



## Burleigh County Planning and Zoning Commission Meeting Agenda

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



5:15pm

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


### **AGENDA**

**September 11, 2024**

1. Roll Call
2. Approval of the July Minutes
3. Consent Agenda *(The following item(s) are request(s) for a public hearing)*
  - 3-1 Makedonski Subdivision
  - 3-2 Cherney Morrissette Subdivision
  - 3-3 Amendment to Zoning Ordinance
    - Article 8 Special Uses – Section 30 – Data Centers
  - 3-4 Amendment to Zoning Ordinance
    - Article 8 Special Uses – Section 31 – Accessory Dwelling Units
4. Public Hearing Agenda
  - 4-1 Aberle 2<sup>nd</sup> Subdivision and Zoning Change
  - 4-2 Amendment to Zoning Ordinance
    - Article 8 – Special Use, Section 29 - Solar Farms
5. Other Business:
6. Adjourn – Next meeting – October 9, 2024

# Agenda Item 3-1

## Application for Makedonski Subdivision

Project Summary	
Consent Agenda:	Makedonski Subdivision
Status:	Consent Agenda
Petitioner/Developer	K. Makedonski & L. Makedonski
Engineer	Mark Isaac, Independent Land Surveyor
Location:	Part of the West 1/2 of the Northwest 1/4 Section 9, Township 139N, Range 76W
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">3-1-1 Location Map</div>	
Project Size:	73.18 acres 4 Lots
Petitioners Request	Zoning is Sterling Township Call for a public hearing

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

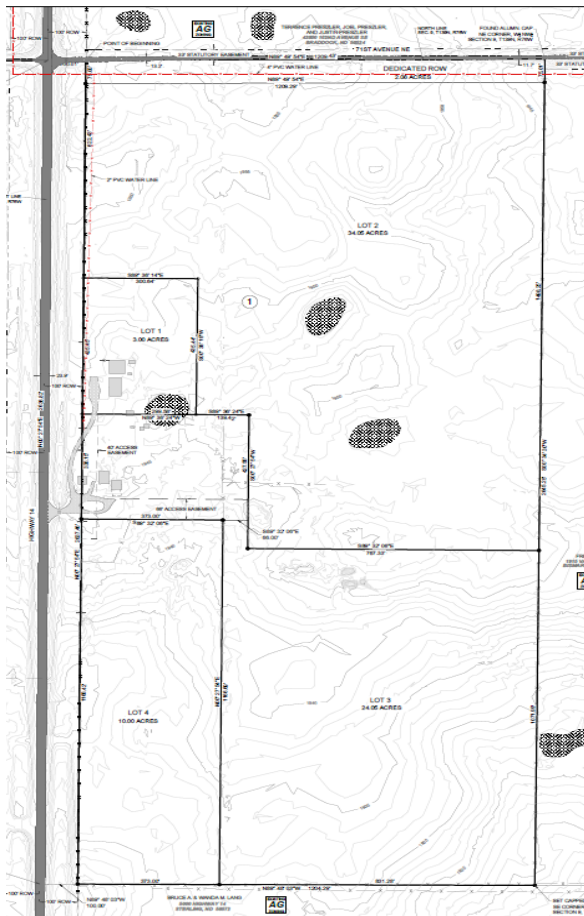


History/Description

Burleigh County was approached regarding a four (4) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential.

The review committee did not find issues of concern. A Stormwater Waiver has been requested and approved. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners.

Zoning for this property is under Sterling Township's Jurisdiction. Sterling has approved the continued A-Agricultural zoning of this subdivision.



Attachment 3-1-2 Preliminary Plat



PLANNING AND ZONING  
COMMISSION

September 11, 2024



Attachment 3-1-3 Site Map



PLANNING AND ZONING  
COMMISSION

September 11, 2024



North View





PLANNING AND ZONING  
COMMISSION

September 11, 2024

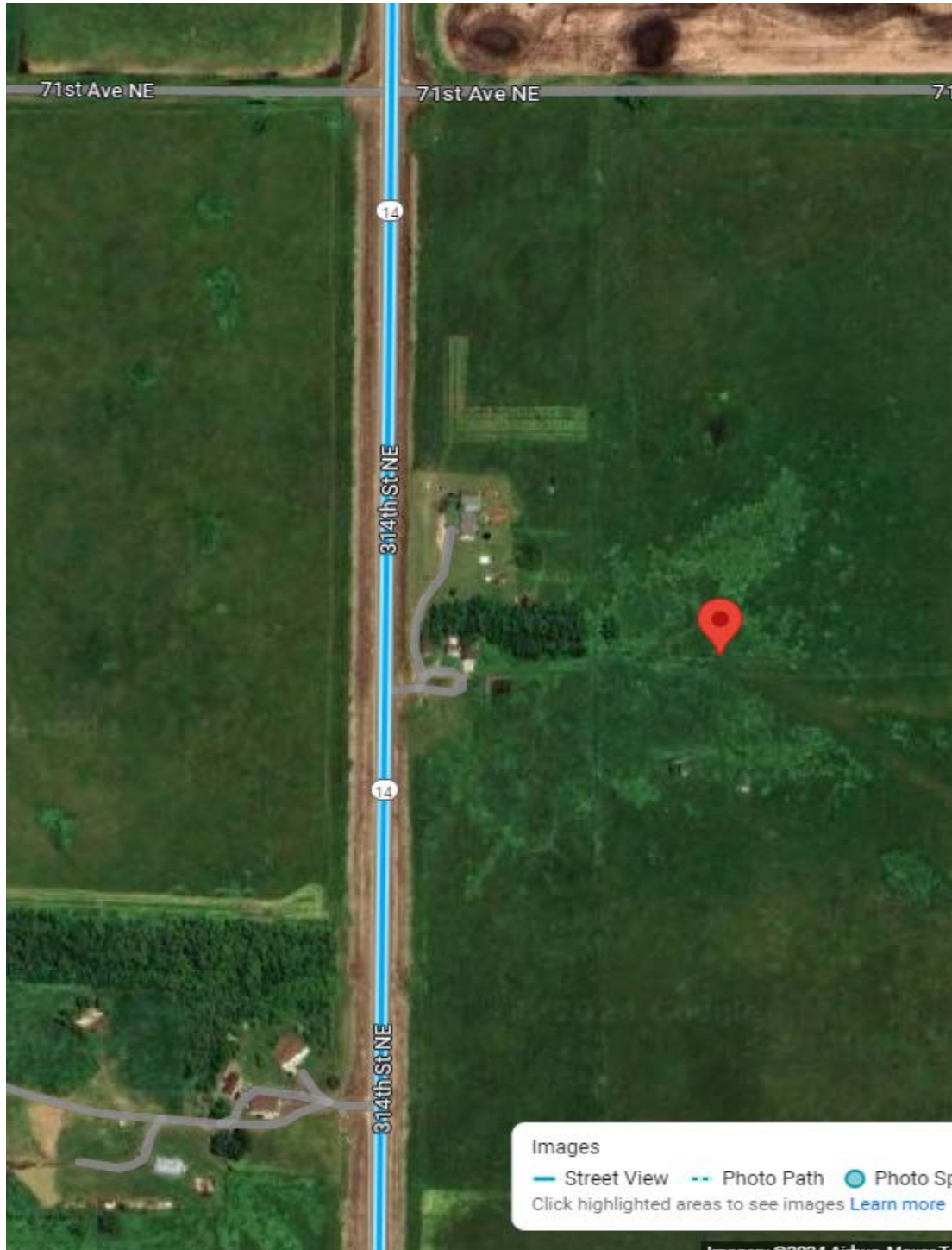


South View



PLANNING AND ZONING  
COMMISSION

September 11, 2024





### Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver has been granted
3. A Stormwater Management Plan or Waiver Request has been requested
4. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. Sterling Township has recommended approval of the plat.
6. Sterling Township has zoning jurisdiction for this area. Sterling approved the zoning as is.
7. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

### Planning Staff Recommendation

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

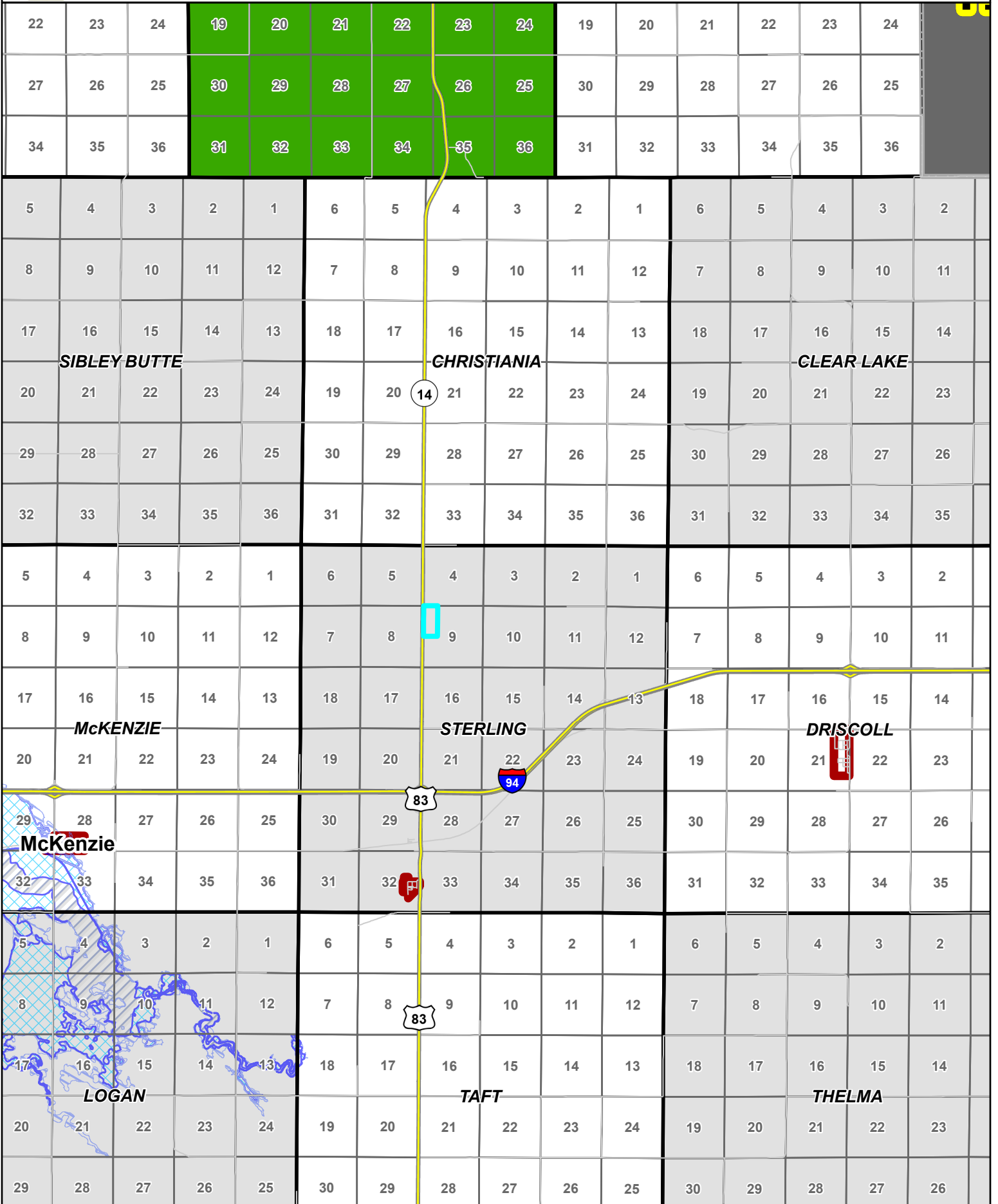
### Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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



# BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP





# PRELIMINARY PLAT MAKEDONSKI SUBDIVISION

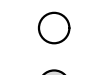


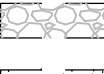
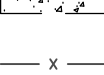
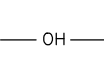
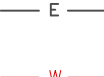
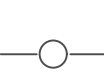

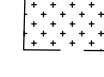

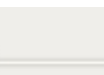
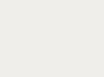
## PART OF THE WEST HALF OF THE NORTHWEST QUARTER SECTION 9, T139N, R76W BURLEIGH COUNTY, NORTH DAKOTA

**LAND DESCRIPTION**

PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 139 NORTH, RANGE 76 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

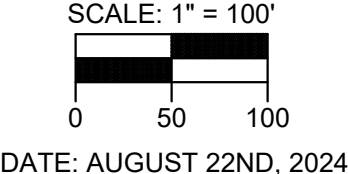
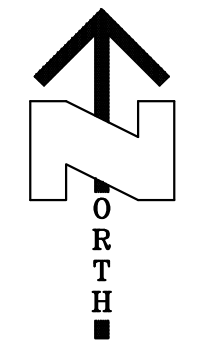
COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 9; THENCE NORTH 89° 49' 54" EAST ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 100.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 49' 54" EAST ON THE NORTH LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 1209.34 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE SOUTH 00° 34' 30" WEST ON THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 2645.25 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE NORTH 89° 48' 03" WEST ON THE SOUTH LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 1204.29 FEET TO THE EAST RIGHT OF WAY LINE OF HIGHWAY 14; THENCE NORTH 00° 27' 54" EAST ON SAID EAST RIGHT OF WAY LINE A DISTANCE OF 2637.46 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 73.18 ACRES MORE OR LESS; AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.

