoll Farms, LLC had originally applied for a Special Use permit to operate a corn maze, teaching facility with an additional building, a commercial kitchen and educational growing sites for attendees. The petitioner was advised, her request does not fall under a special use category as the ordinance is written at this time. She was asked to wait with the first special use, until the ordinance is written. She was also advised because she has commercial activities, although farm related, they would not fit under allowable uses nor special uses of Article 12 – A-Agricultural Zoning of the Burleigh County Ordinances. Staff advised her to apply for a PUD. The petitioner is part of the Stakeholders Group for Agri-Recreation.

The Baldwin Greenhouse was owned and operated by the Werre family before being purchased by Stoll Farms in November of 2022. The Werre family operated the greenhouse during the growing and planting season. The green house was closed during the fall and winter months. Stoll Farms, LLC since purchasing the greenhouse have held several events which include food trucks. On Mother's Day of 2024 for example over 2,000 people visited the green house and enjoyed the food available thru the food trucks on site.

Starting in the Spring of 2023, Burleigh County started to receive complaints about the activities and the amount of people on the greenhouse property. The concern expressed was that the activities being held were not agricultural in nature. These non-agricultural events were affecting the neighboring property and his livestock.



PLANNING AND ZONING
COMMISSION

July 10, 2024

Jamie Feist is a neighbor who shares the east/west property line with the greenhouse. Mr. Feist and his family raise and breed deer on his property. His animals are wild and are not pets. The additional activities with the food trucks alone have caused his deer to bolt against their pens and has caused death and miscarriage in his stock. His pens are located approximately 40' from the shared property line. When Mr. Feist purchased his property in August of 2020, the greenhouse was only operational between the summer months and traffic was limited to those purchasing items at the greenhouse. Food trucks and various activities were not held on the property.

The most recent complaint from Mr. Feist was the encroachment on his property by the equipment used to seed the corn maze. The operator of the equipment used Mr. Feist's 40' buffer zone to turn around while seeding the corn maze. The equipment caused damage to the plants and shrubbery Mr. Feist was trying to grow as an additional buffer to the deer pens on his property.

Mr. Feist is very concerned that the additional activity of a corn maze and participants in the corn maze trespassing on his property to see the deer. His male deer are just growing antlers and very skittish, the deer might bolt, break an antler and bleed out. The bolting of deer in one pen will cause a chain reaction in his other pens.

Mr. Feist has submitted documentation with his complaints (attachment – Feist Documentation)

County staff visited the site on June 28 to address Mr. Feist's complaint and verify additional information on the location of the corn maze. Measurements and pictures were taken at this time. (Attachment – Staff Documentation)

Facing East





Analysis

The request for a Special Use Permit to have a corn maze is allow per the Burleigh County Zoning Ordinance Article 8 which states:

"In order to carry out the purpose of this Article, 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 be and are hereby given limited discretionary powers relating to the granting of such permit or certificate."

The petitioner has submitted a site and operating plan for the corn maze as follows:

Hours will be from 9:00 am with the last person entering the maze one half hour before sunset. Normal operating hours are from 9:00am to 6:00pm on Monday, Tuesday, Thursday, Friday and Saturday. 10:00 am to 5:00pm on Sunday.

1. The maze will operate from late August through October.
2. Clark Coleman will operate the maze Friday thru Sunday. Stoll Farms may run the maze the remaining days of the week or by appointment.
3. Parking will be in a gravel parking lot, located approximately 100' feet from the west property line. Over flow parking is not available
4. Restrooms/Porta Potties will be available and located within the greenhouse complex.
5. The maze is located in the middle of the parcel and approx. 6 acres in size.
6. A buffer of 7 rows of corn has been planted on the west side of property.



Facing South



County staff visited the site on June 28, 2024. Staff notes on the site visit are as follows:

1. Measurements were taken along the west side property line to the corn maze. The average distance to the property line is 15'. (see Staff Documentation)
2. A footpath is located along the property line to the south end of the maze on both the east and west sides of the site.
3. The buffer rows of corn run east to west. The buffer rows should run north to south to provide a more effective visual buffer between the maze and the neighboring property.

Staff Findings:

1. The special use application fulfills the administrative requirements of Article 8, Section 1, General Provisions.
2. Growing of corn is allowed in an A-Agricultural Zoning District
3. The operators of the corn maze will charge a fee for participation.
4. The petitioner states 400 to 2000 people could participate in the maze on any given day.
5. The corn maze does not have a 100' buffer between properties.
6. The maze is approximately 15' from the east/west property line.
7. The corn maze could be considered a commercial enterprise which is not allowed in an A-Agricultural Zoning District.



PLANNING AND ZONING
COMMISSION

July 10, 2024

8. Operation of the corn maze does not follow the intent of Article 11 A- Agricultural District Regulations, Section 1 – Description which states:
 - a. *The A-Agricultural District is established as a district in which the principal use of land is for general agricultural uses. The regulations are intended to prohibit commercial and industrial usage of the land and to prohibit any other use which would interfere with the development or continuation of the agricultural use of the land; and to discourage any use which because of its character or size, would create requirements and cost to public services such as police and fire protection, water supply, and sewerage before such services can be systematically and adequately provided.*
9. Food Trucks are not considered an agricultural activity.
10. According to the “proposed” Agri-Recreational Ordinance: operation of the corn maze will have a size limit of 75 people per event and limited to 30 events per year.
11. The operation of a corn maze for commercial purposes is not an allowable use in A-Agricultural Zoned Districts.
12. Operation of the corn maze will impact the surrounding property owners use and enjoyment of their property.
13. The application for this type Special Use Permit does not coincide with the Burleigh County Comprehensive Plan

Planning Staff Recommendation

Staff recommends denial of the Special Use Permit as the operation of a corn maze is not an allowable use or special use in an A-Agricultural Zoned District.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the Special Use Permit and give a “Do Pass” recommendation to the Board of County Commissioners



PLANNING AND ZONING
COMMISSION

July 10, 2024

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

Attachments - Special Use Permit - Stoll Farms

STAFF
DOCUMENTATION

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

N
7/2/2024



PARCEL ID: 16-141-80-00-24-403 OWNER: STOLL HOLDINGS LLP ACRES: 40
SITE ADDRESS: 1725 NE 201ST AVE
MAIL ADDRESS: 1725 201ST AVE NE, BALDWIN, ND 58521
LEGAL: GLENVIEW TOWNSHIP Section 24 W1/2E1/2NW1/4 772217 24-141-80

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

N
7/2/2024



PARCEL ID: 16-141-80-00-24-403 OWNER: STOLL HOLDINGS LLP ACRES: 40
SITE ADDRESS: 1725 NE 201ST AVE
MAIL ADDRESS: 1725 201ST AVE NE, BALDWIN, ND 58521
LEGAL: GLENVIEW TOWNSHIP Section 24 W1/2E1/2NW1/4 772217 24-141-80

Distance from property line to
corn maze 13'



From property line
to deer pens

POSTED
NO TRESPASSING
KEEP OUT



Distance of property line to corn
maze.



Property Line Marker





Corn maze - corn
planted east to west



Feist Property Line

corn maze

East

Looking East
From Feist Property Line

West



STOLL FARM
DOCUMENTATION

McMonagle, Marla M.

From: Baldwingreenhouse@outlook.com
Sent: Monday, June 10, 2024 12:30 PM
To: McMonagle, Marla M.
Subject: Request for a temporary variance approval for a corn maize

******* CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *********

In September, Stoll Farms LLC would like to host the Coleman's Corn Maize. Length of the activity is weather dependent, but the goal is to start in late August and continue through October. The field is agriculture and the corn will be harvested. The location is zoned for agriculture. There is adequate parking, spiffy biffs on site,

The location is 1725 201st Ave NE, Baldwin, ND 58521. This address is also the location of the Baldwin Greenhouse & Nursery.

Since the current policy for special permits is in draft, I believe that this the current process to use. However, whatever the title, please present to the board for awareness?

The primary roads are Highway 83 and 201st street - both are paved and well cared for roads.

Please let me know if any additional information is needed?

As for the other activities, I will put together a better packet for the larger plan now that I have more information about the final plan for the new farmer program. I hope that the special permit issue will be resolved before August, so I can turn in the official request in September!

Thank for all you do!

Mary

Mary Podoll
Baldwin Greenhouse & Nursery volunteer
Americorp Member Strengthen ND
Strong Farm Incubator.

27

201st Ave NE

201st Ave NE

201st Ave NE

40 ACRES NOT TO SCALE NOT TO SCALE



Boac in Ag Field

Fw: Special Use Permit Information needed

2 messages

Baldwingreenhouse@outlook.com <Baldwingreenhouse@outlook.com>
Reply-To: Baldwingreenhouse@outlook.com <Baldwingreenhouse@outlook.com>
To: Mary Podoll <mary@strengthennd.com>

Thu, Jun 20 at 8:02 PM

Yahoo Mail: Search, Organize, Conquer

----- Forwarded Message -----

From: "McMonagle, Marla M." <mmcmonagle@nd.gov>
To: "Baldwingreenhouse@outlook.com" <Baldwingreenhouse@outlook.com>
Cc: "Flanagan, Mitch" <mflanagan@nd.gov>
Sent: Thu, Jun 20, 2024 at 4:46 PM
Subject: Special Use Permit Information needed

Hi Mary,

I was looking over your site plan. I will need some addition information on the site plan and regarding your special use permit.

Can you show on the site plan the following?

Stoll Farms LLC / Baldwin Greenhouse & Nursery
easily handled 400 on our busiest day.
Transactions
Families (most) Probably 2,000 people
4-8

1. Show and label distances from the sides of the corn maze and property lines.
2. Show and label all walking pathways, parking areas, restrooms etc. If within 100' of the neighboring properties please show and list the distance. *ALL Greater than 100'*
3. Show and label distances from properties lines all parking areas and overflow parking areas.
4. Label all parking surfaces i.e. gravel, grass, etc. *GRAVEL*
5. If corn maze is to operated in the evenings, please show and describe lighting. *NOT at dark*

Here are the questions I have regarding the special use permit:

1. How many people do you plan to go through the maze? Per day? *? 1st Year -> 200 maybe*
2. Is there a limit to the amount of people per day in the maze?
3. Is there a limit to the amount of people in the maze at one time? *NOT AT this time*
4. What days and hours do you plan to operate the corn maze? Is it going to be every day, specific days of the week?
5. Is the maze going to operated at night, what are your lighting plans? *NA F, S, S - by the Coleman's*
6. What other activities/events will be associated with the corn maze? *M-Th by the Stoll's Food Truck on site*

I have attached some maps to help you with your site plan. Things do not have to be to scale, but I need a detailed site plan for the project. If you could get this information to me as soon as possible that would be great. I need to include as much information as possible for my staff report which is due on June 27th.

McMonagle, Marla M.

From: Mary Podoll <mary@strengthennd.com>
Sent: Monday, June 24, 2024 2:24 PM
To: Mary Podoll; Flanagan, Mitch; McMonagle, Marla M.
Subject: Re: Stoll Farms LLC Baldwin Greenhouse & Nursery special permit corn maze
Attachments: Mary Podoll mary@strengthennd.com.pdf

You don't often get email from mary@strengthennd.com. [Learn why this is important](#)

******* CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *******

Good afternoon, I scanned documents for special permit information. It is titled with email address I used to copy-sorry about that.

The only area that may be closer than 100ft is the cropland field. However, there are a minimum of 7 rows of corn that create a sight and sound barrier for this neighbor, as he raises deer. With the corn maze being away from the property line.

We handled about 2000 people on Mothers Day with parking and food trucks. Parking is graveled, walk paths are mowed grass, and the last participants will be allowed no later than 30 minutes before sunset.

Clark Coleman and his family are running the corn maze on Friday-Sunday. They have been near the Buckstop Junction in the past. They have exhibited a professional and manageable agriculture related activity and I'm excited to work with them.

The township chair had no concerns, neighbors north and east and Baldwin community and Wilton Community are welcoming this activity. The neighbor with deer should be accustomed to people and noise, And we included a sound and sight barrier with 7 rows of corn that are not part of the maze...

I do not know how to estimate numbers, but we should be able to manage appropriately with day to day on site management and cooperation with the Coleman family.

Thank you!

Mary Podoll
701-391-7759

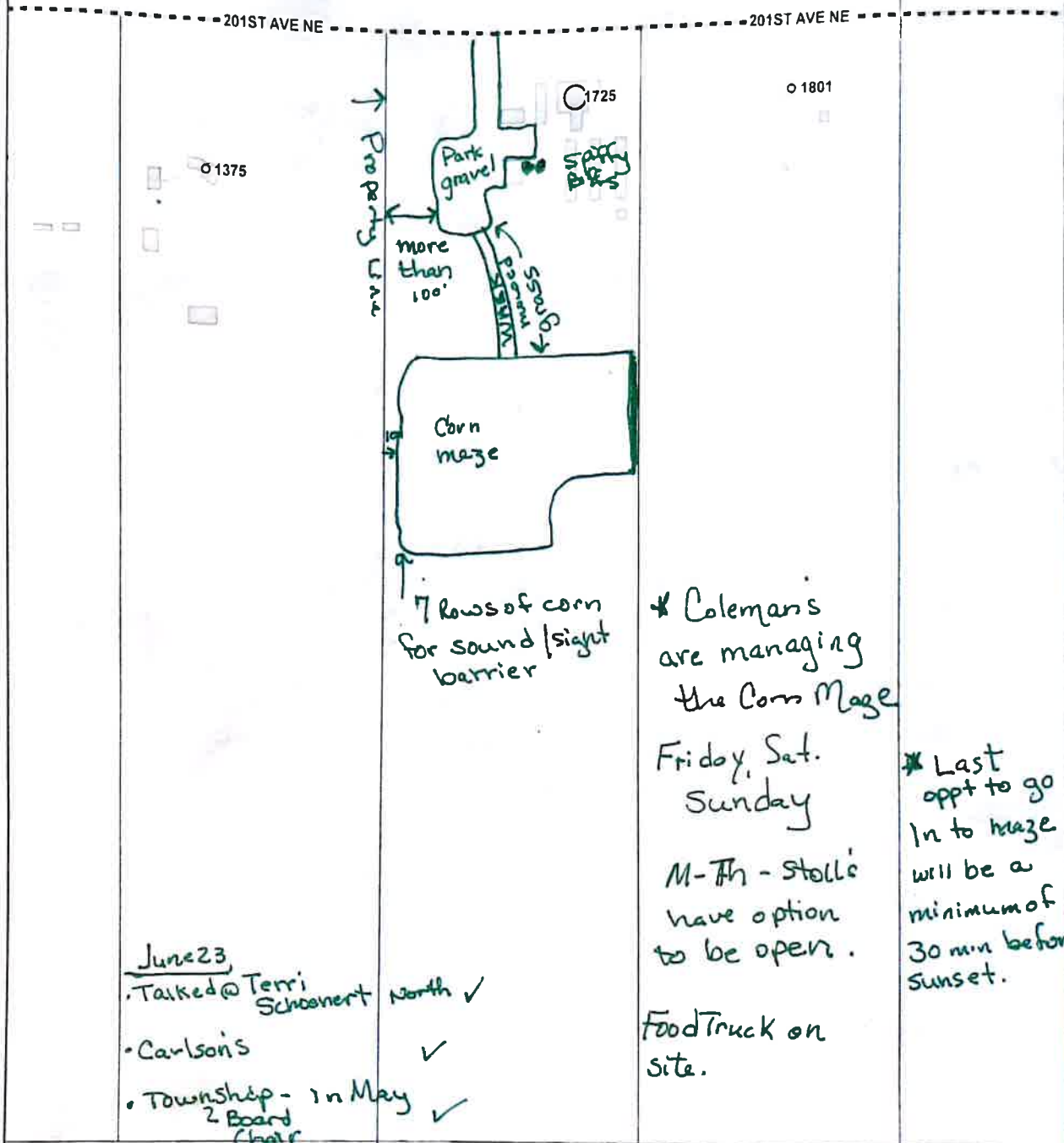
On Mon, Jun 24, 2024 at 2:06 PM Mary Podoll <mpodoll7@icloud.com> wrote:

Sent from my iPhone

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

6/20/2024

01502
Stoll Farm LLC
Baldwin Greenhouse & Nursery



If you need letters of support:
Wilton Mayor / Coleman's / People in Baldwin Area

Burleigh County, North Dakota

Map created from Burleigh County's web mapping application. This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

201st Ave



erial
photo

was p
orn for
sight
er

BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP

8/29/2024



- 3. Parking Areas > 100'
- 4. Graveled Parking
- 5. will NOT be operated after dark

* There is a sound/sight barrier of 4 corn rows before the maze starts.

- 1. # People - unknown
- 2. No Limitations
- 3. Planned at this time
- 4. Friday, Saturday, Sunday, and weekdays M, T, TH } by the Coleman's
or by a ppt } by the Stoll's

6. Includes a maybe a food truck on site.

FEIST
DOCUMENTATION

Private Road

Pen 1 Pen 2

Pen 5 Pen 4 Pen 3

Proposed
CORN
MAZE

FEIST
JAMIE

WEDDE
SCOTT

Sat

2D

Hunt Map

Pen 3

6 feet from property line

5 feet from property line

2 feet from property line

CORN MAZE

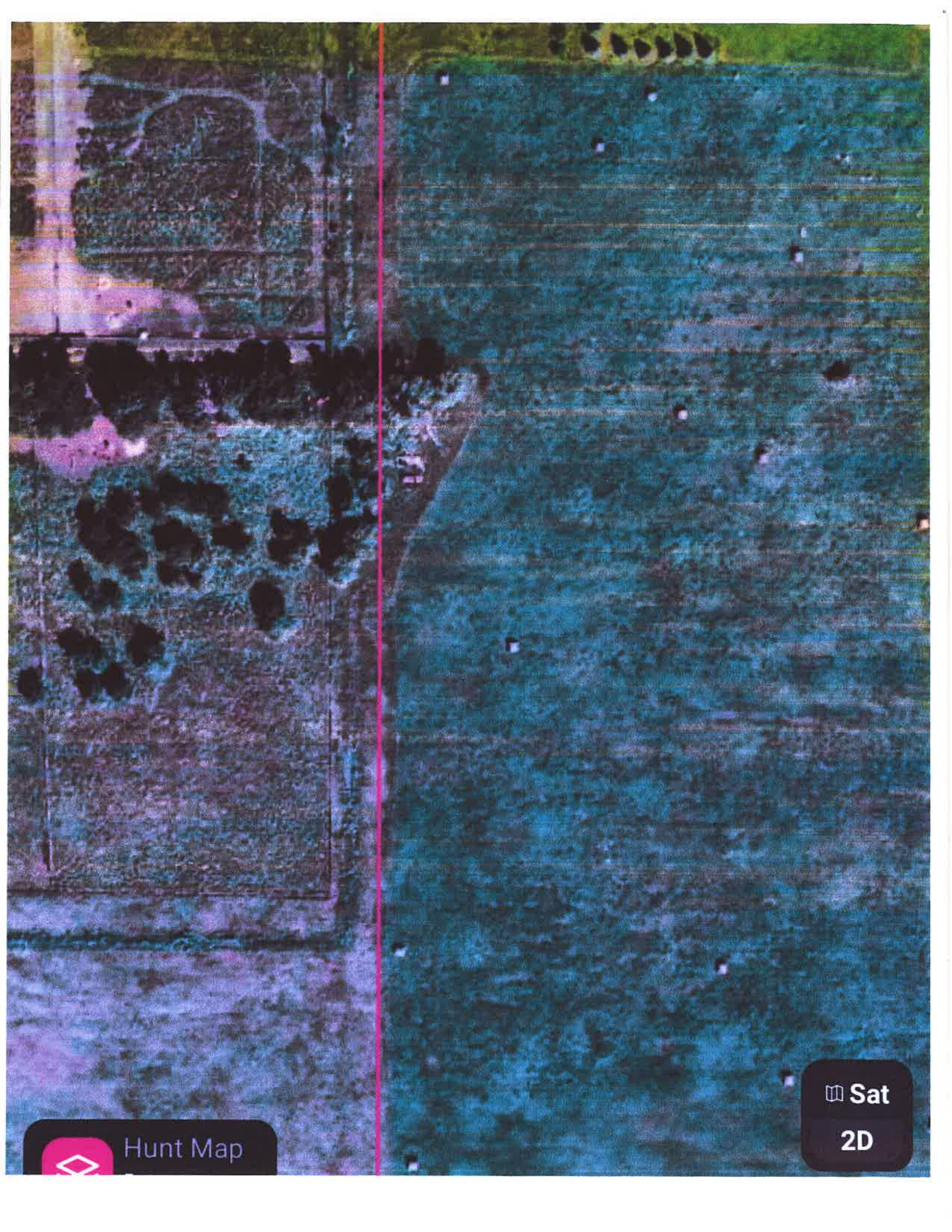
35 feet

privacy screen

Property Line

In 2023 ~~by~~ planted by Feist and trampled by seeding of corn maze from tractor driving around my no trespassing signs and along pen 3. 35' into my property.

multiple videos of tractor doing this during planting



 Hunt Map

 Sat
2D



Add line

Save



Undo

Drop Point

Line name

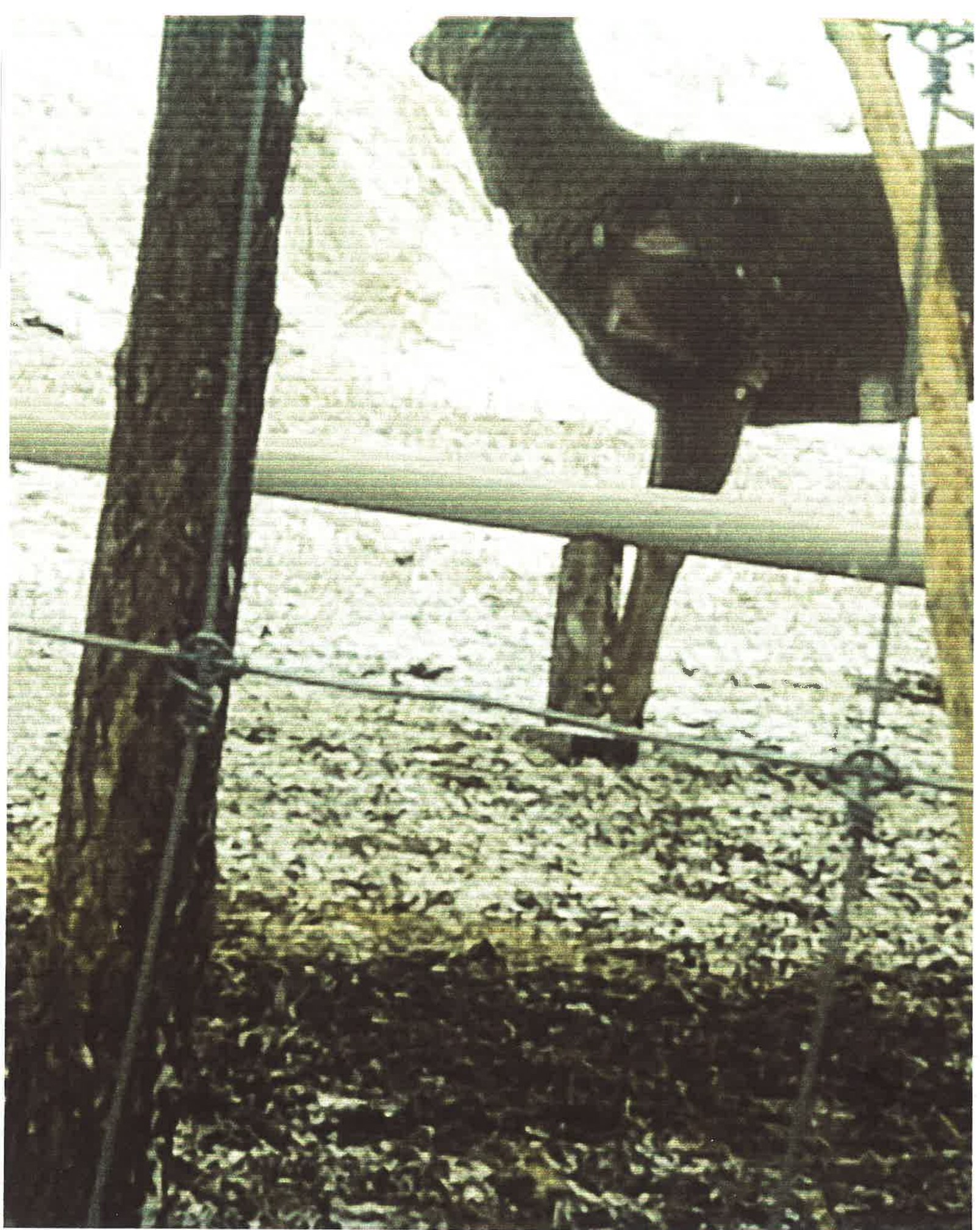
Save













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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 30 DATA CENTERS

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

SECTION 30 Data Center Facilities

This section is adopted to allow data centers in appropriate locations in Burleigh County and minimize the potential off-site impacts of development and reduce long-term exposure that may impact the public health, safety, and the general welfare of Burleigh County residents. The low-frequency sounds emitted by data centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier.

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. **Data Center**- a 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, applications, appliances, services, 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. Associated components and facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition also includes cryptocurrency mining, which involves the use of blockchain technology to verify and secure cryptocurrency transactions, as the terms “cryptocurrency”, “cryptocurrency mining”, “blockchain”, and “blockchain technology” are defined by any applicable State law or, if no applicable State law, by generally accepted industry standards. Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sound that can spread across property lines.

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 County Building Department. Data centers may only be permitted in the Industrial (I) District with a Special Use Permit.

1. Exemption

- a. Data centers which subject to the exclusive jurisdiction of the North Dakota Industrial Commission pursuant to N.D.C.C. Chapter 38-08, or any successor statute, are exempt from the provisions of this Chapter.

2. Application Requirements

The application for the installation or construction 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 record owner of the property, the occupant or lessee of the property, and the operator of the data center.
- b. A narrative describing 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, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
- 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. 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.
- g. 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.

- h. Copy of the signed electrical power purchase agreement.
- i. 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.

- j. 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 (1) mile from 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. Separation from other data centers. New data centers shall be set back at least three (3) miles from any lawfully existing data center.
3. 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.
4. 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.
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. 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.
8. 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.

9. 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.
10. 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.
11. Development Agreement. The applicant and, if different than the applicant, the record owner of the property, the occupant or lessee of the property, and/or the operator 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, 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:

It is the responsibility of 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 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.

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

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

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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 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. 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 800 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 800 square feet or less than 300 square feet on any lot or parcel five (5) acres in area or less. The floor area of an accessory dwelling unit may be up to 1,200 square feet on any lot or parcel that is greater than five (5) acres in area.
 - d. 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.
 - e. To protect the privacy of neighbors, rooftop decks and balconies are not allowed within 25 feet of a neighboring property.
 - f. 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.
 - g. 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.
 - h. 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.
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

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

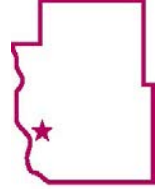
Mark Splonskowski, Burleigh County Auditor/Treasurer

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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)


AGENDA

September 11, 2024

1. Roll Call
2. Approval of the July Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Makedonski Subdivision
 - 3-2 Cherney Morrissette Subdivision
 - 3-3 Amendment to Zoning Ordinance
 - Article 8 Special Uses – Section 30 – Data Centers
 - 3-4 Amendment to Zoning Ordinance
 - Article 8 Special Uses – Section 31 – Accessory Dwelling Units
4. Public Hearing Agenda
 - 4-1 Aberle 2nd Subdivision and Zoning Change
 - 4-2 Amendment to Zoning Ordinance
 - Article 8 – Special Use, Section 29 - Solar Farms
5. Other Business:
6. Adjourn – Next meeting – October 9, 2024

Agenda Item 3-1

Application for Makedonski Subdivision

Project Summary	
Consent Agenda:	Makedonski Subdivision
Status:	Consent Agenda
Petitioner/Developer	K. Makedonski & L. Makedonski
Engineer	Mark Isaac, Independent Land Surveyor
Location:	Part of the West 1/2 of the Northwest 1/4 Section 9, Township 139N, Range 76W
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">3-1-1 Location Map</div>	
Project Size:	73.18 acres 4 Lots
Petitioners Request	Zoning is Sterling Township Call for a public hearing

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

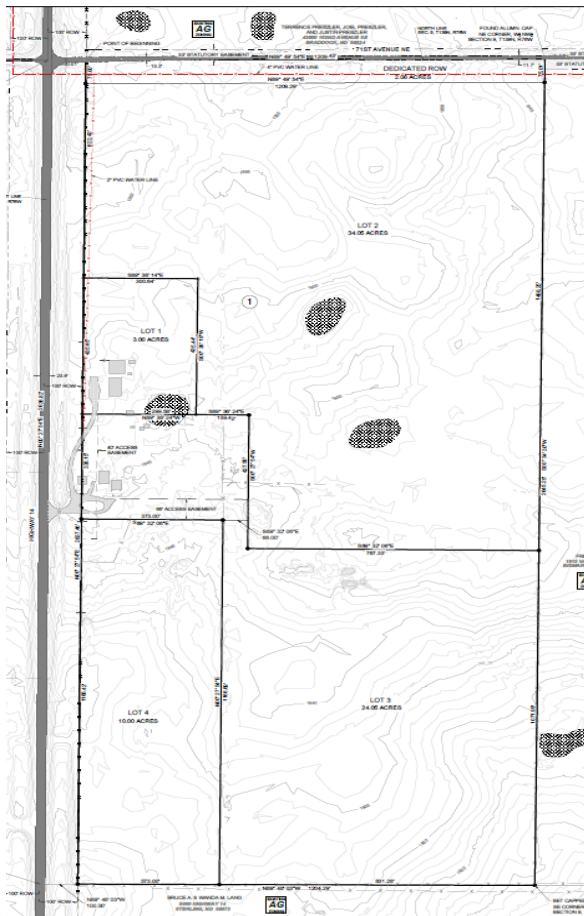


History/Description

Burleigh County was approached regarding a four (4) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential.

The review committee did not find issues of concern. A Stormwater Waiver has been requested and approved. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners.

Zoning for this property is under Sterling Township's Jurisdiction. Sterling has approved the continued A-Agricultural zoning of this subdivision.



