



## Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5<sup>th</sup> 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 9, 2025**

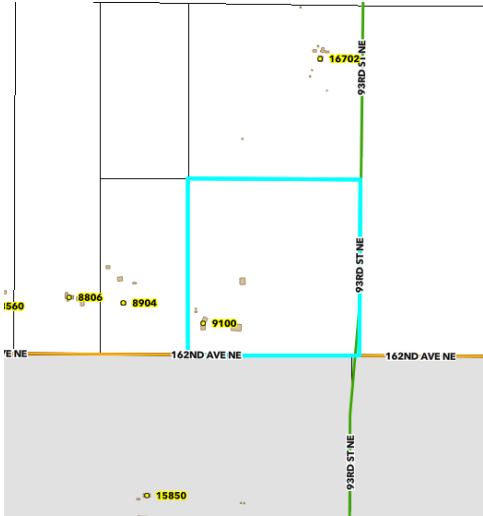
1. Roll Call
2. Approval of the March 12, 2025 Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*  
  
There are no items on the consent agenda
4. Public Hearing Agenda
  - 4-1 Special Use Permit Request - Schatz
  - 4-2 Article 8 – Special Uses – Data Centers  
Continuation of February 12, 2025 Public Hearing
5. Other Business:
  - 5-1 BESS Moratorium
6. Adjourn

– Next Meeting – May 14, 2025

PUBLIC HEARINGS

# Agenda Item 4-1

## Application for Special Use Permit

Project Summary							
Public Hearing:	Special Use Permit						
Petitioner/Developer	Jason & Jenney Schatz						
Location:	9100 162 <sup>nd</sup> Ave NE  Crofte Township, Section 35, SE1/4 SE1/4						
							
<div style="border: 1px solid black; padding: 5px; display: inline-block;">4-1-1 Location Map</div>							
Project Size:	620 sf Manufactured Home						
Petitioners Request	Approval of the Special Use Permit to set a manufactured home on their property which has a single-family house & "Do Pass" Recommendation to the Board of Burleigh County Commissioners						
Notifications	<table style="width: 100%; border: none;"> <tr> <td>Bismarck Tribune</td> <td>March 22 &amp; 29</td> </tr> <tr> <td>Surrounding Property Owners</td> <td>March 26</td> </tr> <tr> <td>Burleigh Co. Website</td> <td>March 27</td> </tr> </table>	Bismarck Tribune	March 22 & 29	Surrounding Property Owners	March 26	Burleigh Co. Website	March 27
Bismarck Tribune	March 22 & 29						
Surrounding Property Owners	March 26						
Burleigh Co. Website	March 27						