**LEGEND**

-  FOUND SURVEY MONUMENT
-  SET CAPPED REBAR - LS9628
-  EXISTING BUILDING
-  EXISTING ASPHALT
-  EXISTING GRAVEL
-  EXISTING TRAIL
-  EXISTING FENCE
-  EXISTING OVERHEAD ELECTRIC
-  EXISTING UNDERGROUND ELECTRIC
-  EXISTING WATER LINES
-  EXISTING POWER POLE
-  EXISTING PEDESTAL
-  FRESH WATER EMERGENT WETLAND  
NATIONAL WETLANDS INVENTORY  
PER THE NWI MAPPER

**ACREAGE TABLE**

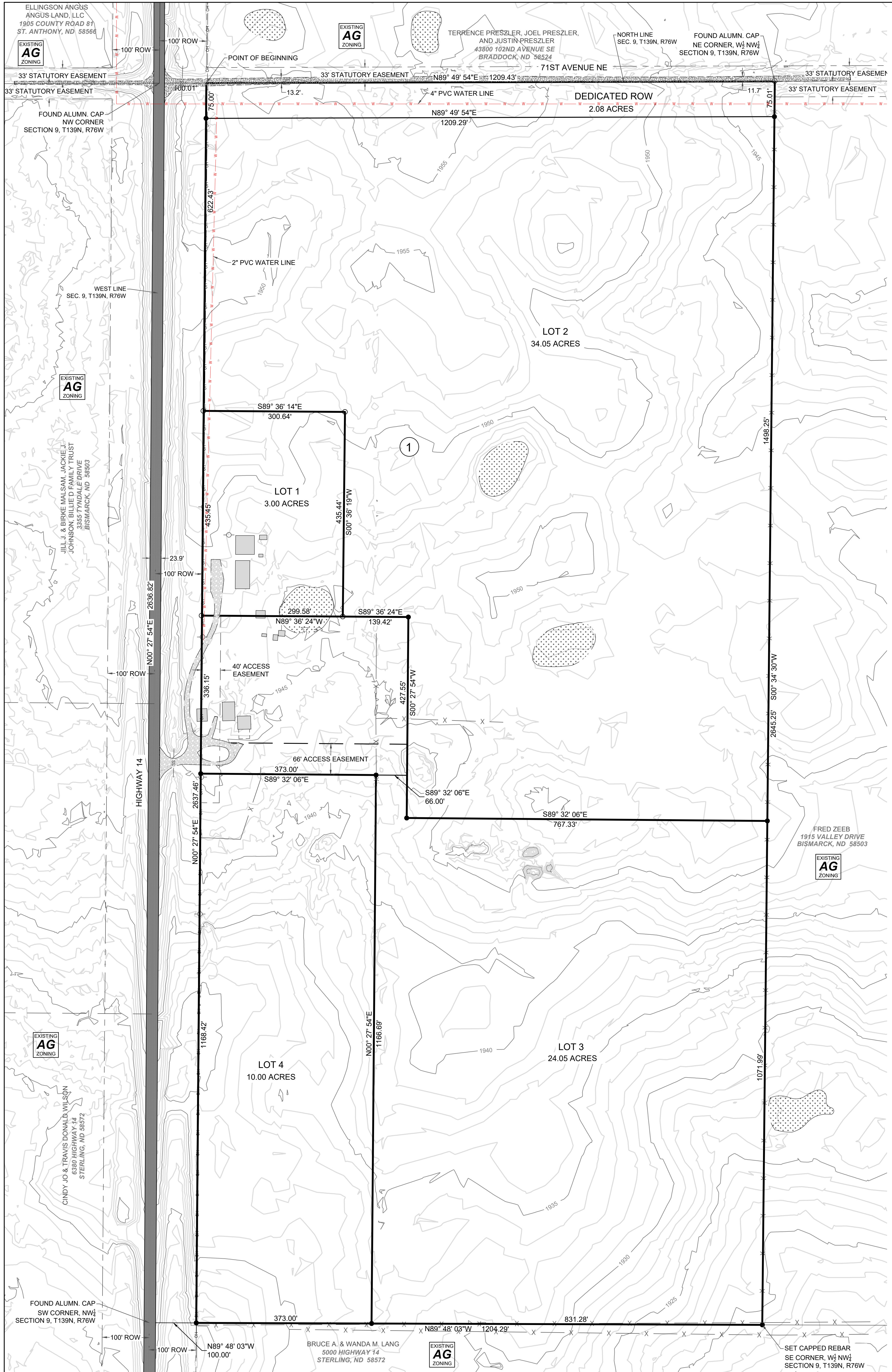
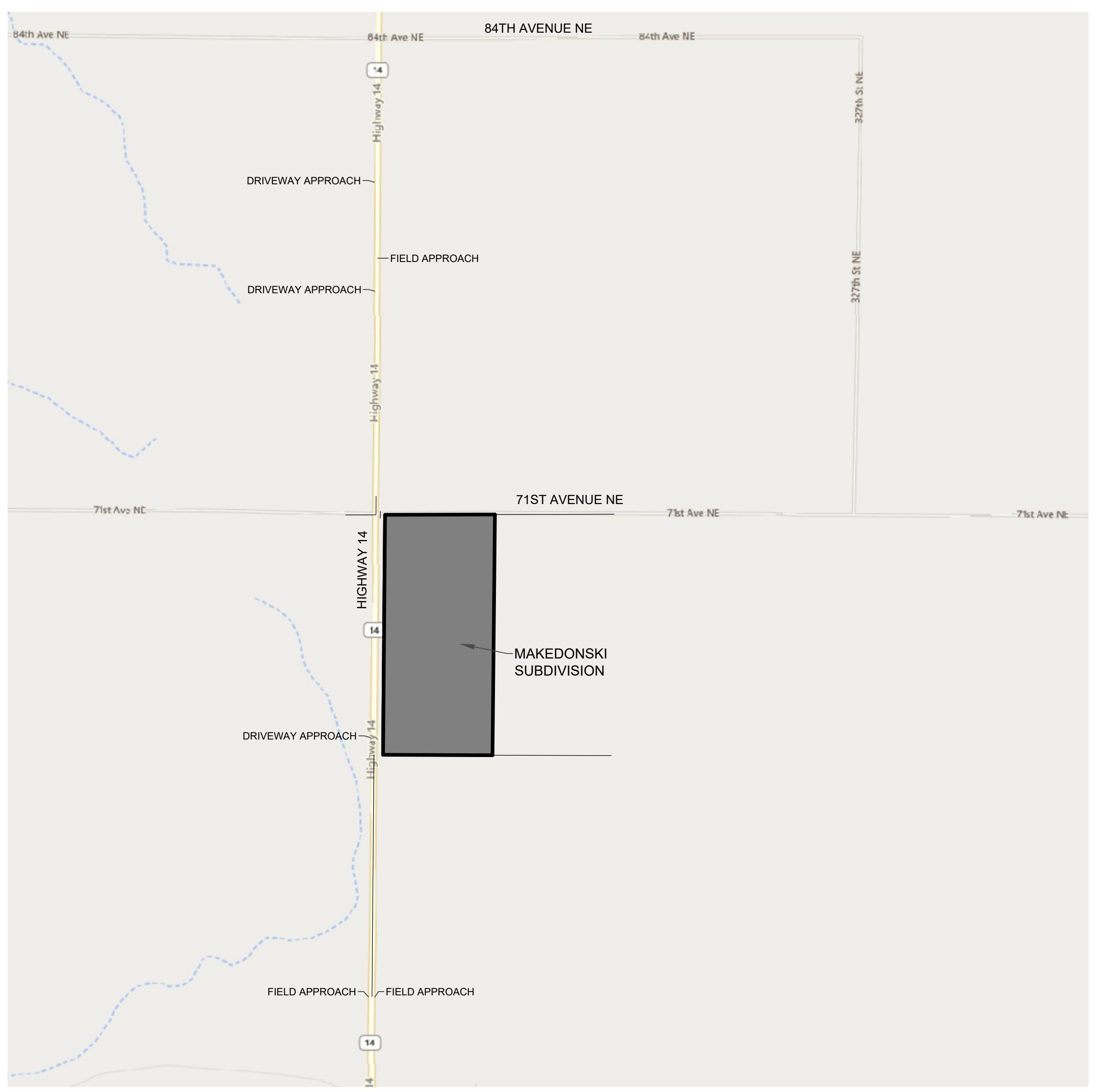
LOT 1	3.00 ACRES
LOT 2	34.05 ACRES
LOT 3	24.05 ACRES
LOT 4	10.00 ACRES
DEDICATED ROW	2.08 ACRES
<b>TOTAL</b>	<b>73.18 ACRES</b>



DATE: AUGUST 22ND, 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:**
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.
  - SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.
  - EXISTING ZONING - AGRICULTURAL.
  - THE 40' ACCESS EASEMENT SHOWN HEREON IS FOR THE BENEFIT OF LOT 1, BLOCK 1.
  - THE 66' ACCESS EASEMENT IS FOR THE BENEFIT OF LOTS 2, 3, & 4, BLOCK 1.