Attachment 3-1-2 Preliminary Plat



PLANNING AND ZONING
COMMISSION

September 11, 2024



Attachment 3-1-3 Site Map



PLANNING AND ZONING
COMMISSION

September 11, 2024



North View



PLANNING AND ZONING
COMMISSION

September 11, 2024

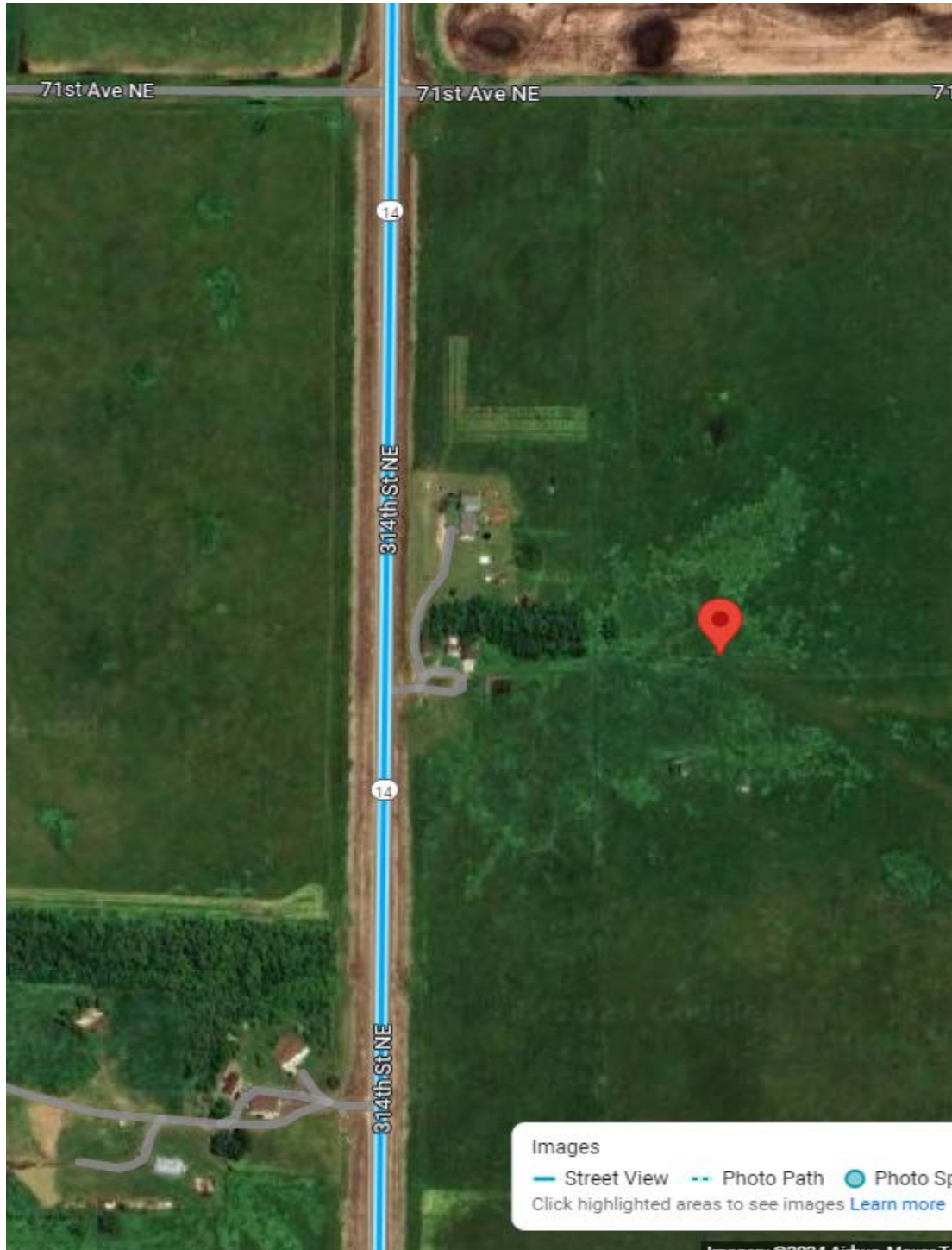


South View



PLANNING AND ZONING
COMMISSION

September 11, 2024





Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver has been granted
3. A Stormwater Management Plan or Waiver Request has been requested
4. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. Sterling Township has recommended approval of the plat.
6. Sterling Township has zoning jurisdiction for this area. Sterling approved the zoning as is.
7. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

Planning Staff Recommendation

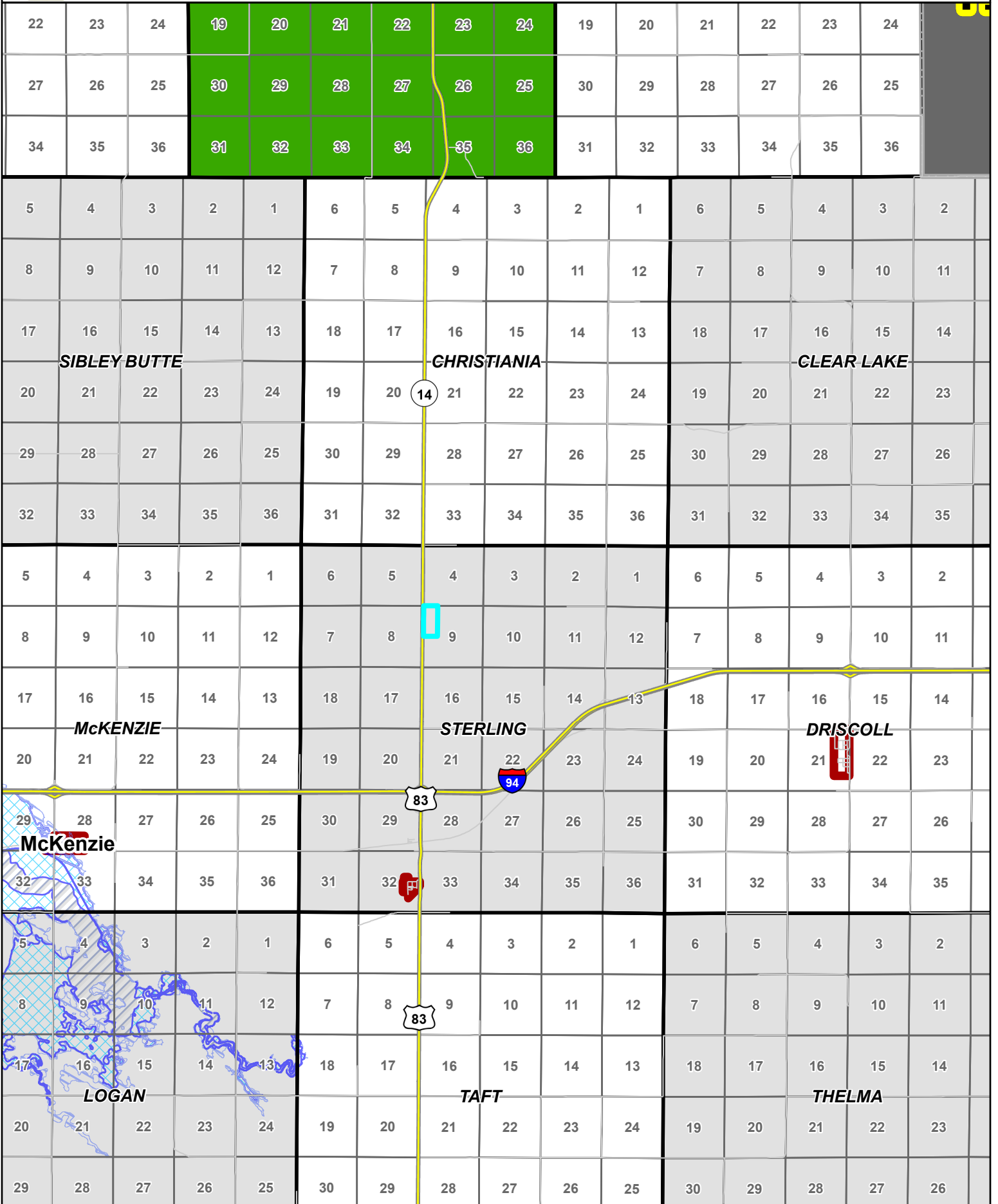
The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the preliminary plat and calling for a public hearing.

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.

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



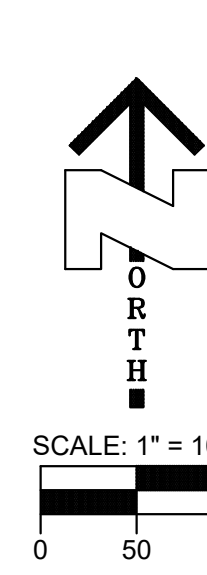
PRELIMINARY PLAT MAKEDONSKI SUBDIVISION

PART OF THE WEST HALF OF THE NORTHWEST QUARTER SECTION 9, T139N, R76W BURLEIGH COUNTY, NORTH DAKOTA

LAND DESCRIPTION

PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 139 NORTH, RANGE 76 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 9; THENCE NORTH 89° 49' 54" EAST ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 100.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 49' 54" EAST ON THE NORTH LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 1209.34 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE SOUTH 00° 34' 30" WEST ON THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 2645.25 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE NORTH 89° 48' 03" WEST ON THE SOUTH LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 1204.29 FEET TO THE EAST RIGHT OF WAY LINE OF HIGHWAY 14; THENCE NORTH 00° 27' 54" EAST ON SAID EAST RIGHT OF WAY LINE A DISTANCE OF 2637.46 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 73.18 ACRES MORE OR LESS; AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



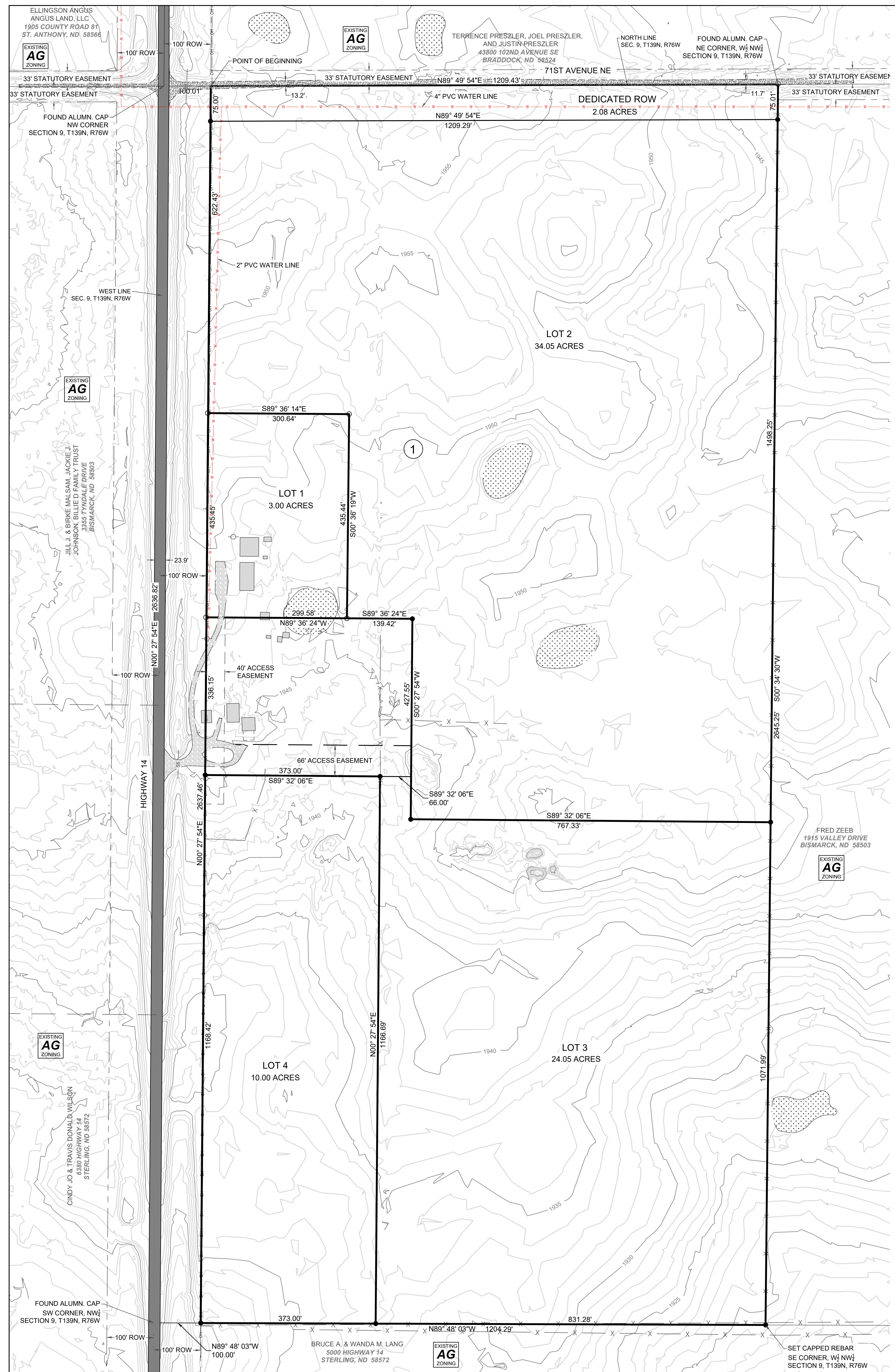
VERTICAL DATUM - NAVD 1988.
BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.
MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE "BSMK" CORS STATION AND ARE REPORTED IN GRID.

LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- EXISTING BUILDING
- EXISTING ASPHALT
- EXISTING GRAVEL
- EXISTING TRAIL
- EXISTING FENCE
- EXISTING OVERHEAD ELECTRIC
- EXISTING UNDERGROUND ELECTRIC
- EXISTING WATER LINES
- EXISTING POWER POLE
- EXISTING PEDESTAL
- FRESH WATER EMERGENT WETLAND NATIONAL WETLANDS INVENTORY PER THE NWI MAPPER

ACREAGE TABLE

LOT 1	3.00 ACRES
LOT 2	34.05 ACRES
LOT 3	24.05 ACRES
LOT 4	10.00 ACRES
DEDICATED ROW	2.08 ACRES
TOTAL	73.18 ACRES



OWNERS:
LUCINDA J. MAKEDONSKI
6799 HIGHWAY 14
STERLING, ND 58572
KENNETH MAKEDONSKI
1606 POCATELLO DRIVE
BISMARCK, ND 58504

- NOTES:**
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
 - SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
 - EXISTING ZONING - AGRICULTURAL.
 - THE 40' ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOT 1, BLOCK 1.
 - THE 66' ACCESS EASEMENT IS FOR THE BENEFIT OF LOTS 2, 3, & 4, BLOCK 1.

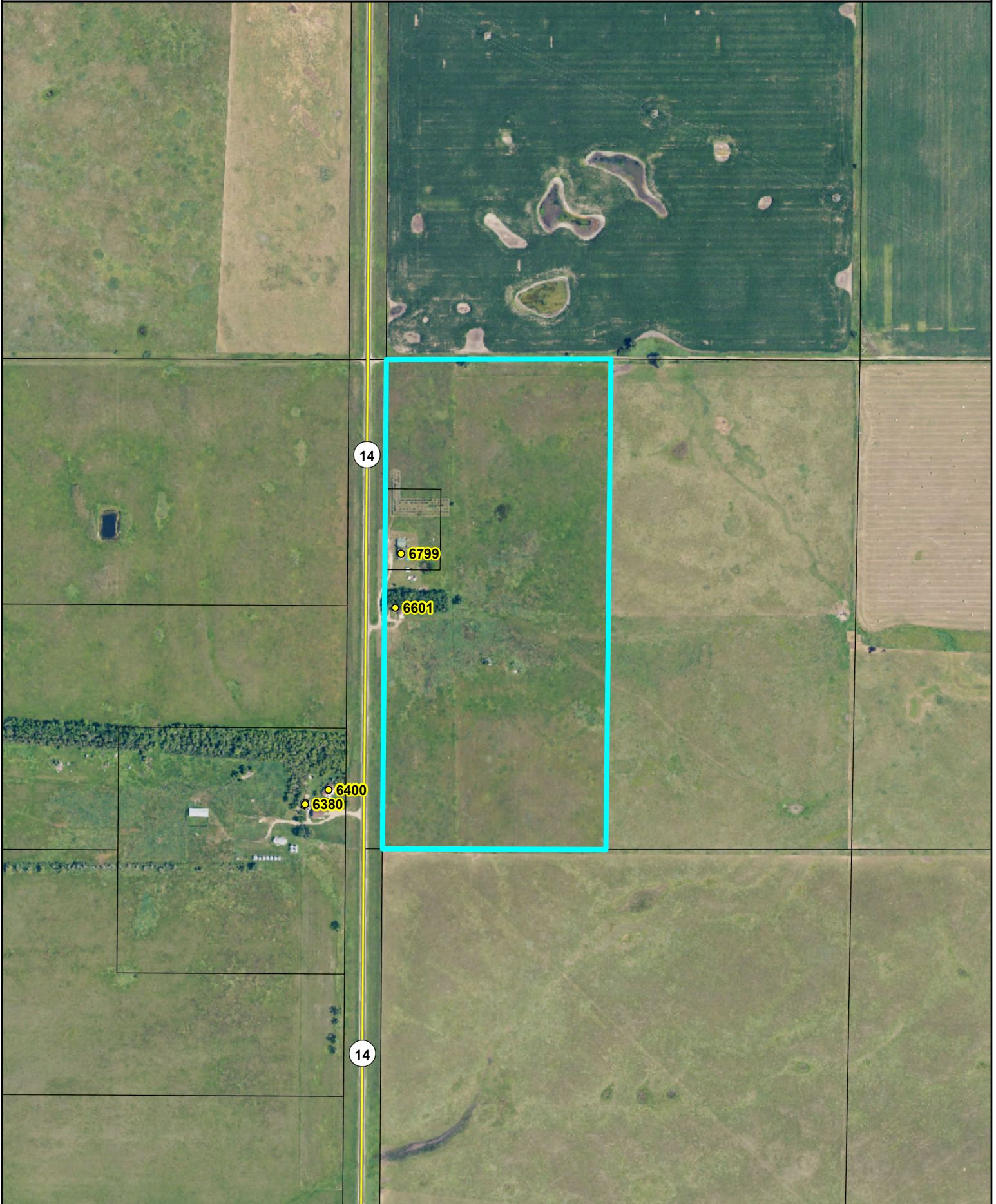
PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

MAKEDONSKI SUBDIVISION
PART OF THE W. 1/2 NW. 1/4
SECTION 9, T139N, R76W
BURLEIGH, NORTH DAKOTA

SHEET: 1 OF 1	JOB NUMBER: 24032
SCALE: 1" = 100'	DWG REVISION DATES
DRAWN BY: MR	
DWG DATE: 8/16/24	
DWG NAME: 24032_Survey.dwg	

Independent
Land
Surveying &
Engineering

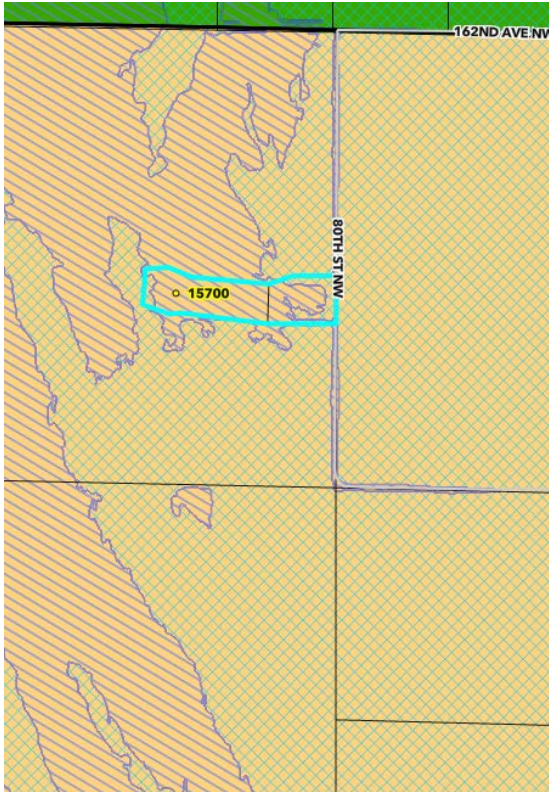
4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-663-5184
Cell: 701-955-2079
mark@isurveynd.com



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Agenda Item 3-2

CHERNEY MORRISSETTE SUBDIVISION

Project Summary	
Consent Agenda:	Cherney Morrissette Subdivision
Status:	Consent Agenda
Petitioner/Developer	Jacob Morrissette & Jason & Sarah Cherney
Engineer	Mark Isaac, Independent Land Surveyor
Location:	Part of the Northeast 1/4 – section 5, township 140N, Range 81 W, Burleigh County, ND
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">3-2-1 Location Map</div>	
Project Size:	6 Acres more or less 2 Lots
Petitioners Request	Call for a public hearing

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

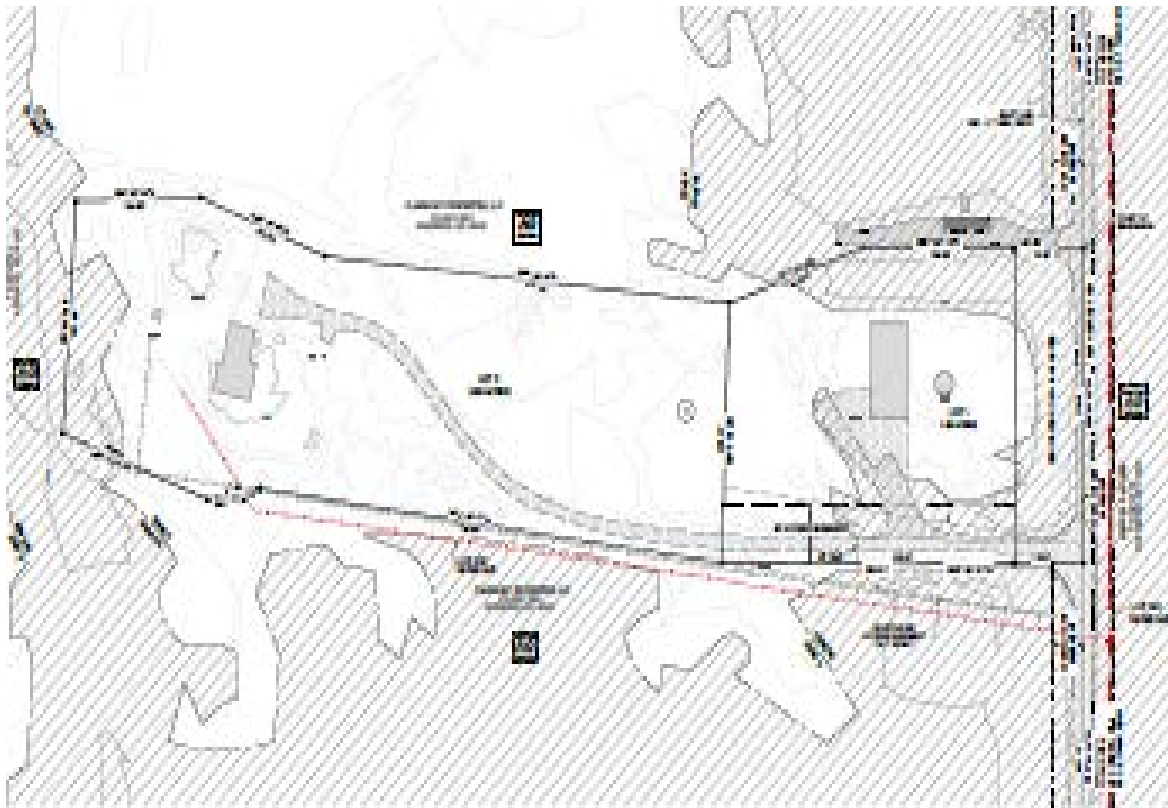


History/Description

Burleigh County was approached regarding a two (2) subdivision containing 6 acres more or less.

The review committee did not find issues of concern. A Stormwater Waiver has been requested. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners.

Zoning for this property is R1-Rural Single Family Residential.



Attachment 3-2-2 Preliminary Plat



PLANNING AND ZONING
COMMISSION

September 11, 2024



Attachment 3-1-3 Site Map



Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver has been granted
3. A Stormwater Management Plan or Waiver has been requested
4. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. Zoning is R1-Rural Single Family Residential
6. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

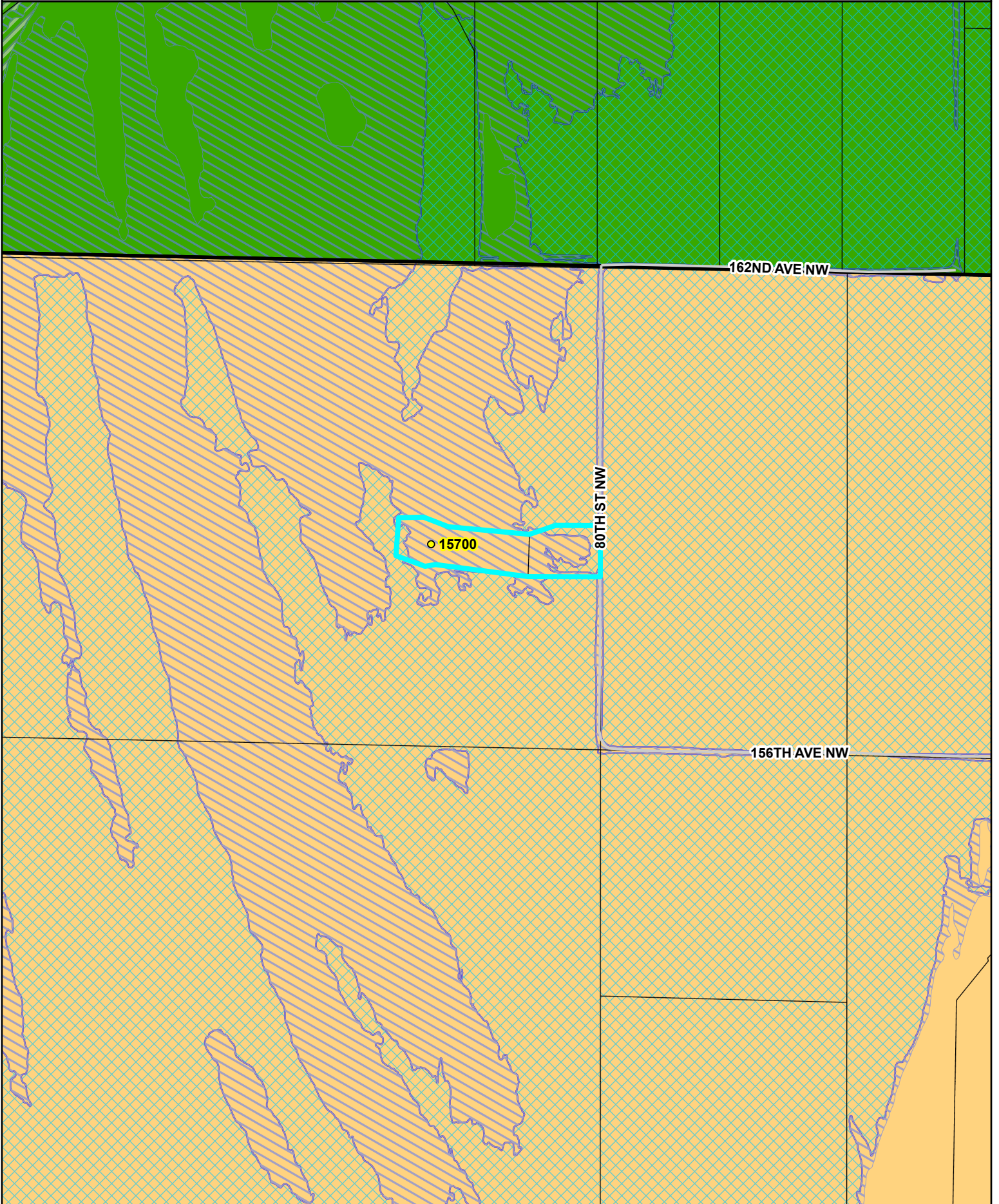
Planning Staff Recommendation

The petition for a 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

CHERNEY MORRISSETTE SUBDIVISION

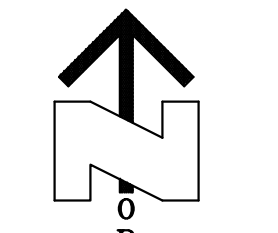
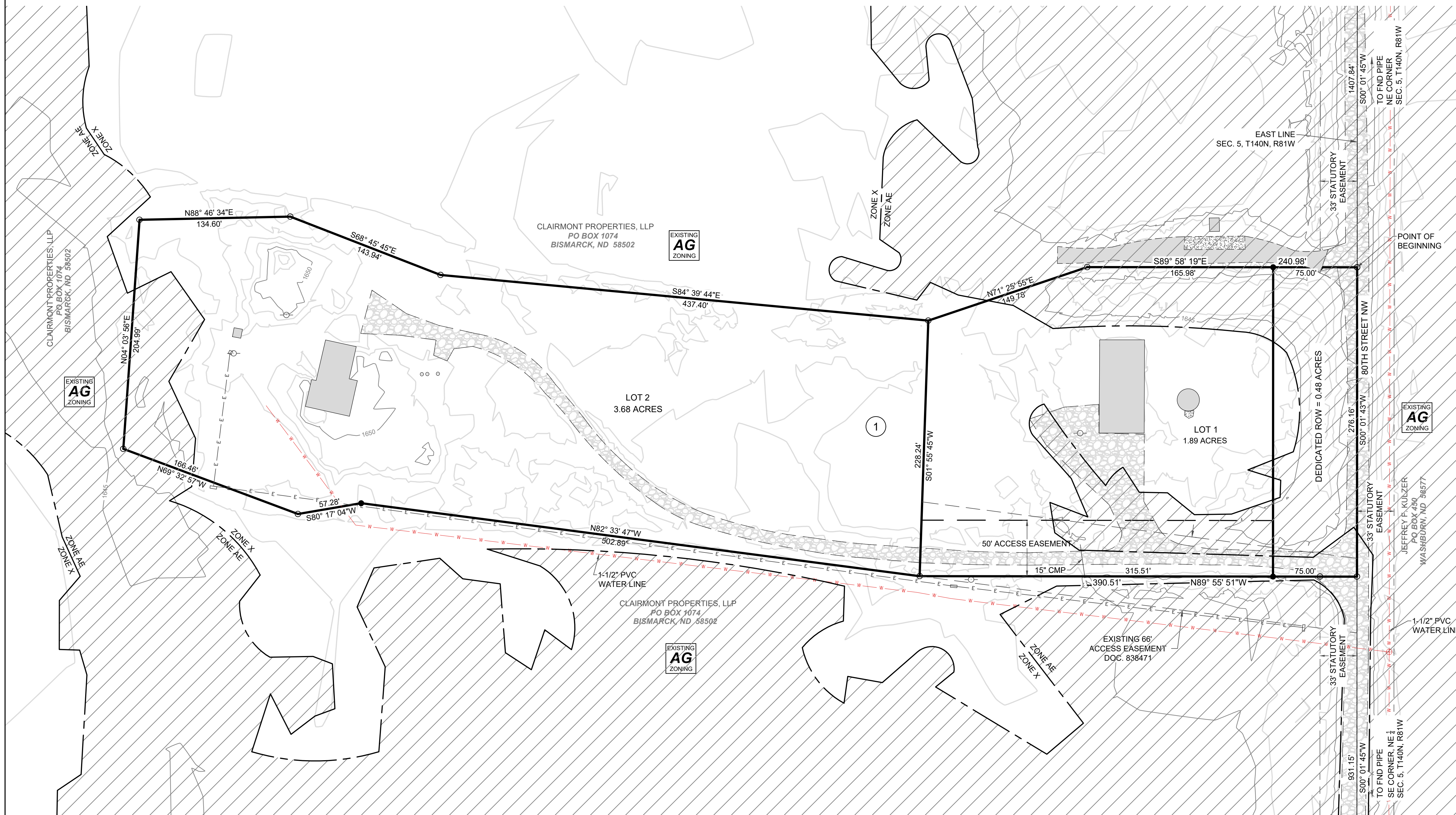
PART OF NORTHEAST QUARTER - SECTION 5, T140N, R81W