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

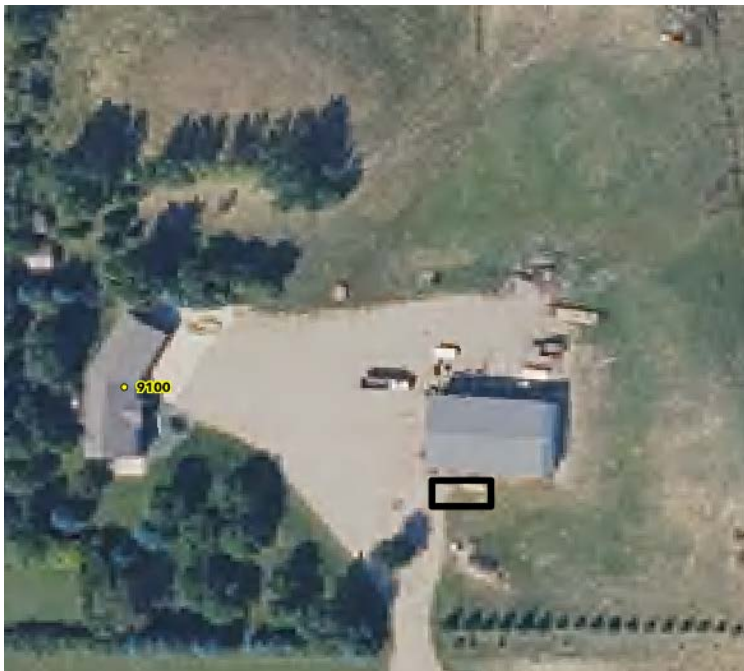


## PLANNING AND ZONING COMMISSION

### History/Description

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

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



Attachment 4-1-2 Building Location



## PLANNING AND ZONING COMMISSION



Attachment 4-1-3 Site Map

### Staff Findings

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



## PLANNING AND ZONING COMMISSION

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

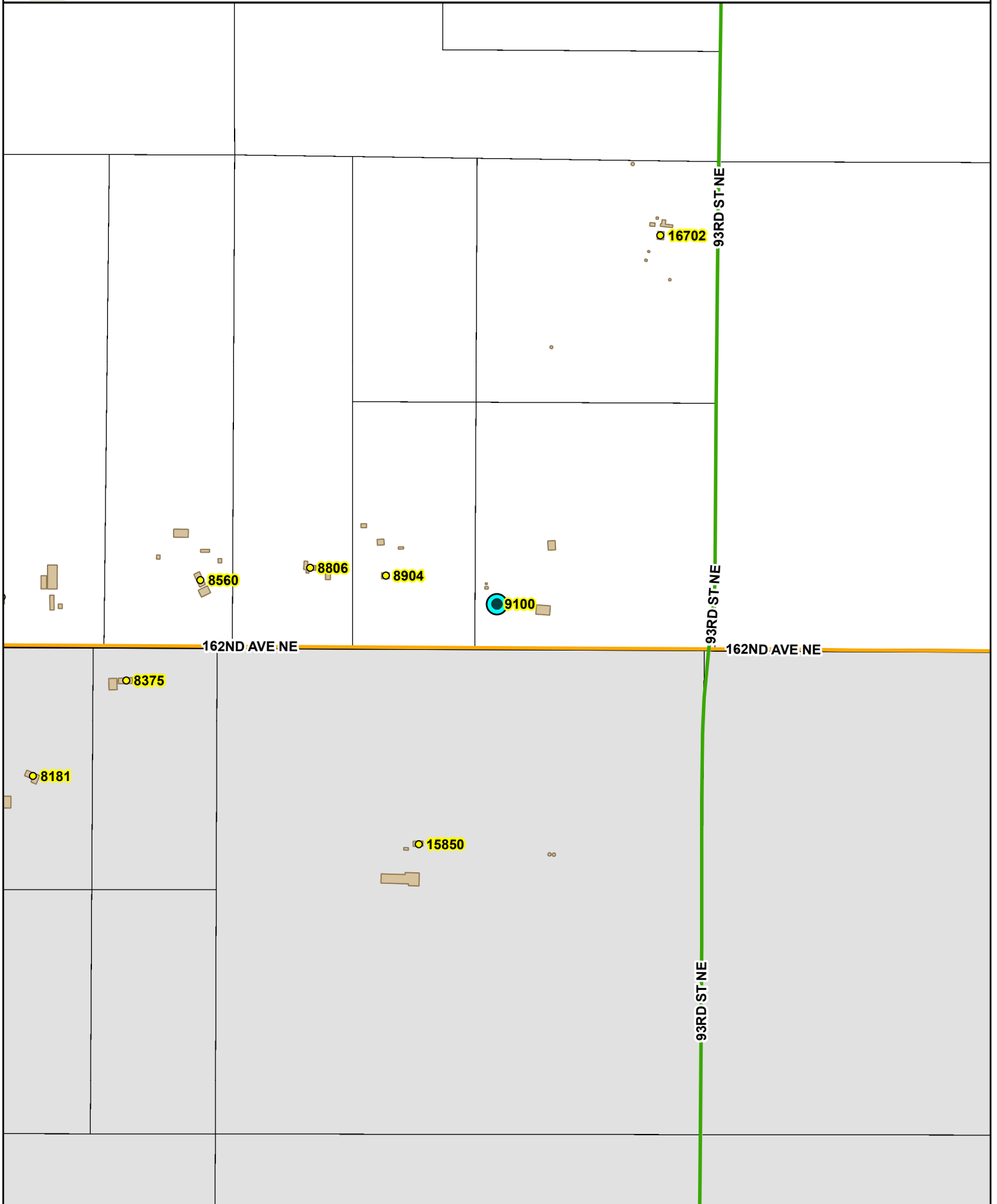
### Planning Staff Recommendation

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

### Planning Commission Action

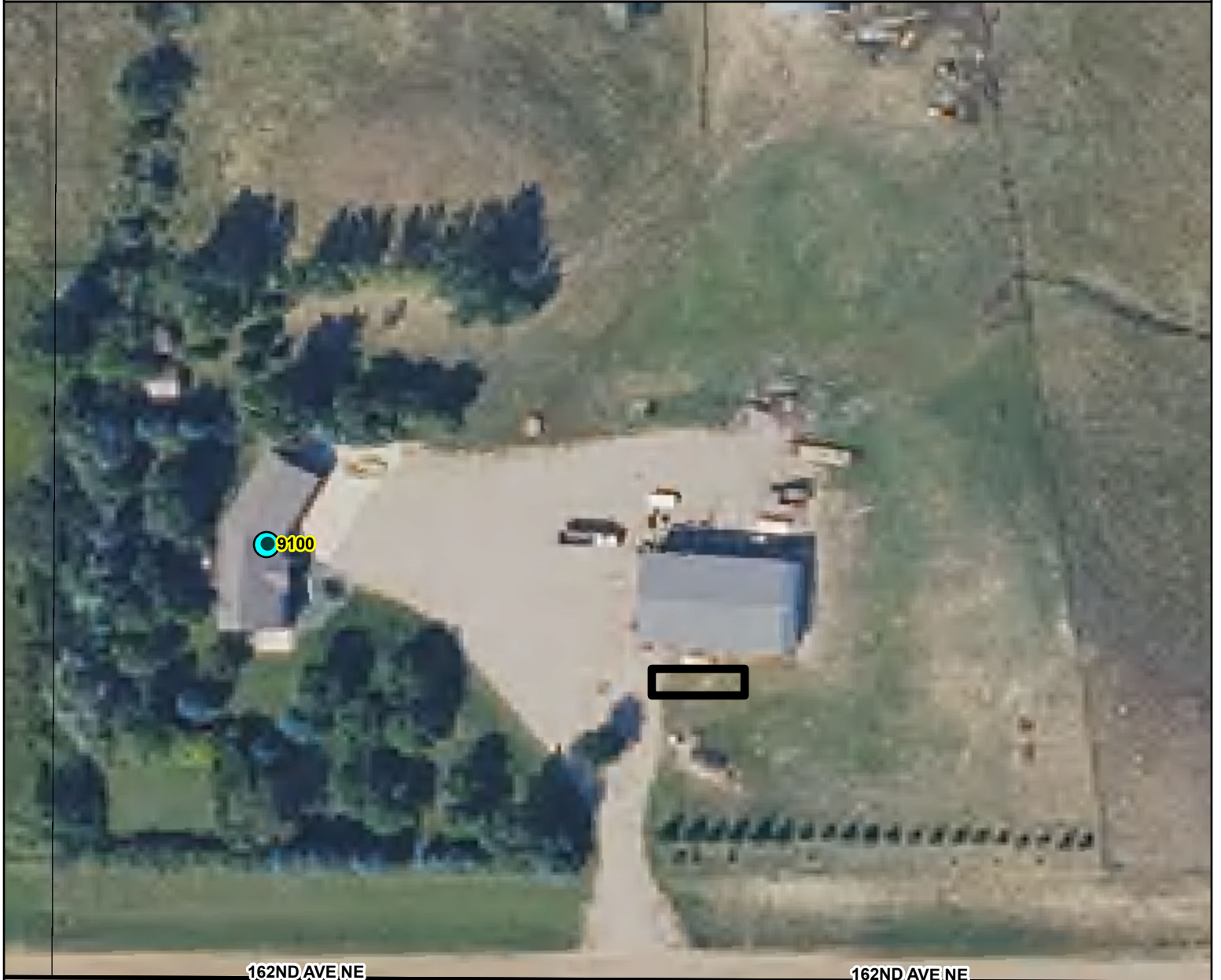
The Burleigh County Planning and Zoning Commission can:

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









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162ND AVE NE

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

[burleighcobuilding@nd.gov](mailto:burleighcobuilding@nd.gov)  
701-221-3727

To: Burleigh County Planning Commission.  
Re: Public Hearing to Amend Burleigh County Zoning Ordinances  
Date: 3-27-2025  
From: Mitch Flanagan, Burleigh County Planning Director.

ITEM 1

Amend Article 8 Data Centers

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

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

ACTION REQUESTED:

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

Attachments:

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

ORDINANCE 25-0-----

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

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

**SECTION [REDACTED] Data Center AI Conversion Facilities**

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

**DEFINITIONS**

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

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

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

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

## I. **APPLICABILITY**

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

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

### 1. Application Requirements

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

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

~~Fees:~~

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

- h. Fees:



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

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

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

**II. Prohibitions:**

The County prohibits data center facilities located within:

- a. All Floodplain Districts and Designated SFHA Areas.