**OWNERS:**  
LUCINDA J. MAKEDONSKI  
6799 HIGHWAY 14  
STERLING, ND 58572  
  
KENNETH MAKEDONSKI  
1606 POCATELLO DRIVE  
BISMARCK, ND 58504

PROFESSIONAL LAND SURVEYOR  
MARK R. ISAACS, LS-9628

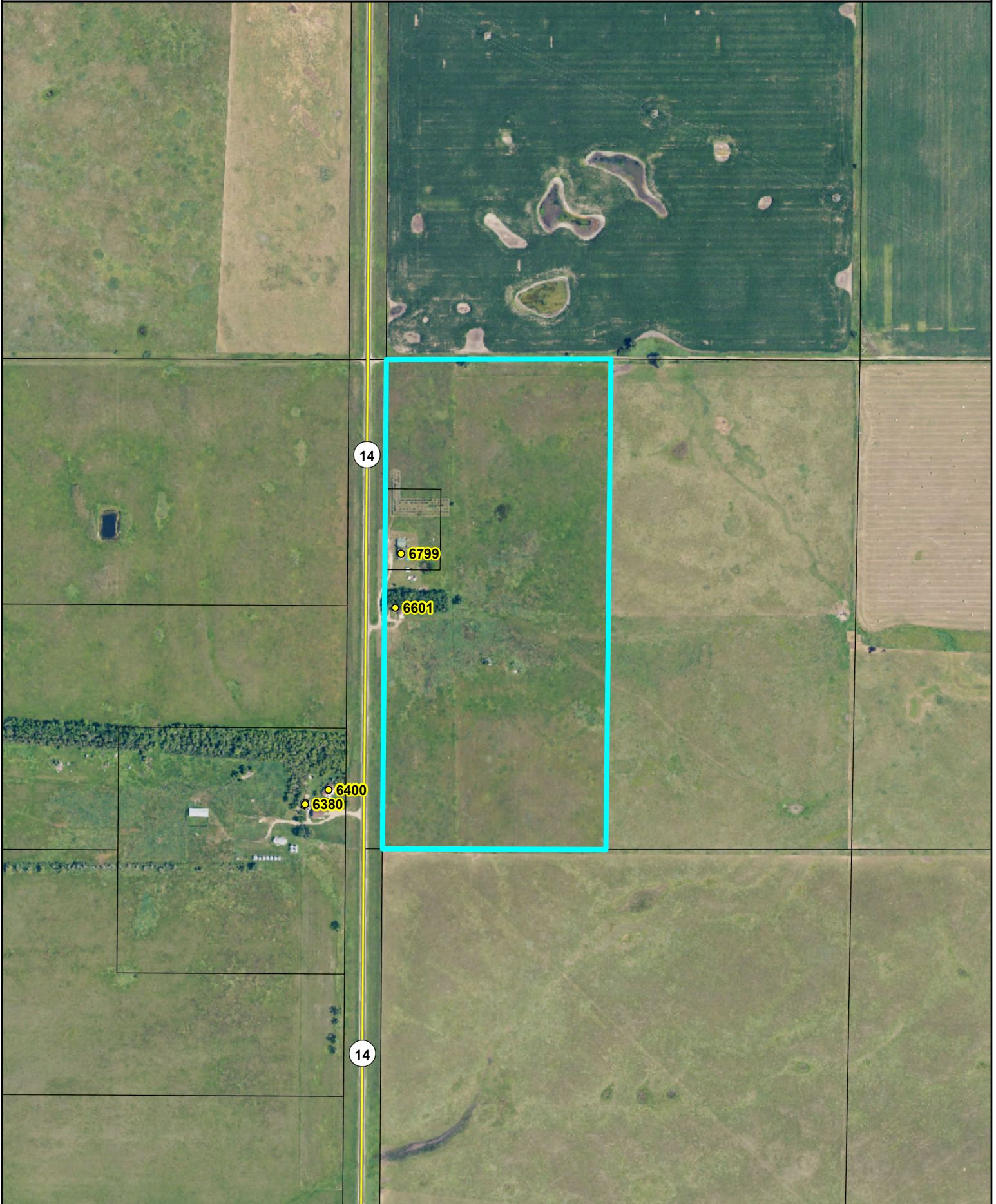
MAKEDONSKI SUBDIVISION  
PART OF THE W. 1/2 NW. 1/4  
SECTION 9, T139N, R76W  
BURLEIGH, NORTH DAKOTA

SHEET: 1 OF 1	JOB NUMBER: 24032
SCALE: 1"= 100'	DWG REVISION DATES
DRAWN BY: MR	-
DWG DATE: 8/16/24	-
DWG NAME: 24032_Survey.dwg	-

**Independent  
Land  
Surveying &  
Engineering**

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



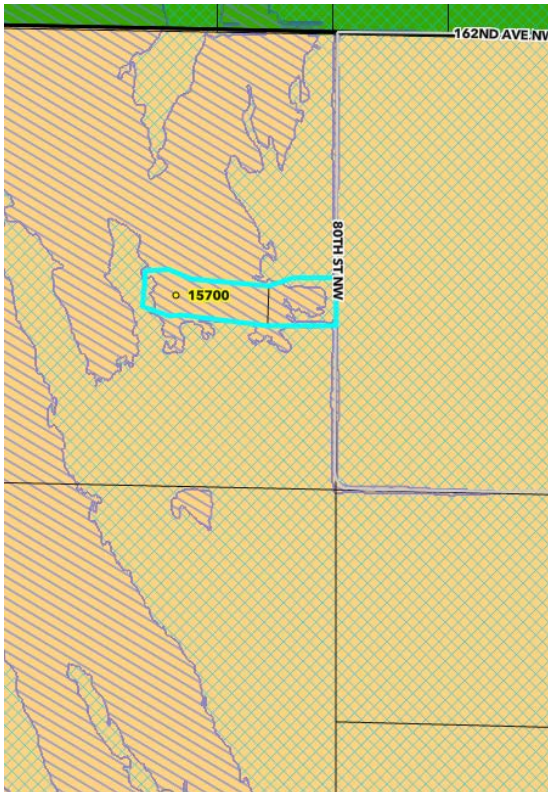


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# Agenda Item 3-2

## CHERNEY MORRISSETTE SUBDIVISION

Project Summary	
Consent Agenda:	Cherney Morrissette Subdivision
Status:	Consent Agenda
Petitioner/Developer	Jacob Morrissette & Jason & Sarah Cherney
Engineer	Mark Isaac, Independent Land Surveyor
Location:	Part of the Northeast 1/4 – section 5, township 140N, Range 81 W, Burleigh County, ND
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">3-2-1 Location Map</div>	
Project Size:	6 Acres more or less 2 Lots
Petitioners Request	Call for a public hearing

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

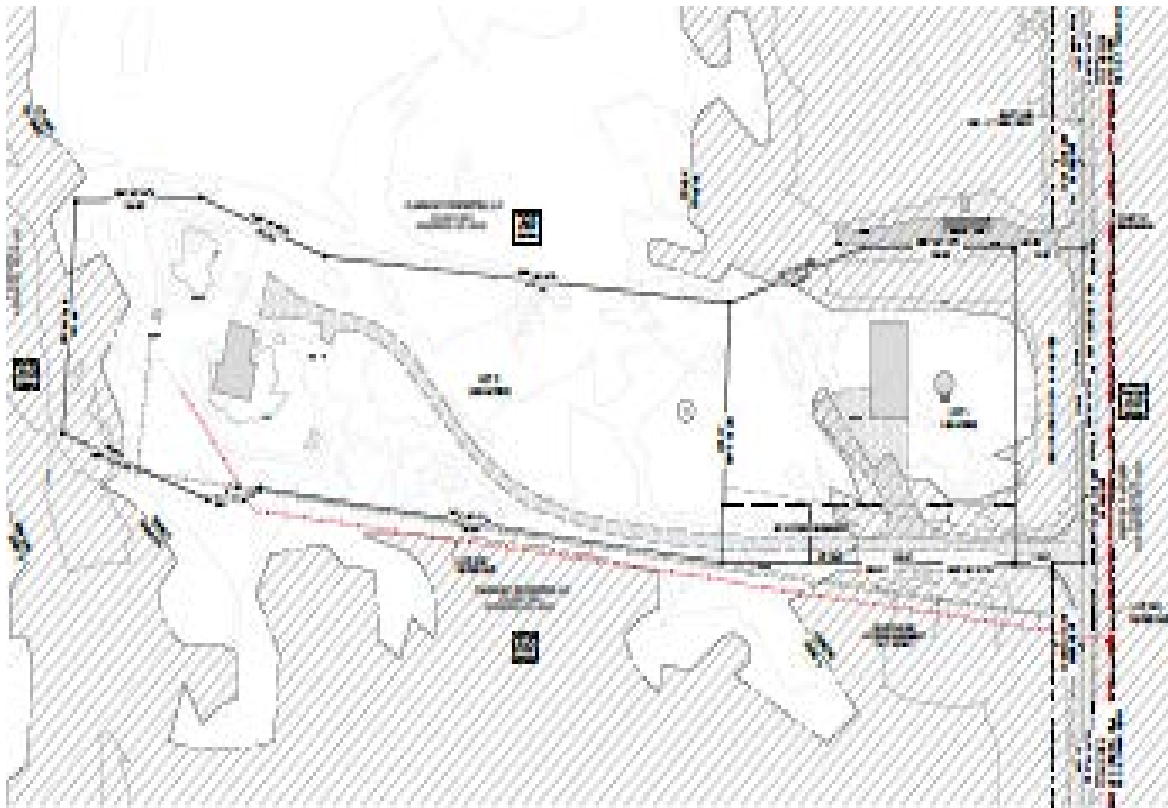


### History/Description

Burleigh County was approached regarding a two (2) subdivision containing 6 acres more or less.

The review committee did not find issues of concern. A Stormwater Waiver has been requested. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners.

Zoning for this property is R1-Rural Single Family Residential.



Attachment 3-2-2 Preliminary Plat



PLANNING AND ZONING  
COMMISSION

September 11, 2024



Attachment 3-1-3 Site Map



### Staff Findings

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. A paving waiver has been granted
3. A Stormwater Management Plan or Waiver has been requested
4. This preliminary plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.
5. Zoning is R1-Rural Single Family Residential
6. This subdivision meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

### Planning Staff Recommendation

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

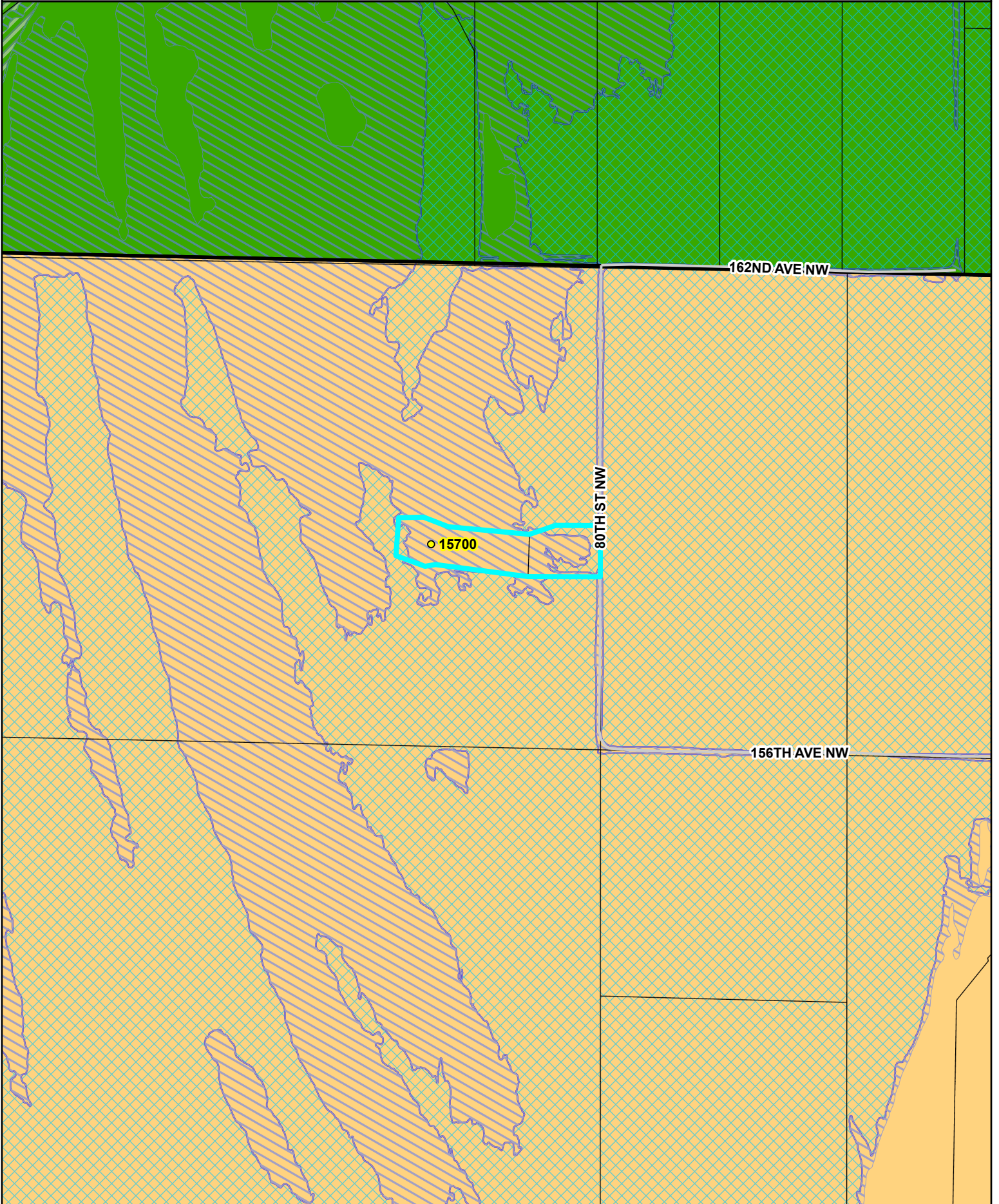
### Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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



# BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP





# PRELIMINARY PLAT

# CHERNEY MORRISSETTE SUBDIVISION

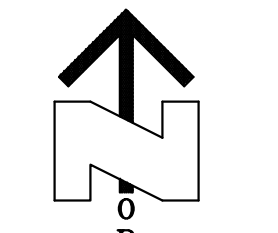
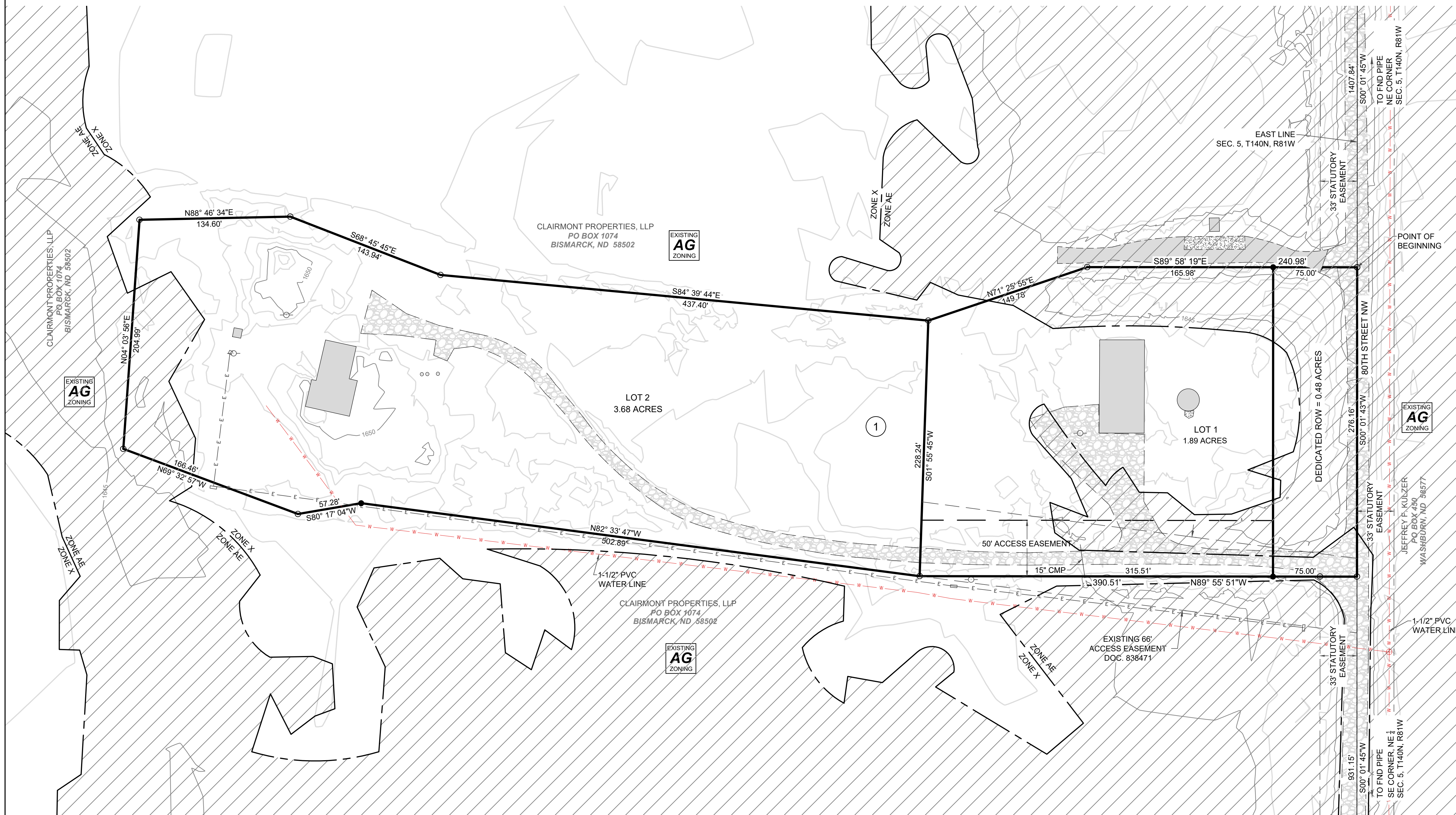
## PART OF NORTHEAST QUARTER - SECTION 5, T140N, R81W

### BURLEIGH COUNTY, NORTH DAKOTA

**LAND DESCRIPTION**

A TRACT OF LAND BEING PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 140 NORTH, RANGE 81 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE SOUTH 00° 01' 43" WEST ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 A DISTANCE OF 1407.84 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00° 01' 43" WEST ON SAID EAST LINE A DISTANCE OF 276.16 FEET; THENCE NORTH 89° 55' 51" WEST A DISTANCE OF 390.51 FEET; THENCE NORTH 82° 33' 47" WEST A DISTANCE OF 502.89 FEET; THENCE SOUTH 80° 17' 04" WEST A DISTANCE OF 57.28 FEET; THENCE NORTH 69° 32' 57" WEST A DISTANCE OF 166.46 FEET; THENCE NORTH 04° 03' 56" EAST A DISTANCE OF 204.99 FEET; THENCE NORTH 88° 46' 34" EAST A DISTANCE OF 134.60 FEET; THENCE SOUTH 68° 45' 45" EAST A DISTANCE OF 143.94 FEET; THENCE SOUTH 84° 39' 44" EAST A DISTANCE OF 437.40 FEET; THENCE NORTH 71° 25' 55" EAST A DISTANCE OF 149.78 FEET; THENCE SOUTH 89° 58' 19" EAST A DISTANCE OF 240.98 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 6.05 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL RIGHTS OF WAY AND EASEMENTS.



SCALE: 1" = 50'  
 0 25 50  
 DATE: AUGUST 20TH, 2024

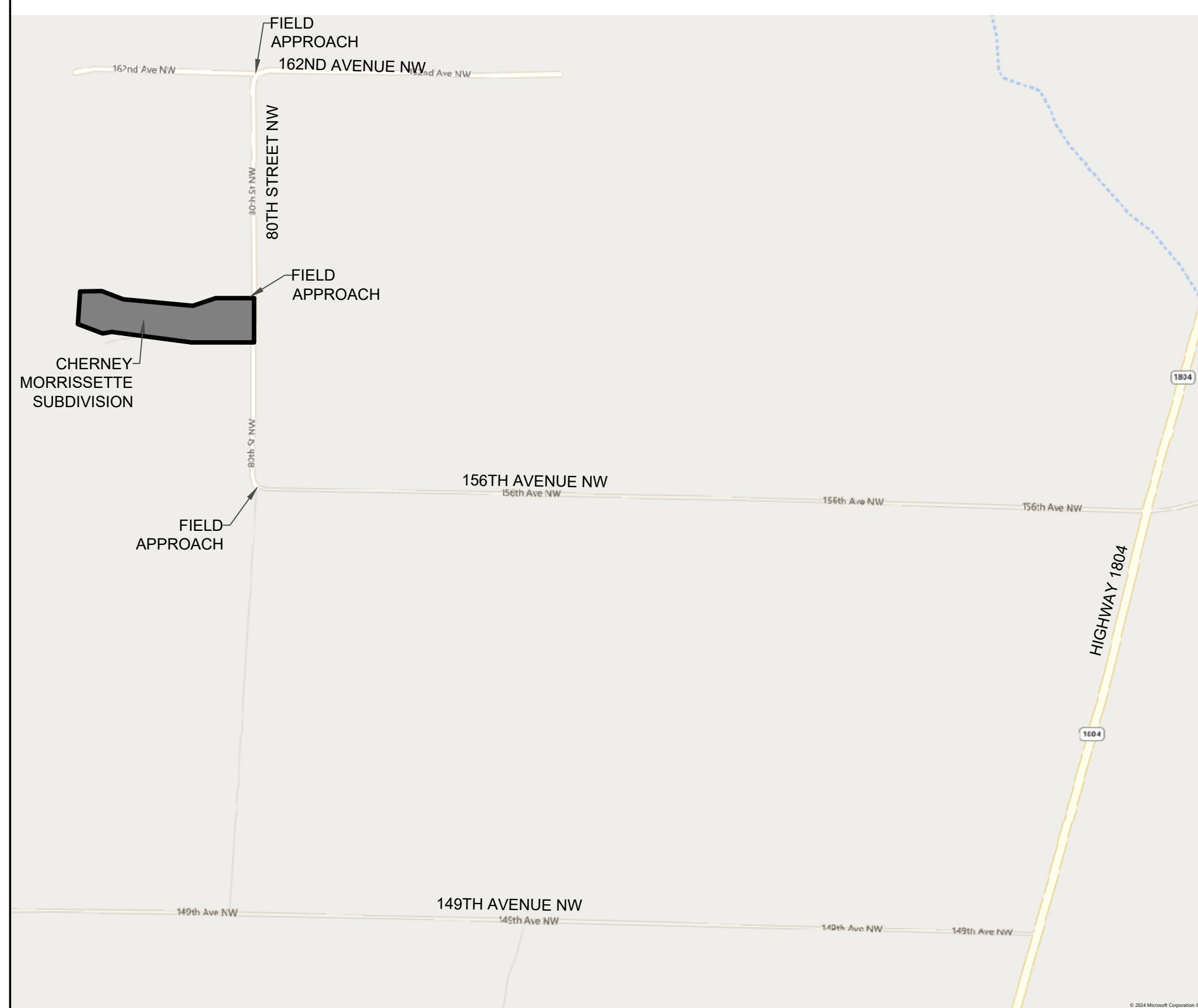
VERTICAL DATUM - NAVD 1988.  
 BASED ON NORTH DAKOTA SOUTH ZONE-NAD83, INTERNATIONAL FEET.  
 MEASUREMENTS HAVE BEEN ESTABLISHED BY RTK FROM THE 'BSMK' CORS STATION AND ARE REPORTED IN GRID.

**OWNERS:**

JACOB MORRISSETTE  
 8131 RIDGELAND DRIVE  
 BISMARCK, ND 58503  
 JASON C. & SARAH L. CHERNEY  
 15700 80TH STREET NW  
 BISMARCK, ND 58501

**FLOOD ZONE AE**

PORTION OF LOS 1 AND 2 ARE SITUATED WITHIN "ZONE AE" - THE 100 YEAR FLOOD HAZARD AS SHOWN ON THE NATIONAL FLOOD HAZARD FEMA MAP PANEL NUMBER 38015C0560E. EFFECTIVE DATE IS 6/06/2024. FLOOD ELEVATION = 1645.8.



