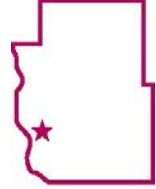




Burleigh County Planning and Zoning Commission Meeting Agenda

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)

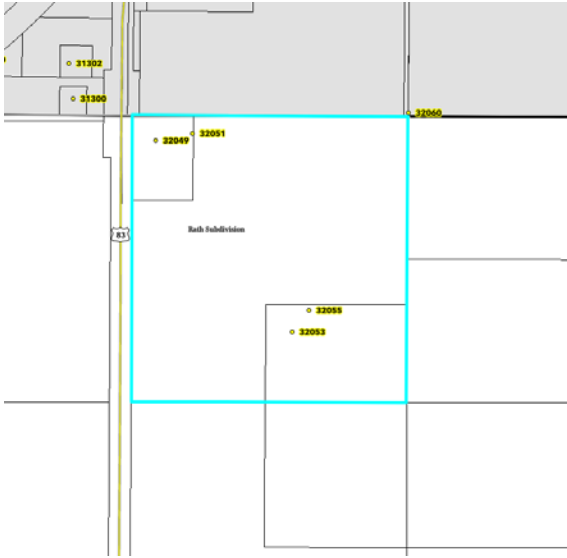
AGENDA

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

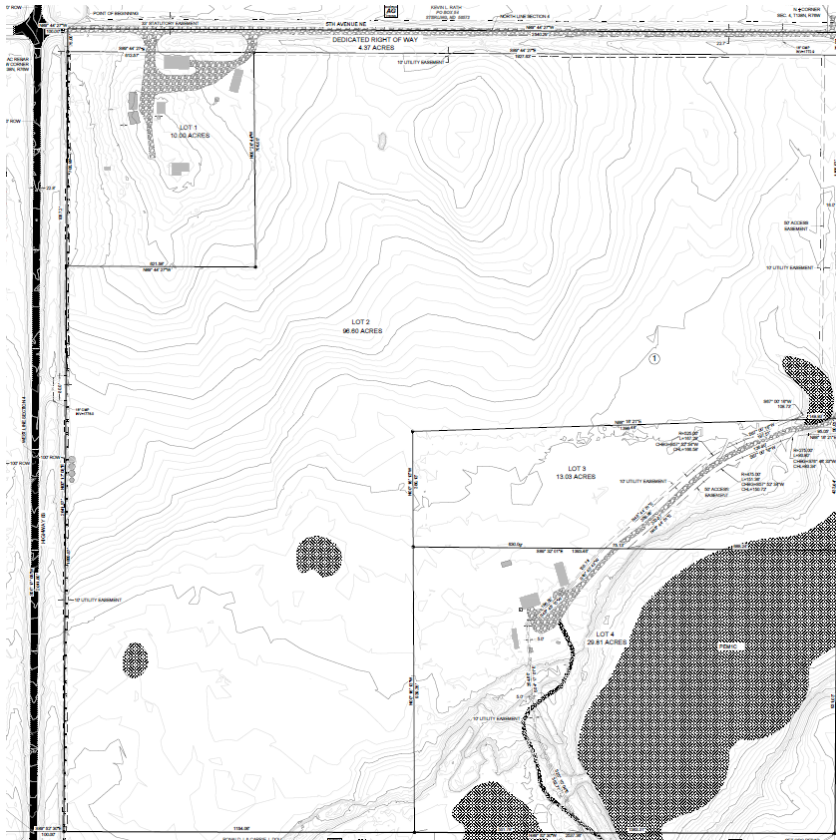
November 13, 2024

History/Description

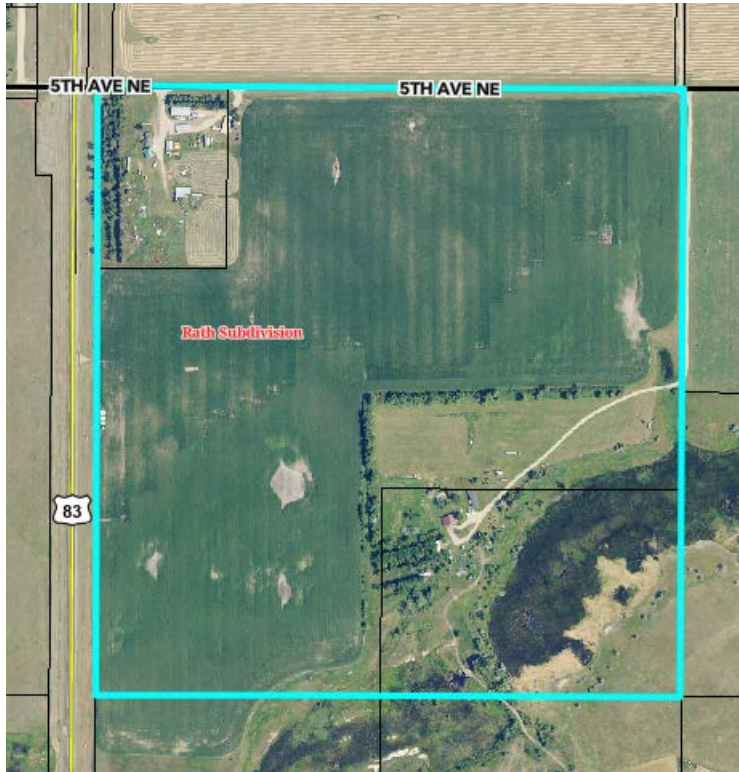
Burleigh County was approached several months ago about a parcel located in the SE corner of Hwy 83 and 5th Ave NE. The parcel contained three (3) lots and was zoned A-Agricultural. The petitioners own two (2) of the three (3) lots and are purchasing the third lot for a total of 155 acres more or less. 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.

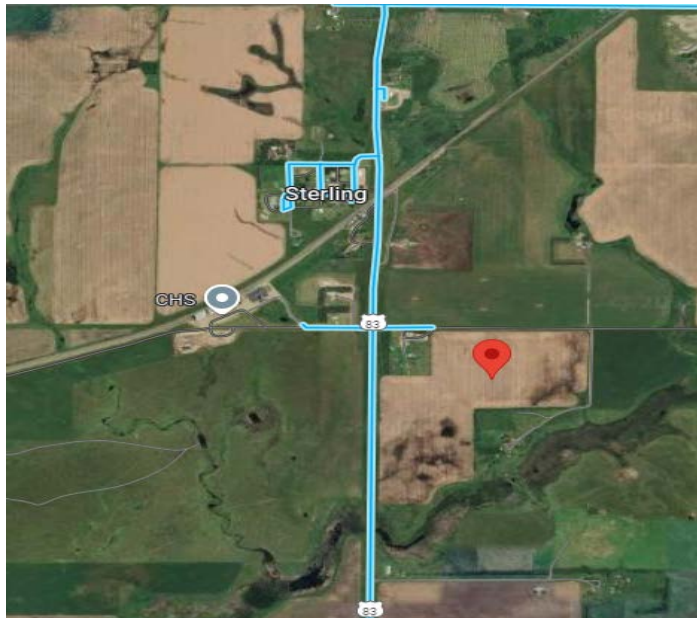
Planning Staff Recommendation

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.