BURLEIGH COUNTY, NORTH DAKOTA

LAND DESCRIPTION

A TRACT OF LAND BEING PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE SOUTH 00° 01' 43" WEST ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 A DISTANCE OF 1407.84 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00° 01' 43" WEST ON SAID EAST LINE A DISTANCE OF 276.16 FEET; THENCE NORTH 89° 55' 51" WEST A DISTANCE OF 390.51 FEET; THENCE NORTH 82° 33' 47" WEST A DISTANCE OF 502.89 FEET; THENCE SOUTH 80° 17' 04" WEST A DISTANCE OF 57.28 FEET; THENCE NORTH 69° 32' 57" WEST A DISTANCE OF 166.46 FEET; THENCE NORTH 04° 03' 56" EAST A DISTANCE OF 204.99 FEET; THENCE NORTH 88° 46' 34" EAST A DISTANCE OF 134.60 FEET; THENCE SOUTH 68° 45' 45" EAST A DISTANCE OF 143.94 FEET; THENCE SOUTH 84° 39' 44" EAST A DISTANCE OF 437.40 FEET; THENCE NORTH 71° 25' 55" EAST A DISTANCE OF 149.78 FEET; THENCE SOUTH 89° 58' 19" EAST A DISTANCE OF 240.98 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 6.05 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



SCALE: 1" = 50'
 0 25 50
 DATE: AUGUST 20TH, 2024

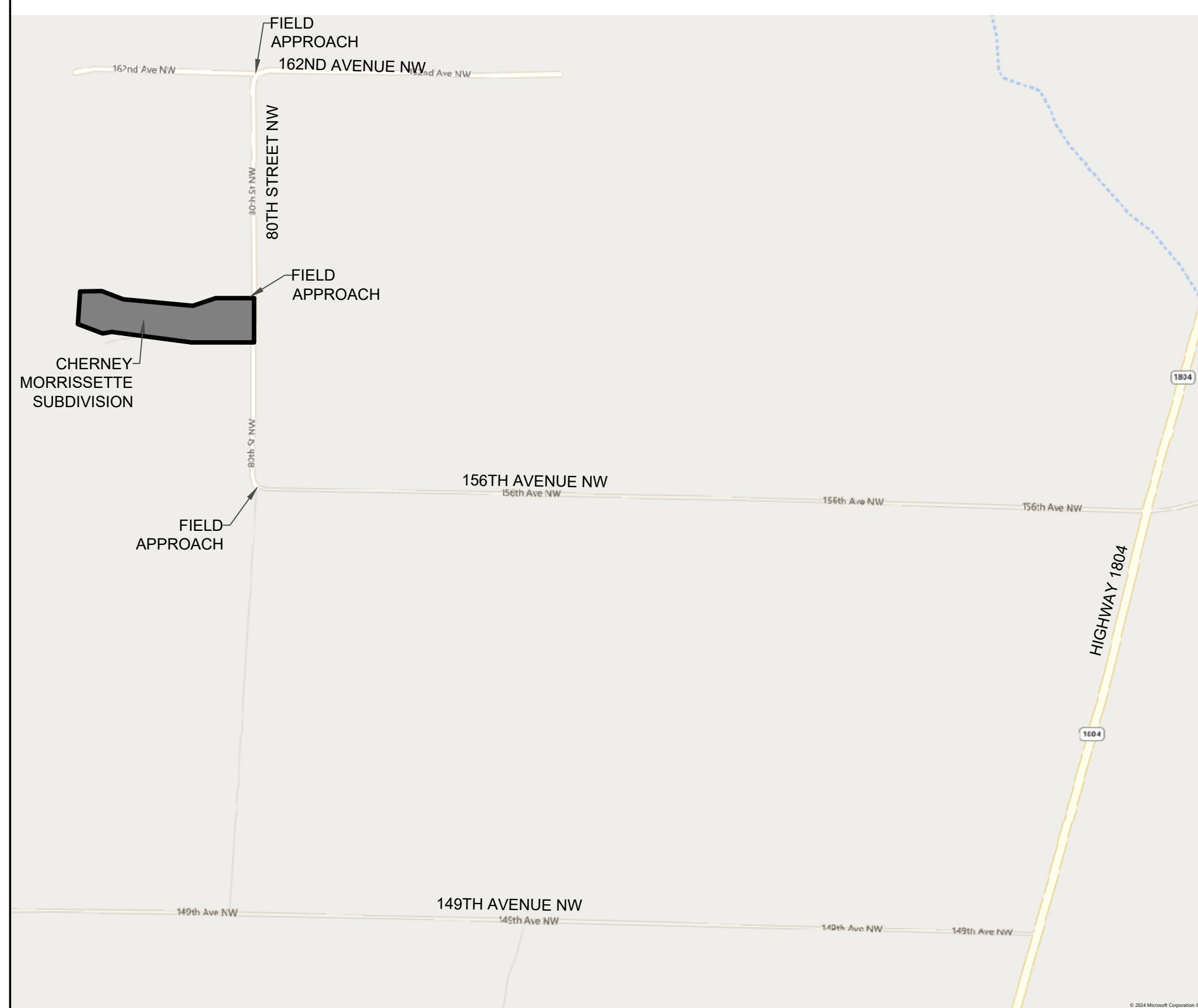
VERTICAL DATUM - NAVD 1988.
 BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.
 MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE 'BSMK' CORS STATION AND ARE REPORTED IN GRID.

OWNERS:

JACOB MORRISSETTE
 8131 RIDGELAND DRIVE
 BISMARCK, ND 58503
 JASON C. & SARAH L. CHERNEY
 15700 80TH STREET NW
 BISMARCK, ND 58501

FLOOD ZONE AE

PORTION OF LOS 1 AND 2 ARE SITUATED WITHIN "ZONE AE" - THE 100 YEAR FLOOD HAZARD AS SHOWN ON THE NATIONAL FLOOD HAZARD FEMA MAP PANEL NUMBER 38015C0560E. EFFECTIVE DATE IS 6/06/2024. FLOOD ELEVATION = 1645.8.



LEGEND

	FOUND SURVEY MONUMENT
	SET CAPPED REBAR - LS9628
	EXISTING BUILDING
	EXISTING TRAIL
	EXISTING GRAVEL
	EXISTING CONCRETE
	FLOOD ZONE AE
	EXISTING FENCE
	EXISTING IRRIGATION PIPELINE
	EXISTING OVERHEAD ELECTRIC
	EXISTING UNDERGROUND ELECTRIC
	EXISTING WATER LINES
	EXISTING POWER POLE
	EXISTING PEDESTAL

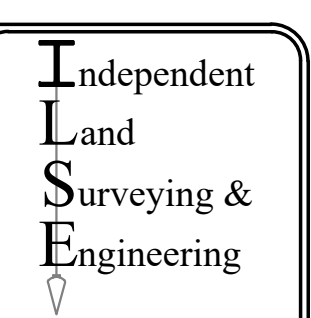
ACREAGE TABLE

LOT 1	1.89 ACRES
LOT 2	3.68 ACRES
DEDICATED ROW	0.48 ACRES
TOTAL	6.05 ACRES

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 - AGRICULTURAL
 4. THE EXISTING 66' ACCESS EASEMENT SHOWN HEREON WILL BE REPLACED BY THE 50' ACCESS EASEMENT SHOWN HEREON

PROFESSIONAL LAND SURVEYOR
 MARK R. ISAACS, LS-9628

CHERNEY MORRISSETTE SUBDIVISION PART NORTHEAST QUARTER SECTION 5, T140N, R81W BURLEIGH, NORTH DAKOTA SHEET: 1 OF 1 SCALE: 1" = 50' DRAWN BY: MRB DWG DATE: 8/5/24 DWG NAME: 24110_Survey.dwg	JOB NUMBER: 24110 DWG REVISION DATES 4215 Old Red Trail NW Mandan, ND 58554 Phone: 701-663-5184 Cell: 701-995-2079 mark@isurveynd.com
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Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.
Re: Public Hearing to Amend Burleigh County Zoning Ordinances
Date: 8-28-2024
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Amend Article 8 Section 30 Data Centers

It has become necessary to consider amending the current Article 8 Section 30 to allow 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 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.

ACTION REQUESTED:

Consider to recommend a public hearing for ordinance.

Attachments:

Ex. 1- Article 8 Section 30 Data Center

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 30 DATA CENTERS

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

SECTION 30 Data Center AI Conversion Facilities

This section is adopted to allow data centers/AI conversion facilities in appropriate locations in Burleigh County and minimize the potential off-site impacts of development and reduce long-term exposure that may impact the public health, safety, and the general welfare of Burleigh County residents. The low-frequency sounds emitted by data centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier.

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. *Data Center*- a 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, applications, appliances, services, 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. Associated components and facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition also includes cryptocurrency mining, which involves the use of blockchain technology to verify and secure cryptocurrency transactions, as the terms “cryptocurrency”, “cryptocurrency mining”, “blockchain”, and “blockchain technology” are defined by any applicable State law or, if no applicable State law, by generally accepted industry standards.
2. *Data Center/ AI Conversion Facility*- a data center that is converted and used to support artificial intelligence
3. *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.

4. Blockchain- a digital record of all the transactions involving cryptocurrency. Copies of the blockchain are stored and maintained by computers around the world.

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 a Industrial (I) District with a Special Use Permit.

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 record owner of 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, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
- 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 Burleigh County Building Permit obtained from Burleigh County.
- g. Data centers may only be permitted in an I- Industrial District with a Special Use Permit.
- h. 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.

- 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 (1) mile from 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. Separation from other data centers. New data centers shall be set back at least three (3) miles from any lawfully existing data center.
3. 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.
4. 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.
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. 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.
8. 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.

9. 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.
10. 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.
11. Development Agreement. The applicant and, if different than the applicant, the owner of record of the property, the occupant or lessee of the property, and/or the operator 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, 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:

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.

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 _____, 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

DRAFT

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

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.
Re: Public Hearing to Amend Burleigh County Zoning Ordinances
Date: 8-27-2024
From: Mitch Flanagan, Burleigh County Planning Director. *llb*

ITEM 1

Amend Article 8 Section 31 Accessory Dwelling Units

It has become necessary to consider amending the current Article 8 to include Section 31. Accessory Dwelling 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 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.

Article 8 Section 31 draft ordinance was presented to the Planning Commissions and recommended for public hearing.

ACTION REQUESTED:

Consider recommendations to approve ordinance.

Attachments:

- Ex. 1- Article 8 Special Use Permit Section 31 draft ordinance.
- Ex. 2- Types of ADU's

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 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 800 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 800 square feet or less than 300 square feet on any lot or parcel five (5) acres in area or less. The floor area of an accessory dwelling unit may be up to 1,200 square feet on any lot or parcel that is greater than five (5) acres in area.
 - d. 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.
 - e. To protect the privacy of neighbors, rooftop decks and balconies are not allowed within 25 feet of a neighboring property line.
 - f. 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.
 - g. 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.
 - h. 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.
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

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

Mark Splonskowski, Burleigh County Auditor/Treasurer

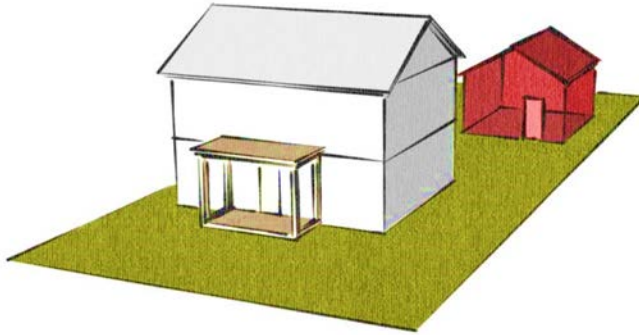
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Examples of ADUs
- not included in ordinance.

Types of Accessory Dwelling Units (ADUs)

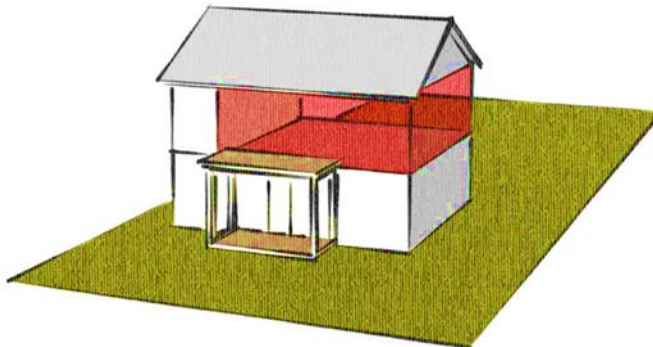
External ADU:

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 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.

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Agenda Item 4-1

Application for Aberle 2nd Subdivision & Zoning Change

Project Summary	
Public Hearing Agenda:	Aberle 2 nd Subdivision & Zoning Change
Status:	Public Hearing
Petitioner/Developer	Janice Aberle
Engineer	Swenson Hagen & Co.
Location:	Part of the NW 1/4 of Section 29, Township 139 N Range 78 W, Burleigh County, ND
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">4-1-1 Location Map</div>	
Project Size:	6 acres more or less Zoning Change A-Agricultural to R1 Rural Single Family Residential
Petitioners Request	"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

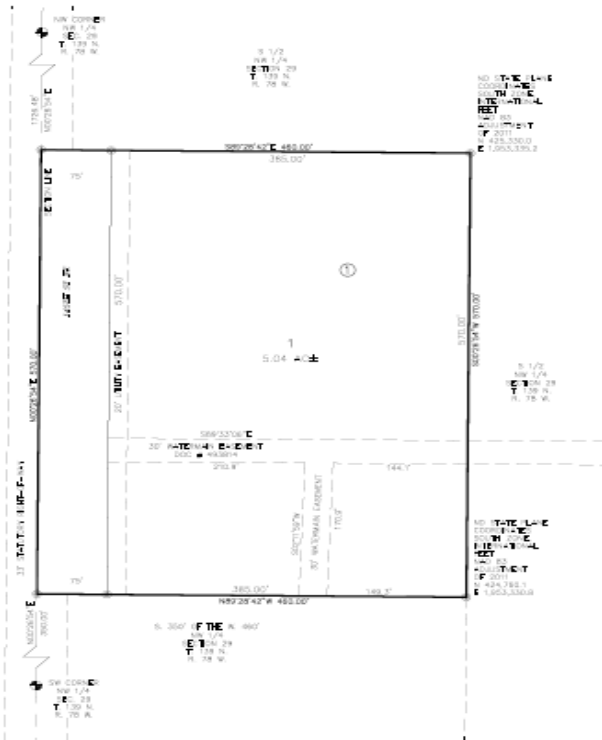
September 11, 2024

History/Description

Burleigh County was approached regarding a one (1) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential.

The review committee did not find issues of concern. A Stormwater Waiver has been requested and approved. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners in May.

The surrounding properties are zoned A- Agricultural, however, the size of the property conforms to similar parcels in the area.

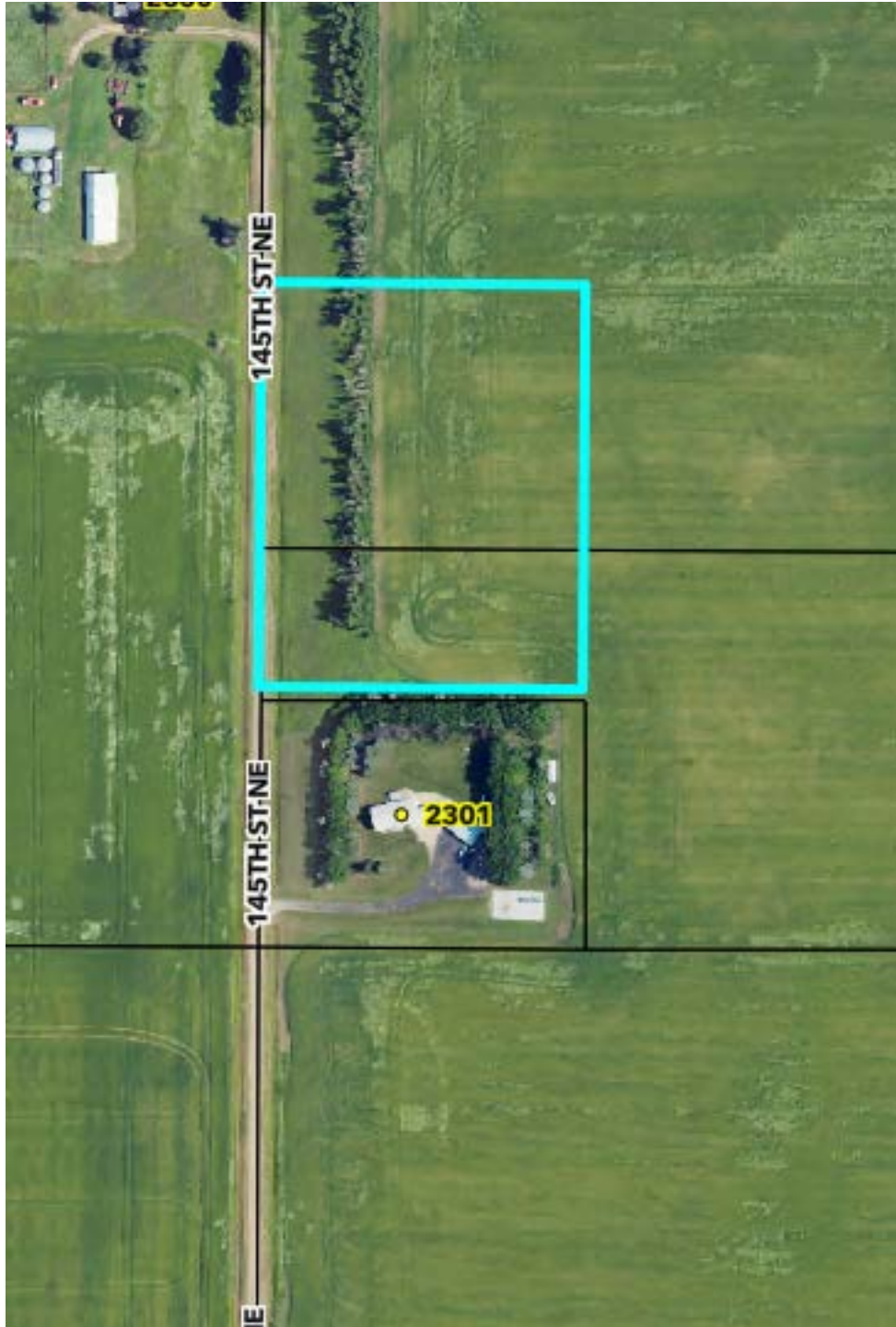


Attachment 4-1-2 Final Plat



PLANNING AND ZONING
COMMISSION

September 11, 2024

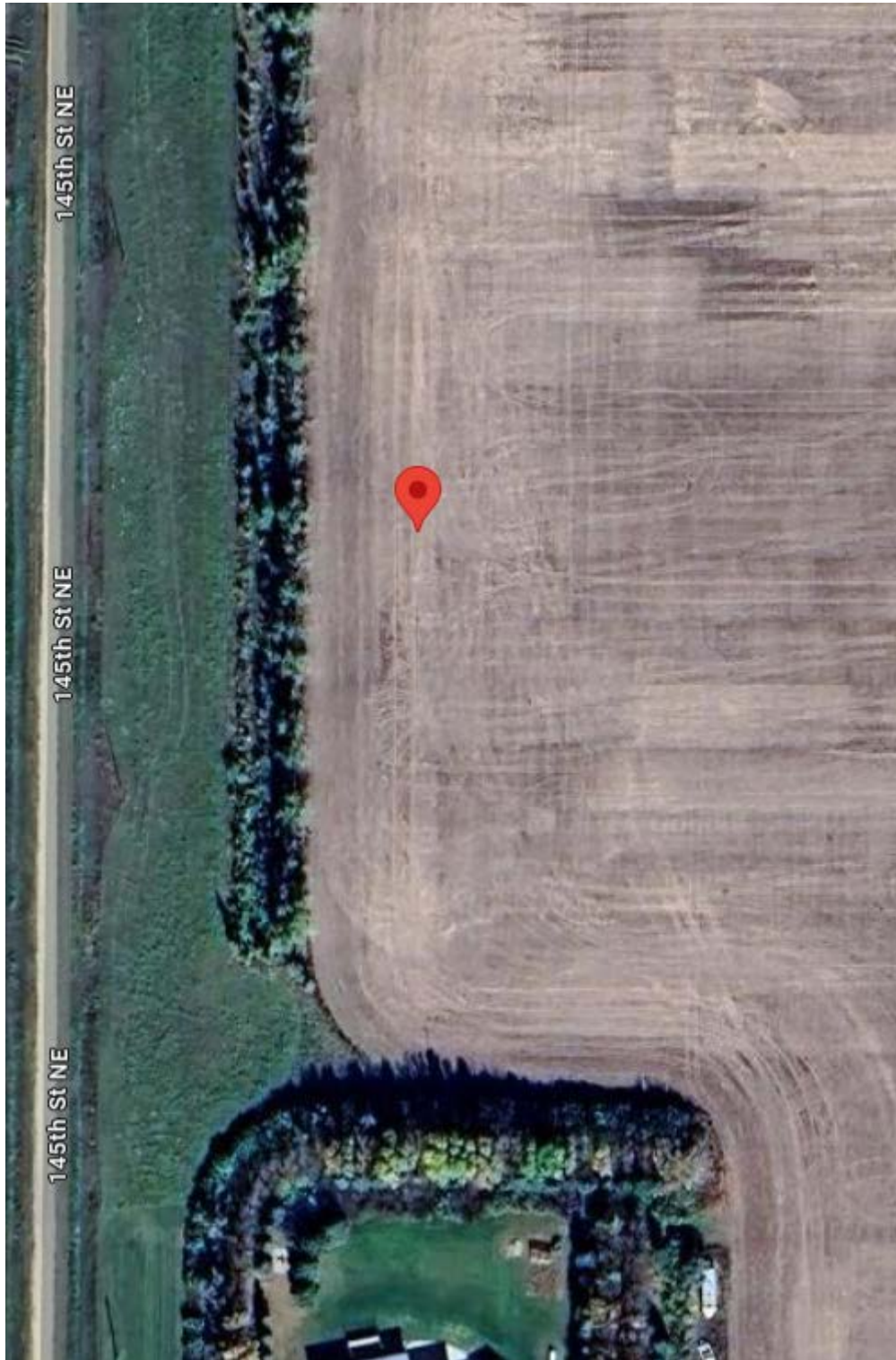


Attachment 4-1-3 Site Map



PLANNING AND ZONING
COMMISSION

September 11, 2024



Aerial View –
google maps



PLANNING AND ZONING
COMMISSION

September 11, 2024



South View



North View

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This zoning change fulfills the requirements of Article 12 of the Burleigh County Zoning Ordinance
3. A paving waiver has been granted
4. A Stormwater Management Plan or Waiver Request has been granted
5. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.



PLANNING AND ZONING COMMISSION

September 11, 2024

6. This subdivision and zoning change meet 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 and zoning change meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the final plat and zoning change with a "Do Pass" recommendation to the Board of Burleigh County Commissioners.

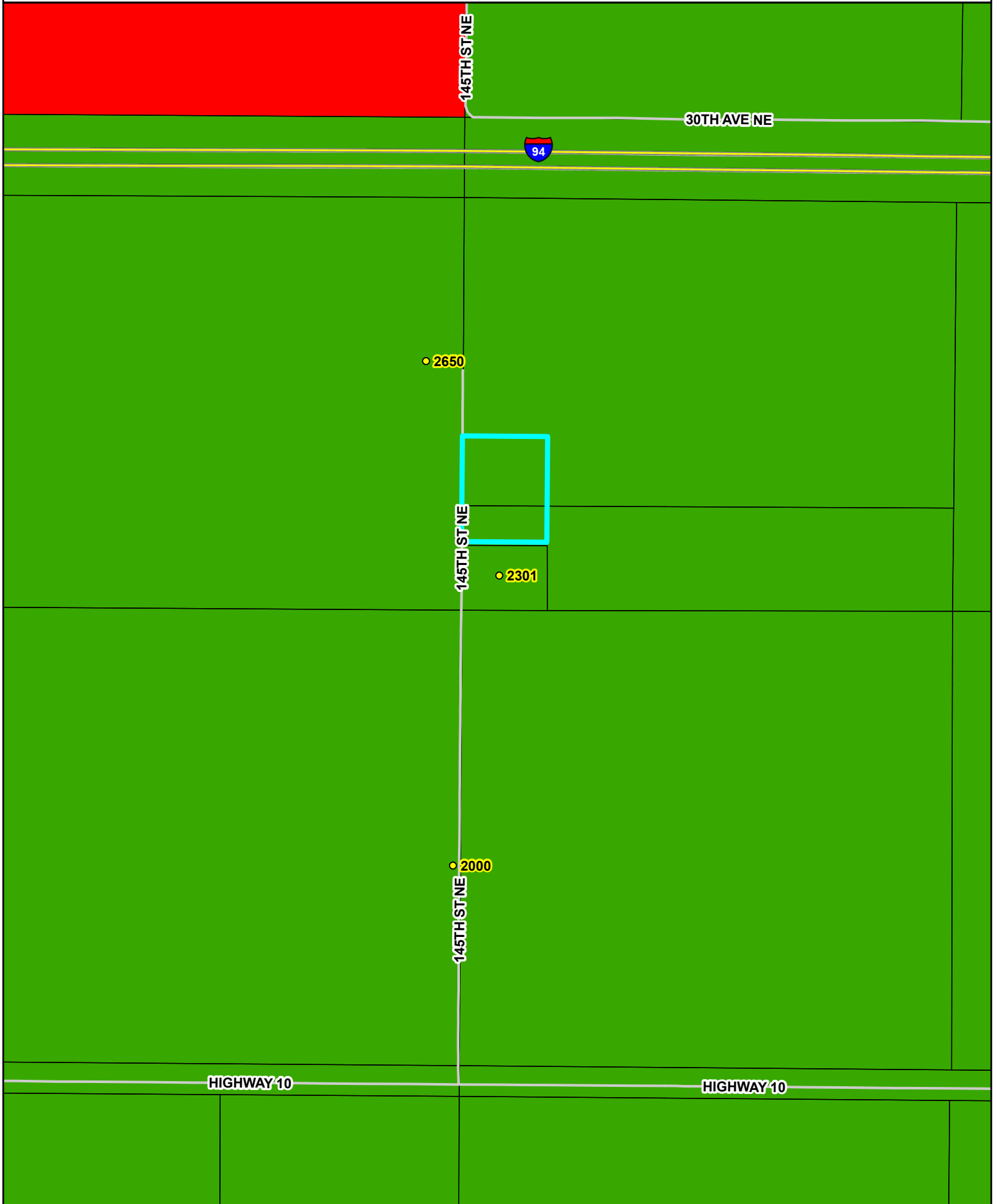
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the 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 and 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.

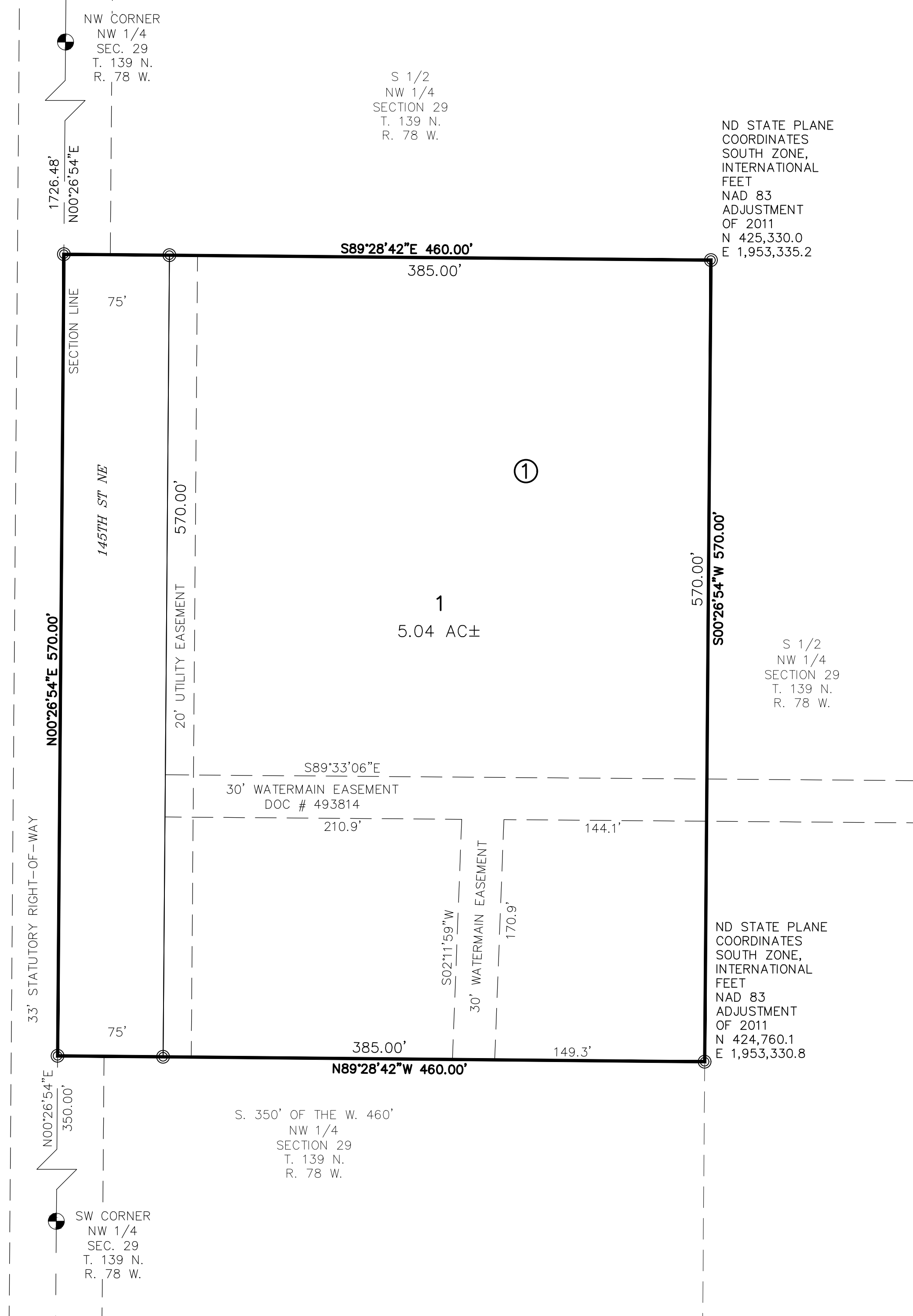
BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

N
7/1/2024



ABERLE SECOND SUBDIVISION

PART OF THE NW 1/4 OF SECTION 29
TOWNSHIP 139 NORTH, RANGE 78 WEST
BURLEIGH COUNTY, NORTH DAKOTA



DESCRIPTION

PART OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 139 NORTH, RANGE 78 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:
 BEGINNING AT A POINT ON THE WEST LINE OF SAID NORTHWEST 1/4 THAT IS NORTH 00 DEGREES 26 MINUTES 54 SECONDS EAST, A DISTANCE OF 350.00 FEET FROM THE SOUTHEAST CORNER OF SAID NORTHWEST 1/4; THENCE NORTH 00 DEGREES 26 MINUTES 54 SECONDS EAST, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 570.00 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 42 SECONDS EAST, PERPENDICULAR TO SAID WEST LINE, A DISTANCE OF 460.00 FEET; THENCE SOUTH 00 DEGREES 26 MINUTES 54 SECONDS WEST, PARALLEL WITH SAID WEST LINE, A DISTANCE OF 570.00 FEET; THENCE NORTH 89 DEGREES 28 MINUTES 42 SECONDS WEST, A DISTANCE OF 460.00 FEET TO THE POINT OF BEGINNING.
 THE ABOVE DESCRIBED TRACT CONTAINS 6.02 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 _____, 2024, 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 ABERLE 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 _____, 2024

_____ 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 _____, 2024.

_____ BECKY MATTHEWS-- CHAIRMAN _____ ATTEST: MARK SPLONKOWSKI
BURLEIGH COUNTY AUDITOR/TREASURER

APPROVAL OF COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVE THIS PLAT OF ABERLE SECOND SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.
 DATED THIS ____ DAY OF _____, 2024.