**III. Design Standards**

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



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

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

12. ~~Noises. Sound: A maximum auditory decibel level of 75 dB of the following shall be met and maintained during all hours of operation, as measured from the property line of the subject parcel:~~

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

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

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

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

#### **IV. Decommissioning Plan:**

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

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

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

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

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

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

First Reading Passed: \_\_\_\_\_

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
Brian Bitner, Chairperson

Final passage and adoption:

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

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

\_\_\_\_\_  
Mark Splonskowski, Burleigh County Auditor/Treasurer

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

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

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

CHAPTER XX-XX – DATA CENTERS

XX-01-01. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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

## OTHER BUSINESS



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

[burleighcobuilding@nd.gov](mailto:burleighcobuilding@nd.gov)  
701-221-3727

To: Burleigh County Planning Commission.  
Re: Consider Moratorium  
Date: 3-27-2025  
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 2

BESS Moratorium

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

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

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

**ACTION REQUESTED:**

Consider motion to recommend approval of a BESS Moratorium.

**Attachments:**

Ex.1 Draft BESS Moratorium



BURLEIGH COUNTY COMMISSION

RESOLUTION 00-2025-02

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

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

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

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

BY ORDER OF THE Board of Burleigh County Commissioners this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Brian Bitner, Burleigh County Chairperson

ATTEST:

\_\_\_\_\_  
Mark Splonskowski, Burleigh County Auditor/Treasurer

DRAFT