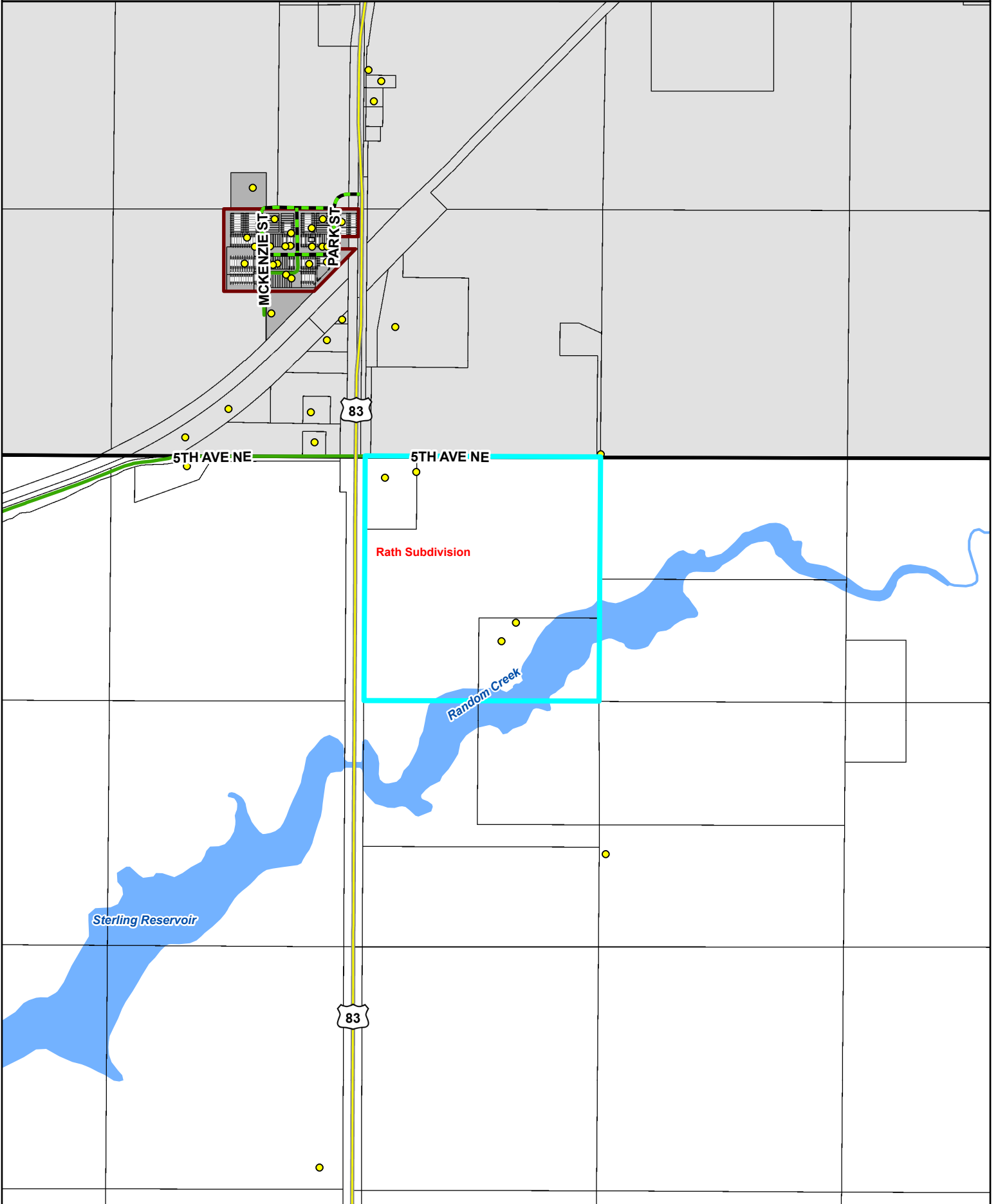
Planning Commission Action

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



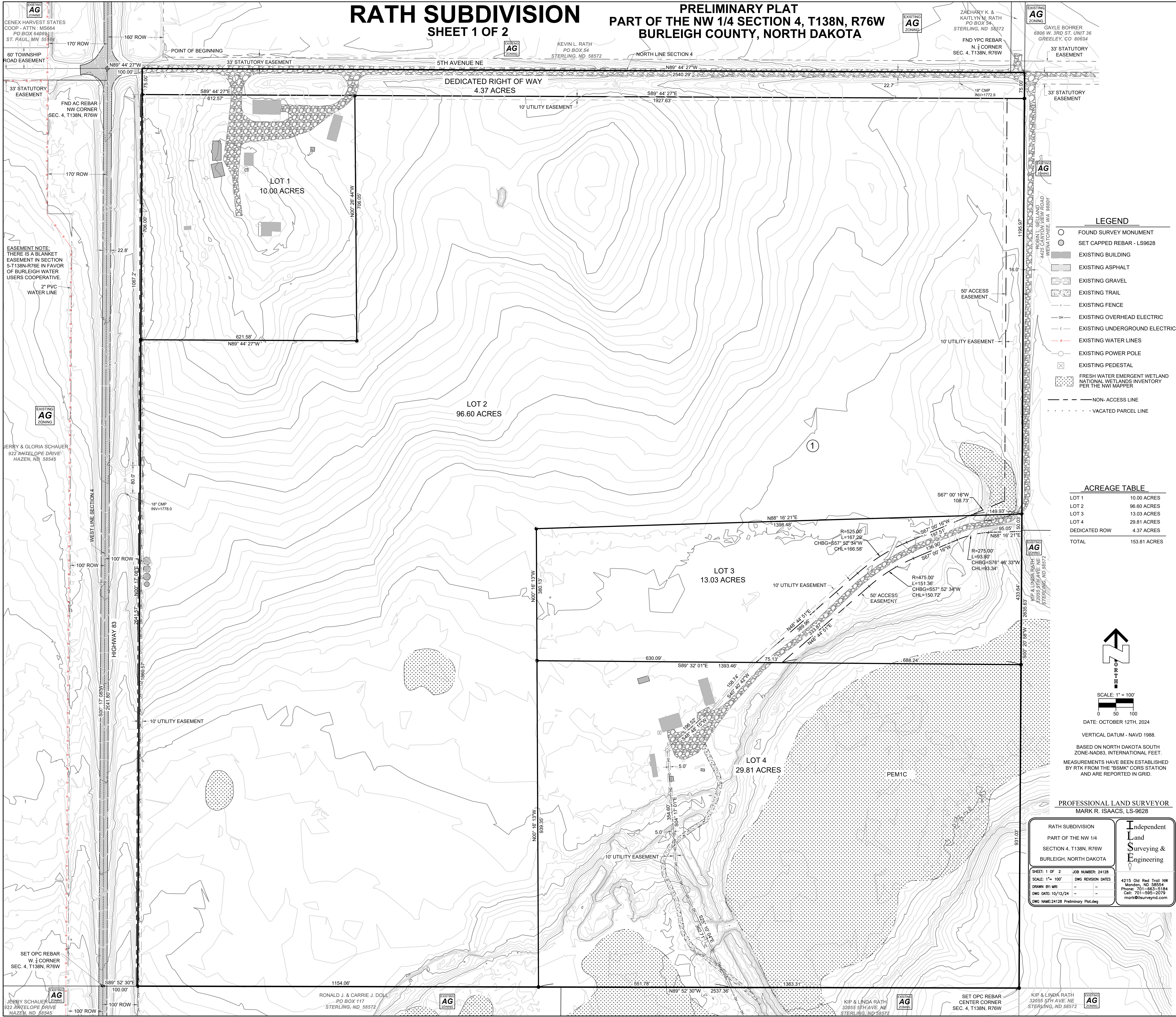
RATH SUBDIVISION

SHEET 1 OF 2

PRELIMINARY PLAT

PART OF THE NW 1/4 SECTION 4, T138N, R76W

BURLEIGH COUNTY, NORTH DAKOTA

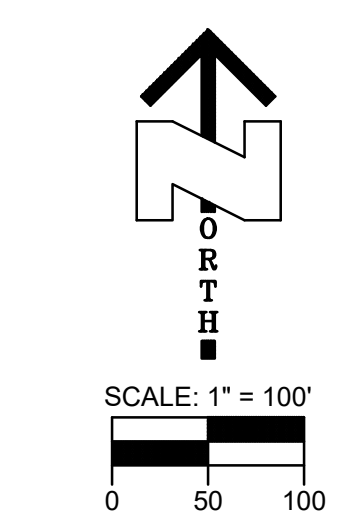


LEGEND

- FOUND SURVEY MONUMENT
- SET CAPPED REBAR - LS-9628
- 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
- - - NON- ACCESS LINE
- ⋯ VACATED PARCEL LINE

ACREAGE TABLE

LOT 1	10.00 ACRES
LOT 2	96.60 ACRES
LOT 3	13.03 ACRES
LOT 4	29.81 ACRES
DEDICATED ROW	4.37 ACRES
TOTAL	153.81 ACRES



PROFESSIONAL LAND SURVEYOR
MARK R. ISAACS, LS-9628

RATH SUBDIVISION
PART OF THE NW 1/4
SECTION 4, T138N, R76W
BURLEIGH, NORTH DAKOTA

Independent Land Surveying & Engineering

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

SHEET: 1 OF 2 JOB NUMBER: 24128
SCALE: 1" = 100' DWG REVISION DATES
DRAWN BY: MRI - -
DWG DATE: 10/12/24 - -
DWG NAME: 24128 Preliminary Plat.dwg

GENEX HARVEST STATES
COOP - ATTN: MS664
PO BOX 640893
ST. PAUL, MN 55164

60' TOWNSHIP
ROAD EASEMENT

33' STATUTORY
EASEMENT

FND AC REBAR
NW CORNER
SEC. 4, T138N, R76W

EASEMENT NOTE:
THERE IS A BLANKET
EASEMENT IN SECTION
5-T138N-R76E IN FAVOR
OF BURLEIGH WATER
USERS COOPERATIVE.