_____ MARCUS J. HALL, P.E.
COUNTY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT JANICE ABERLE, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "ABERLE SECOND SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.
 THEY ALSO DEDICATE EASEMENTS TO 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.

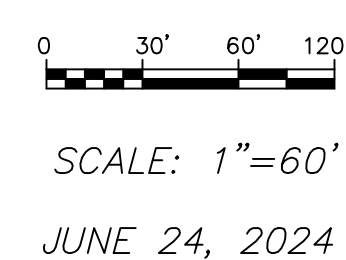
STATE OF NORTH DAKOTA)
 COUNTY OF _____) SS
 _____ JANICE ABERLE
5801 PRAIRIE ROSE LP
BISMARCK, ND 58501

ON THIS ____ DAY OF _____, 2024, BEFORE ME PERSONALLY APPEARED JANICE ABERLE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

_____ NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

NOTES

BASIS OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE
 BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.
COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM
 NAD 83 SOUTH ZONE ADJUSTMENT OF 2011
 UNITS ARE INTERNATIONAL FEET
 NAVD 88 VERTICAL DATUM
BENCHMARK:
SW CORNER NW 1/4 SECTION 29-139-78
 ELEV = 1728.8 (NAVD 1988)



AREA DATA		
LOTS	219,540 S.F.	5.04 ACRES
STREETS	42,660 S.F.	0.98 ACRES
TOTAL	262,200 S.F.	6.02 ACRES

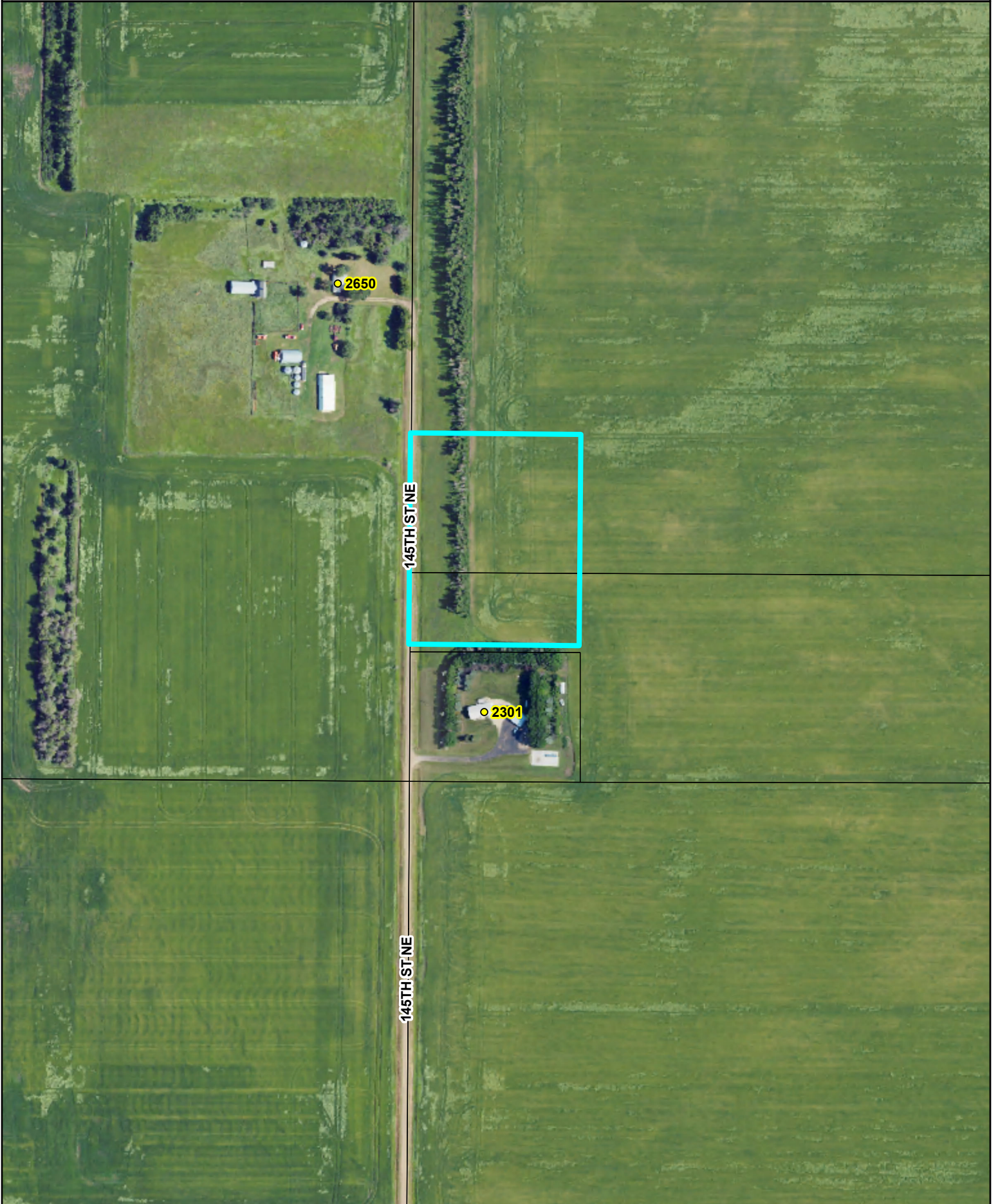
SWENSON, HAGEN & COMPANY P.C.

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

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

**BURLEIGH COUNTY, NORTH DAKOTA
LOCATION MAP**

N
7/1/2024



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

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.
Re: Public Hearing to Amend Burleigh County Zoning Ordinances
Date: 8-28-2024
From: Mitch Flanagan, Burleigh County Planning Director. *ML*

ITEM 1

Amend Article 8 Section 29 Solar Farms

It has become necessary to consider amending the current Article 8 to include Section 29. This section will allow for the development of onsite renewable energy systems, i.e. Accessory use in any District and Solar Farms within an Agricultural District with a special use permit.

Article 8 Section 29 draft ordinance was presented to the Planning Commission and was recommended for approval.

ACTION REQUESTED:

Consider to recommend approval of ordinance.

Attachments:

Ex. 1- Article 8 Section 29 Special Use Permit.

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 29 SOLAR FARMS

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

SECTION 29 Solar Energy System Facilities

A solar energy system may be permitted in an Agricultural District upon approval as a special use, provided the 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.

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.

require siting review and approval by the North Dakota Public Service Commission and ND State Electrical Board.

- 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. Interconnection. The owner or operator of the solar farm must complete an interconnection agreement with the electric utility in whose service territory the system is located.
 - a. Site Plan Required. The owner or operator of the solar farm must submit to the County a detailed site plan 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.

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 and foundations, the removal of all electrical transmission components, 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 standards of the North Dakota Electrical Code, North Dakota State Building 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.

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

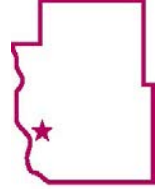
IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2024

Mark Splonskowski, Burleigh County Auditor/Treasurer



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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)


AGENDA

October 9, 2024

1. Roll Call
2. Approval of the August 29 Special Meeting Minutes
Approval of the September 11 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Wiese Subdivision
4. Public Hearing Agenda
 - 4-1 Makedonski Subdivision
 - 4-2 Cherney Morrissette Subdivision
5. Other Business:
6. Adjourn – Next Meeting – November 13, 2024

Agenda Item 3-1

Wiese Subdivision & Zoning Change

Project Summary	
Status:	Consent Agenda
Petitioner/Developer	Eugene & Kathleen Wiese
Engineer	Thomas Leshovsky – Wold Engineering P.C.
Location:	Being a Part of the SE 1/4, Section 34, Township 139 N, Range 79W, Burleigh County, ND
	
Project Size:	One (1) Lot – 2 Acres
Zoning Change:	A-Agriculture to R1- Single Family Residential
Petitioners Request	Approve preliminary plat and zoning change. Call for a public hearing

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



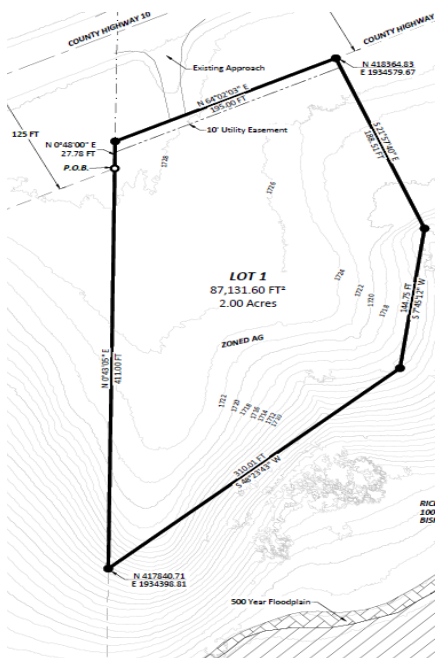
History/Description

The petitioners approached Burleigh County regarding building a single-family home on land they intended to purchase. After review of the request the petitioners were advised to plat a one (1) lot subdivision for the two (2) acres they were purchasing and to request a zoning change from A-Agricultural to R1-Single Family Residential.

A preliminary plat and zoning change were submitted. The review committee did not find issues of concern. The property will use an existing approach to the property. A Stormwater Management Waiver has been requested.

The petitioners have not purchased the two (2) acres at this time. The property owner has agreed to allow the subdivision to be plat. He has signed off on the application and will sign the plat.

The zoning of the property is A-Agriculture, but the zoning change to R1-Single Family Residential is a requirement. Property located north of the proposed subdivision is zoned A, directly to the west, is R1 zoning. South and East of the proposed subdivision is zoned A. A change to R1 zoning is suitable for this location.



Attachment 3-1-2 Preliminary Plat



PLANNING AND ZONING
COMMISSION

October 9, 2024



Attachment 3-1-3 Site Map



PLANNING AND ZONING COMMISSION

October 9, 2024



North View



East View

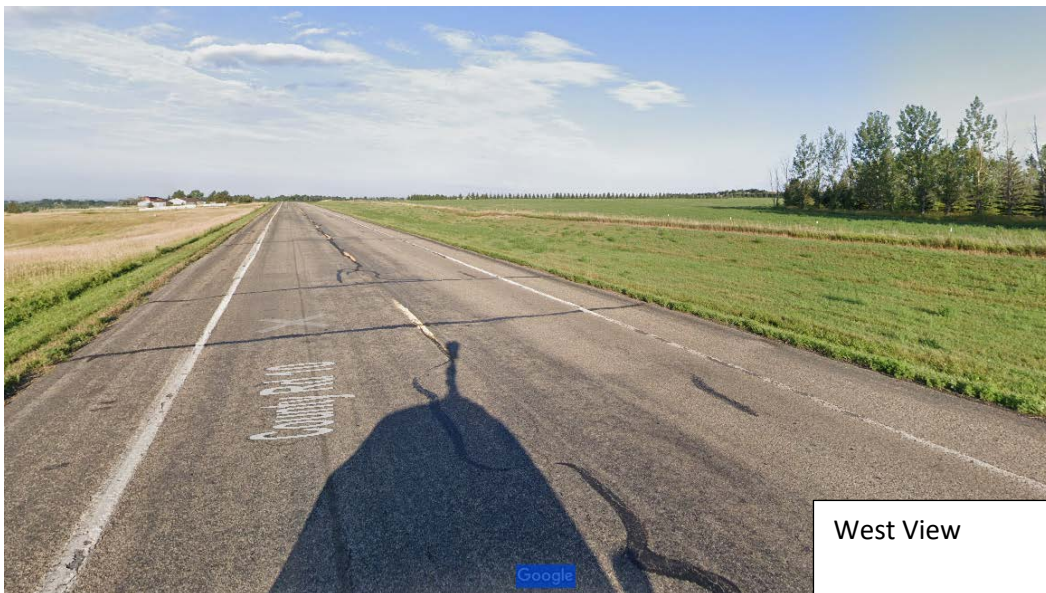


PLANNING AND ZONING
COMMISSION

October 9, 2024



South View



West View



Staff Findings – Preliminary Plat

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A Stormwater Management Plan or Waiver has been requested
3. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
4. Zoning is A-Agricultural. A zoning change has been requested
5. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
6. The petitioners have requested a name change from Wiese Subdivision to Wiese Acres Subdivision. This change will be made on the final plat.

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 Finding – Zoning Change

1. The petition for a zoning change fulfills all the requirements of Article 29 of the Burleigh County Zoning Ordinances.
2. The property fulfills the requirements for Article 12 of the Burleigh County Zoning Ordinances.
3. R1 zoning of this property is suitable for the area.
4. A zoning change is required to avoid a non-conforming lot.



PLANNING AND ZONING COMMISSION

October 9, 2024

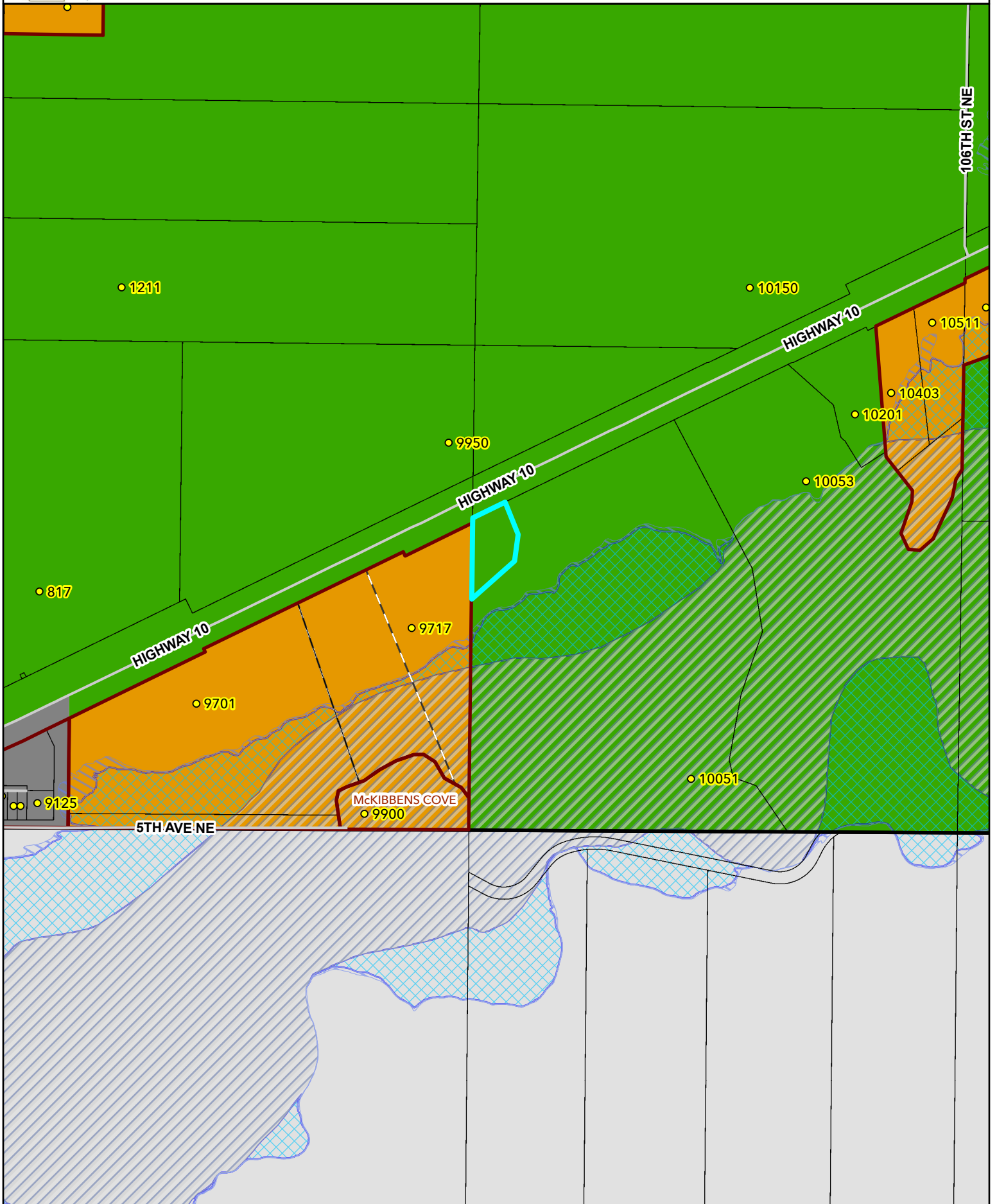
Staff Recommendation

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

Planning Commission Action

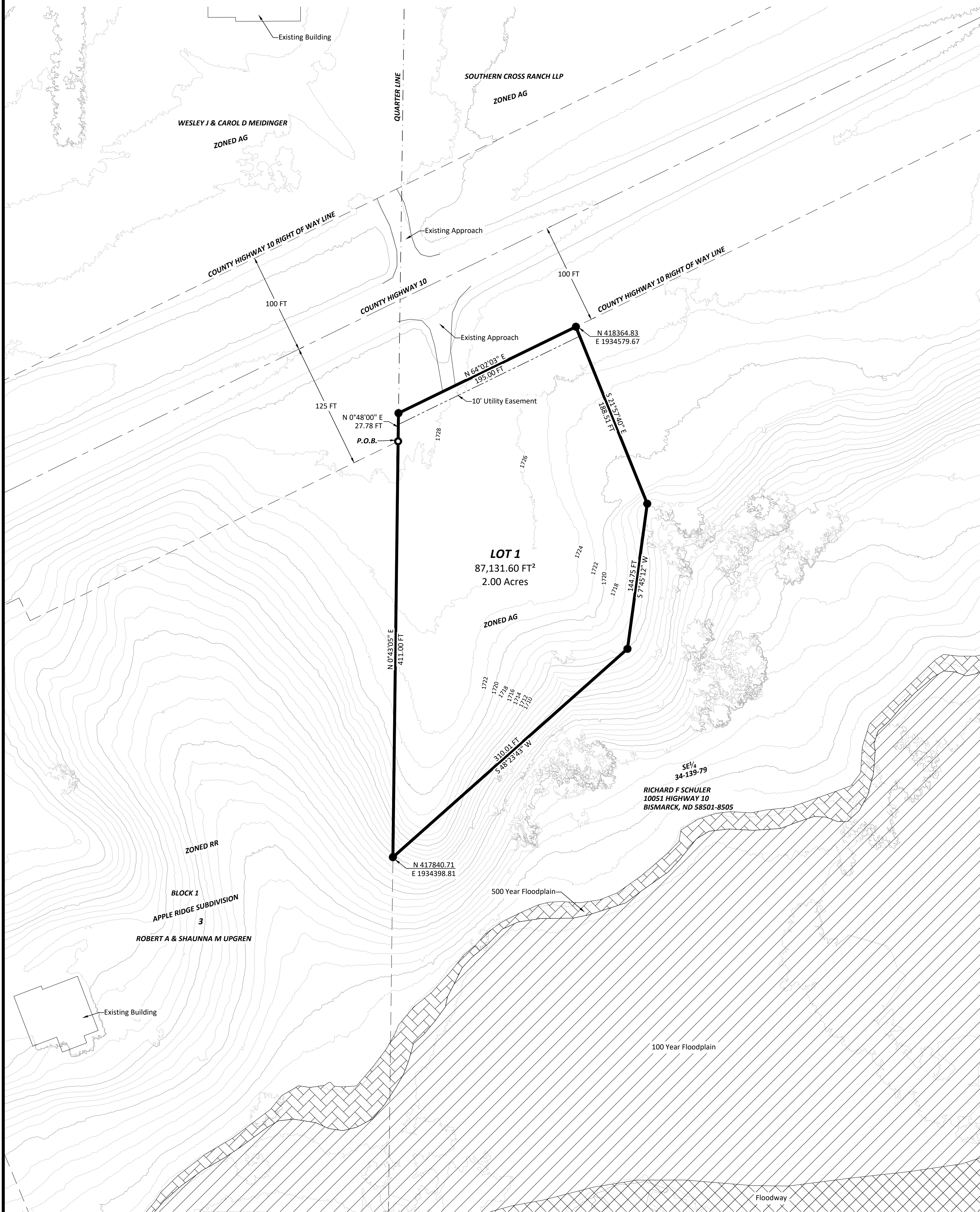
The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and zoning change and call for a public hearing.
2. Approve the preliminary plat and zoning change with conditions and call 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.



PRELIMINARY PLAT OF WIESE SUBDIVISION

BEING A PART OF THE SE¹/₄, SECTION 34, TOWNSHIP 139 N, RANGE 79 W,
OF BURLEIGH COUNTY, NORTH DAKOTA



PRELIMINARY PLAT FOR REVIEW ONLY 9/19/2024

DESCRIPTION:

Know all men by these presents that Richard Schuler, being Owner and Proprietor, of an Unplatted Part of the SE¹/₄, Section 34, Township 139 N, Range 79 W, of the 5th Principal Meridian, Burleigh County, North Dakota, being more particularly described as follows:
Beginning at the Northeast Corner, of Lot 3, Block 1, of Apple Ridge Subdivision, a Plat being on file at the Burleigh County Recorder's Office; Thence N 0°48'00" E, on the North-South Quarter Line, of said Section 34, a distance of 27.78 FT, to a Point being on the South Right of Way Line of County Highway 10; Thence N 64°02'03" E, on said Right of Way Line, a distance of 195.00 FT; Thence S 21°57'40" E, a distance of 188.51 FT; Thence S 7°45'12" W, a distance of 144.75 FT; Thence S 48°23'43" W, a distance of 310.01 FT, to a Point being on the East Line of said Lot 3; Thence N 0°43'05" E, on the East Line of said Lot 3, a distance of 411.00 FT, to the Point of Beginning.
Said described tract, of land contains 2.00 Acres more or less. Have caused the same to be surveyed and platted as shown hereon, to be known as Wiese Subdivision, to Burleigh County, North Dakota and hereby dedicate and donate road rights, of ways and easements as shown to the public for public use forever, in witness whereof, the owners hereunto affixed their signatures.

SURVEYOR'S CERTIFICATE

I, Thomas R. Leshovsky, a duly Registered Professional Land Surveyor, do hereby certify that I have Surveyed and Platted, the Foregoing described land. That Lots, Distances, Areas and Locations as shown on the foregoing Plat and in the Description Thereof, are true and correct to the best of my Knowledge and Belief.

Thomas R. Leshovsky P.L.S. #6134

STATE OF NORTH DAKOTA, COUNTY OF _____

On this ____ Day of _____, 2024, before me, a Notary Public in and for said State, Appeared Thomas R. Leshovsky, Registered Land Surveyor, well known to be such, and acknowledged to me that he executed the foregoing Surveyor's Certificate as his own free act and deed.

My commission expires _____

Notary Public, State of 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".

Richard Schuler

STATE OF NORTH DAKOTA, COUNTY OF _____

On this ____ Day of _____, 2024, before me, a Notary Public in and for said State, Appeared Richard Schuler, well known to be the person described in the foregoing description and acknowledged to me that he executed the same on his own free act and deed.

My commission expires _____

Notary Public, State of North Dakota

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

The County Planning and Zoning Commission of Burleigh County, North Dakota, hereby approves Wiese Addition 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 this ____ Day of _____, 2024.

Chairman

Attest

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 this ____ Day of _____, 2024.

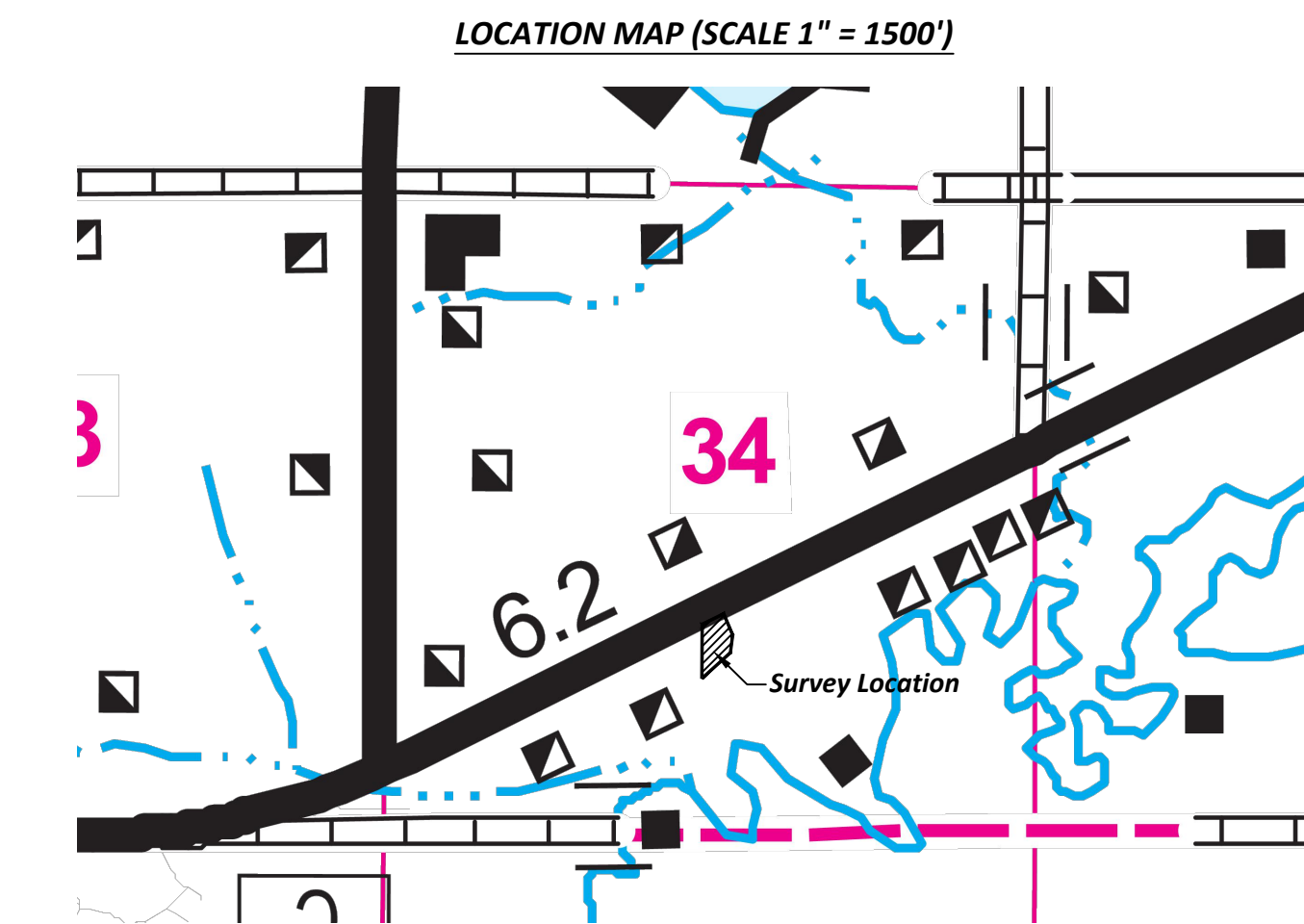
Chairman

Attest

APPROVAL OF THE COUNTY ENGINEER

I, Marcus J. Hall, County Engineer for the County of Burleigh, North Dakota, hereby approves this plat of "Wiese Addition" as shown on the plat, on this ____ Day of _____, 2024.

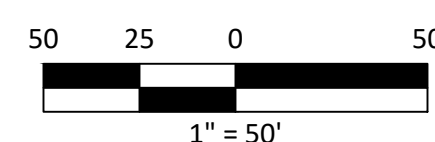
County Engineer



SURVEYOR

Thomas R. Leshovsky
Wold Engineering P.C.
110 8th Ave SW
Minot, ND 58701

- - Denotes Property Corner Set
- - Denotes Property Corner Found
- ✕ - Denotes Traverse Point



NOTES:

Plat is subject to all prior Easements of Record.

Bearings and Distances may vary from previous plats due to different methods of measurement.

A 10' Utility Easement is on the streetside of every Lot.

State Plane Coordinates shown are North Dakota (South Zone) NAD83 Int. Feet. NGS OPUS Solution was used to establish coordinates.

Elevations Shown are NAVD88 Int. Feet.