**LEGEND**

	FOUND SURVEY MONUMENT
	SET CAPPED REBAR - LS9628
	EXISTING BUILDING
	EXISTING TRAIL
	EXISTING GRAVEL
	EXISTING CONCRETE
	FLOOD ZONE AE
	EXISTING FENCE
	EXISTING IRRIGATION PIPELINE
	EXISTING OVERHEAD ELECTRIC
	EXISTING UNDERGROUND ELECTRIC
	EXISTING WATER LINES
	EXISTING POWER POLE
	EXISTING PEDESTAL

**ACREAGE TABLE**

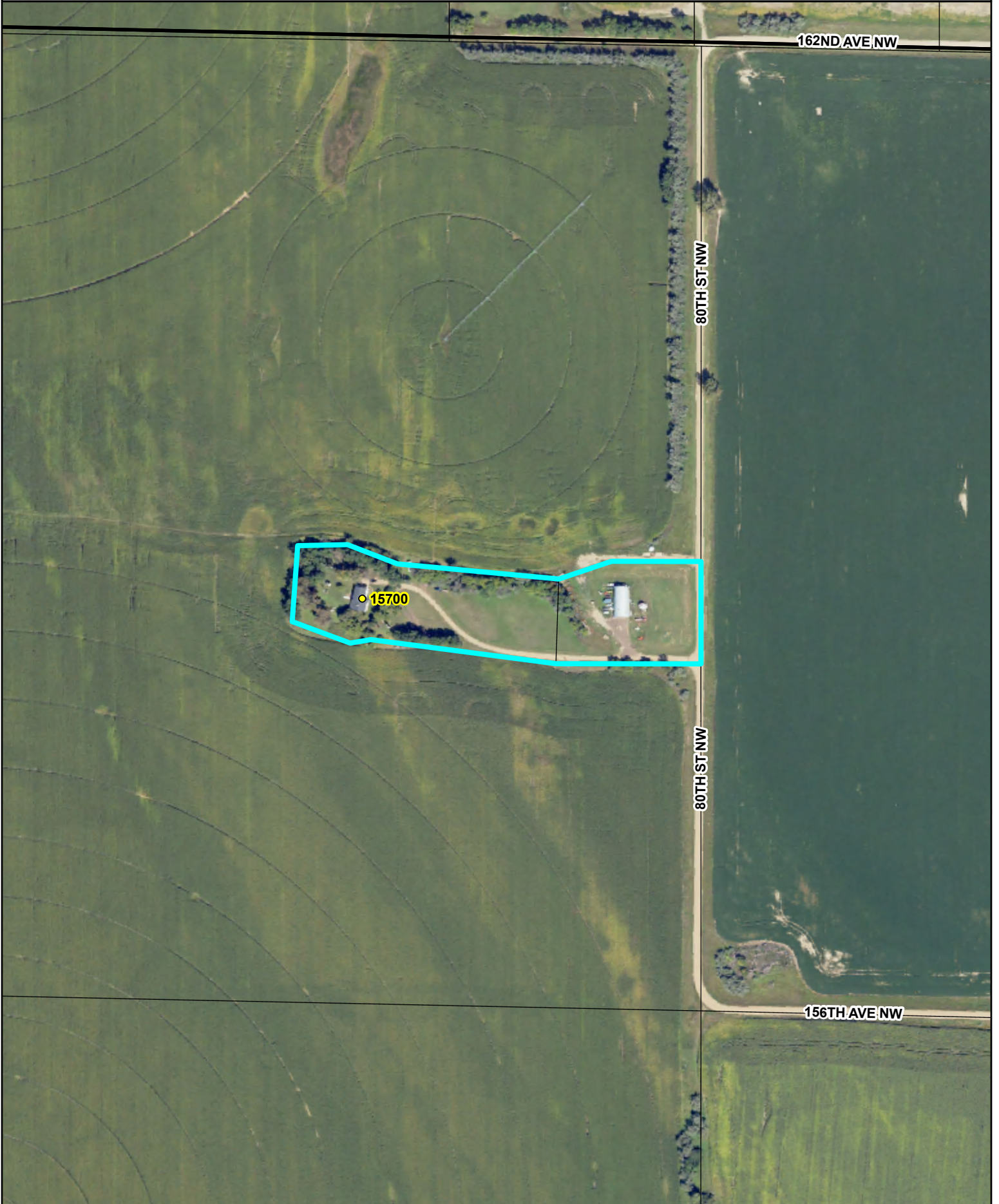
LOT 1	1.89 ACRES
LOT 2	3.68 ACRES
DEDICATED ROW	0.48 ACRES
<b>TOTAL</b>	<b>6.05 ACRES</b>

**NOTES:**  
 1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENTS.  
 2. SUBJECT TO ALL EASEMENTS OF RECORD WHETHER SHOWN OR NOT SHOWN.  
 3. EXISTING ZONING - AGRICULTURAL  
 4. THE EXISTING 66' ACCESS EASEMENT SHOWN HEREON WILL BE REPLACED BY THE 50' ACCESS EASEMENT SHOWN HEREON

PROFESSIONAL LAND SURVEYOR  
 MARK R. ISAACS, LS-9628

CHERNEY MORRISSETTE SUBDIVISION PART NORTHEAST QUARTER SECTION 5, T140N, R81W BURLEIGH, NORTH DAKOTA SHEET: 1 OF 1 SCALE: 1" = 50' DRAWN BY: MRS DWG DATE: 8/5/24 DWG NAME: 24110 Survey.dwg	 4215 Old Red Trail NW Mandan, ND 58554 Phone: 701-663-5184 Cell: 701-995-2079 mark@isurveynd.com
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Burleigh County Building, Planning & Zoning  
PO Box 5518  
Bismarck ND 58506

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

To: Burleigh County Commission.  
Re: Public Hearing to Amend Burleigh County Zoning Ordinances  
Date: 8-28-2024  
From: Mitch Flanagan, Burleigh County Planning Director. *MF*

ITEM 1

Amend Article 8 Section 30 Data Centers

It has become necessary to consider amending the current Article 8 Section 30 to allow Data Centers within I districts under a special use permit. A Data Center is a facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers, applications, appliances, services, and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances, services, and other associated components or facilities.

ACTION REQUESTED:

Consider to recommend a public hearing for ordinance.

Attachments:

Ex. 1- Article 8 Section 30 Data Center

**ORDINANCE 24-0-----**

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

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

**SECTION 30 Data Center AI Conversion Facilities**

This section is adopted to allow data centers/AI conversion facilities in appropriate locations in Burleigh County and minimize the potential off-site impacts of development and reduce long-term exposure that may impact the public health, safety, and the general welfare of Burleigh County residents. The low-frequency sounds emitted by data centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier.

**I. DEFINITIONS**

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

1. *Data Center*- a building, structure, complex or group of buildings and/or structures, facility, or dedicated space within a building, structure, complex, or facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers, applications, appliances, services, and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances, services, and other associated components or facilities. Associated components and facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition also includes cryptocurrency mining, which involves the use of blockchain technology to verify and secure cryptocurrency transactions, as the terms “cryptocurrency”, “cryptocurrency mining”, “blockchain”, and “blockchain technology” are defined by any applicable State law or, if no applicable State law, by generally accepted industry standards.
2. *Data Center/ AI Conversion Facility*- a data center that is converted and used to support artificial intelligence
3. *Cryptocurrency*- a type of decentralized digital currency that investors can buy and sell along the blockchain. Unlike banknotes or minted coins that have a tangible physical form, cryptocurrencies can only be accessed using computers and other electronic devices.

4. Blockchain- a digital record of all the transactions involving cryptocurrency. Copies of the blockchain are stored and maintained by computers around the world.

## I. **APPLICABILITY**

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

### 1. Application Requirements

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

- a. Applicant name(s) and contact information. The applicant must also identify on the application, the record owner of the property, the occupant or lessee of the property, and the operator of the data center.
- b. A description of the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
- c. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.
- d. A site plan, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
- e. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks located within one (1) mile of the exterior boundaries of the property where the data center will be located.
- f. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a Burleigh County Building Permit obtained from Burleigh County.
- g. Data centers may only be permitted in an I- Industrial District with a Special Use Permit.
- h. All application fees, including the required fees for a Special Use Permit and building permits, in the amounts determined by the Board of County Commissioners.

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

modifications to, the data center start and continuing to the date when full reclamation and restoration is complete as approved by the County. The financial security required above shall be provided to Burleigh County prior to commencement of any work to install and/or construct the data center, or to modify a lawfully existing data center beyond routine maintenance, but no later than the date determined by the Board of County Commissioners in approving the data center or in approving the modifications to a lawfully existing data center beyond routine maintenance.

- I. Other relevant studies, reports, certifications, or approvals as may be required by the County to ensure compliance with this Chapter and this Ordinance.

## **II. Prohibitions:**

The County prohibits data center facilities located within:

- a. All Floodplain Districts and Designated SFHA Areas.

## **III. Design Standards**

1. Data centers shall be set back at least one (1) mile from all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of these sensitive properties to the data center's exterior property lines.
2. Separation from other data centers. New data centers shall be set back at least three (3) miles from any lawfully existing data center.
3. Height. All buildings, structures, and appurtenances on the property where the data center will be located shall meet the height requirements of the Industrial I District in this Ordinance.
4. Electrical wiring. All electrical wiring shall be buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the North Dakota State Electrical Board, and any of its rules and regulations.
5. Security fencing. A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility. Any fencing shall comply with the Development Standards in this Ordinance.
6. Buffering and screening. Landscaped buffers shall be required around the entire perimeter of the property where the data center is located in accordance with the requirements of this Ordinance.
7. All outdoor light fixtures shall be installed in a manner intended to limit the amount of off-site impacts. Light fixtures located near adjacent properties may require special shielding devices to prevent light trespass.
8. Accessory structures and appurtenances. All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is



complementary with the primary building(s) and shall be finished in a non-obtrusive color.

9. Roads. All adjacent exterior access roads serving a data center shall conform to the Development Standards in this Ordinance and Article 33. Exterior road construction or improvements shall be subject to approval by the Burleigh County Highway Engineer or their designee. A road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation or construction of the data center, or during modification of a lawfully existing data center beyond routine maintenance. All interior roads serving the data center shall be subject to review by the Burleigh County Fire Department to ensure safe and adequate access for emergency response vehicles.
10. Storm Drainage, Erosion Control, Grading, Drainage and Stormwater Management Permit for the data center shall comply with the requirements in Article 33 of this Ordinance.
11. Development Agreement. The applicant and, if different than the applicant, the owner of record of the property, the occupant or lessee of the property, and/or the operator of the data center and of the property on which the data center will be located, as determined appropriate by Burleigh County, must sign a development agreement which shall include provisions related to, but are not limited to, the posting and use of financial security, exterior and interior road construction or improvement, road maintenance, improvements related to storm drainage, erosion control, grading, and drainage, reclamation and restoration, and/or any other condition imposed by this Chapter, this Ordinance, or the Board of County Commissioners in approving installation of construction of the data center or modifications to a lawfully existing data center beyond routine maintenance.

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

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

structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property and recover costs directly from the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and/or the operator of the data center. Burleigh County may also, in its discretion, recover such costs, by access to and use of the financial security provided and on file for the data center, or by lien or special assessment, or any other remedy, authorized by law or the Development Agreement entered into under this Article. Nothing in this Article is intended to impose a mandatory obligation on Burleigh County to reclaim and restore the property.

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

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

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

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

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

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024

---

Brian Bitner, Chairperson

Final passage and adoption:

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

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

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

DRAFT

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

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

To: Burleigh County Commission.  
Re: Public Hearing to Amend Burleigh County Zoning Ordinances  
Date: 8-27-2024  
From: Mitch Flanagan, Burleigh County Planning Director. *llk*

ITEM 1

Amend Article 8 Section 31 Accessory Dwelling Units

It has become necessary to consider amending the current Article 8 to include Section 31. Accessory Dwelling units are a separate and complete dwelling unit established in conjunction with and ancillary to, the principal single-family dwelling, whether within the same structure as the principal unit or within a detached accessory structure on the same lot or parcel. An accessory dwelling unit contains one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

Article 8 Section 31 draft ordinance was presented to the Planning Commissions and recommended for public hearing.

**ACTION REQUESTED:**

Consider recommendations to approve ordinance.