2" PVC
WATER LINE

JERRY & GLORIA SCHAUER
922 ANTELOPE DRIVE
HAZEN, ND 58545

EXISTING
AG
ZONING

WEST LINE SECTION 4

HIGHWAY 83

10' UTILITY EASEMENT

SET OPC REBAR
W. 1/4 CORNER
SEC. 4, T138N, R76W

JERRY SCHAUER
922 ANTELOPE DRIVE
HAZEN, ND 58545

EXISTING
AG
ZONING

KEVIN L. RATH
PO BOX 54
STERLING, ND 58572

5TH AVENUE NE

NORTH LINE SECTION 4

DEDICATED RIGHT OF WAY
4.37 ACRES

10' UTILITY EASEMENT

LOT 1
10.00 ACRES

LOT 2
96.60 ACRES

LOT 3
13.03 ACRES

LOT 4
29.81 ACRES

PEM1C

10' UTILITY EASEMENT

50' ACCESS
EASEMENT

SET OPC REBAR
CENTER CORNER
SEC. 4, T138N, R76W

KIP & LINDA RATH
32055 5TH AVE. NE
STERLING, ND 58572

EXISTING
AG
ZONING

EXISTING
AG
ZONING

ZACHARY K. &
KAITLYN M. RATH
PO BOX 34
STERLING, ND 58572

FND YPC REBAR
N. 1/4 CORNER
SEC. 4, T138N, R76W

EXISTING
AG
ZONING

GAYLE BOHRER
6806 W. 3RD ST. UNIT 36
GREELEY, CO 80634

33' STATUTORY
EASEMENT

EXISTING
AG
ZONING

ROBIN L. SELL AND
4425 CANYON VIEW ROAD
WEAVER, WA 98901

EXISTING
AG
ZONING

KIP & LINDA RATH
32055 5TH AVE. NE
STERLING, ND 58572

EXISTING
AG
ZONING

EXISTING
AG
ZONING

SET OPC REBAR
CENTER CORNER
SEC. 4, T138N, R76W

KIP & LINDA RATH
32055 5TH AVE. NE
STERLING, ND 58572

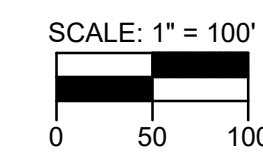
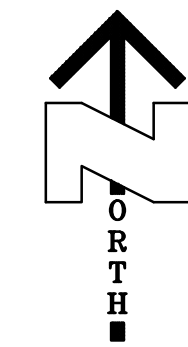
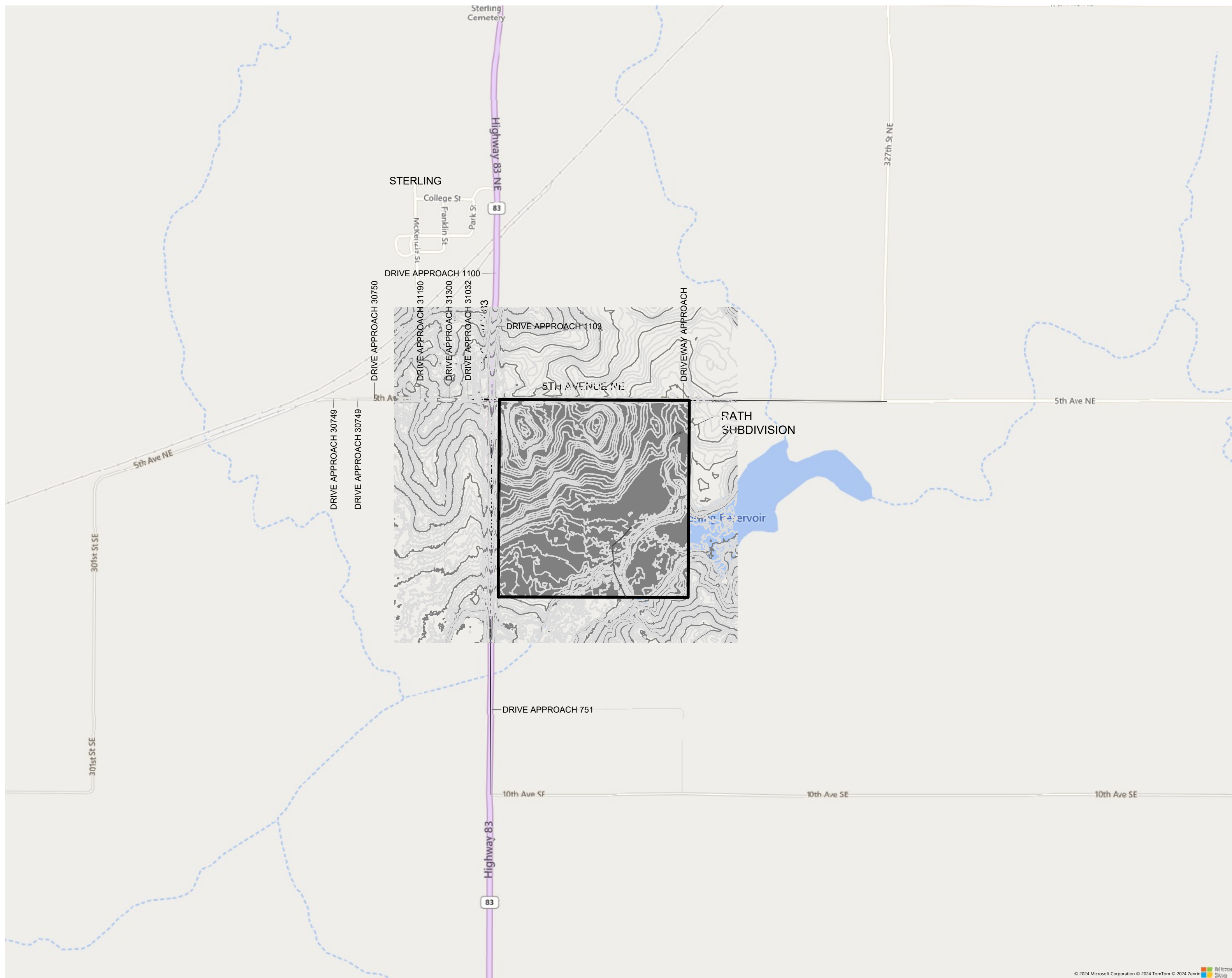
EXISTING
AG
ZONING

PRELIMINARY PLAT
RATH SUBDIVISION
 PART OF THE NW 1/4 SECTION 4, T138N, R76W
 BURLEIGH COUNTY, NORTH DAKOTA
 SHEET 2 OF 2

LAND DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 138 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 4; THENCE NORTH 89° 44' 27" WEST ON THE NORTH LINE OF SAID SECTION 4 A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 44' 27" WEST ON SAID NORTH LINE A DISTANCE OF 2540.29 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 00° 20' 58" WEST ON THE EAST LINE OF SAID NORTHWEST QUARTER 9 A DISTANCE OF 2835.63 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89° 52' 30" WEST ON THE SOUTH LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 2537.36 FEET TO THE EAST RIGHT OF WAY LINE OF HIGHWAY 14; THENCE NORTH 00° 17' 08" EAST ON SAID EAST RIGHT OF WAY LINE A DISTANCE OF 2641.57 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 153.81 ACRES MORE OR LESS; AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



DATE: OCTOBER 12TH, 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.

- 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 50' ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOTS 2, 3 & 4, BLOCK 1.

OWNERS:

KEVIN L. RATH
 32051 5TH AVENUE NE
 STERLING, ND 58572

GAYLE BOHRER
 6808 WEST 3RD ST, UNIT 36
 GREELEY, CO 80634

KIP E. & LINDA M. RATH
 32055 5TH AVENUE NE
 STERLING, ND 58572

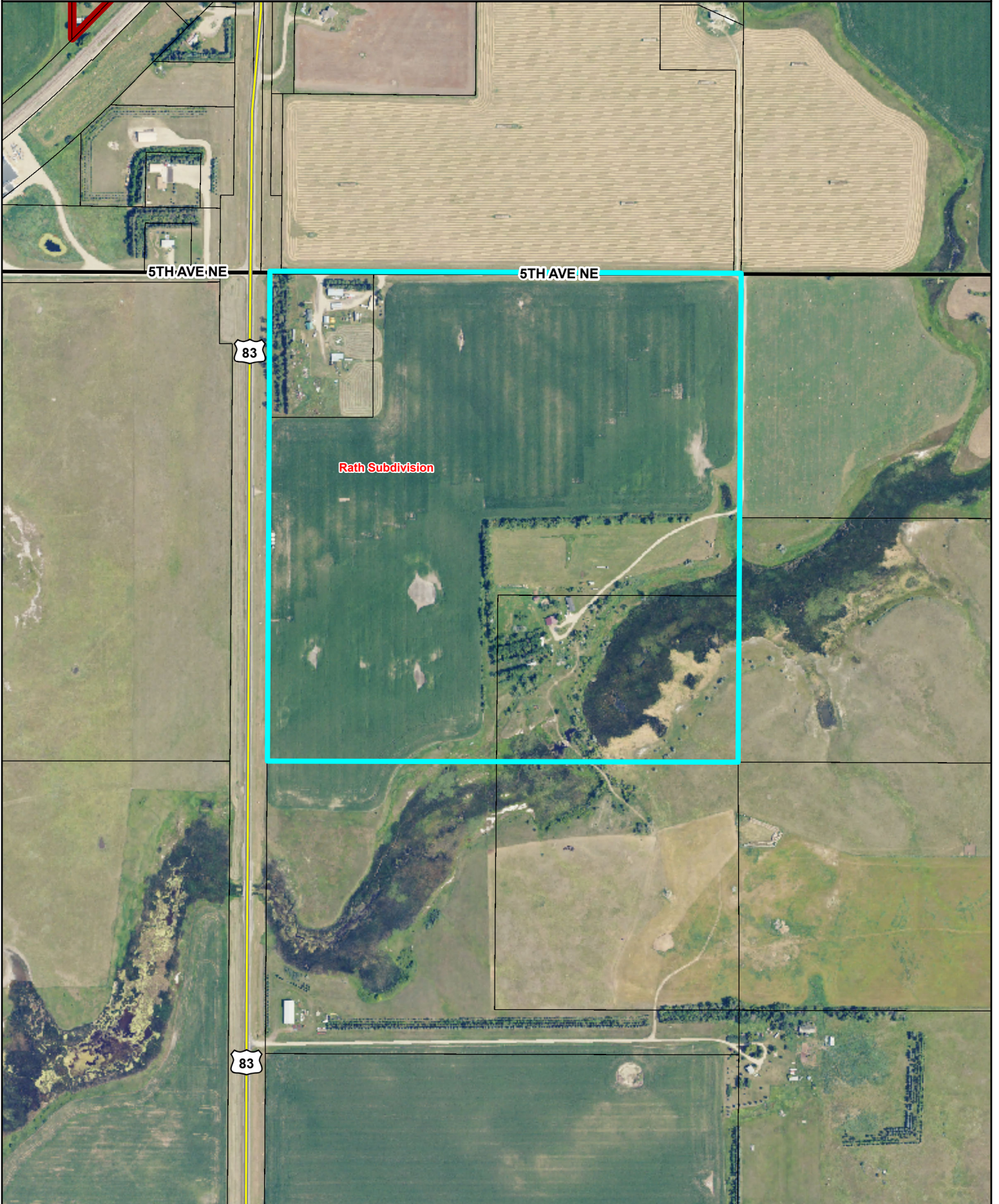
PROFESSIONAL LAND SURVEYOR
 MARK R. ISAACS, LS-9628

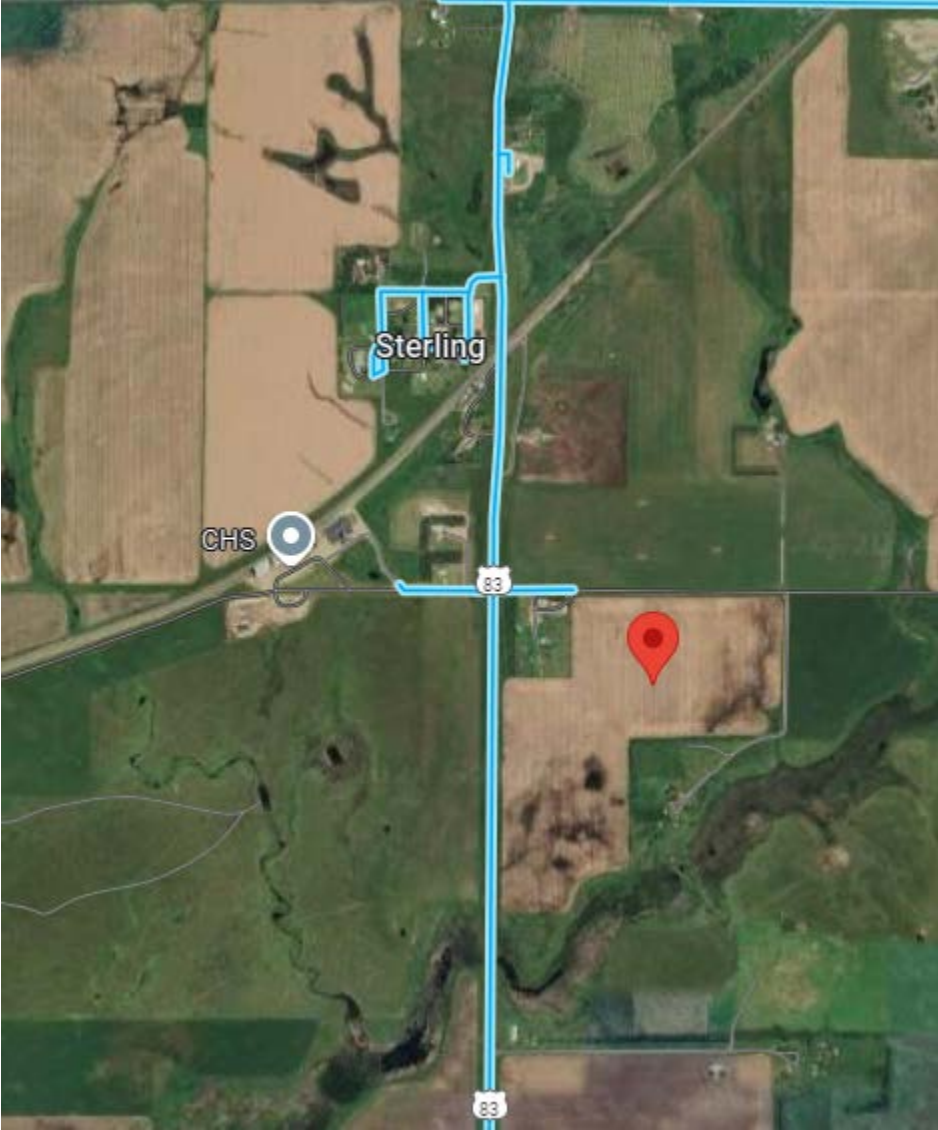
RATH SUBDIVISION
 PART OF THE NW 1/4
 SECTION 4, T138N, R76W
 BURLEIGH, NORTH DAKOTA

Independent
Land
Surveying &
Engineering

SHEET: 2 OF 2 JOB NUMBER: 24128
 SCALE: 1" = 100' DWG REVISION DATES
 DRAWN BY: MR - -
 DWG DATE: 10/12/24 - -
 DWG NAME: 24128 Preliminary Plat.dwg

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






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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.