915 East 11th Street - PO Box 237 - Bottineau, ND 58318
110 8th Avenue Southwest - Minot, ND 58701
316 Eastdale Drive - PO Box 1277 - Bismarck, ND 58502



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Agenda Item 4-1

Public Hearing - Makedonski Subdivision

Project Summary									
Status:	Public Hearing								
Petitioner/Developer	K. Makedonski & L. Makedonski								
Engineer	Mark Isaac, Independent Land Surveyor								
Location:	Part of the West 1/2 of the Northwest 1/4 Section 9, Township 139N, Range 76W								
									
Project Size:	73.18 acres 4 Lots Zoning is Sterling Township								
Petitioners Request	A "Do Pass" recommendation to the BCC								
Notifications:	<table border="0"> <tr> <td>Bismarck Tribune</td> <td>September 26, 2024</td> </tr> <tr> <td></td> <td>October 3, 2024</td> </tr> <tr> <td>Surrounding Properties</td> <td>September 26, 2024</td> </tr> <tr> <td>Burleigh Co. Website</td> <td>September 26, 2024</td> </tr> </table>	Bismarck Tribune	September 26, 2024		October 3, 2024	Surrounding Properties	September 26, 2024	Burleigh Co. Website	September 26, 2024
Bismarck Tribune	September 26, 2024								
	October 3, 2024								
Surrounding Properties	September 26, 2024								
Burleigh Co. Website	September 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

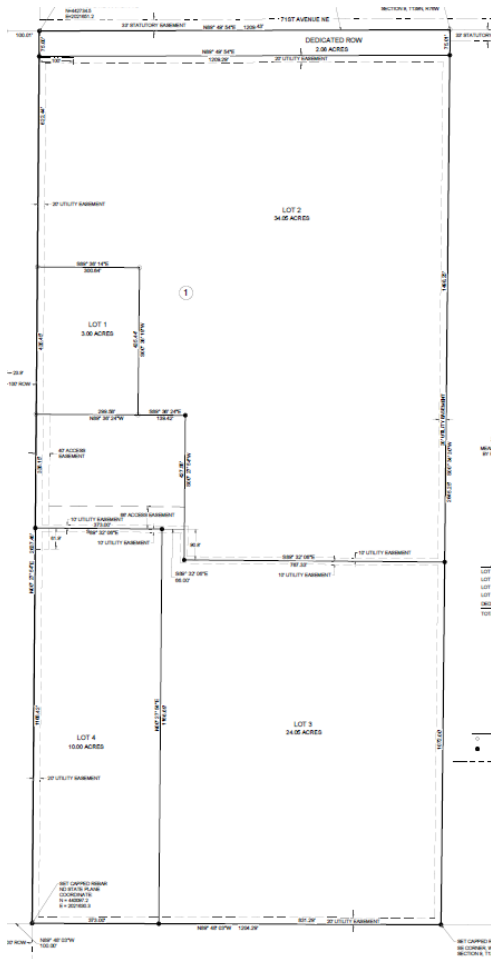
October 9, 2024

History

Burleigh County was approached regarding a four (4) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential. This is a large property owned by the same family. Different family members would like to build on the property. They would like to break the property into individual lots.

The review committee did not find issues of concern. A Stormwater Waiver has been approved. A paving waiver was granted by the Board of Burleigh County Commissioners. The Burleigh County Planning and Zoning Commission approved the preliminary plat and called for a public hearing at their September 11, 2024 meeting.

Zoning for this property is under Sterling Township's Jurisdiction. Sterling has approved the continued A-Agricultural zoning of this subdivision. Sterling Township recommends approval of the plat.



Attachment 4-1-2 Final Plat



PLANNING AND ZONING
COMMISSION

October 9, 2024



Attachment 4-1-3 Site Map



PLANNING AND ZONING
COMMISSION

October 9, 2024



North View



PLANNING AND ZONING
COMMISSION

October 9, 2024

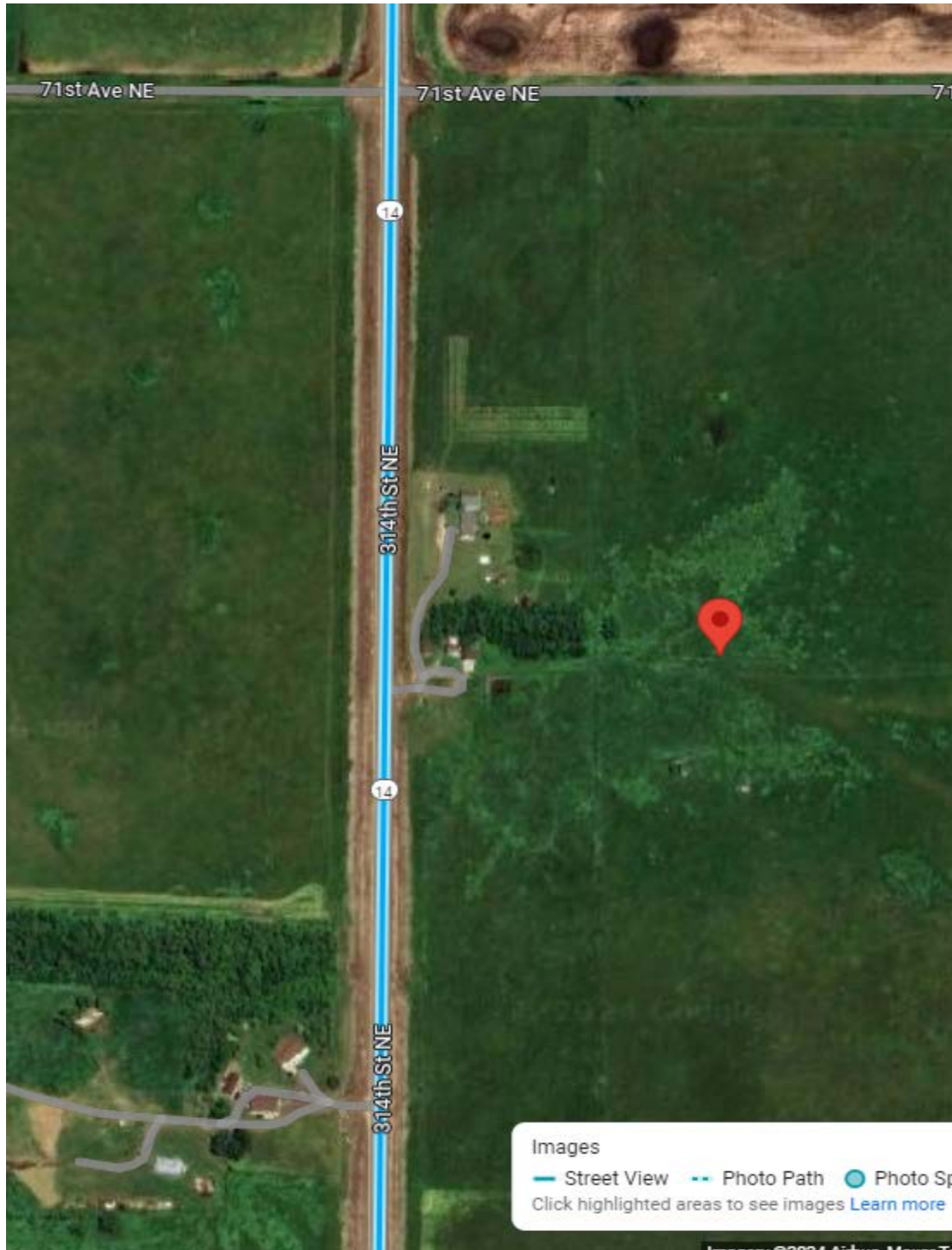


South View



PLANNING AND ZONING
COMMISSION

October 9, 2024



October 9, 2024



Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver has been granted
3. A Stormwater Management Plan Waiver has been granted
4. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. Sterling Township has recommended approval of the plat.
6. Sterling Township has zoning jurisdiction for this area. Sterling approved the zoning as is.
7. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

Planning Staff Recommendation

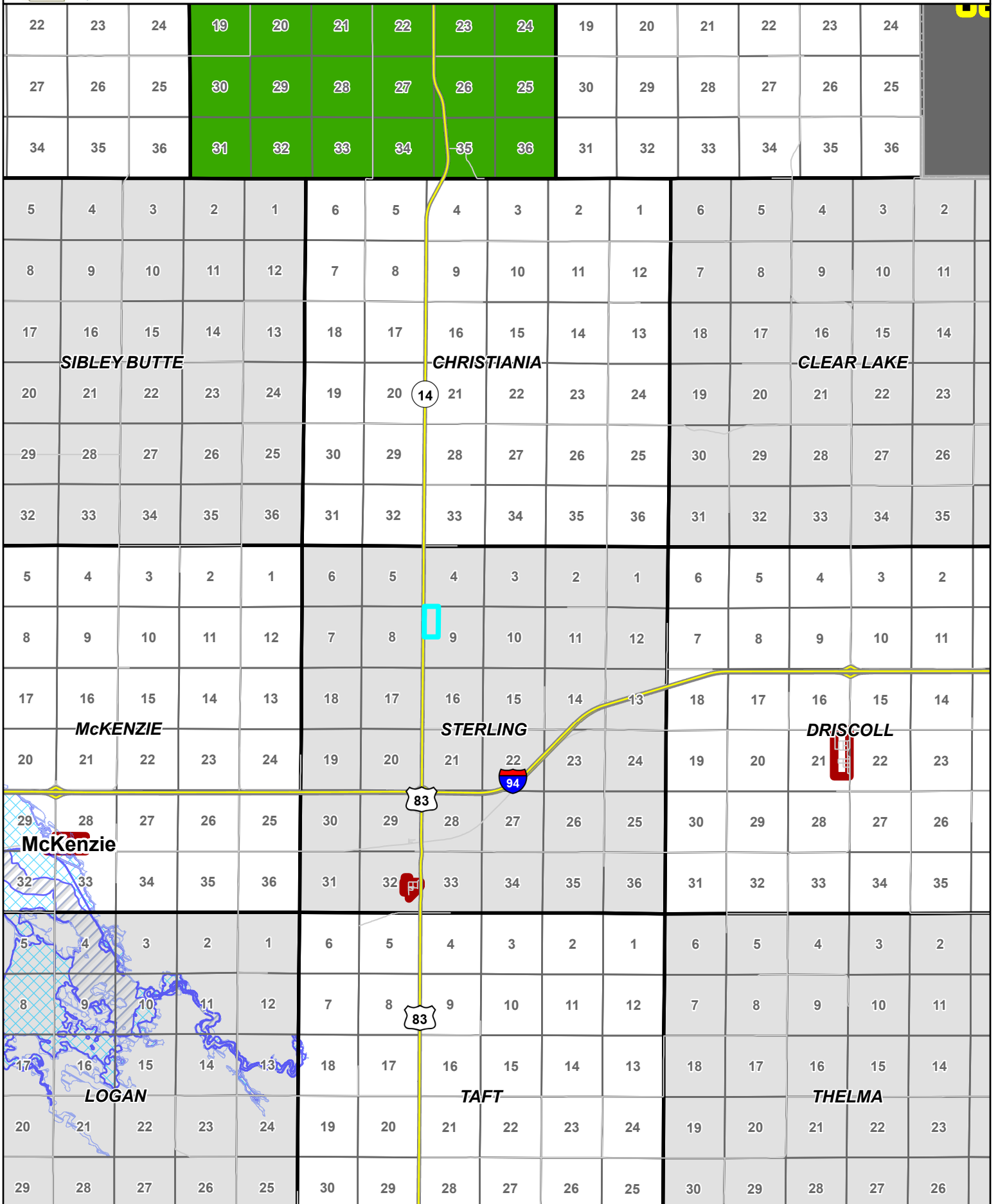
The petition for a final plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the final plat and give a "Do Pass" recommendation to the BCC

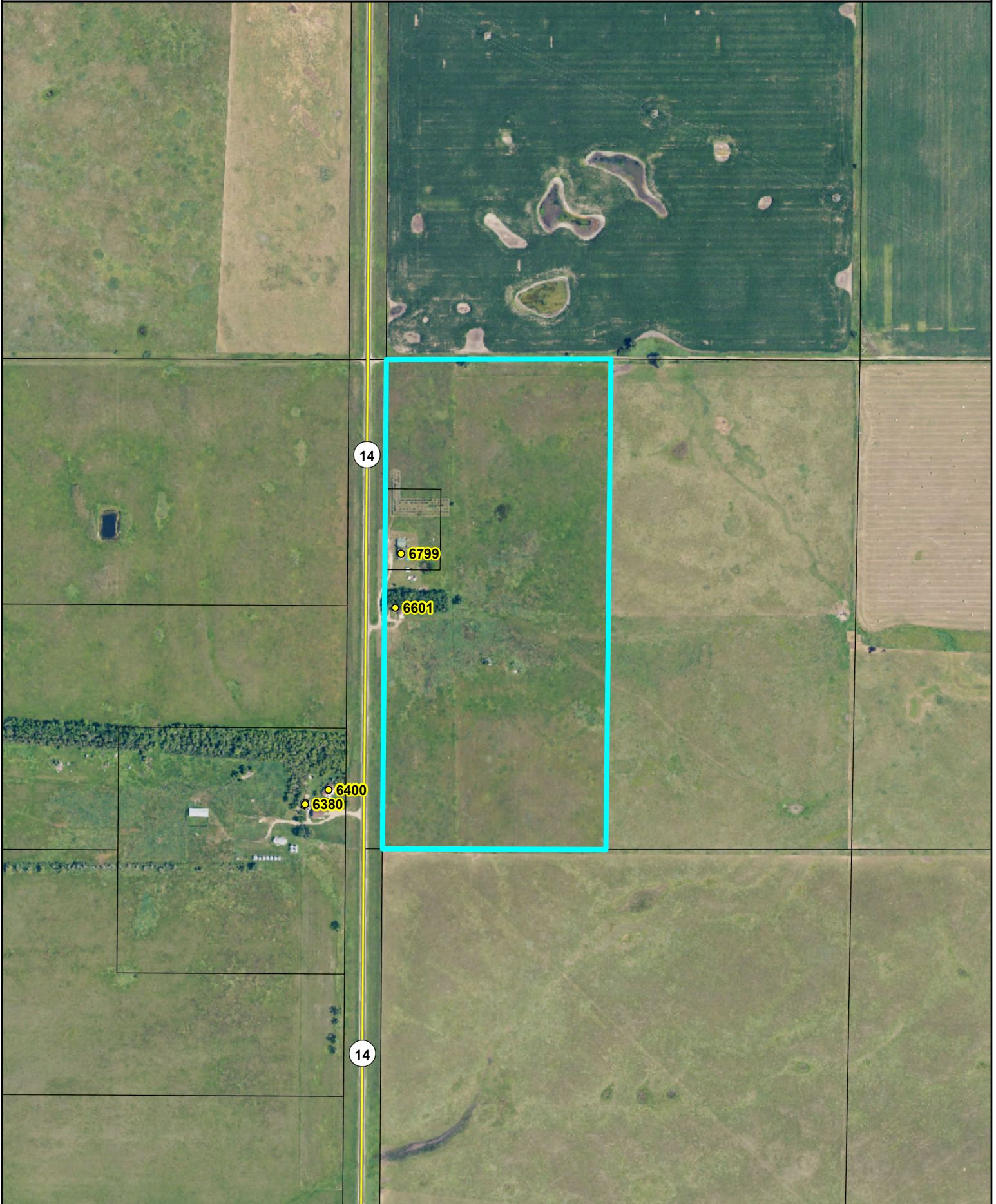
Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP





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Agenda Item 4-2
 CHERNEY MORRISSETTE SUBDIVISION

Project Summary	
Status:	Public Hearing
Petitioner/Developer	Jacob Morrissette & Jason & Sarah Cherney
Engineer	Mark Isaac, Independent Land Surveyor
Location:	Part of the Northeast 1/4 – Section 5, Township 140N, Range 81 W, Burleigh County, ND
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">4-2-1 Location Map</div>	
Project Size:	6 Acres more or less 2 Lots
Notifications	Bismarck Tribune September 26, 2024 October 3, 2024 Surrounding Properties September 26, 2024 Burleigh County Website September 26, 2024
Request:	"Do Pass" recommendation to the BCC

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 9, 2024

History/Description

Burleigh County was approached regarding a two (2) lot subdivision containing 6 acres more or less.

The review committee did not find issues of concern. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners. A Storm Water Management Plan Waiver has been granted. The Burleigh County Planning and Zoning Commission approved the preliminary plat and called for a public hearing at their September 11, 2024 meeting.

Zoning for this property is R1-Rural Single Family Residential.



Attachment 4-2-2 Final Plat



PLANNING AND ZONING
COMMISSION

October 9, 2024



Attachment 4-2-3 Site Map



Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver has been granted
3. A Stormwater Management Plan Waiver has been granted
4. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. The Burleigh County Planning and Zoning Commission approved the preliminary plat and called for a public hearing on September 11, 2024
6. Zoning is R1-Rural Single Family Residential
7. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

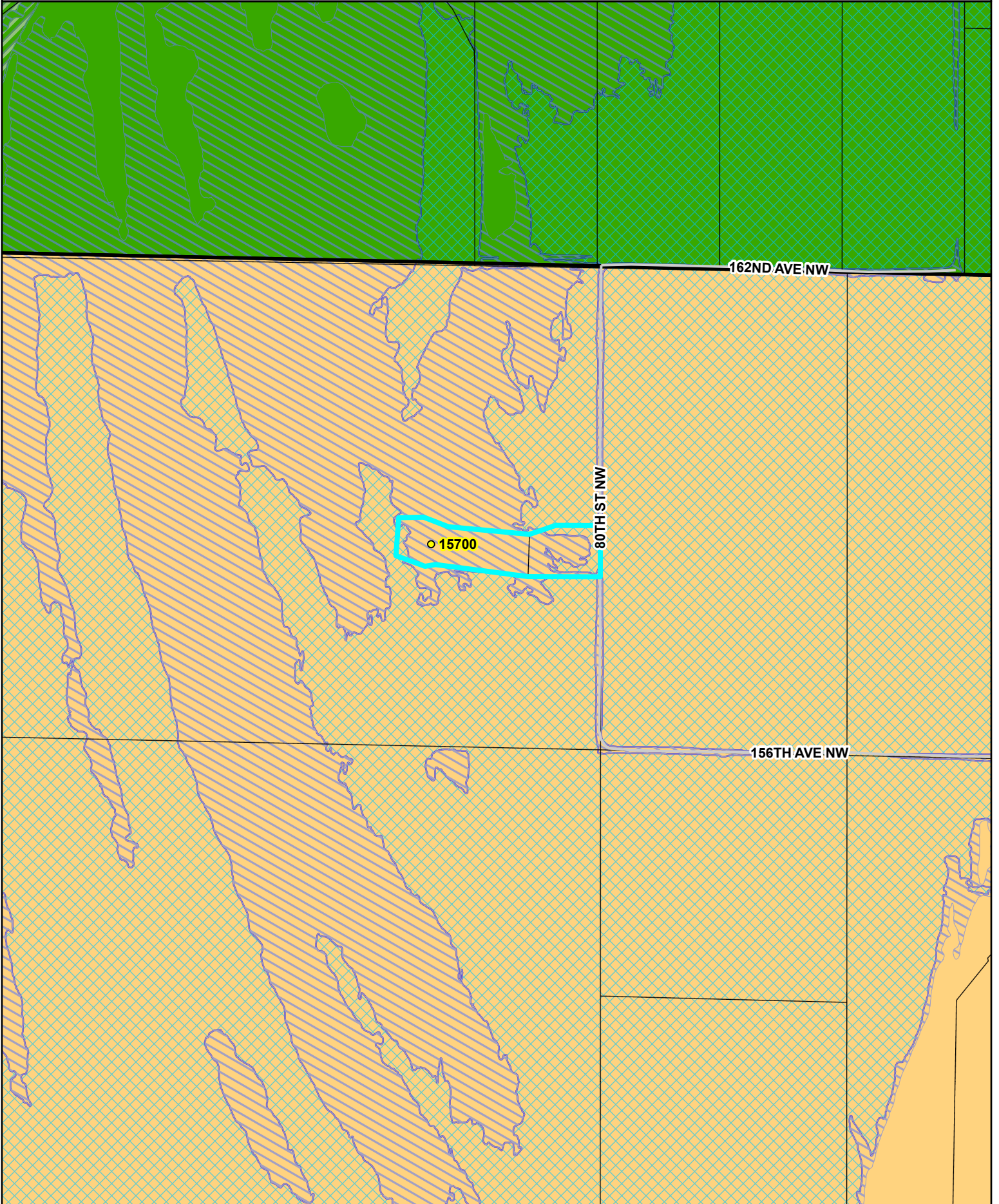
Planning Staff Recommendation

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

Planning Commission Action

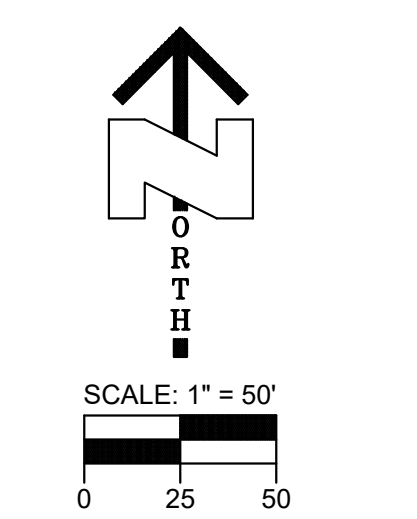
The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat 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.



CHERNEY MORRISSETTE SUBDIVISION

PART OF NORTHEAST QUARTER - SECTION 5, T140N, R81W
BURLEIGH COUNTY, NORTH DAKOTA



DATE: SEPTEMBER 12TH, 2024
VERTICAL DATUM - NAVD 1988.
BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.
MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE "B5MK" CORS STATION AND ARE REPORTED IN GRID.

FLOOD ZONE AE
PORTION OF LOTS 1 AND 2 ARE SITUATED WITHIN "ZONE AE" - THE 100 YEAR FLOOD HAZARD AS SHOWN ON THE NATIONAL FLOOD HAZARD FEMA MAP PANEL NUMBER 38015C0560E, EFFECTIVE DATE IS 6/06/2024. FLOOD ELEVATION = 1645.8.

ACREAGE TABLE	
LOT 1	1.89 ACRES
LOT 2	3.68 ACRES
DEDICATED ROW	0.48 ACRES
TOTAL	6.05 ACRES

LAND DESCRIPTION

A TRACT OF LAND BEING PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE SOUTH 00° 01' 43" WEST ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 A DISTANCE OF 1407.84 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00° 01' 43" WEST ON SAID EAST LINE A DISTANCE OF 276.16 FEET; THENCE NORTH 89° 55' 51" WEST A DISTANCE OF 390.51 FEET; THENCE NORTH 82° 33' 47" WEST A DISTANCE OF 502.89 FEET; THENCE SOUTH 80° 17' 04" WEST A DISTANCE OF 57.28 FEET; THENCE NORTH 69° 32' 57" WEST A DISTANCE OF 166.46 FEET; THENCE NORTH 04° 03' 56" EAST A DISTANCE OF 204.99 FEET; THENCE NORTH 88° 46' 34" EAST A DISTANCE OF 134.60 FEET; THENCE SOUTH 68° 45' 45" EAST A DISTANCE OF 143.94 FEET; THENCE SOUTH 84° 39' 44" EAST A DISTANCE OF 437.40 FEET; THENCE NORTH 71° 25' 55" EAST A DISTANCE OF 149.78 FEET; THENCE SOUTH 89° 58' 19" EAST A DISTANCE OF 240.98 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 6.05 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.

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 JULY 12, 2023. 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

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.

JASON C. CHERNEY
LOT 2, BLOCK 1

SARAH L. CHERNEY
LOT 2, BLOCK 1

JACOB MORRISSETTE
LOT 1, BLOCK 1

STATE OF _____ }
COUNTY OF _____ } SS

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, THIS ____ DAY OF _____, 20__.

NOTARY PUBLIC _____

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, HEREBY APPROVES CHERNEY MORRISSETTE 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 _____, 20__.

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, 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 ____ DAY OF _____, 20__.

BRIAN BITTNER - CHAIRMAN

ATTEST: MARK SPLONSKOWSKI,
COUNTY AUDITOR/TREASURER

APPROVAL OF THE COUNTY ENGINEER

I, MARCUS J. HALL, COUNTY ENGINEER FOR THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES THIS PLAT OF "CHERNEY MORRISSETTE SUBDIVISION" AS SHOWN ON THE PLAT, DATED THIS ____ DAY OF _____, 20__.

MARCUS J. HALL, PE
COUNTY ENGINEER

LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS9628
- ▨ FLOOD ZONE AE
- PROPOSED NON-ACCESS LINE

OWNERS:

JACOB MORRISSETTE
8131 RIDGELAND DRIVE
BISMARCK, ND 58503

JASON C. & SARAH L. CHERNEY
15700 80TH STREET NW
BISMARCK, ND 58501

BENCHMARK - SOUTHWEST CORNER OF LOT 1, BLOCK 1, A CAPPED REBAR FOUND FLUSH WITH THE GROUND. ELEVATION = 1646.63

PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

CHERNEY MORRISSETTE SUBDIVISION
PART NORTHEAST QUARTER
SECTION 5, T140N, R81W
BURLEIGH, NORTH DAKOTA

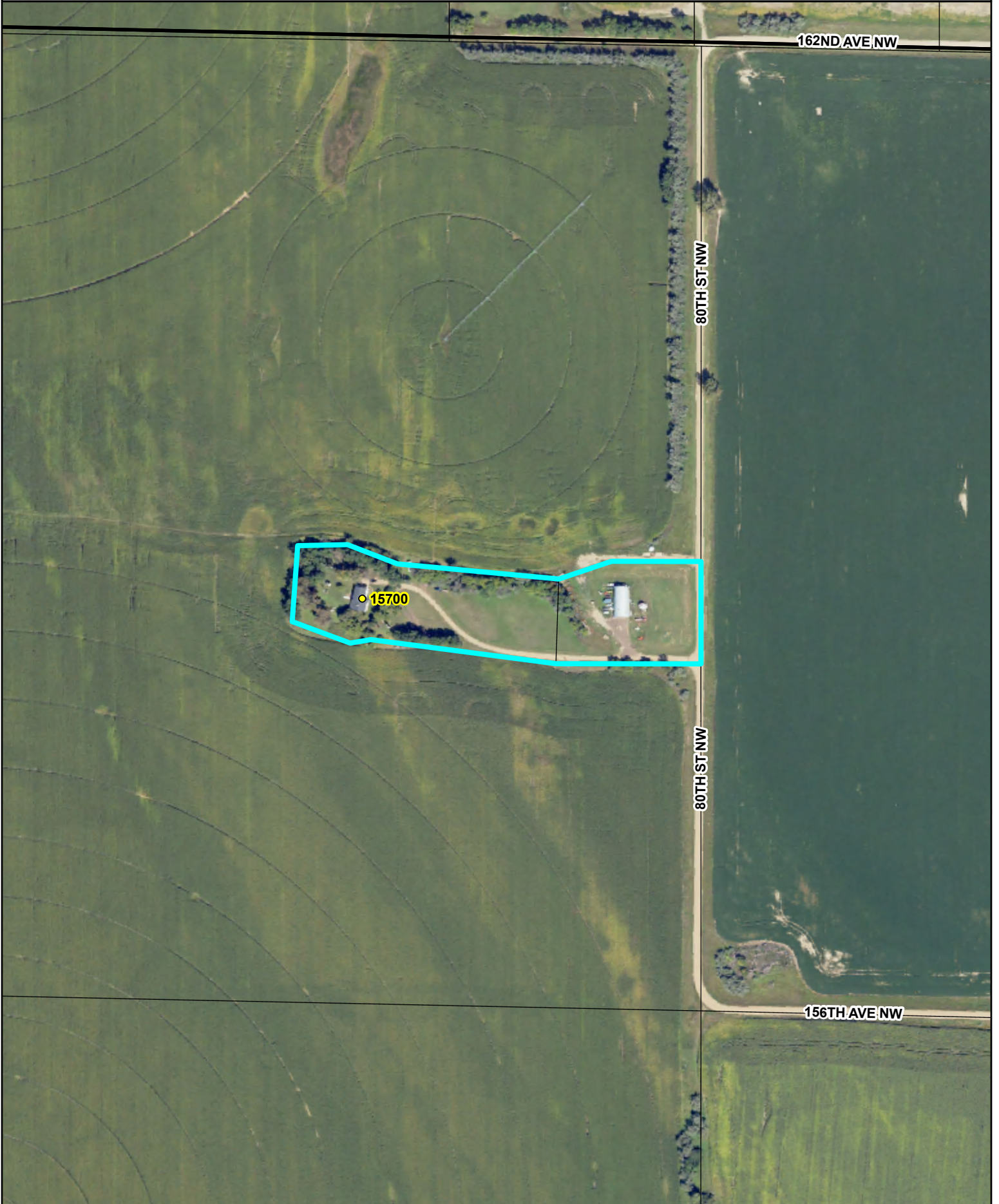
Independent Land Surveying & Engineering

4215 Old Red Trail NW
Mandan, ND 58554
Phone: 701-663-5184
Cell: 701-955-2079
mark@lsurveynd.com
rd.dwg

SHEET: 1 OF 1 JOB NUMBER: 24110
SCALE: 1" = 50' DWG REVISION DATES
DRAWN BY: MRB
DWG DATE: 9/12/24

NOTES:

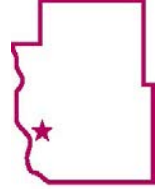
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
- SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
- EXISTING ZONING - R1
- THE EXISTING 66' ACCESS EASEMENT SHOWN HEREON WILL BE REPLACED BY THE 50' ACCESS EASEMENT SHOWN HEREON FOR THE BENEFIT OF LOTS 1 AND 2, BLOCK 1.