**Attachments:**

- Ex. 1- Article 8 Special Use Permit Section 31 draft ordinance.
- Ex. 2- Types of ADU's



ORDINANCE 24-0-----

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

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

**Section 31 Accessory Dwelling Units**

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

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

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

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

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

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

1. Applicability:

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

2. Requirements for All Accessory Dwelling Units. Prior to receiving a special use permit an applicant shall demonstrate that the following requirements will be met:

- a. No more than one accessory dwelling unit may be permitted on each lot or parcel.
- b. An accessory dwelling unit must be contained completely within the principal structure on the lot or parcel, or contained within an accessory structure that meets all requirements of this Code, including size and setback requirements of the underlying zoning district. The height of any accessory structure containing an accessory dwelling unit may be up to twenty-five (25) feet.
- c. The principal or accessory dwelling unit must be occupied by the owner of the subject parcel as a legal residence for more than six (6) months of any given year. The home may not be owned by a corporation, but the owner-occupant may be a benefited person in a private trust or life estate. The owner-occupancy requirement applies to the applicant as well as all subsequent owners of the property.
- d. At least one off-street parking space shall be provided for an accessory dwelling, in addition to any parking required for the principal dwelling unit on the lot. However, in such cases where existing conditions render additional parking infeasible, the applicant may submit a parking plan to demonstrate how on-street facilities or other methods are sufficient to meet anticipated parking demand, such as the dwelling unit being reserved for a class or individual who does not need to store a personal vehicle on-site.

3. Size requirements.

- a. No accessory dwelling unit may include more than one (1) bedroom.
- b. Units within Principal Structure: The floor area of an accessory dwelling unit may not exceed forty percent (40%) of the gross floor area of the principal structure,

- excluding any attached garage, and may not be greater than 800 square feet or less than 300 square feet.
- c. Units within Accessory Structure: The floor area of an accessory dwelling unit may not be greater than 800 square feet or less than 300 square feet on any lot or parcel five (5) acres in area or less. The floor area of an accessory dwelling unit may be up to 1,200 square feet on any lot or parcel that is greater than five (5) acres in area.
  - d. An accessory dwelling unit on any lot or parcel that does not conform to the minimum lot size requirement of the underlying zoning district may only be permitted inside the principal building.
  - e. To protect the privacy of neighbors, rooftop decks and balconies are not allowed within 25 feet of a neighboring property line.
  - f. An accessory dwelling unit must be connected to public utilities if available on the lot or parcel. If the lot is serviced by an on-site septic system, the applicant must show that sufficient sewage treatment capacity will be available to meet anticipated needs.
  - g. An accessory dwelling unit must comply with all residential building code requirements as defined by Article 22 and Article 23 of the Burleigh County Zoning Ordinance.
  - h. An accessory dwelling unit may be occupied by no more than one family, as defined by Article 3 of the Burleigh County Zoning Ordinance.
4. Methods of Creation. A new accessory dwelling unit may be created in any of the following ways:
- a. Conversion of a portion of an existing principal or accessory structure into a separate accessory dwelling unit.
  - b. Expansion of an existing structure that is in compliance with all setback, lot coverage, and height requirements of the underlying zoning district.
  - c. Construction of a new structure containing a single-family dwelling unit with an internal accessory dwelling unit.
  - d. Construction of a new detached accessory structure containing a dwelling unit on a lot with an existing principal structure.
  - e. Reuse of a non-conforming second dwelling unit within a residence that has ceased to be continuously utilized as a dwelling unit and thus does not qualify as a non-conforming use.
5. Special Use Permit Submittal Requirements. The following documents shall be submitted with any application for a special use permit to allow an accessory dwelling unit:
- a. A building plan that demonstrates compliance with all requirements of the residential building code.

- b. For all new construction of an accessory structure, a site plan is required. The site plan must show, to scale, the location and dimensions of the building, all required setbacks, and any easements on the property.
  - c. For all accessory dwelling units that would be served by an on-site septic system, documentation to provide compliance with Article 24 is required.
6. Termination of Special Use Permit. A special use permit for an accessory dwelling shall automatically expire:
- a. If the permitted accessory dwelling unit is substantially altered and is no longer in conformance with these provisions,
  - b. The owner of the property no longer occupies one of the units,
  - c. The required parking is no longer maintained and available for use by the occupant,
  - d. Or the permit is not put to use within twenty-four (24) months from date of approval.

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

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

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

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
Brian Bitner

\_\_\_\_\_  
Chairperson

Final passage and adoption:

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

\_\_\_\_\_

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

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

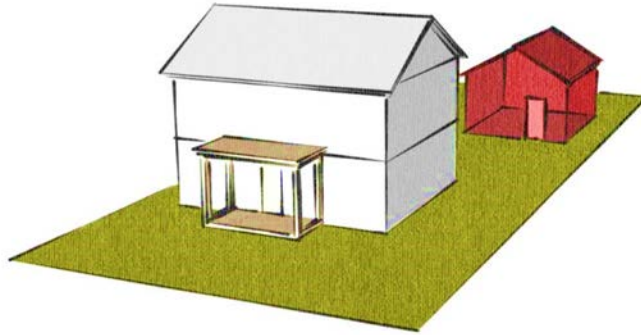
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Examples of ADUs  
- not included in ordinance.

### **Types of Accessory Dwelling Units (ADUs)**

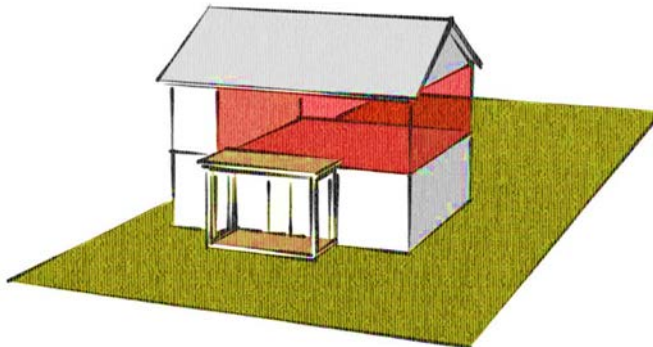
External ADU:

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



Internal ADU:

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



### **Definition of ADU:**

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

**Occupancy Requirements**

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

**Size Requirements**

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

**Setbacks for External ADUs**

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



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# Agenda Item 4-1

## Application for Aberle 2<sup>nd</sup> Subdivision & Zoning Change

Project Summary	
Public Hearing Agenda:	Aberle 2 <sup>nd</sup> Subdivision & Zoning Change
Status:	Public Hearing
Petitioner/Developer	Janice Aberle
Engineer	Swenson Hagen & Co.
Location:	Part of the NW 1/4 of Section 29, Township 139 N Range 78 W, Burleigh County, ND
	
<div style="border: 1px solid black; padding: 5px; display: inline-block;">4-1-1 Location Map</div>	
Project Size:	6 acres more or less Zoning Change A-Agricultural to R1 Rural Single Family Residential
Petitioners Request	"Do Pass" Recommendation to the Board of Burleigh County Commissioners

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



# PLANNING AND ZONING COMMISSION

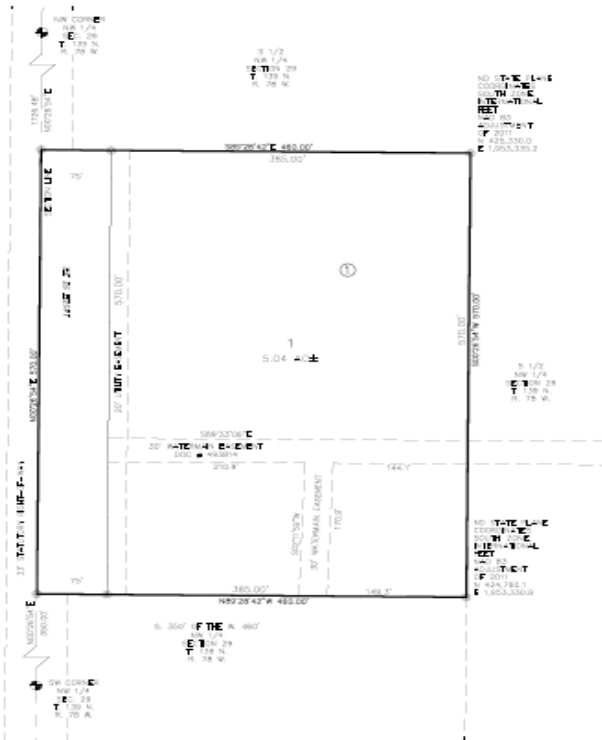
September 11, 2024

## History/Description

Burleigh County was approached regarding a one (1) lot subdivision and zoning change from A-Agricultural to R1-Rural Single Family Residential.

The review committee did not find issues of concern. A Stormwater Waiver has been requested and approved. A paving waiver has been requested and was granted by the Board of Burleigh County Commissioners in May.

The surrounding properties are zoned A- Agricultural, however, the size of the property conforms to similar parcels in the area.