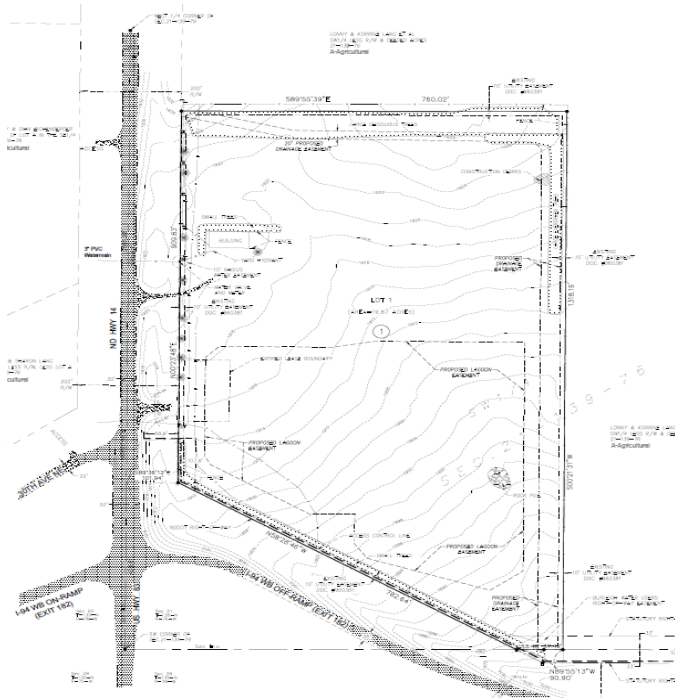
Building, Planning and Zoning staff had several conversations with Sterling Township regarding the requirements needed by the State of North Dakota and the developer for licensing of the fuel station. Sterling Township does not do inspections and do not have a certified building official to sign off 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.

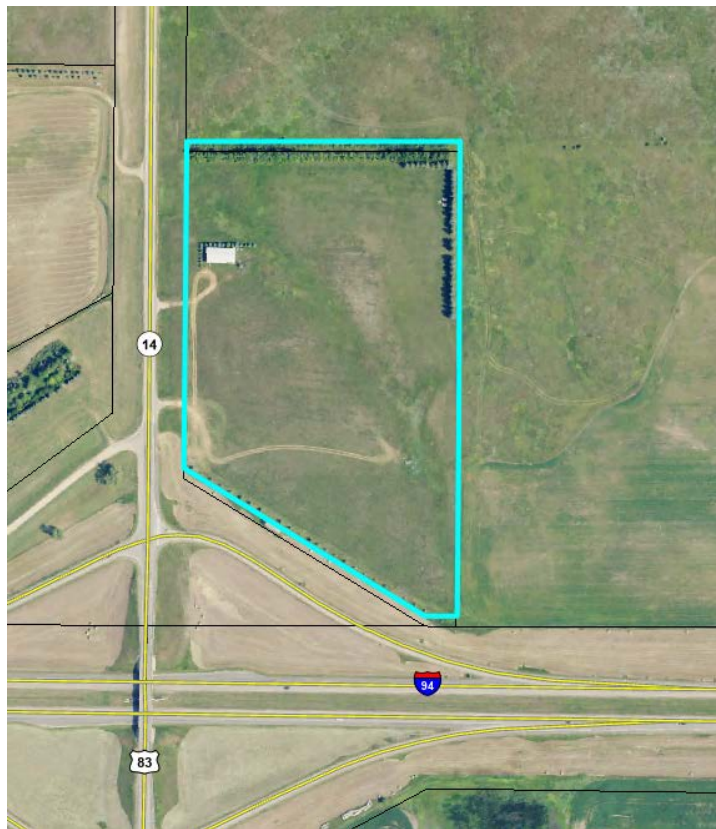


PLANNING AND ZONING COMMISSION

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.



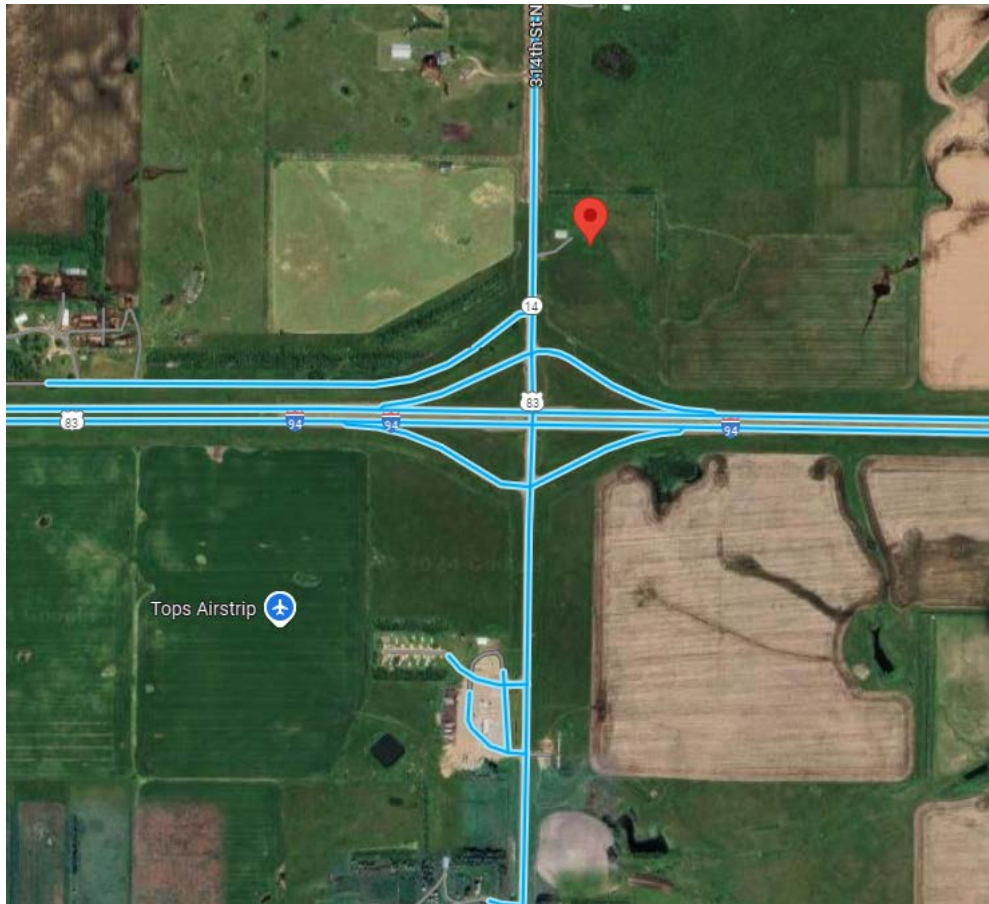
PLANNING AND ZONING COMMISSION

November 13, 2024

Planning Commission Action

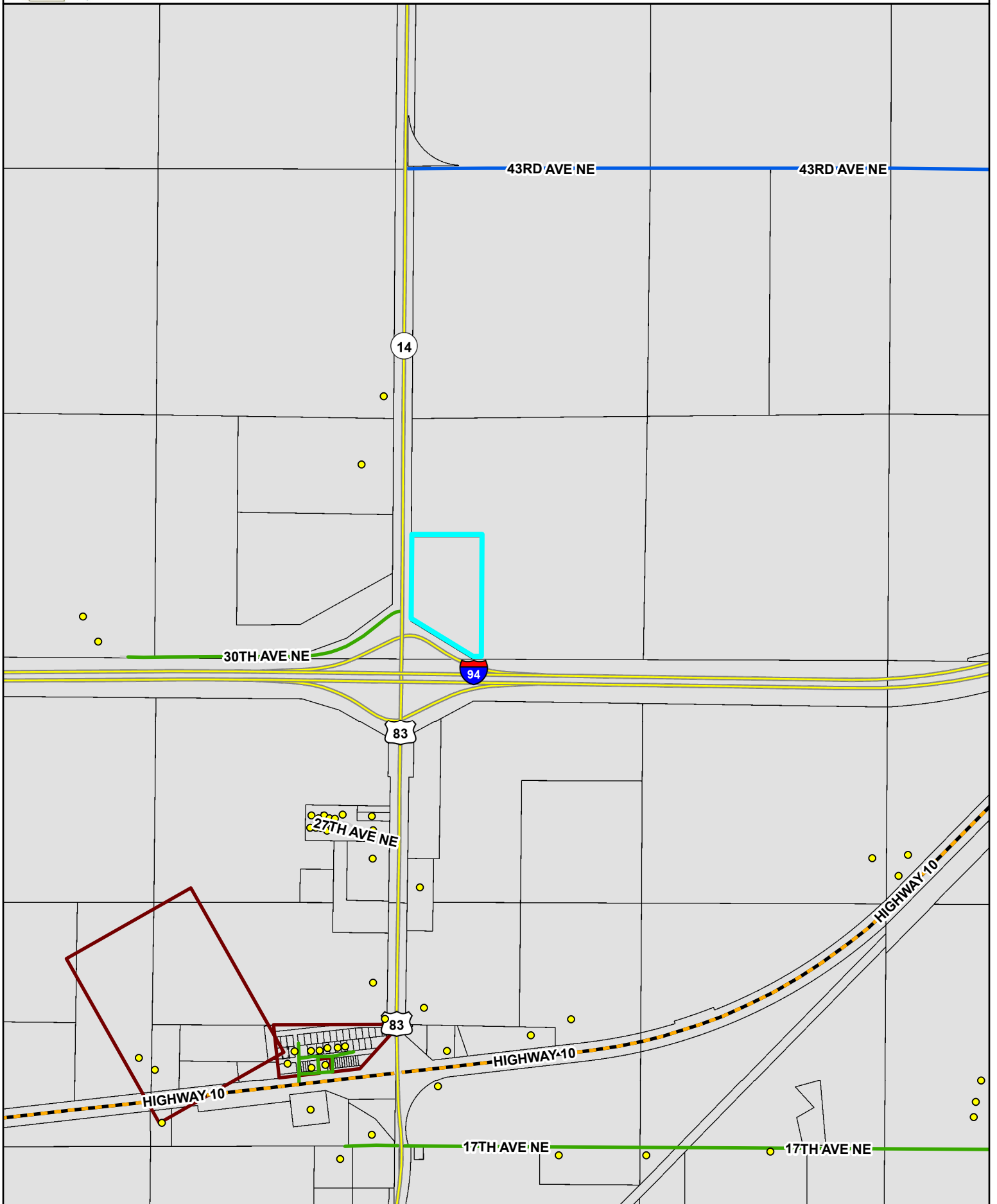
The Burleigh County Planning and Zoning Commission can:

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

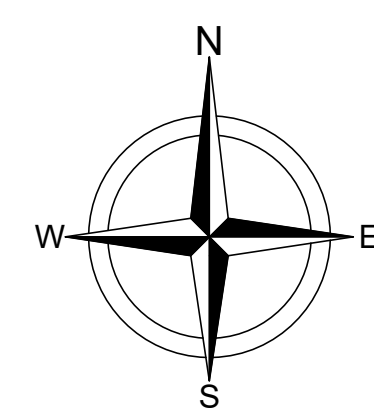
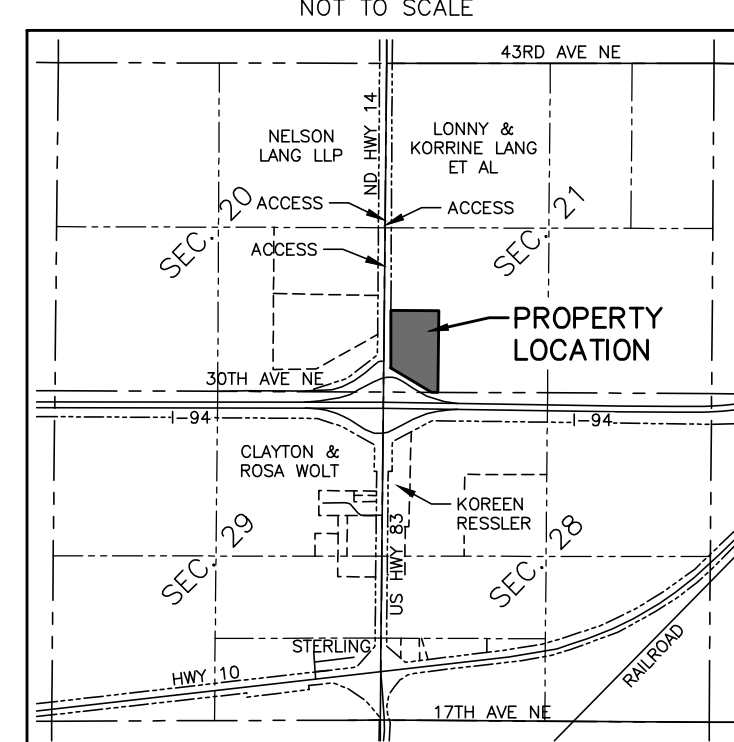
LONNY & KORRINE LANG ET AL
SW1/4 LESS R/W & DEEDED ACRES
21-139-76
A-Agricultural

ZONING:
Sterling Township
A-Agricultural

PLATTING:
Burleigh County

BUILDING PERMITS:
Burleigh County

VICINITY MAP
NOT TO SCALE



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

BASIS OF BEARINGS:
GRID NORTH

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, NORTH DAKOTA
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.

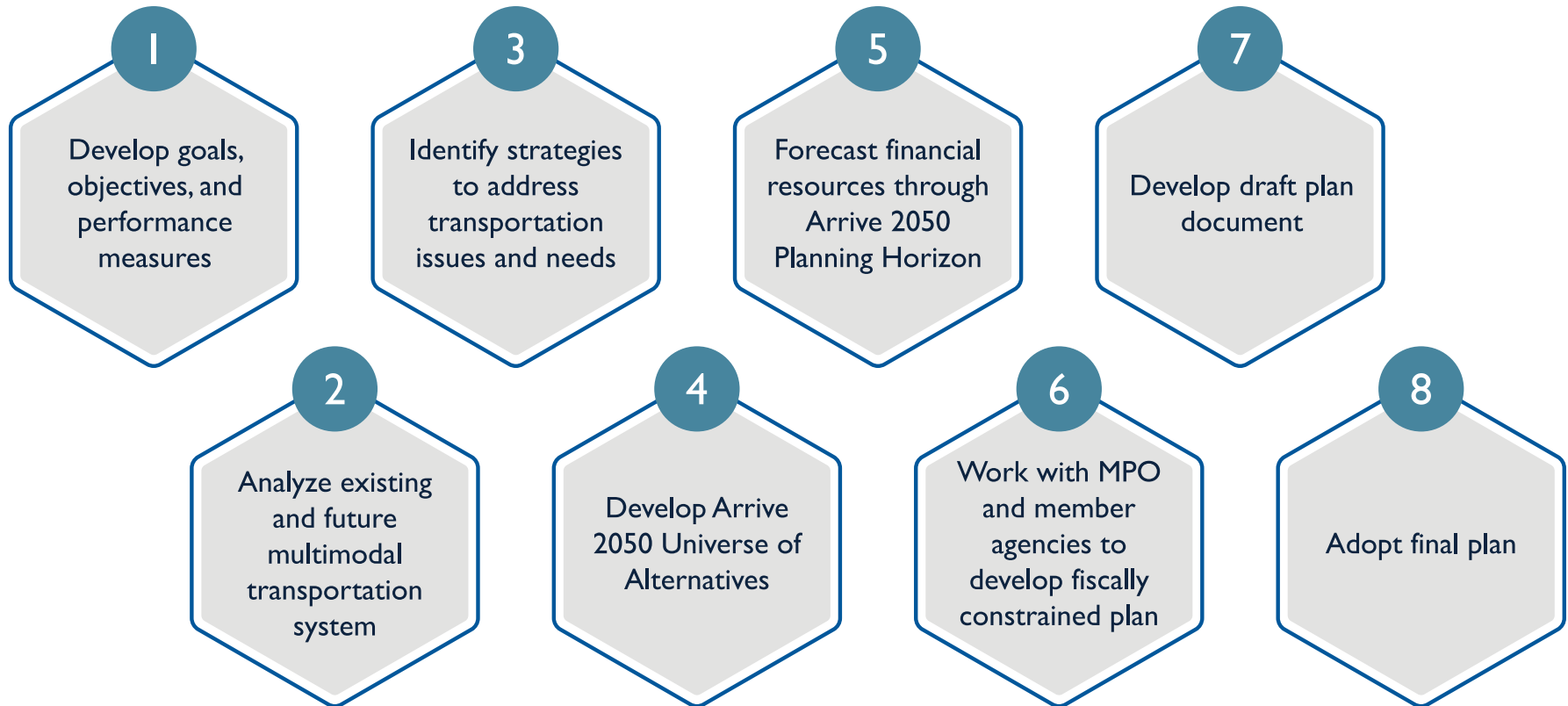
Public Participation Plan



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



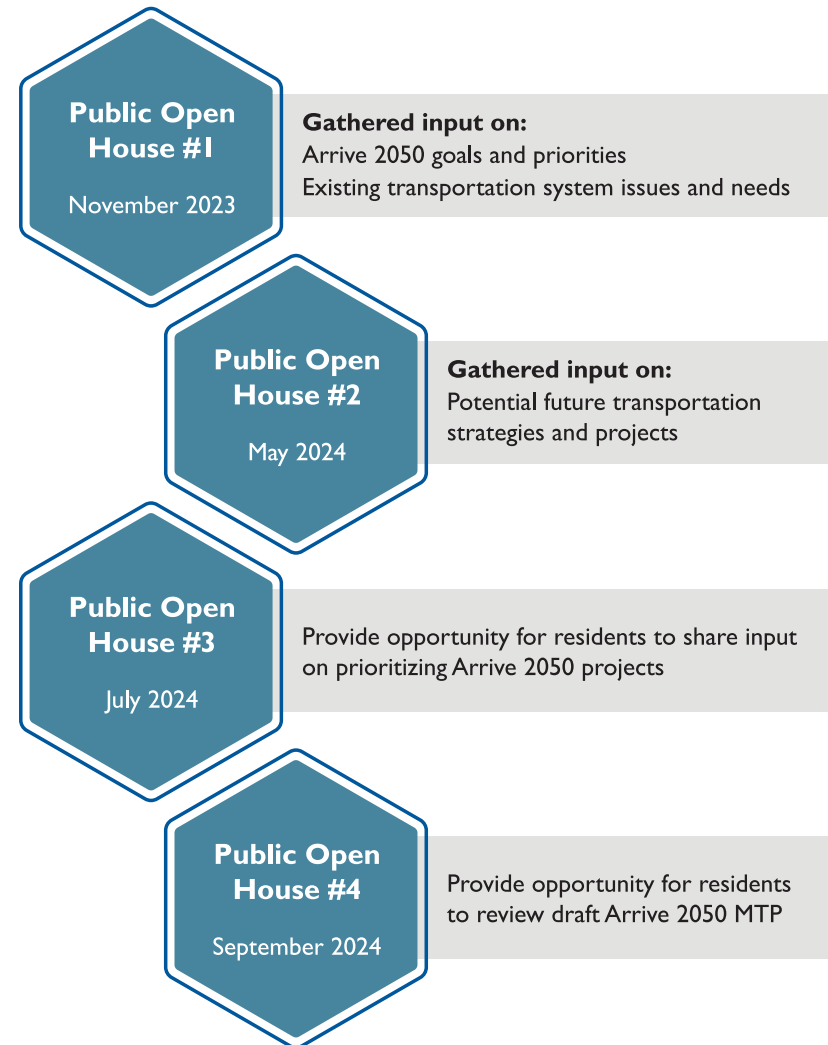
Public Engagement

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:





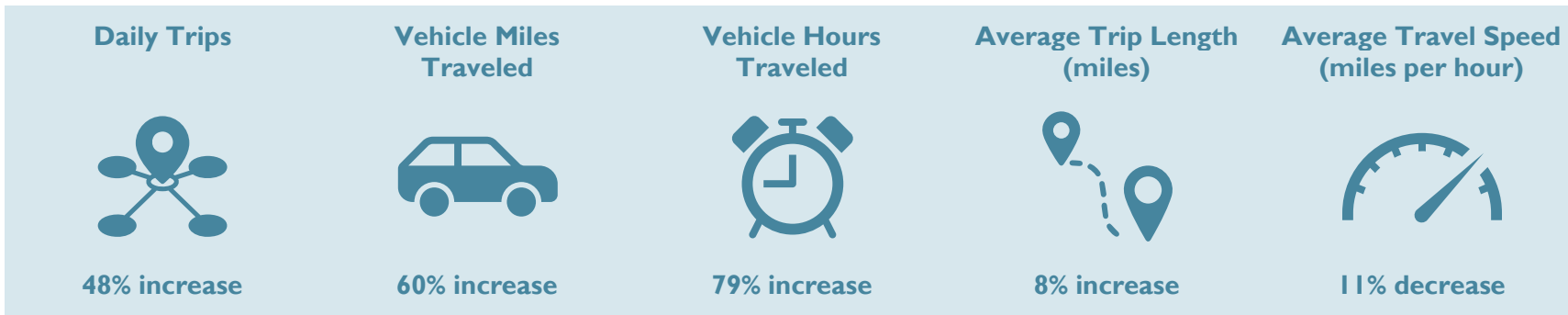
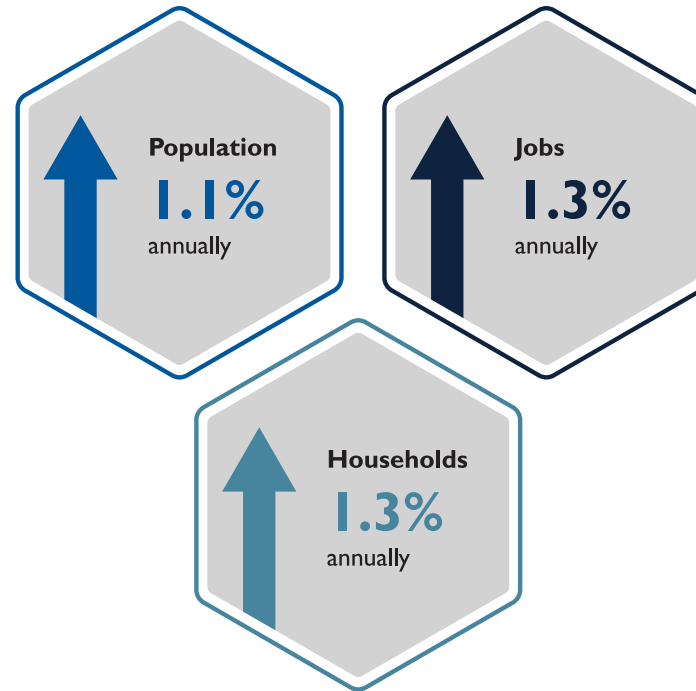
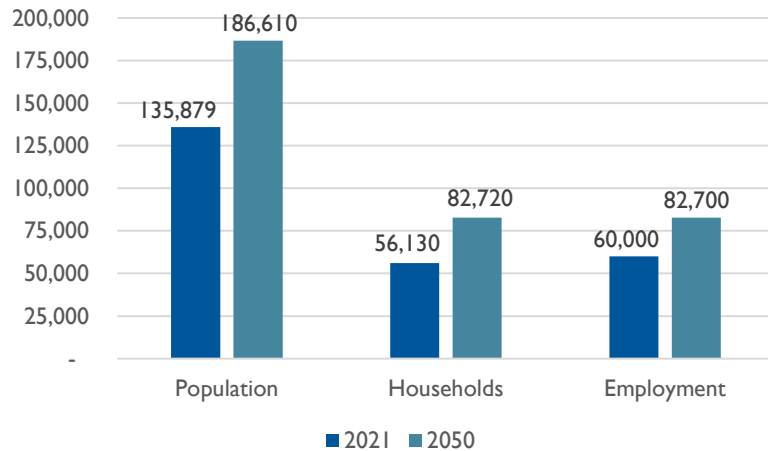
Baseline Transportation System Performance – Summary of Issues and Needs

	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

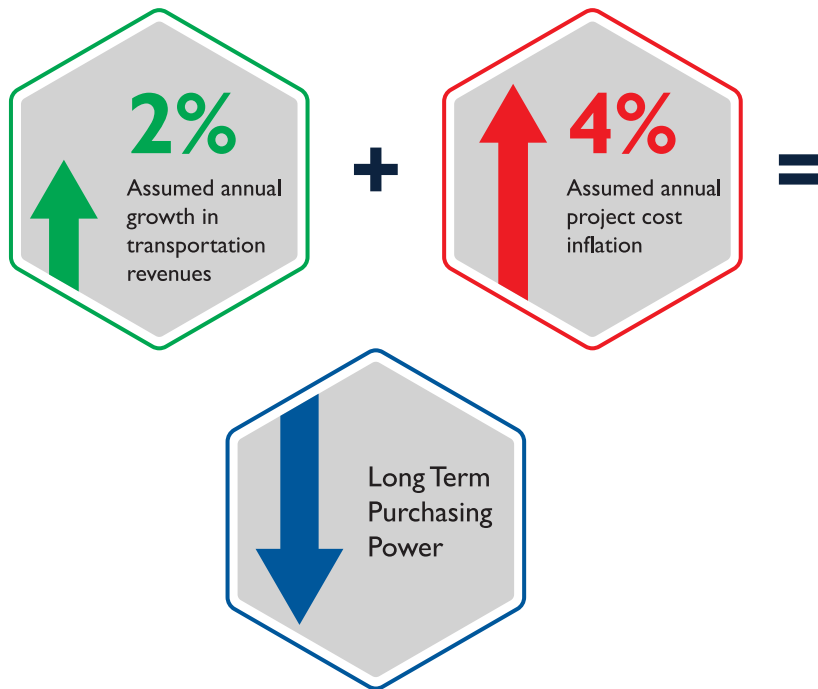
Based on anticipated growth trends for the MPO Area's household and employment levels, overall future travel conditions through the year 2050 were analyzed. This analysis resulted in the evaluation of key transportation performance measures and anticipated future issues.





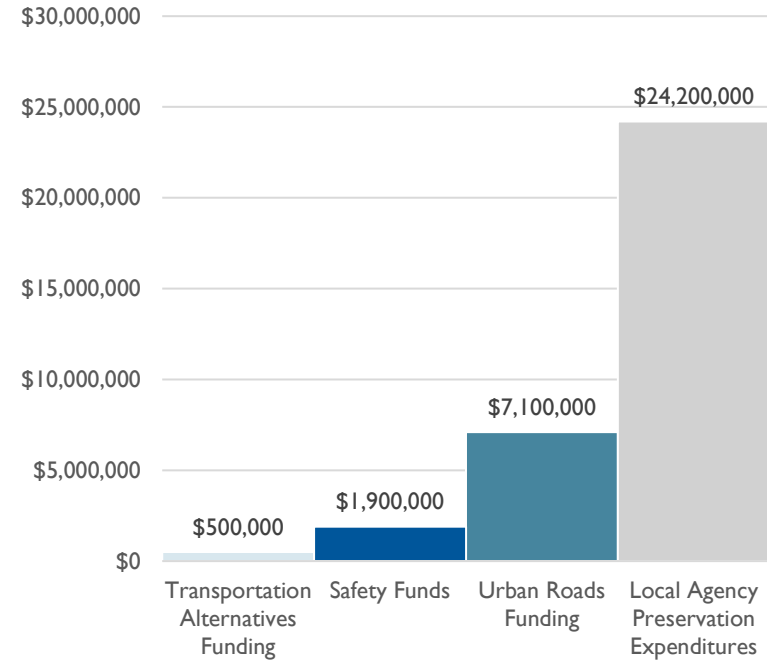
Arrive 2050 Funding Plan

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.