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://www.freetv.org) or
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://www.freetv.org)

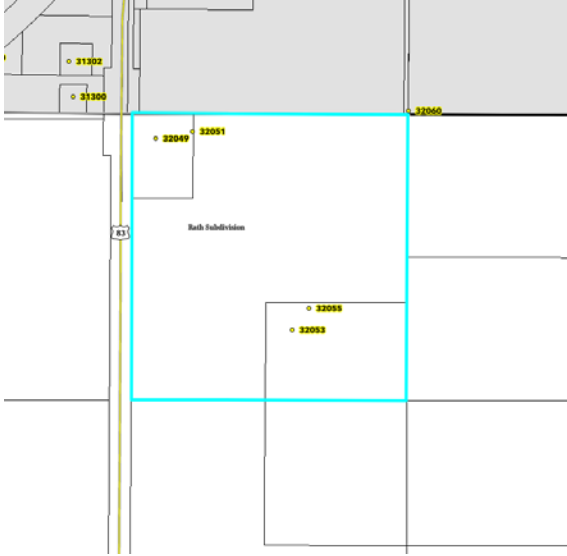
AGENDA

November 13, 2024

1. Roll Call
2. Approval of the October 9, 2024 Meeting Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
 - 3-1 Rath Subdivision
 - 3-2 RRH Subdivision
4. Public Hearing Agenda
 - 4-1 Arrive 2050 Metropolitan Transportation Plan (MTP)
 - 4-2 Wiese Acres Subdivision and Zoning Change
 - 4-3 Amend Article 8 to include Section 29 – Solar Farms
 - 4-4 Amend Article 8 to include Section 30 – Data Centers
 - 4-5 Amend Article 8 to include Section 31 – Accessory Dwelling Units
5. Other Business:
6. Adjourn – Next Meeting – December 11, 2024

Agenda Item 3-1

Application for Rath Subdivision

Project Summary	
Consent Agenda:	Rath Subdivision
Status:	Consent Agenda
Petitioner/Developer	Linda Kip & Kevin Rath
Engineer	Mark Isaacs, ILSE, Inc.
Location:	Part of the Northwest 1/4 – Section 4, Township 138N, Range 76W, Burleigh County, ND
	<div style="border: 1px solid black; padding: 5px; text-align: center;">3-1-1 Location Map</div>
Project Size:	153 acres 4 – Lots Lot 1 – 10 acres Lot 2 – 96 acres Lot 3 – 13 acres Lot 4 – 29 acres
Petitioners Request	Call for a public hearing

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

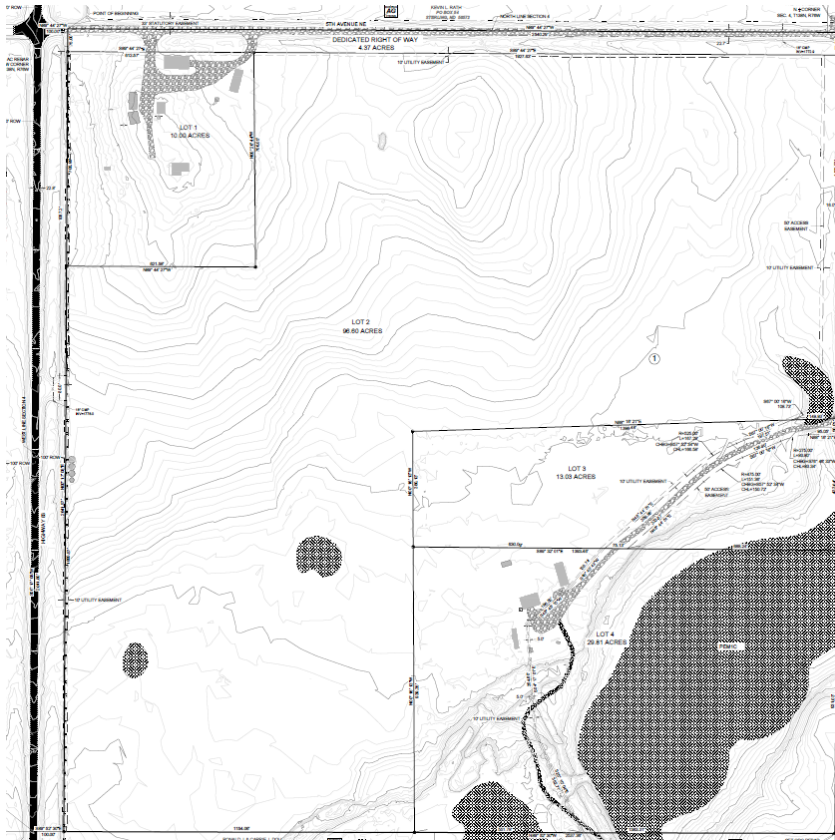
November 13, 2024

History/Description

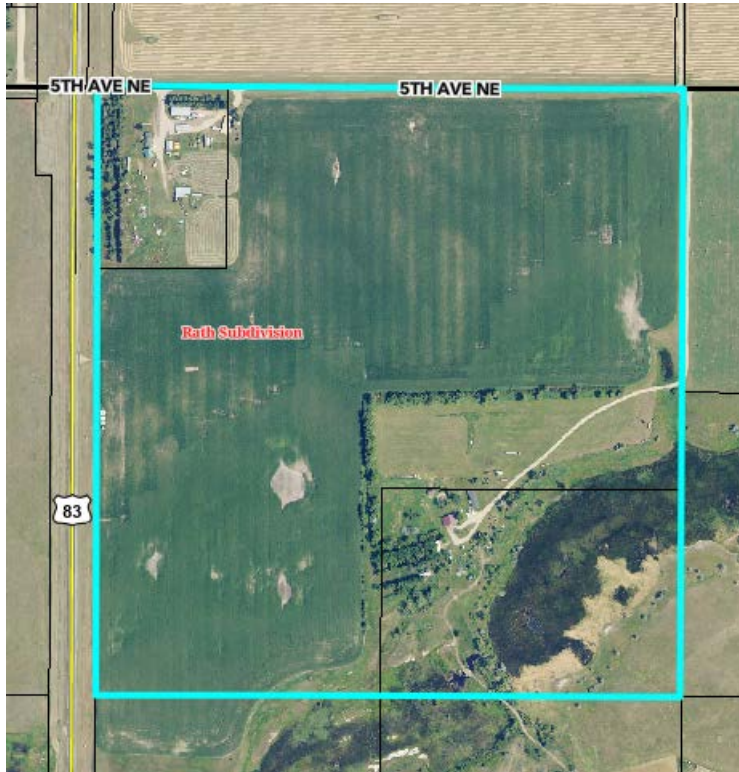
Burleigh County was approached several months ago about a parcel located in the SE corner of Hwy 83 and 5th Ave NE. The parcel contained three (3) lots and was zoned A-Agricultural. The petitioners own two (2) of the three (3) lots and are purchasing the third lot for a total of 155 acres more or less. A pre-application review was held.

The existing lot lines did show some discrepancies between the original survey and the survey completed for the purchase of the third lot. These discrepancies were corrected in the submitted preliminary plat. The review committee did not find issues of concern.

Zoning for the parcel is A-Agriculture. The property is in Taft Township. Taft Township has zoning jurisdiction for this parcel. They have recommended approval of the subdivision.



Attachment 3-2-2 Preliminary Plat



Attachment 3-1-3 Site Map

Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver was granted by the Burleigh County Commission at their October 7, 2024 meeting
3. A Stormwater Management Plan or Waiver Request will be submitted.
4. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. Zoning is A-Agricultural. Taft Township has zoning jurisdiction, and approve the zoning "as is".
6. Taft Township has been notified. They recommend approval of the proposed subdivision.



PLANNING AND ZONING
COMMISSION

November 13, 2024

7. This subdivision meets the goals and intent of the Burleigh County Comprehensive Plan for the orderly development in Burleigh County.

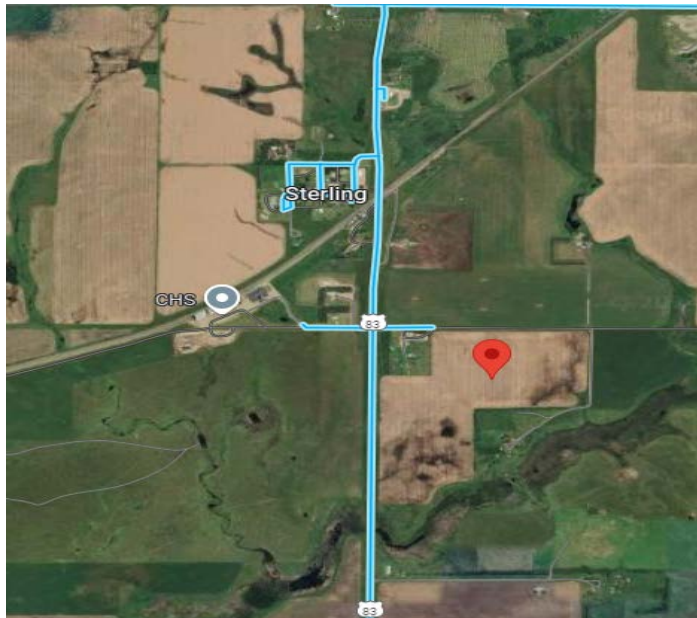
Planning Staff Recommendation

The petition for a 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.

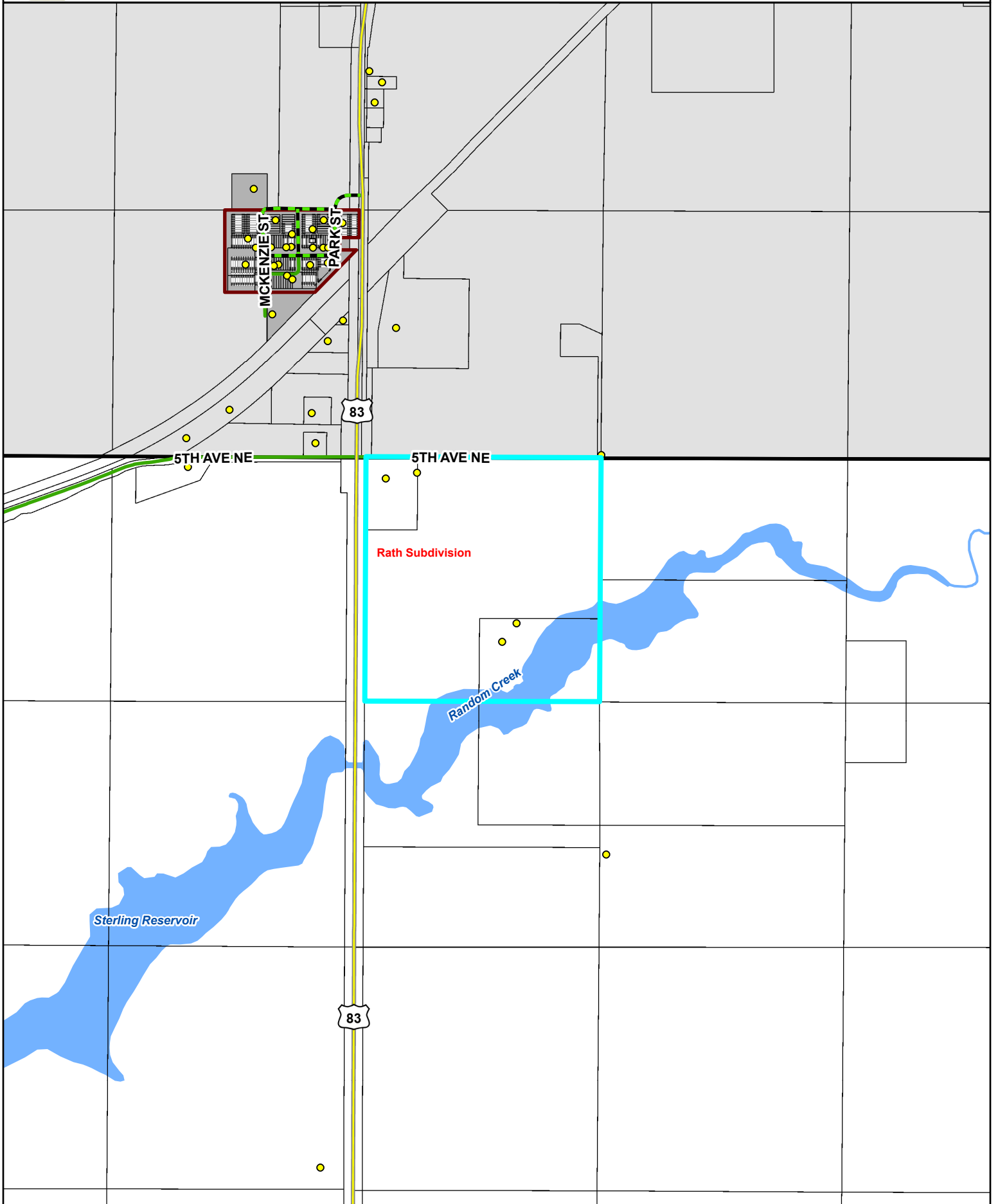
Planning Commission Action

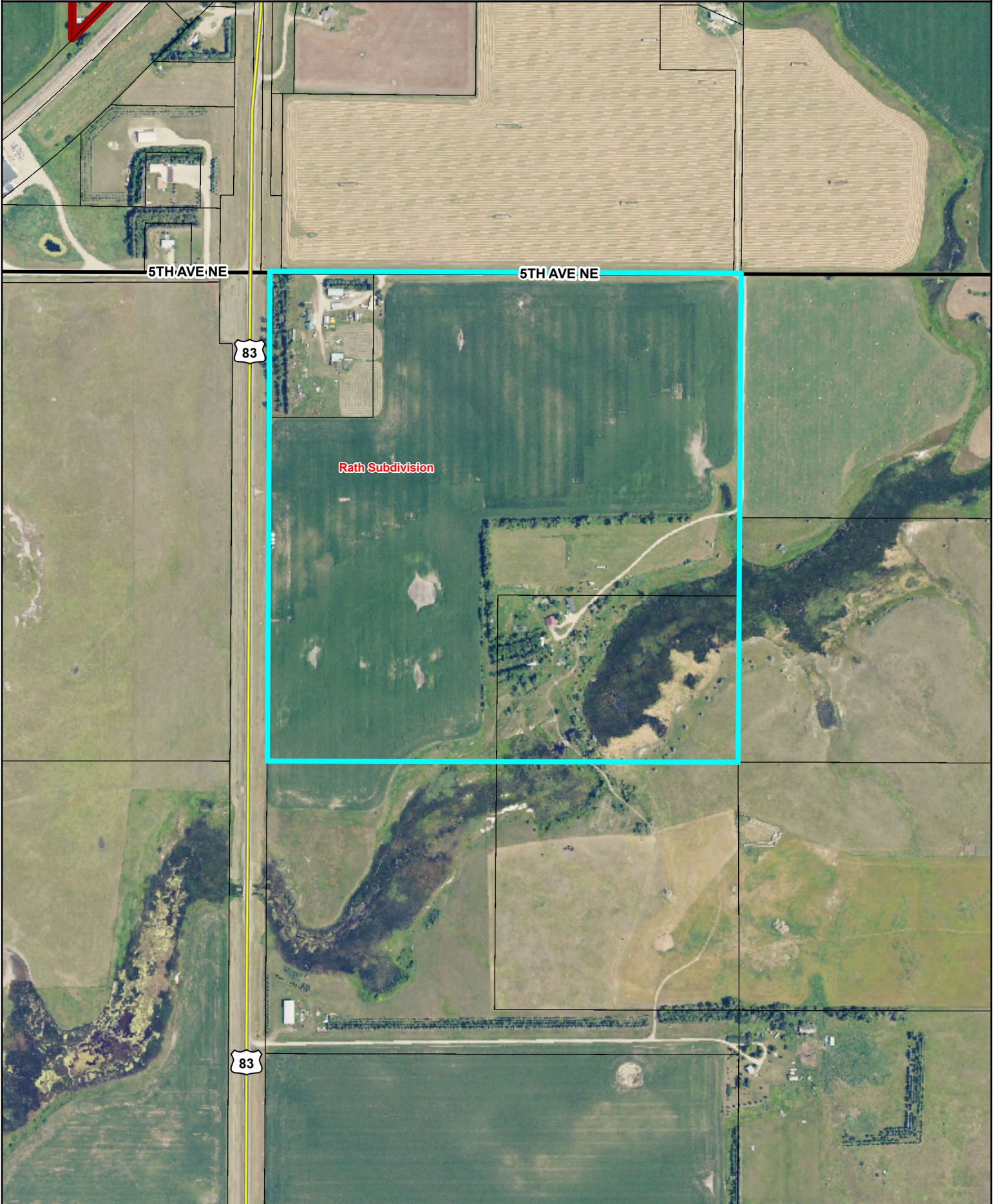
The Burleigh County Planning and Zoning Commission can:

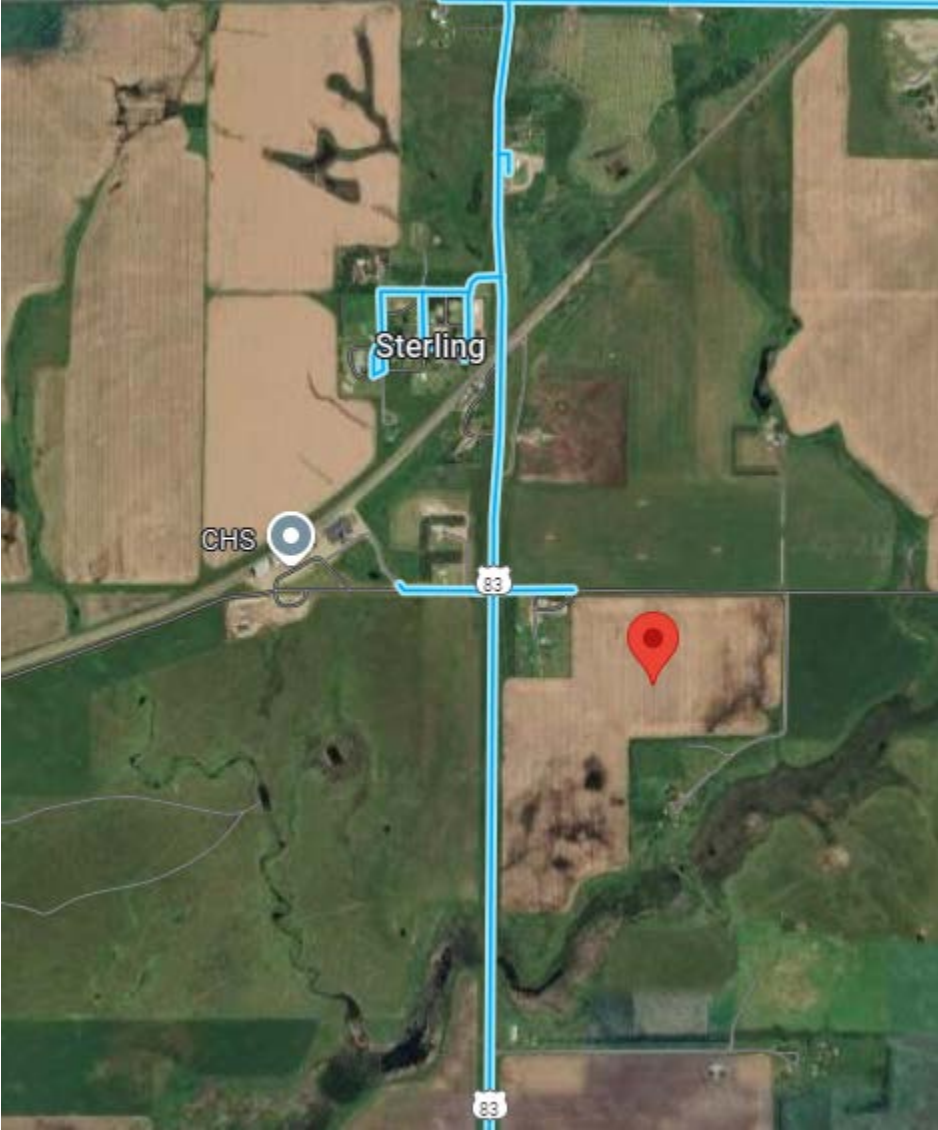
1. Approve the preliminary plat and call for a public hearing.
2. Approve the preliminary plat with conditions and call for a public hearing after all condition have been completed.
3. Deny the preliminary plat with reason.
4. Table the preliminary plat for more information.



Google Map View








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Agenda Item 3-2

Application for RRH Subdivision

Project Summary	
Consent Agenda:	RRH Subdivision
Status:	Consent Agenda
Petitioner/Developer	Love's Travel Stops & Country Stores Inc.
Engineer	CEI Engineering – Dallas TX Moore Engineering – Bismarck, ND
Location:	Sterling Township, Section 21, PT SW ¼ Lot 'A' Irregular Plat #291-884
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">3-2-1 Location Map</div>	
Project Size:	19 Acres more or less
Petitioners Request:	Call for a public hearing
Project Description:	Fuel Station and Restaurant



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



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 regarding placing a fuel station on a property located on I-94. Sterling Township Board has approved the construction of the fuel station in A-Agricultural Zoning. Burleigh County had been receiving several calls from contractors regarding the permitting and inspection requirements for the site.

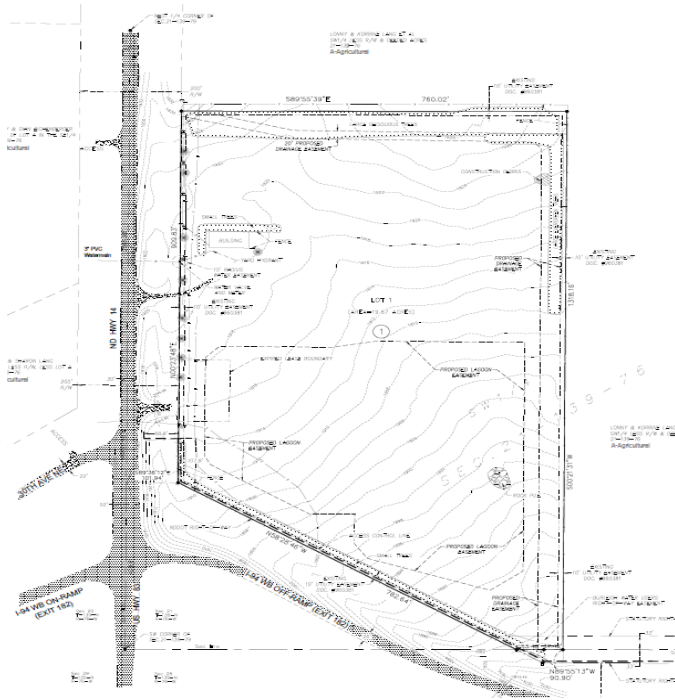
Building, Planning and Zoning staff had several conversations with Sterling Township regarding the requirements needed by the State of North Dakota and the developer for licensing of the fuel station. Sterling Township does not do inspections and do not have a certified building official to sign off on the construction of the site. The lack of inspections on the construction of this site could be detrimental to the citizens of Sterling Township and Burleigh County. After several discussions with Lucas Lang, Supervisor Chair for Sterling Township, and approval from the Sterling Township Board, staff received permission from Sterling Township to assist them with 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 expressed to the owner's representatives that the property must be platted. The property consists of 19 acres more or less. A preliminary plat review meeting was held on October 17th. The review committee did not find issues of concern. A Stormwater Management Plan will be required. The North Dakota Department of Environmental Quality must give approval of the proposed septic lagoons.



PLANNING AND ZONING COMMISSION

November 13, 2024



Attachment 3-2-2 Preliminary Plat



Attachment 3-1-3 Site Map



Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A Stormwater Management Plan has been requested
3. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
4. Zoning is A-Agricultural
5. Sterling Township has zoning jurisdiction and requires the zoning to remain "as is".
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"

- 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 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.



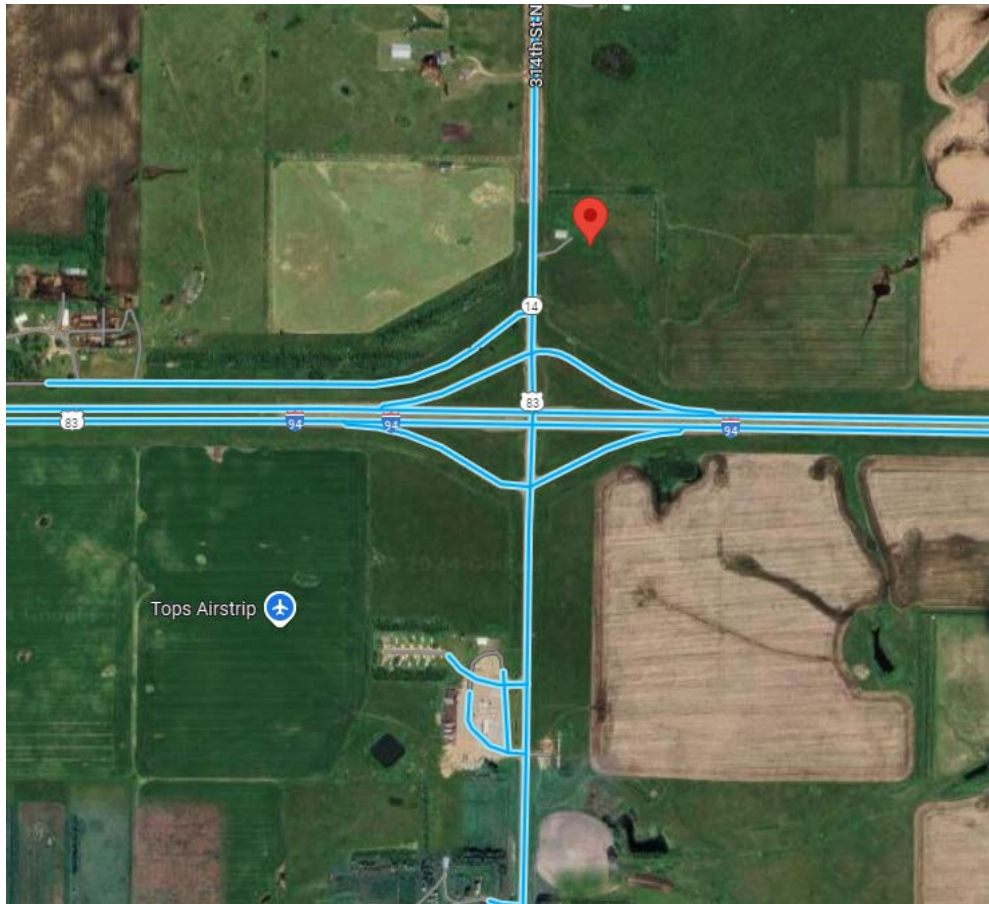
PLANNING AND ZONING COMMISSION

November 13, 2024

Planning Commission Action

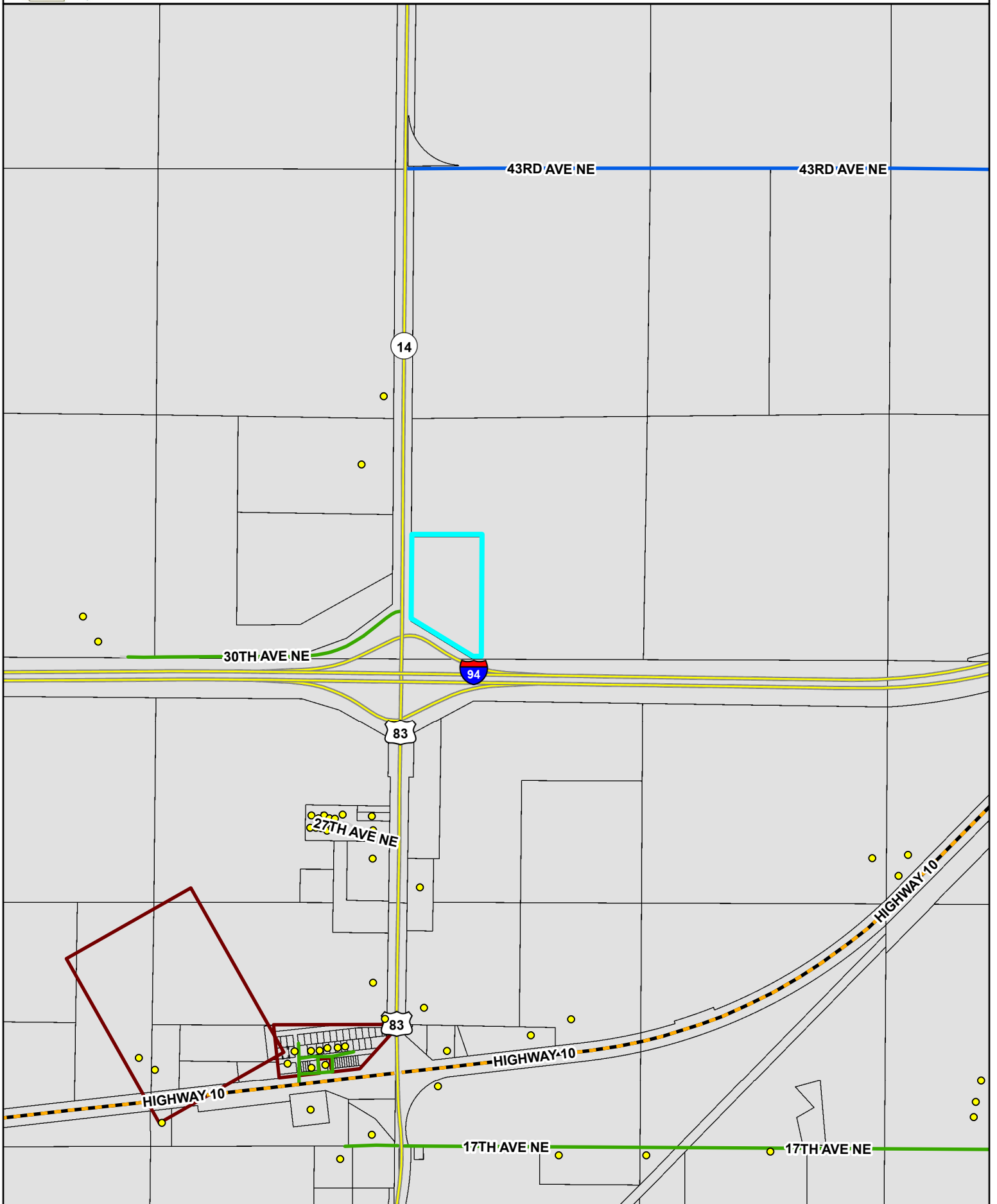
The Burleigh County Planning and Zoning Commission can:

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.



Google Satellite View

BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP



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

LONNY & KORRINE LANG ET AL
SW1/4 LESS R/W & DEEDED ACRES
21-139-76
A-Agricultural

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 408.01 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.