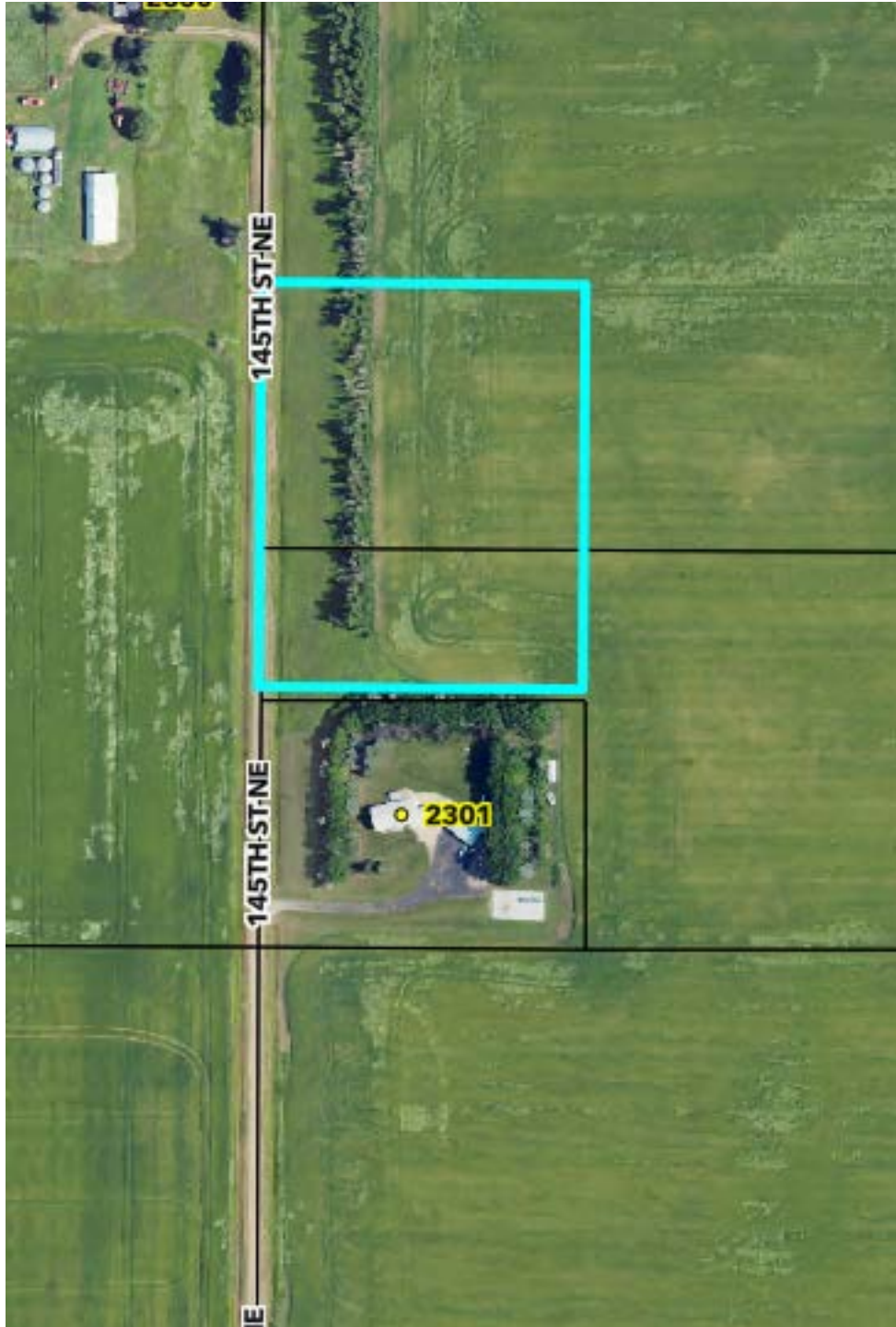


Attachment 4-1-2 Final Plat



PLANNING AND ZONING  
COMMISSION

September 11, 2024

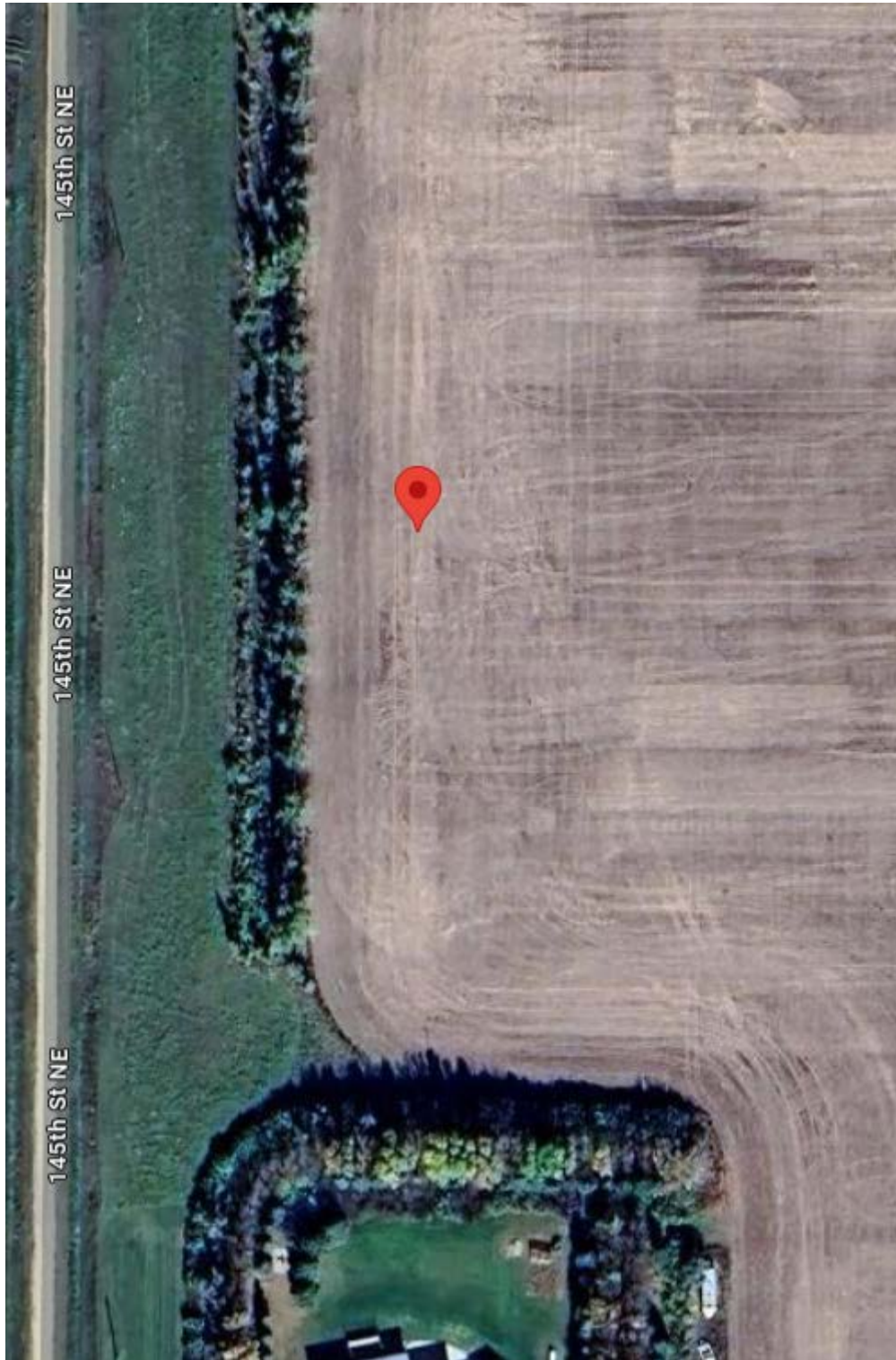


Attachment 4-1-3 Site Map



PLANNING AND ZONING  
COMMISSION

September 11, 2024



Aerial View –  
google maps





PLANNING AND ZONING  
COMMISSION

September 11, 2024



South View



North View

Staff Findings:

1. This subdivision fulfills the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This zoning change fulfills the requirements of Article 12 of the Burleigh County Zoning Ordinance
3. A paving waiver has been granted
4. A Stormwater Management Plan or Waiver Request has been granted
5. This final plat has been submitted to all reviewing entities. All concerns and corrections have been addressed.





## PLANNING AND ZONING COMMISSION

September 11, 2024

6. This subdivision and zoning change meet the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

### Planning Staff Recommendation

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

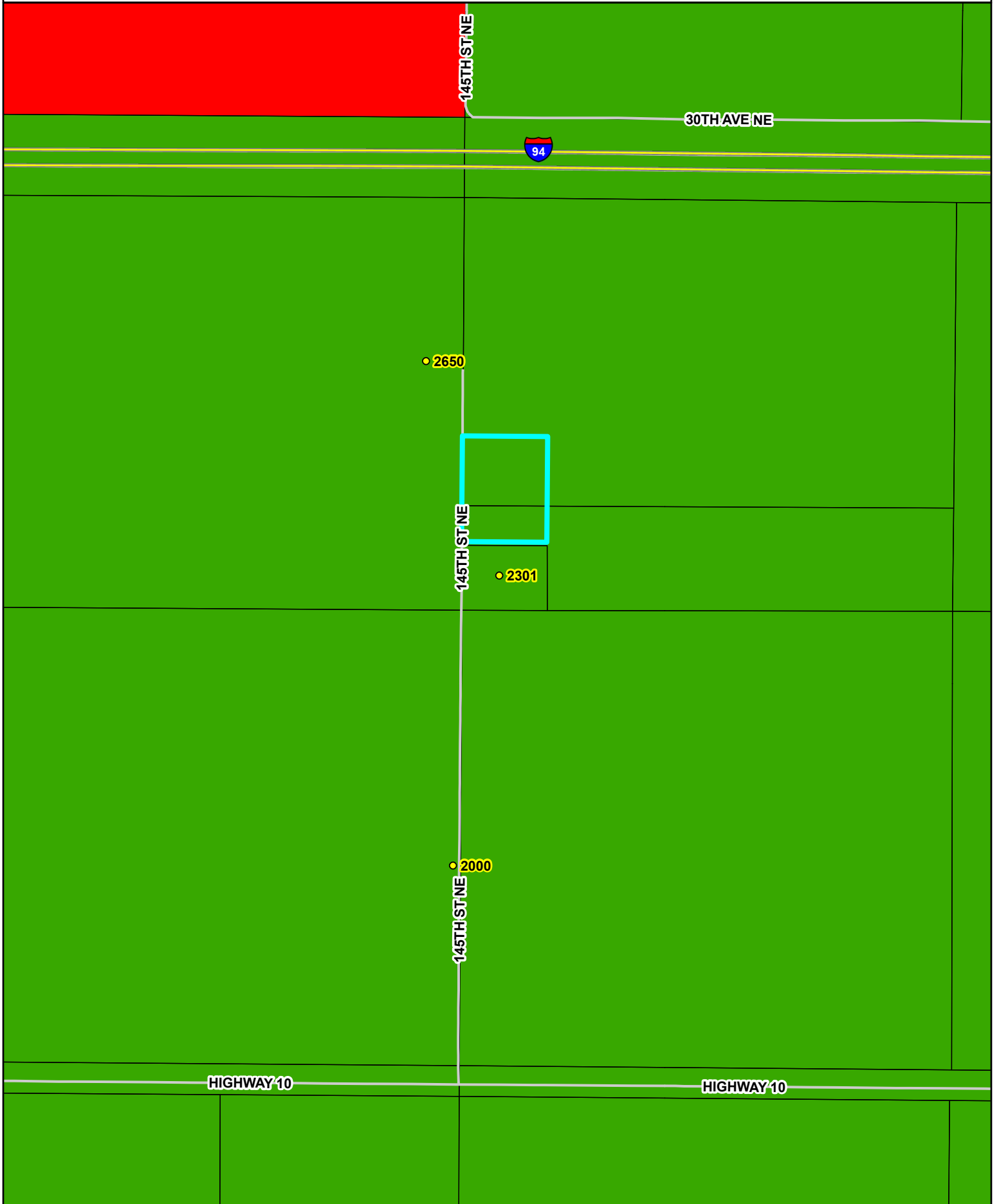
### Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

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

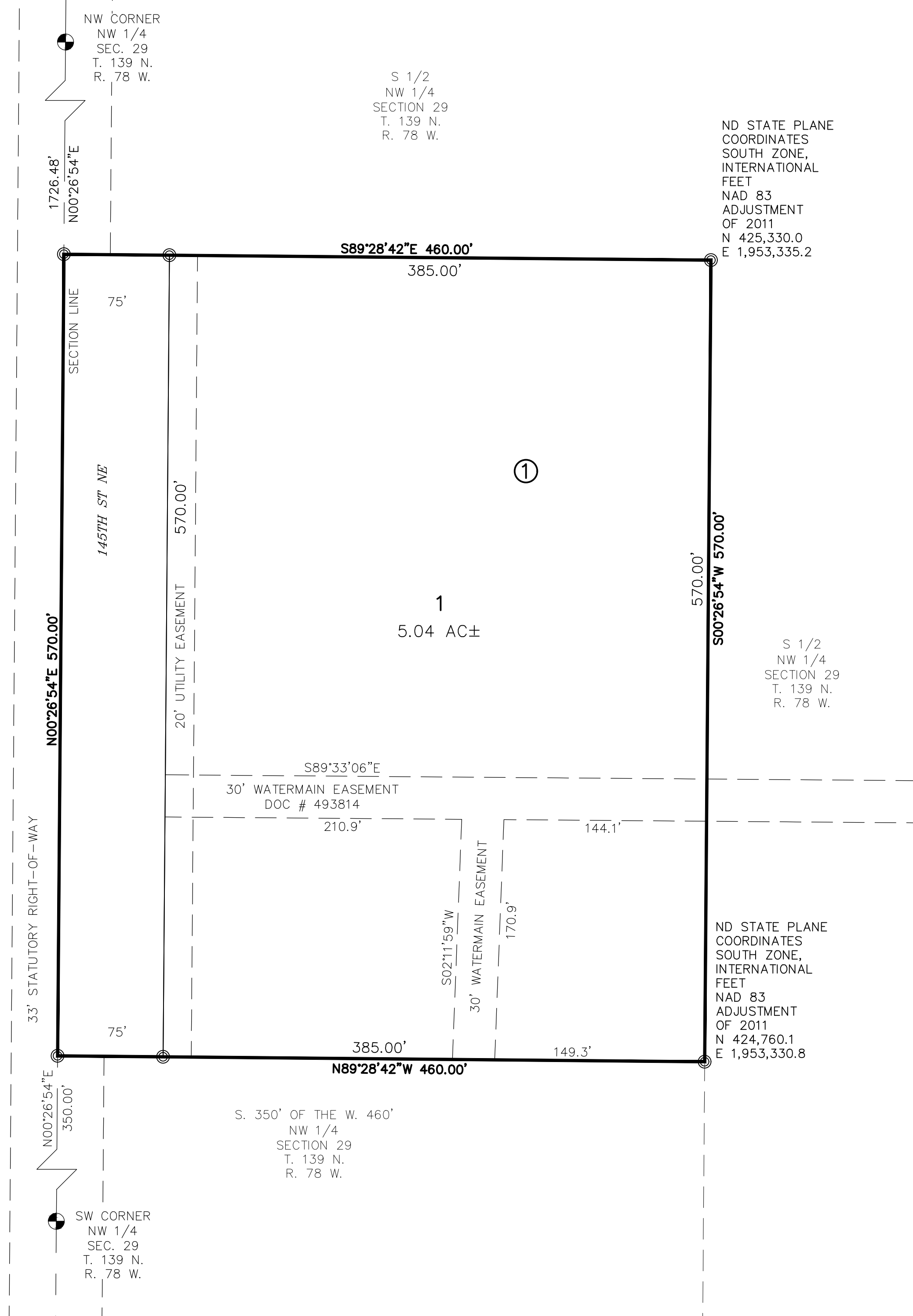
# BURLEIGH COUNTY, NORTH DAKOTA LOCATION MAP