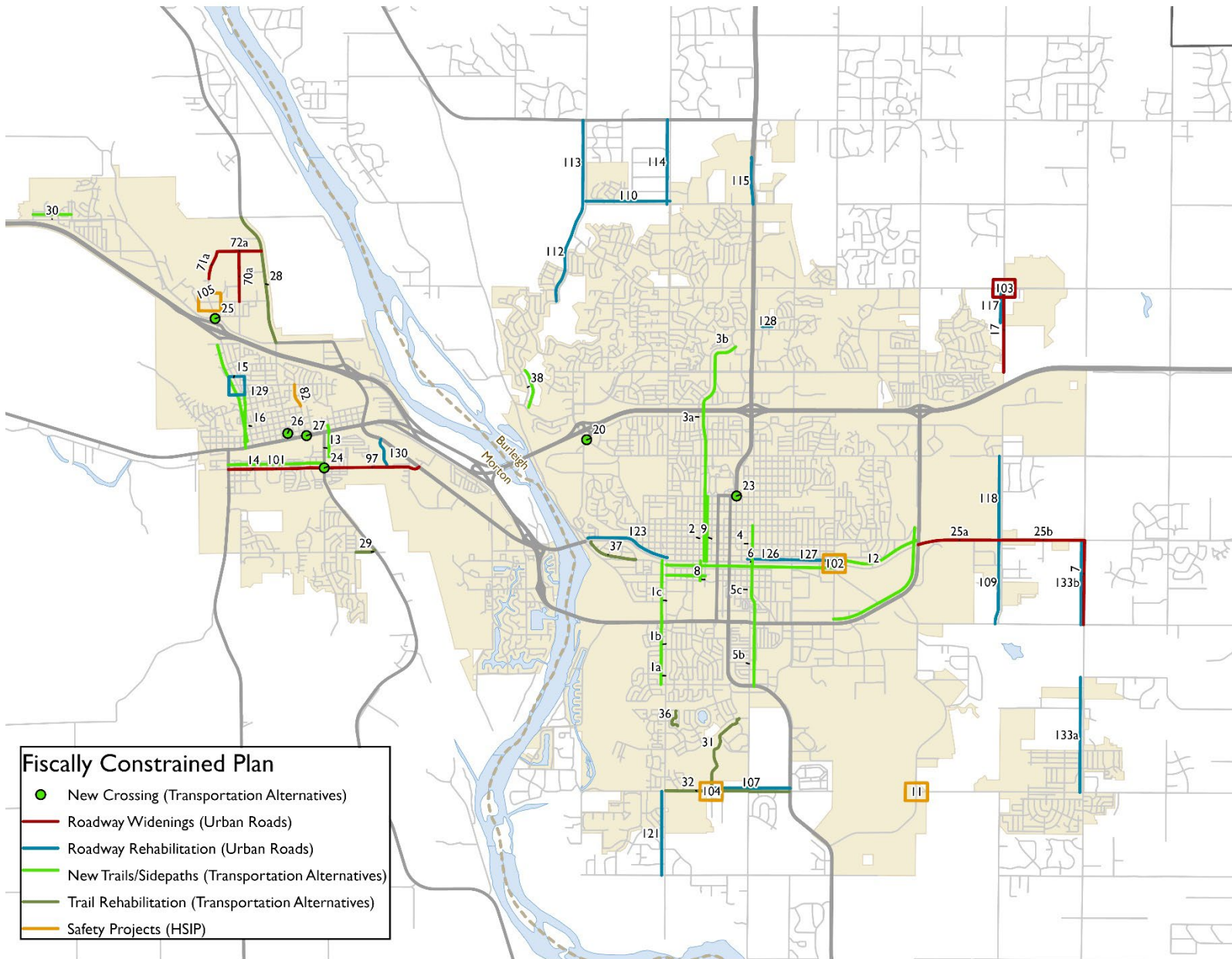
Annual future funding levels for the MPO’s key transportation programs were forecasted through the year 2050 to understand the revenue levels the agency can reasonably expect through the life of Arrive 2050. These funds are federally-sourced and allocated to the MPO on an annual basis:

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; width: fit-content; margin: 0 auto;">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