HARRY & DIAN EICHENBERGER
LOT 2 OF LOT A IN THE SE1/4
20-139-76
A-Agricultural

DAVID & SHARON LANG
SE1/4 LESS R/W, LESS LOT A
20-139-76
A-Agricultural

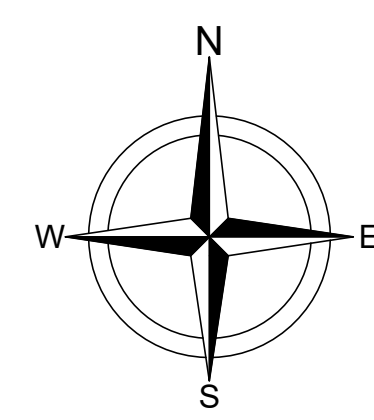
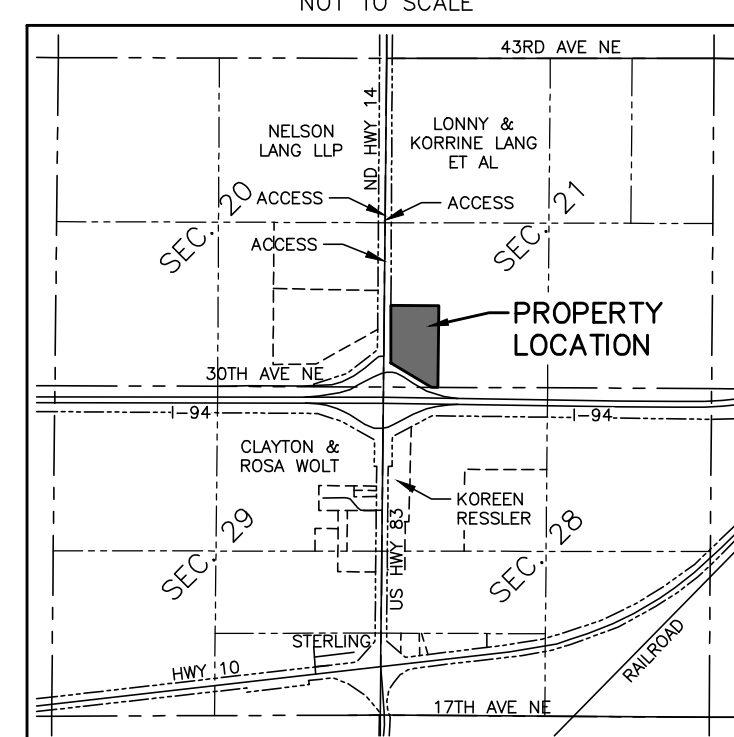
LONNY & KORRINE LANG ET AL
SW1/4 LESS R/W & DEEDED ACRES
21-139-76
A-Agricultural

ZONING:
Sterling Township
A-Agricultural

PLATTING:
Burleigh County

BUILDING PERMITS:
Burleigh County

VICINITY MAP
NOT TO SCALE



BASIS OF BEARINGS:
GRID NORTH

LEGEND

- IRON MONUMENT FOUND
- SET 5/8"x18" REBAR WITH ALUMINUM CAP LS-10871
- RIGHT OF WAY POST
- ⊙ POWER POLE
- ⊙ FIBER MANHOLE
- ⊙ FIBER PEDESTAL
- CONIFEROUS TREE
- ASPHALT SURFACE
- GRAVEL SURFACE
- EDGE OF TREES
- OVERHEAD POWER LINE
- FENCE LINE
- WATERMAIN LINE
- FIBER OPTIC LINE
- NON-ACCESS LINE

HORIZONTAL DATUM: BURLEIGH COUNTY GROUND COORDINATES
ND COORDINATE SYSTEM OF 1983, NAD83(2011)
ND SOUTH ZONE, INTERNATIONAL FOOT DEFINITION
COMBINATION FACTOR: 0.9998515

REGISTERED LAND SURVEYOR:
THOMAS WEIGEL, LS-10871
MOORE ENGINEERING INC.
4503 COLEMAN ST, SUITE 105
BISMARCK, ND 58503

PROPERTY OWNER:
ROSEROCK HOLDINGS LLC
PO BOX 5256
OAK BROOK, IL 60522-5256

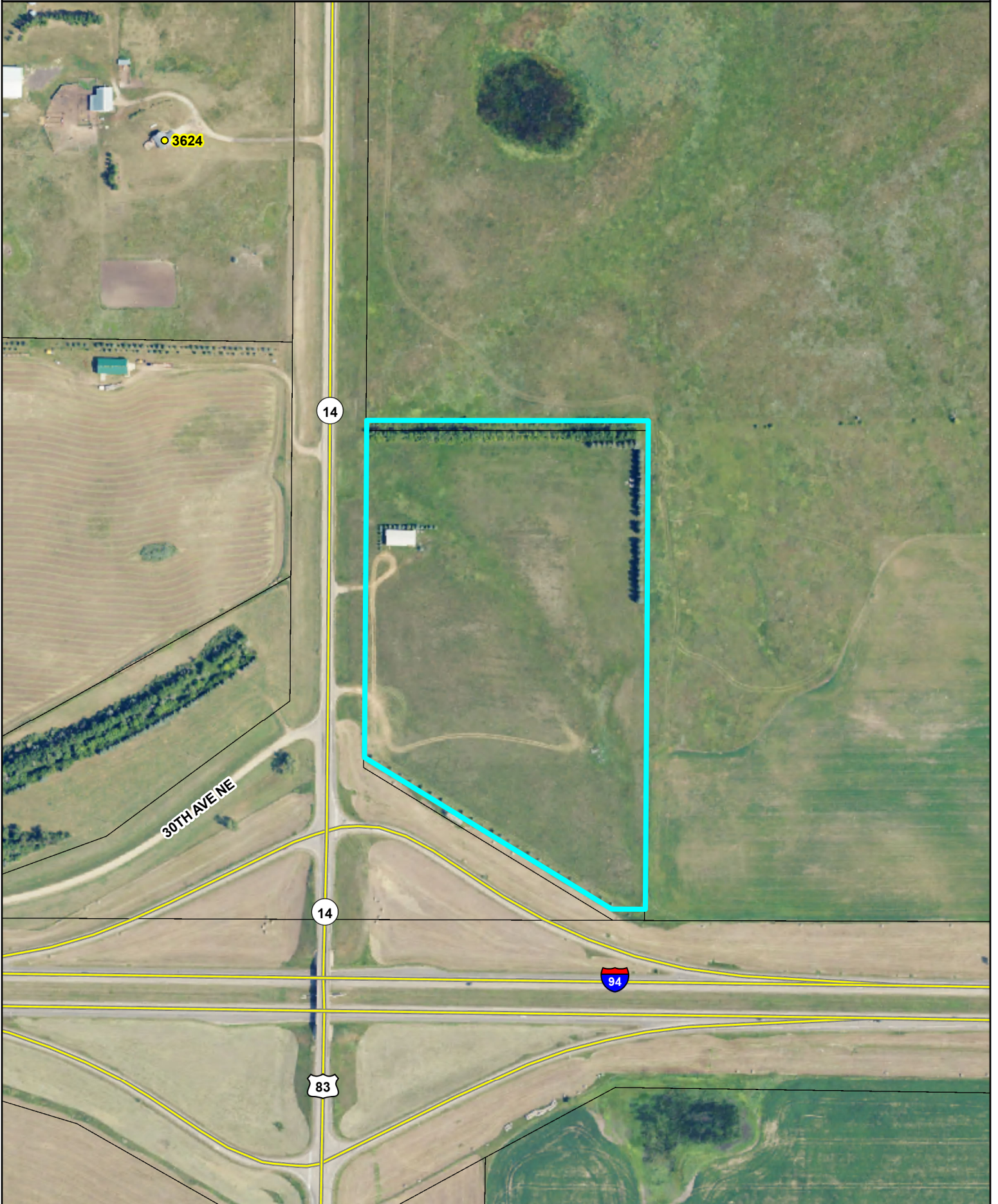
PARCEL #:
35-139-76-00-21-610
PRELIMINARY PLAT DATE: 10-23-2024



Consulting Engineering • Land Surveying
4503 Coleman Street, Suite 105 • Bismarck, North Dakota
www.mooreengineeringinc.com

PRELIMINARY

DOMINIC & VERNA GOETZ
NW1/4 LESS R/W
28-139-76
A-Agricultural



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To: Burleigh County Planning and Zoning Commissioners
From: Rachel Lukaszewski, Executive Director– Bis-Man MPO
Jason Carbee, Project Manager – HDR
Date: October 16, 2024
Re: Review and Resolution of Adoption for Arrive 2050 (BMMPO
2025-2050 Metropolitan Transportation Plan)

Introduction

Arrive 2050 is the Metropolitan Transportation Plan (MTP) for the Bismarck-Mandan Metropolitan Planning Organization (BMMPO), which includes the City of Bismarck, City of Mandan, City of Lincoln, Burleigh County, and Morton County. As a long-range planning tool, it covers a planning horizon for the future 25 years. Attached to this memorandum is an Executive Summary for the Arrive 2050 MTP. Also, the full document may be accessed from the study website, Arrive2050.com. **The BMMPO, and their consultant HDR, request a public hearing and the opportunity to present the final Arrive 2050 MTP to the Burleigh County Planning and Zoning Commission at their November 13, 2024 meeting.**

Summary

Arrive 2050 is designed to help the BMMPO and local jurisdictions meet current and future transportation needs and to gauge the success of these efforts with established performance measures. Arrive 2050 will guide the development of multimodal transportation systems throughout the Bismarck-Mandan metropolitan area for the next 5 years. It will be used to prioritize federal transportation spending throughout this period, and as such, it is vitally important that the plan reflect the choices and needs of the Bismarck-Mandan metropolitan area's residents, workers, and visitors. Since transportation has a broad impact on society, long-range transportation planning must consider concerns, such as impact upon the environment, land use, and economic development, in addition to traditional transportation-related issues, such as mobility and safety.

Plan Development Process

Development of Arrive 2050 includes the following key processes:

- Identify the baseline and future conditions based on historic growth and development, analyze the region's transportation system, and evaluate existing issues and needs.
- Create a transportation vision, goals, and objectives to guide the development.
- Establish a fiscal constraint.
- Evaluate options and alternatives that will address the region's transportation issues and needs and help meet the overall transportation vision for Bismarck-Mandan.
- Prioritize projects based on need, fiscal constraint and timeline for implementation.
- Plan review and approval by the Bismarck-Mandan MPO's Policy Board.

Public Engagement

The development of Arrive 2050 was conducted with a pro-active public involvement process. BMMPO staff also worked cooperatively with decision-makers of its member jurisdictions, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the North Dakota Department of Transportation (NDDOT), and the public to execute a continuous, cooperative, and comprehensive planning process and develop the highest quality public investment plan for our region.

A steering committee was established to provide technical direction and guidance of the Metropolitan Transportation Plan (MTP) development. Representation on the committee included:

- City of Bismarck
- City of Mandan
- City of Lincoln
- Burleigh County
- Morton County
- Federal Transit Administration
- Federal Highway Administration
- North Dakota Department of Transportation

Four rounds of public input opportunity were held at strategic phases of the MTP development process. Each phase was structured to ensure inputs from the public would support key elements of the Arrive 2050 MTP. Additional tools such as a project web page and social media were executed to engage the public and key stakeholders.

Vision, Goals, Objectives & Performance Measures

The future of the transportation system in the Bismarck-Mandan metropolitan area will be driven by the vision, goals, objectives, and performance measures developed for Arrive 2050. The goals developed for Arrive 2050 reflect guidance from MAP-21 planning factors, MAP-21 and FAST Act National Performance Goals, the Bipartisan Infrastructure Legislation, current Federal Planning Emphasis Areas, the NDDOT statewide transportation plan, and input from project stakeholders and community outreach.

Constrained & Prioritized Plan

Development of the project list for Arrive 2050 is based on an established fiscal constraint agreed to between the Bismarck-Mandan MPO and NDDOT. All projects were prioritized through a process which balanced technical analysis, public input, project needs and feasibility. These elements were used to determine which projects would be selected for the constrained funding plan and in what period the project(s) would be proposed (short, mid, or long-range).

Requested Action:

The Bismarck-Mandan MPO requests a motion to recommend acceptance of Arrive 2050, the 2025-2050 Metropolitan Transportation Plan, by Resolution of Receipt.



ARRIVE 2050

METROPOLITAN
TRANSPORTATION PLAN



Executive
Summary
October 2024





The Metropolitan Transportation Plan

The MTP is the MPO's road map for navigating the region's future multimodal transportation system. The plan reflects local conditions and assesses the performance of the Bismarck-Mandan region's transportation system while meeting the metropolitan transportation planning requirements of the Bipartisan Infrastructure Law. Under these requirements, the MTP:

- Must be updated every 5 years;
- Must be fiscally constrained;
- Utilizes a planning horizon of at least 20 years;
- Consults local agencies, NDDOT, Federal Highway Administration (FHWA), and Federal Transit Administration (FTA);
- Is a performance-based plan that guides progress toward regional performance measures and targets while supporting state performance targets.

Arrive 2050 builds off the 2045 MTP to continue transportation planning in the Bismarck-Mandan region while incorporating the findings and recommendations of plans and studies that have been completed since the publication of the 2045 MTP. The plan was developed in accordance with Bismarck-Mandan MPO's Public Participation Plan to ensure proactive public involvement throughout the MTP development process.

The Metropolitan Transportation Planning Process

Federal regulations related to metropolitan transportation planning require MPOs to develop four key documents (listed below) to ensure transportation planning in the region is performance based, multimodal, continuous, cooperative, and comprehensive.

Metropolitan Transportation Plan (MTP)



Guides the development of the area's transportation system over the next 20+ years. The MTP is required to be updated every 5 years for the MPO to maintain eligibility for federal transportation dollars. The MTP addresses transportation system needs and provides a set of methods, strategies, and actions for developing an integrated multimodal system that supports the efficient movement of people and goods, including pedestrians, bicyclists, automobile drivers, transit users, and freight shippers.

Transportation Improvement Program (TIP)



Identifies federally funded transportation improvements in the area over a 4-year time frame. Federal regulations require each MPO to develop a TIP for projects using federal transportation funding sources. The TIP is developed on an annual basis in cooperation with MPO area member jurisdictions, transit providers, and NDDOT.

Unified Planning Work Program



Describes the multimodal transportation planning projects to be conducted in the Bismarck-Mandan MPO area in any specified 2-year period. This biennial document is the foundation for requesting federal funds and a control tool for scheduling, budgeting, and monitoring the transportation planning process.

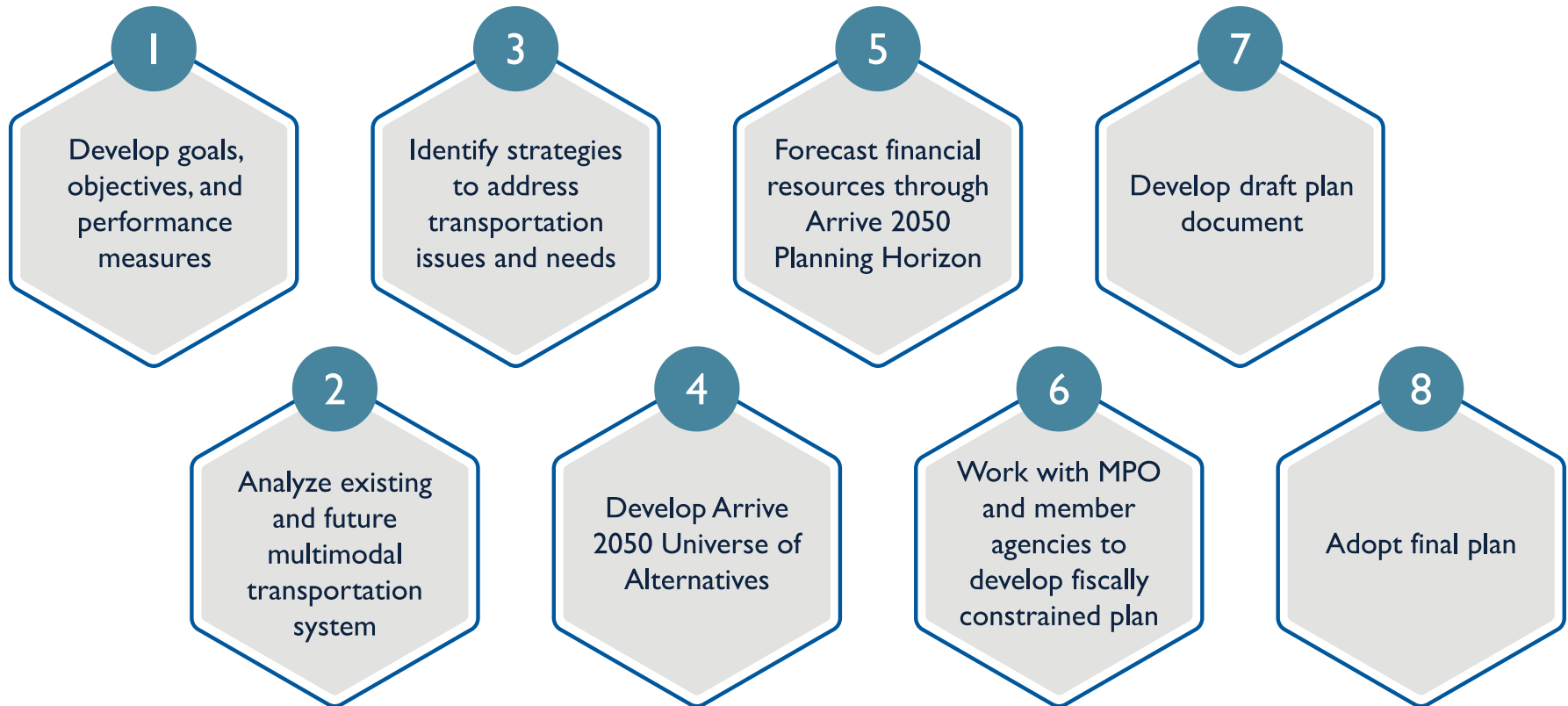
Public Participation Plan



Identifies the role of the MPO regarding public participation and provides guidelines to be followed in achieving public involvement through advertising, public meetings, hearings, and other relevant forums.



The Arrive 2050 Process





Arrive 2050 Goals

	Safety		Maintenance
	Economic		Forward-Thinking
	Resilient		Active Transportation and Transit
	Efficiency and Reliability		Equity



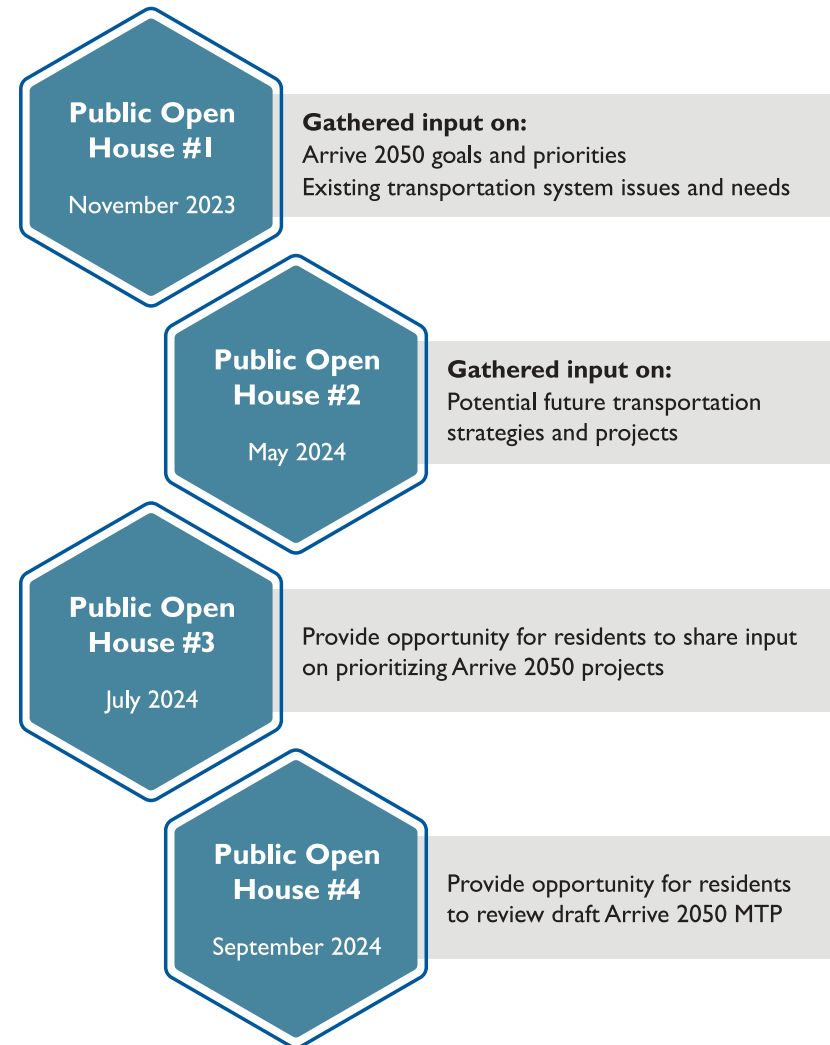
Public Engagement

Public engagement is a key driver of Arrive 2050 and was ongoing throughout the plan’s development. Public engagement is critical to the transportation planning process. Public engagement activities held as a part of Arrive 2050 include:











Public Open Houses

A series of public open houses were held at various milestones during the development of Arrive 2050:





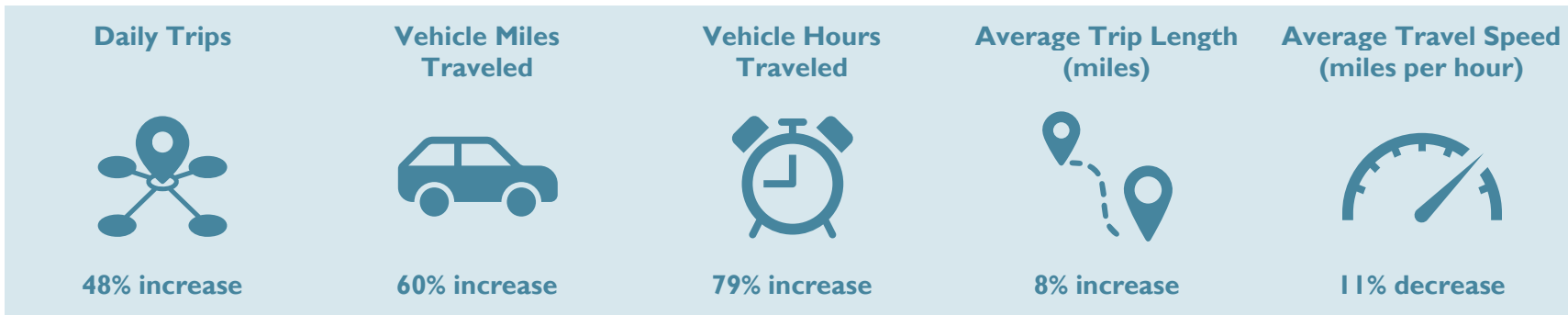
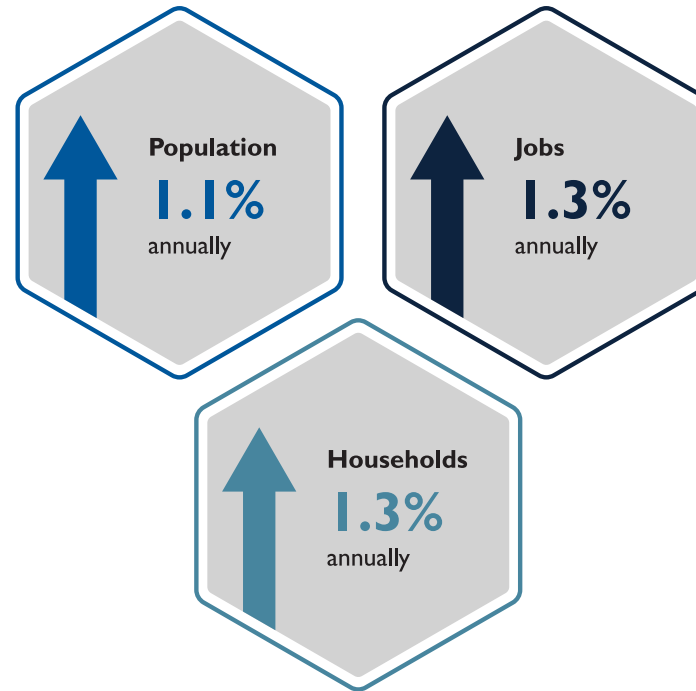
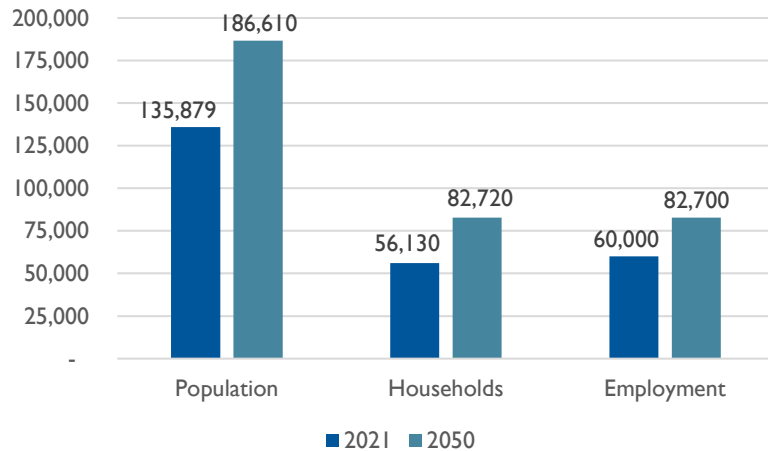
Baseline Transportation System Performance – Summary of Issues and Needs

	Safety	Frequent crashes occur along the MPO's higher-volume arterial roadway network; crashes resulting in serious injury have increased in the region.
	Traffic Operations	AM and PM peak hour congestion today due to high numbers of road users, future growth expected to lead to additional congestion.
	Freight	The presence of high freight-generating land uses in eastern and southern Bismarck highlights the need to provide efficient connections among freight destinations and the region's highways and interstate system.
	Bicycle Pedestrian System	The existing bicycle and pedestrian network provides a strong foundation for future expansion that can enhance system connectivity while providing increased access to community destinations.
	Transit Services	Transit ridership saw a significant decline in 2020, and ridership has begun to trend toward pre-2020 levels. Investment in transit-supportive improvements will encourage additional ridership in the future.
	Pavement Conditions	Continued investment and management of the MPO's pavement assets can address pavement deficiencies while preventing a decline in conditions that would result in deterioration beyond an acceptable level.
	Bridge Conditions	Several bridges are in poor condition, while others exhibit functional deficiencies that impact their ability to support usage by all types of vehicles. Improving these structurally and functionally deficient bridges can prevent load restrictions and/or closures in the future.
	Cross-area Travel	Cross-area travel and mobility has been identified as a significant issue, specifically north-south travel in Bismarck and east-west travel in Mandan. Barriers to continuous corridors and arterial access levels are some of the cross-area travel issues.



Growth and Performance of the Future Transportation System

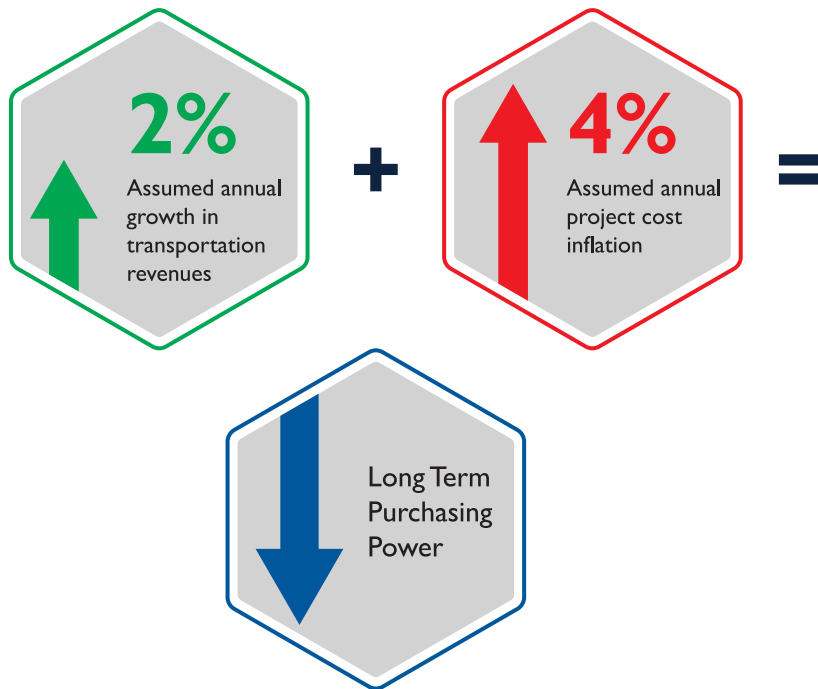
Based on anticipated growth trends for the MPO Area's household and employment levels, overall future travel conditions through the year 2050 were analyzed. This analysis resulted in the evaluation of key transportation performance measures and anticipated future issues.





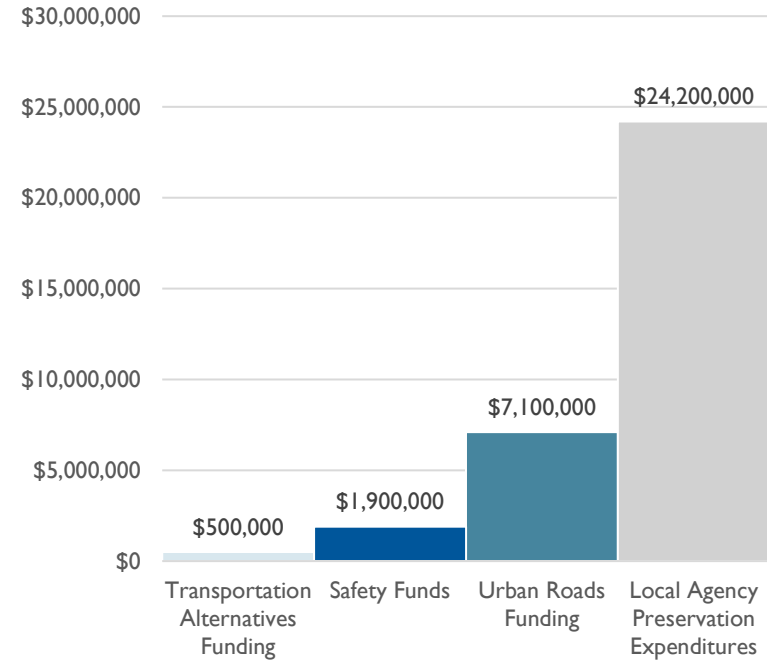
Arrive 2050 Funding Plan

Projected Future Funding Levels - The Arrive 2050 Plan is fiscally constrained. This means that we have estimated future transportation funding levels and evaluated transportation needs to create a plan that we can reasonably afford.