N  
7/1/2024



# ABERLE SECOND SUBDIVISION

PART OF THE NW 1/4 OF SECTION 29  
TOWNSHIP 139 NORTH, RANGE 78 WEST  
BURLEIGH COUNTY, NORTH DAKOTA



**DESCRIPTION**

PART OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 139 NORTH, RANGE 78 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:  
 BEGINNING AT A POINT ON THE WEST LINE OF SAID NORTHWEST 1/4 THAT IS NORTH 00 DEGREES 26 MINUTES 54 SECONDS EAST, A DISTANCE OF 350.00 FEET FROM THE SOUTHEAST CORNER OF SAID NORTHWEST 1/4; THENCE NORTH 00 DEGREES 26 MINUTES 54 SECONDS EAST, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 570.00 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 42 SECONDS EAST, PERPENDICULAR TO SAID WEST LINE, A DISTANCE OF 460.00 FEET; THENCE SOUTH 00 DEGREES 26 MINUTES 54 SECONDS WEST, PARALLEL WITH SAID WEST LINE, A DISTANCE OF 570.00 FEET; THENCE NORTH 89 DEGREES 28 MINUTES 42 SECONDS WEST, A DISTANCE OF 460.00 FEET TO THE POINT OF BEGINNING.  
 THE ABOVE DESCRIBED TRACT CONTAINS 6.02 ACRES, MORE OR LESS.

**SURVEYOR'S CERTIFICATE**

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE SHOWN PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_, 2024, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

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

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

**APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION**

THE COUNTY PLANNING AND ZONING COMMISSION HEREBY APPROVES ABERLE SECOND SUBDIVISION, AS SHOWN ON THE PLAT. THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH AND REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION.  
 THE FOREGOING ACTION OF THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2024

\_\_\_\_\_ DENNIS AGNEW - CHAIRMAN \_\_\_\_\_ MITCH FLANAGAN - SECRETARY \_\_\_\_\_

**APPROVAL OF BOARD OF COUNTY COMMISSION**

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF BURLEIGH COUNTY, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE PLAT.  
 THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH.  
 THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2024.

\_\_\_\_\_ BECKY MATTHEWS-- CHAIRMAN \_\_\_\_\_ ATTEST: MARK SPLONKOWSKI  
BURLEIGH COUNTY AUDITOR/TREASURER

**APPROVAL OF COUNTY ENGINEER**

I, MARCUS J. HALL, COUNTY ENGINEER OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVE THIS PLAT OF ABERLE SECOND SUBDIVISION, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.  
 DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024.

\_\_\_\_\_ MARCUS J. HALL, P.E.  
COUNTY ENGINEER

**OWNER'S CERTIFICATE & DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT JANICE ABERLE, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "ABERLE SECOND SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.  
 THEY ALSO DEDICATE EASEMENTS TO BURLEIGH COUNTY TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

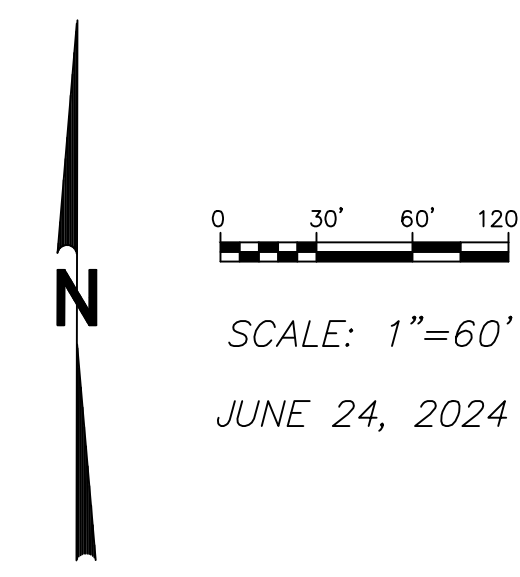
STATE OF NORTH DAKOTA )  
COUNTY OF \_\_\_\_\_ ) SS  
JANICE ABERLE  
5801 PRAIRIE ROSE LP  
BISMARCK, ND 58501

ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024, BEFORE ME PERSONALLY APPEARED JANICE ABERLE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

\_\_\_\_\_ NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

**NOTES**

- BASIS OF BEARING:  
NORTH DAKOTA STATE PLANE, SOUTH ZONE
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.
- COORDINATE DATUM:  
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM  
NAD 83 SOUTH ZONE  
ADJUSTMENT OF 2011  
UNITS ARE INTERNATIONAL FEET  
NAVD 88 VERTICAL DATUM
- BENCHMARK:  
SW CORNER NW 1/4 SECTION 29-139-78  
ELEV = 1728.8 (NAVD 1988)



AREA DATA		
LOTS	219,540 S.F.	5.04 ACRES
STREETS	42,660 S.F.	0.98 ACRES
TOTAL	262,200 S.F.	6.02 ACRES

**SWENSON, HAGEN & COMPANY P.C.**

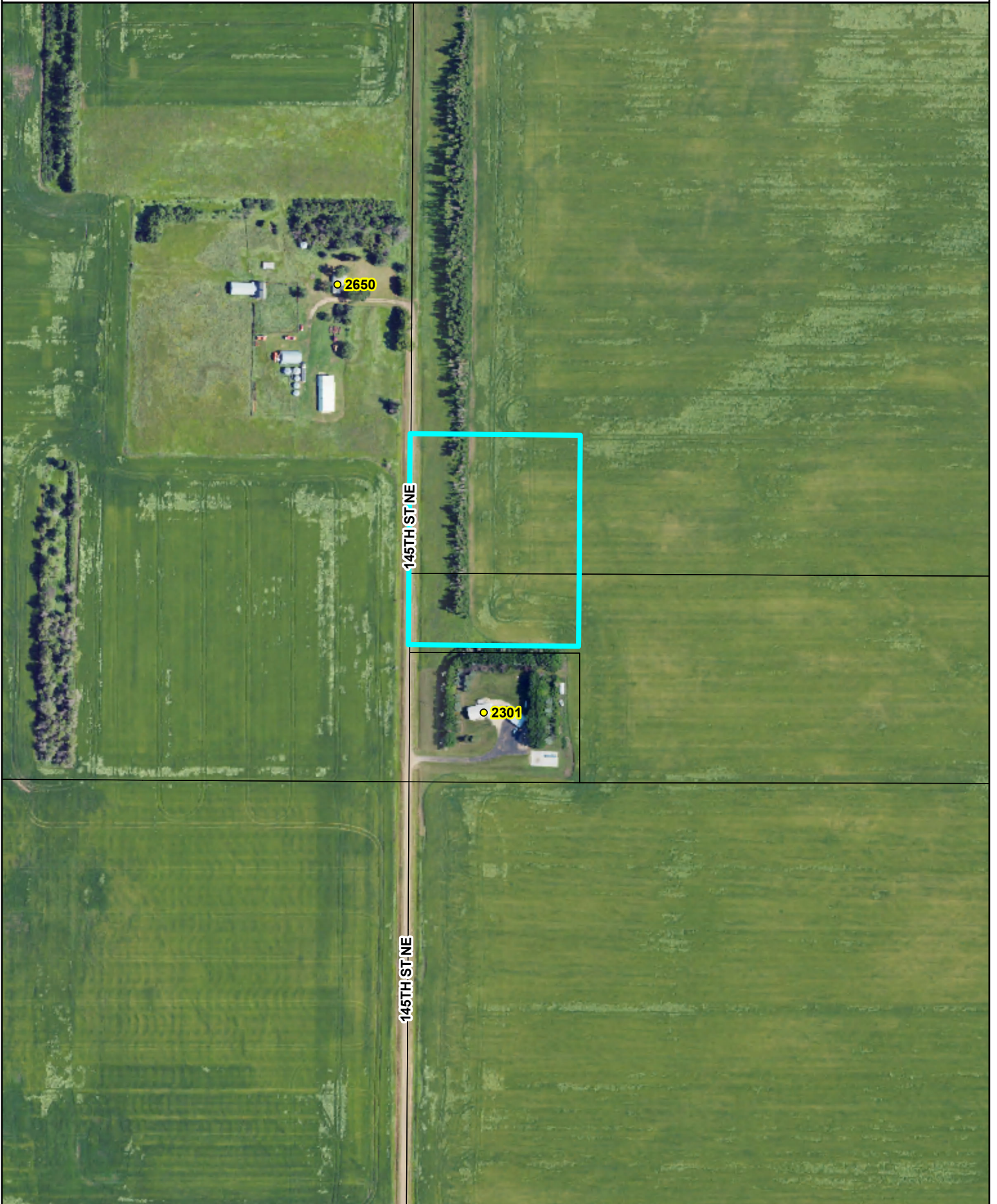
909 Basin Avenue  
Bismarck, North Dakota 58504  
sheg@swensonhagen.com  
Phone (701) 223-2606  
Fax (701) 223-2606

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



**BURLEIGH COUNTY, NORTH DAKOTA  
LOCATION MAP**

N  
7/1/2024



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

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

To: Burleigh County Commission.  
Re: Public Hearing to Amend Burleigh County Zoning Ordinances  
Date: 8-28-2024  
From: Mitch Flanagan, Burleigh County Planning Director. *ML*

ITEM 1

Amend Article 8 Section 29 Solar Farms

It has become necessary to consider amending the current Article 8 to include Section 29. This section will allow for the development of onsite renewable energy systems, i.e. Accessory use in any District and Solar Farms within an Agricultural District with a special use permit.

Article 8 Section 29 draft ordinance was presented to the Planning Commission and was recommended for approval.

**ACTION REQUESTED:**

Consider to recommend approval of ordinance.

**Attachments:**

Ex. 1- Article 8 Section 29 Special Use Permit.

## ORDINANCE 24-0-----

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

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

#### SECTION 29 Solar Energy System Facilities

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

Burleigh County finds that it is in the public interest to encourage the use and development of renewable energy systems (including solar energy systems) that have a positive impact on energy conservation with limited adverse impact on nearby properties. Burleigh County supports the use of solar collection systems and the development of solar energy farms. Consistent with the Burleigh County Comprehensive Plan, it is the intent of the County with this Section to create standards for the reasonable capture and use, by households, businesses and property owners, of their solar energy resource and encourage the development and use of solar energy.

#### I. DEFINITIONS

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

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

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

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

## II. APPLICABILITY

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

### Types of Solar Energy Systems.

#### 1. Rooftop solar energy systems:

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

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

#### 2. Ground-mount solar energy systems:

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

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



require siting review and approval by the North Dakota Public Service Commission and ND State Electrical Board.

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

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

7. Prohibitions:

The County prohibits community solar farms located within:

- a. All Floodplain Districts and Designated SFHA Areas.

8. Additional standards:

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

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_

Brian Bitner, Chairperson

**Final passage and adoption:**

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

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

\_\_\_\_\_

Mark Splonskowski, Burleigh County Auditor/Treasurer