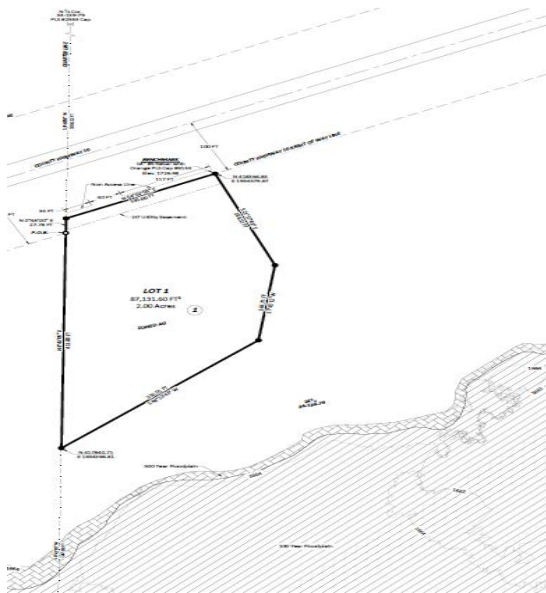
History

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

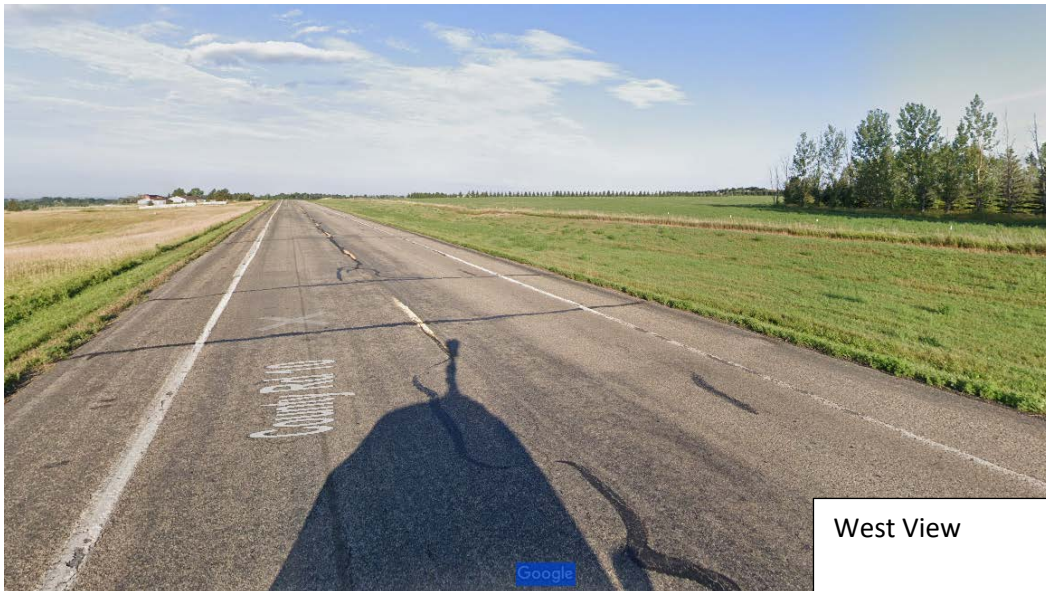


PLANNING AND ZONING
COMMISSION

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

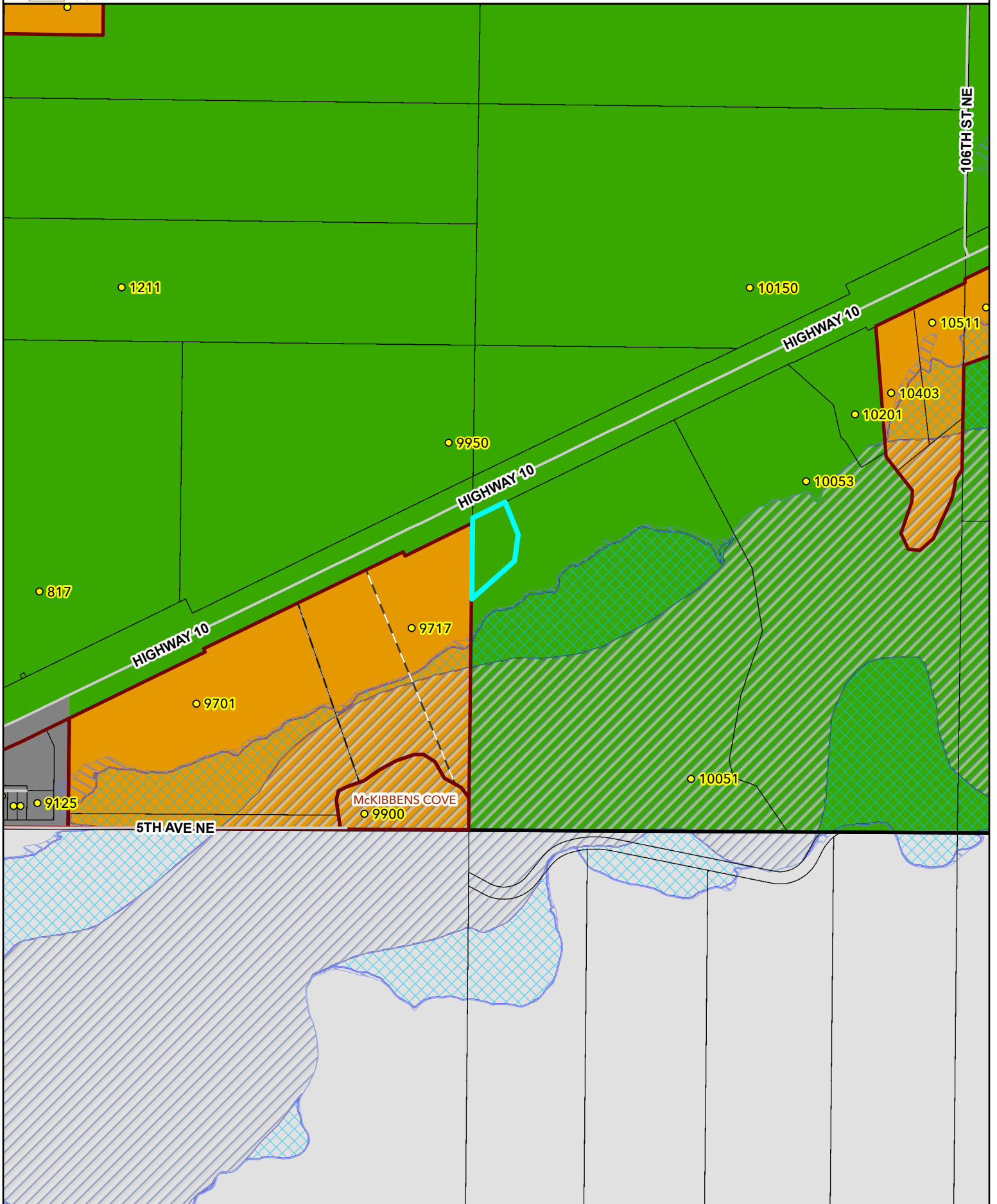
Staff Recommendation

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

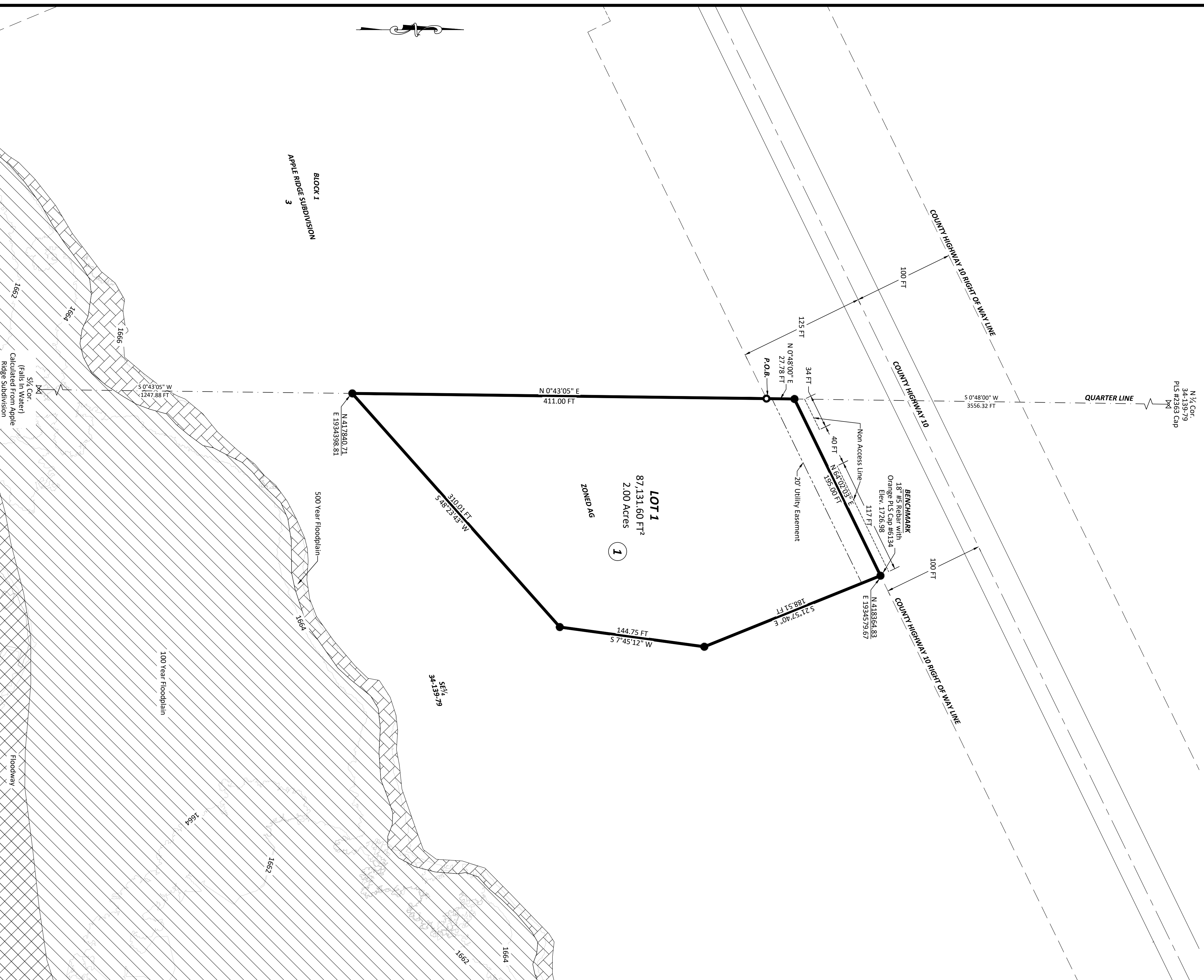
The Burleigh County Planning and Zoning Commission can:

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.



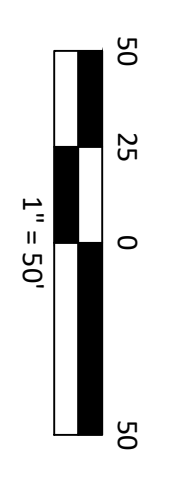
WIESE ACRES SUBDIVISION

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 10th Street - P.O. Box 237 - Bismarck, ND 58103
316 Executive Drive - P.O. Box 1277 - Bismarck, ND 58502



WOLD
ENGINEERING P.C.

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 255.00 FT, to a Point being on the East Right of Way Line of County Highway 10; Thence S 48°22'42" W, on said Right of Way line, a distance of 316.02 FT, to a Point being on the East Line of said Lot 5; Thence N 9°49'00" E, on the East line of said Lot 5, a distance of 44.73 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 hereof were done 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

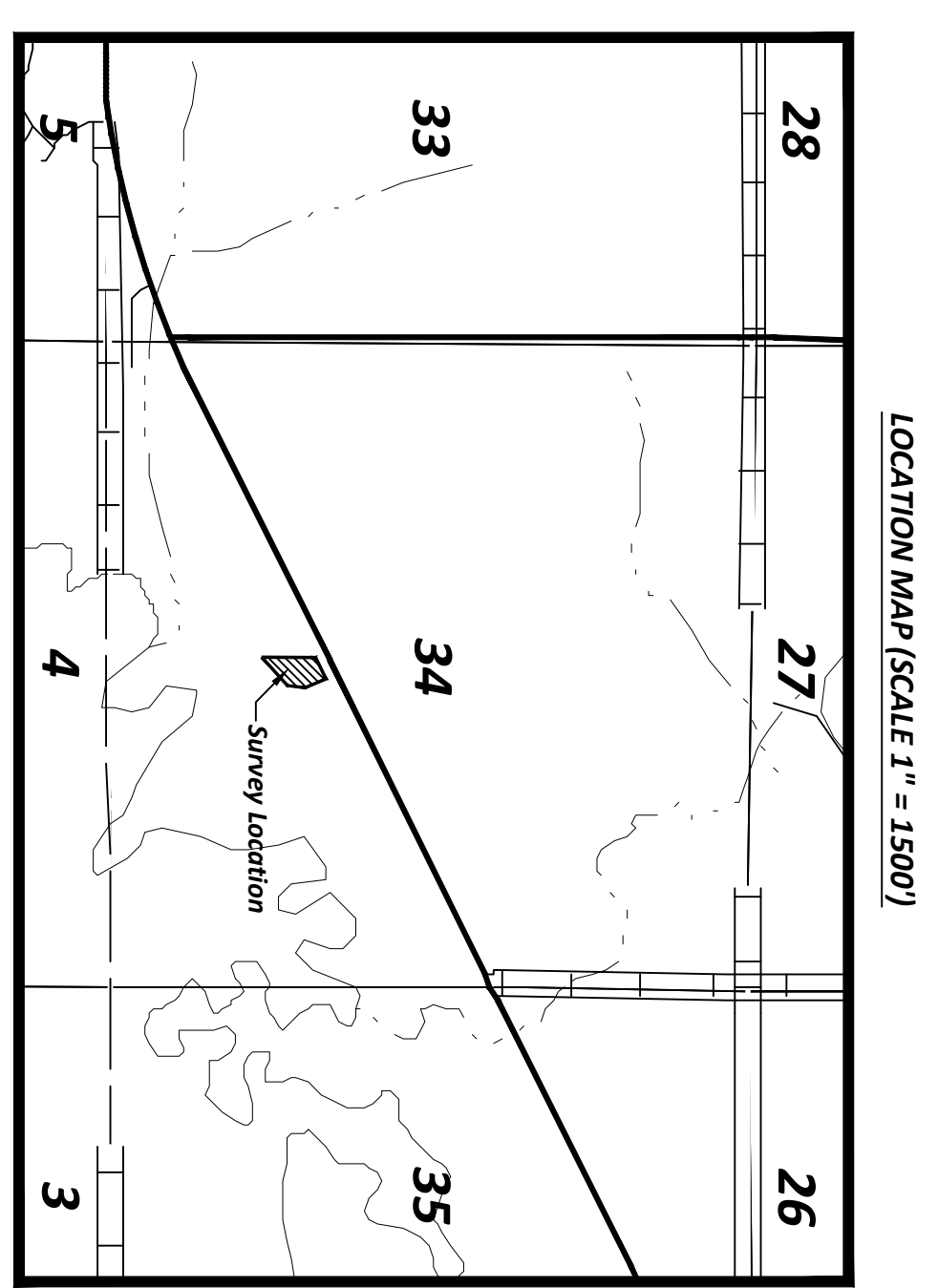
The Board of County Commissioners of the County of Burleigh, North Dakota, has approved the Subdivision of land as shown on this plat, has accepted the dedication of all streets shown thereon, and does hereby waive any previous pitting within the boundary of this plat.
The plat was done in accordance 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

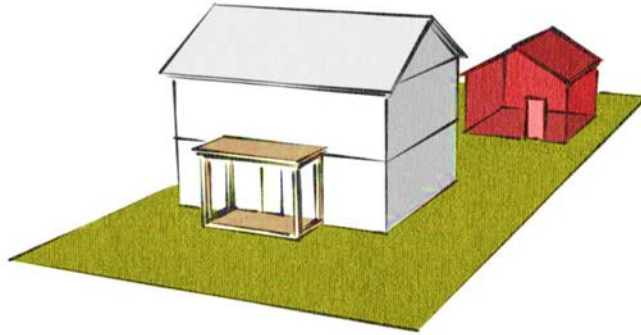
IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this _____ day of _____, 2024

Mark Splonskowski, Burleigh County Auditor/Treasurer

Types of Accessory Dwelling Units (ADUs)

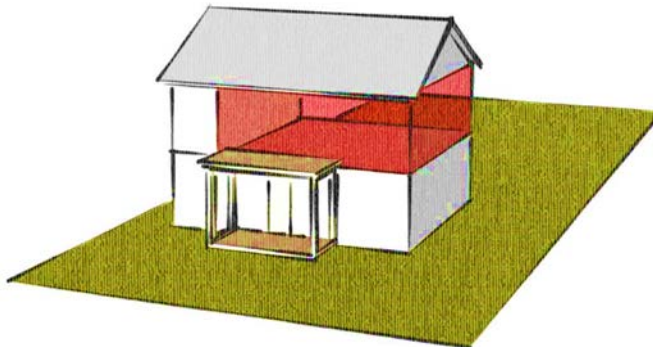
External ADU:

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.

BURLEIGH COUNTY NON-CONVERSION AGREEMENT

Property Owner: _____, "Owner"

Property Address: _____

Property Legal Description: _____

Building Permit Number: _____

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

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

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

- The principal or accessory dwelling unit must be occupied by the owner of the subject parcel as a legal residence for more than six (6) months of any given year. The home may not be owned by a corporation, but the owner-occupant may be a benefited person in a private trust or life estate. The owner-occupancy requirement applies to the applicant as well as all subsequent owners of the property.
- Shall be used solely for residential use to members directly related to the owners of same property.
- Upon notice to the owner of the property, County staff shall be authorized to enter the property for the purpose of inspecting the exterior and interior of the accessory structure to verify code compliance.

Owner: _____

Name _____ Name _____

STATE OF NORTH DAKOTA)

) SS

COUNTY OF BURLEIGH)

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

Notary Public