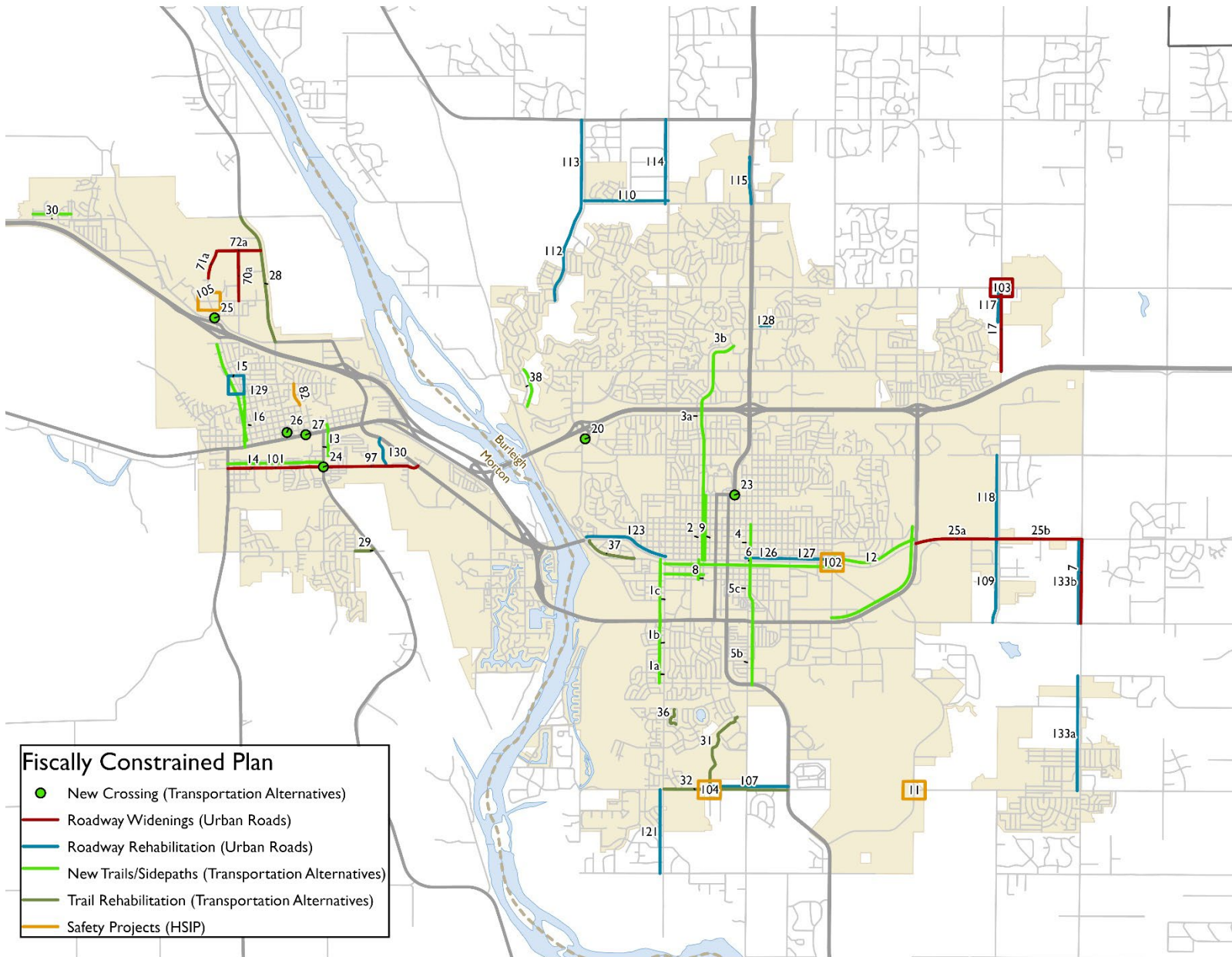
Annual future funding levels for the MPO’s key transportation programs were forecasted through the year 2050 to understand the revenue levels the agency can reasonably expect through the life of Arrive 2050. These funds are federally-sourced and allocated to the MPO on an annual basis:

Annual Funding Levels for Transportation



Fiscally Constrained Plan

The Arrive 2050 plan evaluated available funding, anticipated needs to maintain the existing system, and the priorities for the transportation system to identify a fiscally constrained plan. There are numerous other priority projects that do not fit within current funding sources that the MPO and its partners will continue to look for opportunities to implement. The map below shows the range of project types that are part of the Arrive 2050 plan.



Fiscally Constrained Plan

- New Crossing (Transportation Alternatives)
- Roadway Widening (Urban Roads)
- Roadway Rehabilitation (Urban Roads)
- New Trails/Sidepaths (Transportation Alternatives)
- Trail Rehabilitation (Transportation Alternatives)
- Safety Projects (HSIP)

*This is a summary of the fiscally constrained plan. More details are available in the fiscally constrained chapter on page 142 (151/237 in pdf) at: arrive2050.com/meeting/assets/documents/Arrive_2050_Draft_Document_09232024.pdf

Resolution of Receipt

For the 2025-2050 Bismarck-Mandan
Metropolitan Transportation Plan

Whereas, the U.S. Department of Transportation requires the development, approval, and maintenance of a Metropolitan Transportation Plan for the Bismarck-Mandan Metropolitan Planning Organization (MPO) as a condition of Federal transportation funding; and

Whereas, the MPO has been designated by the Governor of North Dakota as the organization responsible for preparing and maintaining the Metropolitan Transportation Plan; and

Whereas, the MPO after an extensive public and stakeholder involvement process and substantial consideration of technical, environmental, financial, and social factors has prepared the 2025-2050 Metropolitan Transportation Plan which is in compliance with Federal and State transportation planning guidance; and

Whereas, Burleigh County staff has actively participated in Plan development and has had the opportunity to review the 2025-2050 Metropolitan Transportation Plan, and any comments received have been addressed within the Plan; and

Whereas, all relevant State and Federal agencies have had the opportunity to review the Plan and any comments received have been addressed within the Plan; and

Whereas, notice was published for a public hearing in accordance with the MPO Public Participation Plan, and the Burleigh County Planning and Zoning Commission held a public hearing on the 2025-2050 Metropolitan Transportation Plan and has accepted it as a guide for their future planning and development policies, and has recommended it to the Burleigh County Commission; and

Now Therefore be it Resolved, by the Burleigh County Commission that it receives the 2025-2050 Metropolitan Transportation Plan; and

Be It Further Resolved, that Burleigh County staff is directed to implement or support the 2025-2050 Metropolitan Transportation Plan.

CERTIFICATE

The undersigned representatives of Burleigh County certify that the forgoing is true and correct copy of a Resolution, received at a legally convened meeting of the Burleigh County Commission held on December 2, 2024.

By: _____

Steve Bakken
Chairman, Burleigh County Commission

Date

Attest: _____


Mark Splonskowski
Auditor/ Treasurer, Burleigh County

Date

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Agenda Item 4-2

Wiese Subdivision & Zoning Change

Project Summary	
Status:	Public Hearing
Petitioner/Developer	Eugene & Kathleen Wiese
Engineer	Thomas Leshovsky – Wold Engineering P.C.
Location:	Being a Part of the SE 1/4, Section 34, Township 139 N, Range 79W, Burleigh County, ND
	<div style="border: 1px solid black; padding: 5px; text-align: center;">4-2-1 Location Map</div>
Project Size:	One (1) Lot – 2 Acres
Zoning Change:	A-Agriculture to R1- Single Family Residential
Petitioners Request	Approve Final Plat and Zoning Change. Give “Do Pass” recommendation to Burleigh County Commission
Posting Dates	Bismarck Tribune 10/28 & 11/4, 2024 Burleigh County Website 10/30/2024 Surrounding Properties 10/29/2024

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

November 13, 2024

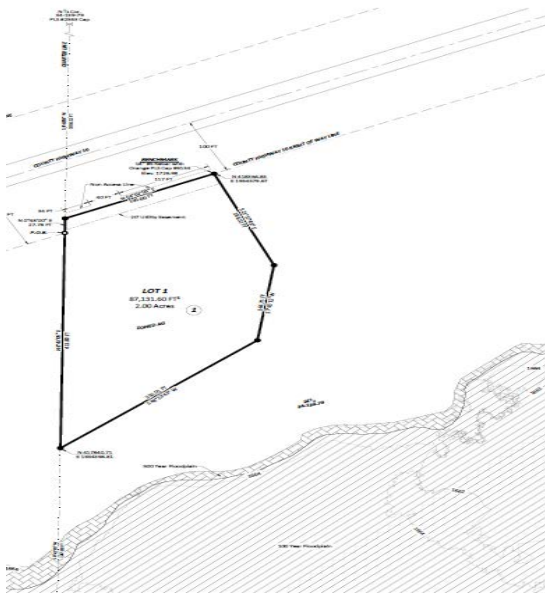
History

The petitioners approached Burleigh County regarding building a single-family home on land they intended to purchase. After review of the request the petitioners were advised to plat a one (1) lot subdivision for the two (2) acres they were purchasing and to request a zoning change from A-Agricultural to R1-Single Family Residential.

A preliminary plat and zoning change were submitted. The review committee did not find issues of concern. The property will use an existing approach to the property.

The property is currently zoned A-Agriculture, but a change to R1-Single Family Residential will be required. Property located north of the proposed subdivision is zoned A, directly to the west, is R1 zoning. South and East of the proposed subdivision is zoned A. A change to R1 zoning is suitable for this location.

Burleigh County Planning and Zoning Commission approved the preliminary plat and zoning change for a public hearing on October 9, 2024



Attachment 4-2-2 Final Plat



PLANNING AND ZONING
COMMISSION

November 13, 2024



Attachment 4-2-3 Site Map



PLANNING AND ZONING COMMISSION

November 13, 2024



North View



East View

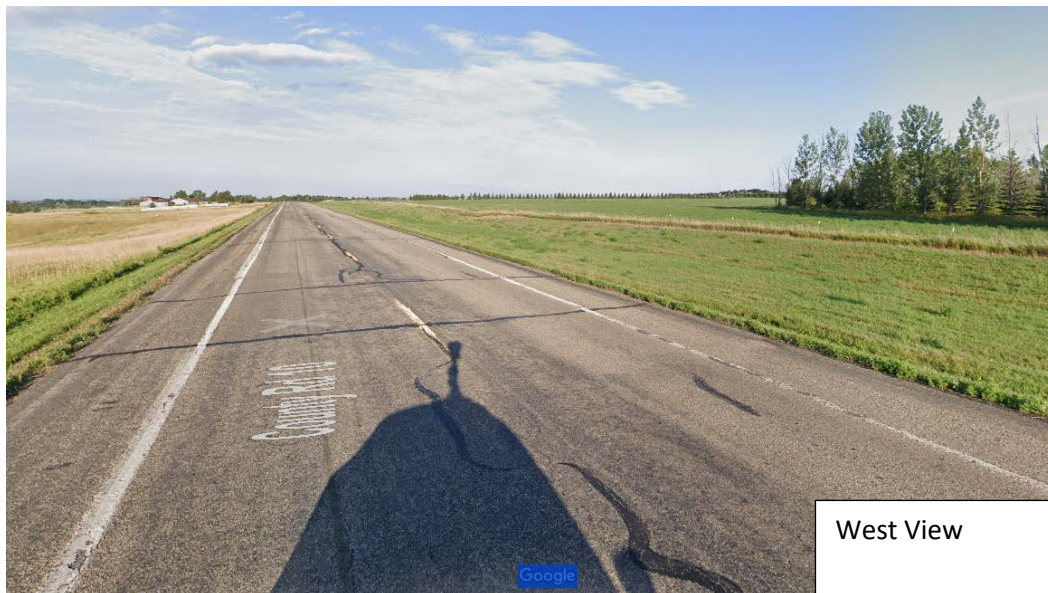


PLANNING AND ZONING
COMMISSION

November 13, 2024



South View



West View



Staff Findings – Final Plat

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A Stormwater Management Plan or Waiver has not been requested at this time.
3. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
4. Zoning is A-Agricultural. A zoning change has been requested
5. 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 except for approval of a storm water management plan (SWMP) or waiver. Staff recommends approval of the final plat with the condition a Stormwater Management Plan or waiver be approved.

Staff Finding – Zoning Change

1. The petition for a zoning change fulfills all the requirements of Article 29 of the Burleigh County Zoning Ordinances.
2. The property fulfills the requirements for Article 12 of the Burleigh County Zoning Ordinances.
3. R1 zoning of this property is suitable for the area.
4. A zoning change is required to avoid a non-conforming lot.



PLANNING AND ZONING COMMISSION

November 13, 2024

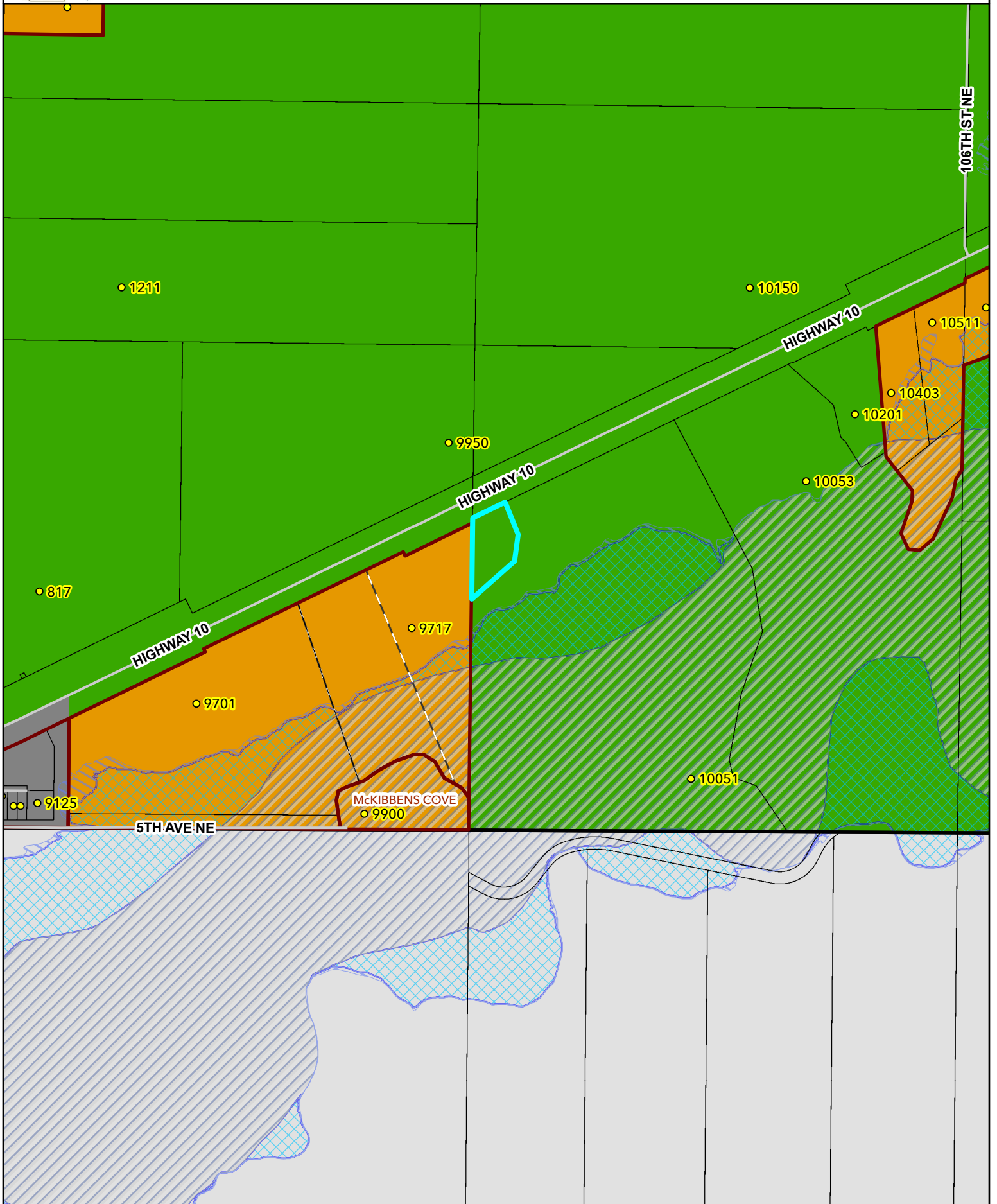
Staff Recommendation

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

Planning Commission Action

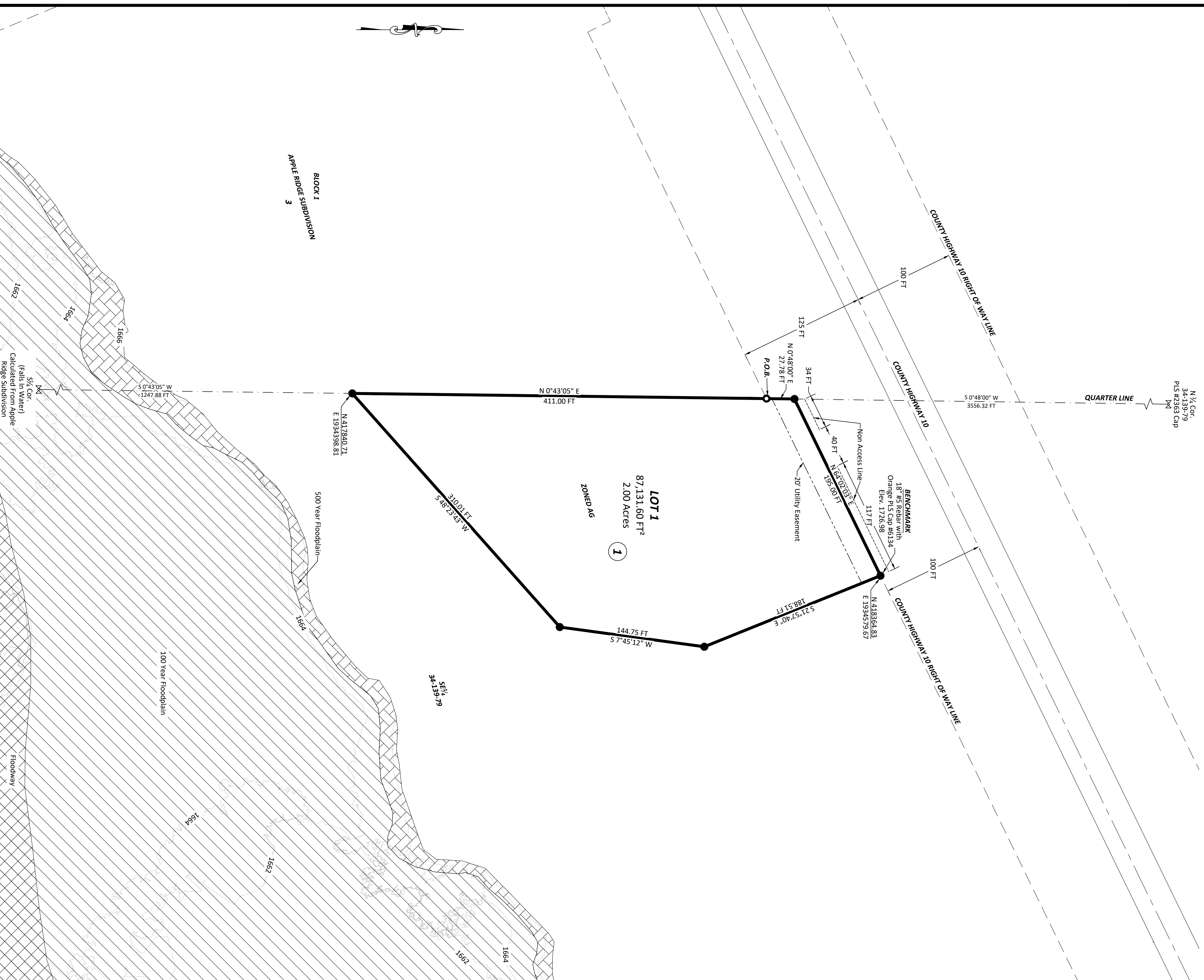
The Burleigh County Planning and Zoning Commission can:

1. Approve the final plat and/or zoning change. Give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.
2. Approve the final plat and/or zoning change with condition listed
 1. Approved storm water management plan or waiverGive a "Do Pass" recommendation when the condition 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.



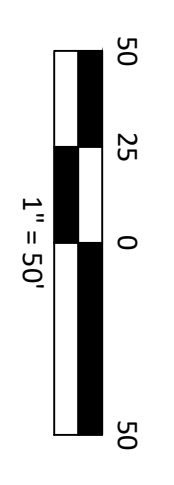
WIESE ACRES SUBDIVISION

BEING A PART OF THE SE¹/₄, SECTION 34, TOWNSHIP 139 N., RANGE 79 W.,
OF BURLEIGH COUNTY, NORTH DAKOTA



SURVEYOR
Thomas R. Leshovsky
Wold Engineering P.C.
110 8th Ave SW
Minot, ND 58701

- - Denotes Property Corner Set
- 18" - #5 Rebar w/ RLS Cap #6134
- - Denotes Property Corner Found
- ✕ - Denotes Traverse Point



915 East 11th Street - P.O. Box 237 - Bismarck, ND 58103
316 Executive Drive - P.O. Box 1277 - Bismarck, ND 58502

NOTES:
Part is subject to all prior Easements of Record.
Bearings and Distances may vary from previous plats due to different methods of measurement.
A 20' Utility Easement is on the street side of every Lot.
State Plane Coordinates shown are North Dakota (South Zone) NAD83 Int. Feet. NGS ORUS Solution was used to establish coordinates.
Elevations Shown are NAVD83 Int. Feet.

DESCRIPTION:
Know all men by these presents that Richard Schuler, being Owner and Proprietor, of an Unplatted Part of the SE¹/₄, Section 34, Township 139 N., Range 79 W., of the 5th Principal Meridian, Burleigh County, North Dakota, being more particularly described as follows:
Beginning at the Northeast Corner, of Lot 3, Block 1, of Apple Ridge Subdivision, a Plat being on file at the Burleigh County Recorder's Office; Thence N 0° 48' 00" E, on the North-South Quarter line, of said Section 34, a distance of 2778 FT. to a Point being on the South Right of Way Line of County Highway 10; Thence N 0° 48' 00" E, on the North-South Quarter line, of said Section 34, a distance of 2778 FT. to a Point being on the South Right of Way Line of County Highway 10; Thence S 48° 22' 42" W, on said Right of Way line, a distance of 1355.00 FT.; Thence S 21° 57' 40" E, a distance of 144.75 FT. to a Point being on the East Line of said Lot 5; Thence S 7° 45' 12" W, on the East Line of said Lot 5, a distance of 144.75 FT. to the Point of Beginning.
Said described tract, of land contains 2.00 Acres more or less. Have caused the same to be surveyed and platted as shown hereon, to be known as Wiese Acres Subdivision, to Burleigh County, North Dakota and hereby dedicate Right-of-Way and easements as shown to Burleigh County, in witness whereof, the owners hereunto affixed their signatures.

SURVEYOR'S CERTIFICATE
I, Thomas R. Leshovsky, a duly Registered Professional Land Surveyor, do hereby certify that I have surveyed and platted, the foregoing described land. That Lots, Distances, Areas and locations as shown on the foregoing Plat and in the Description hereof, are true and correct to the best of my knowledge and belief. The Survey and Plating of this Subdivision has been under my personal direction and professional supervision, and that the monuments shown thereon are correct. All required monuments have been set, and that all dimensional and geodetic details are correct.

Thomas R. Leshovsky P.L.S. #6134

STATE OF NORTH DAKOTA, COUNTY OF _____
On this _____ Day of _____, 2024, before me, a Notary Public in and for said State, Appeared Thomas R. Leshovsky, Registered Land Surveyor, well known to be such, and acknowledged to me that he executed the foregoing Surveyor's Certificate as his own free act and deed.
My commission expires _____

Notary Public, State of 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 rights 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".

Richard Schuler

STATE OF NORTH DAKOTA, COUNTY OF _____
On this _____ Day of _____, 2024, before me, a Notary Public in and for said State, Appeared Richard Schuler, well known to be the person described in the foregoing description and acknowledged to me that he executed the same on his own free act and deed.
My commission expires _____

Notary Public, State of North Dakota

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION
The County Planning and Zoning Commission of Burleigh County, North Dakota, hereby approves Wiese Acres Addition 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 this _____ Day of _____, 2024.

Dennis Agnew, Chairman

Attest: Mitch Franigan, Secretary

APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS

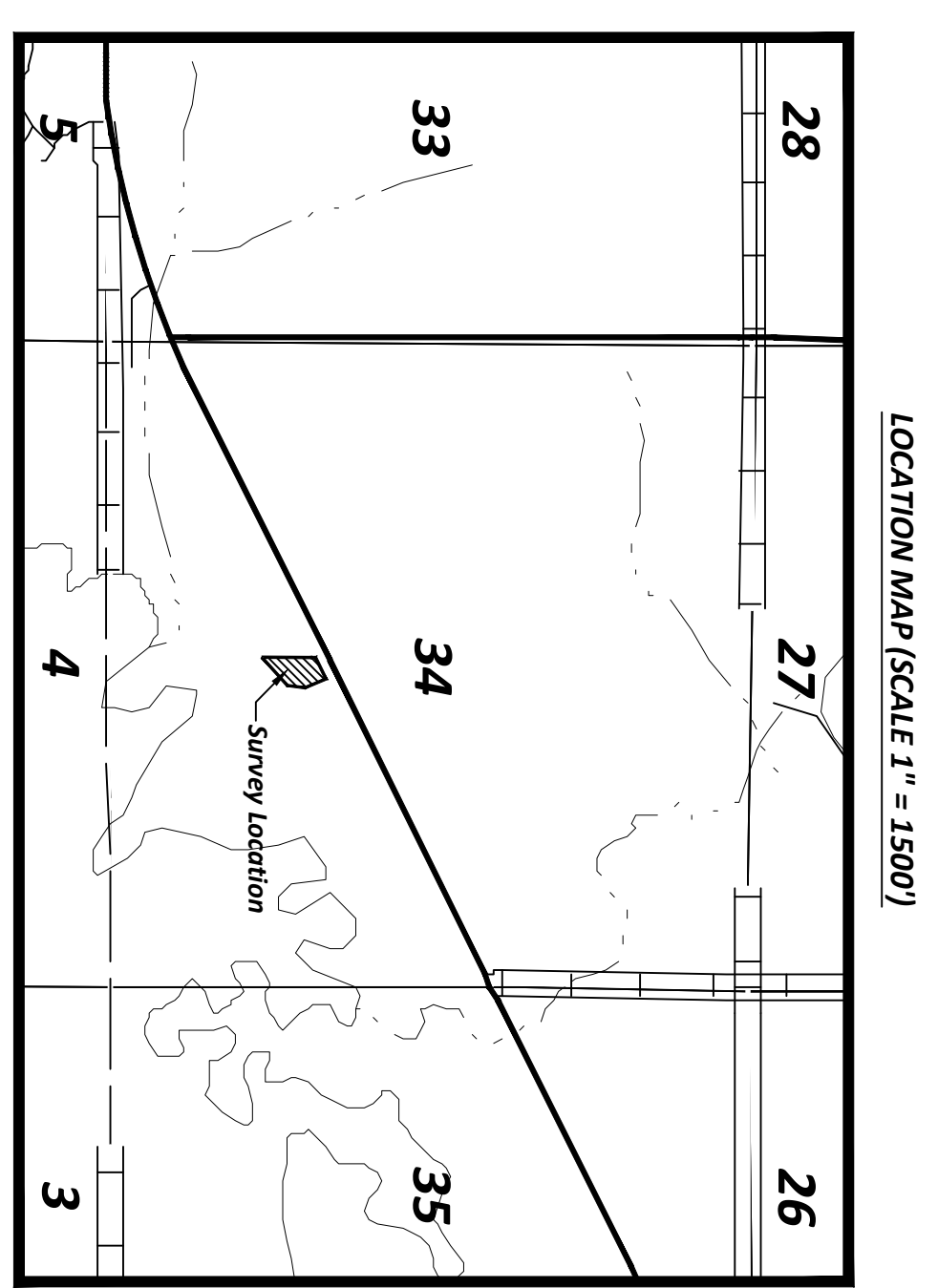
The Board of County Commissioners of the County of Burleigh, North Dakota, has approved the Subdivision of land as shown on this plat. Has accepted the dedication of all streets shown thereon, and does hereby waive any previous pitting within the boundary of this plat.
The plat was done in accordance 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 Commissioners of Burleigh County, North Dakota, was taken by resolution approved on this _____ Day of _____, 2024.

Brian Birner, Chairman

Attest: Mark Spionkowski, County Auditor/Treasurer

APPROVAL OF THE COUNTY ENGINEER
I, Marcus J. Hill, County Engineer for the County of Burleigh, North Dakota, hereby approves this plat of "Wiese Acres Subdivision" as shown on the plat. Dated this _____ Day of _____, 2024.

Marcus J. Hill, P.E. County Engineer




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

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.
Re: Public Hearing to Amend Burleigh County Zoning Ordinances
Date: 10-17-2024
From: Mitch Flanagan, Burleigh County Planning Director. 

ITEM 1

Amend Article 8 Section 29 Solar Farms

It has become necessary to consider amending the current Article 8 to include Section 29. This section will allow for the development of onsite renewable energy systems, i.e. Accessory use in any District and Solar Farms within an Agricultural District with a special use permit.

Article 8 Section 29 draft ordinance was presented to the Planning Commission and was recommended for approval.

ACTION REQUESTED:

Consider to recommend approval of ordinance.

Attachments:

Ex. 1- Article 8 Section 29 Special Use Permit.

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 29 SOLAR FARMS

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

SECTION 29 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 detailed site plan 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.
- h. 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.
- i. 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.

- I. 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

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

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

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.
Re: Public Hearing to Amend Burleigh County Zoning Ordinances
Date: 10-17-2024
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Amend Article 8 Section 30 Data Centers

It has become necessary to consider amending the current Article 8 Section 30 to allow 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 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.

ACTION REQUESTED:

Consider to recommend approval of Article 8 Section 30.

Attachments:

Ex. 1- Article 8 Section 30 Data Center

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 30 DATA CENTERS

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

SECTION 30 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. *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.
2. *Data Center/ AI Conversion Facility*- a data center that is converted and used to support artificial intelligence
3. *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.
4. *Blockchain*- a digital record of all the transactions involving cryptocurrency. Copies of the blockchain are stored and maintained by computers around the world.

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.

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, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
- 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.
- h. 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.
- 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. A maximum auditory decibel level of 75 dB. shall be met and maintained during all hours of operation, as measured from the property line of the subject parcel. Verification may be in the form of a noise study by a licensed acoustical engineer, including manufacturer specifications, 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, 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.

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 _____, 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

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

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.
Re: Amend Burleigh County Zoning Ordinances
Date: 10-17-2024
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Amend Article 8 Section 31 Accessory Dwelling Units

It has become necessary to consider amending the current Article 8 to include Section 31. Accessory Dwelling 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 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.

Article 8 Section 31 draft ordinance was presented to the Planning Commissions and recommended for public hearing.

ACTION REQUESTED:

Consider recommendations to move ordinance to Public Hearing.

Attachments:

- Ex. 1- Article 8 Special Use Permit Section 31 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 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

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

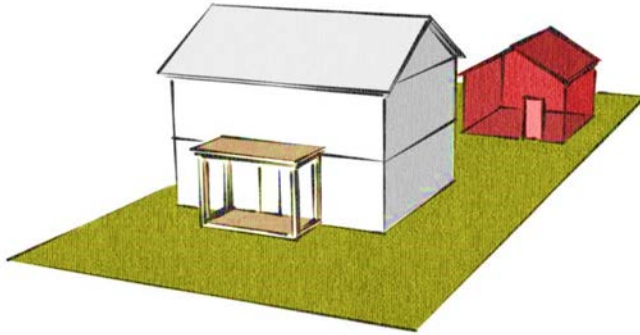
IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2024

Mark Splonskowski, Burleigh County Auditor/Treasurer

Types of Accessory Dwelling Units (ADUs)

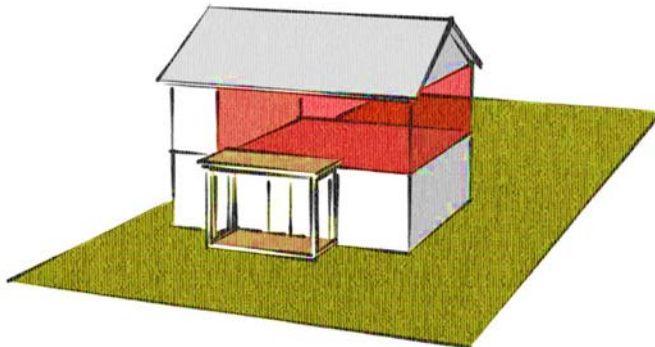
External ADU:

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 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.

