



Community Development Department

DATE: July 6, 2022

FROM: Ben Ehreth, AICP, Community Development Director

ITEM: Front Yard Setback in CG and MA Zoning Districts – Zoning Ordinance Text Amendment

REQUEST:

The Community Development Department is initiating a zoning ordinance text amendment to modify the front yard setback provisions in the CG – Commercial and MA – Industrial zoning districts relating to an increased setback along specified major roadways. When the zoning ordinance was rewritten in 1982, language was added to the front yard setback provisions of the CG – Commercial and MA – Industrial zoning districts to require a 50-foot front yard setback along principal arterials. The provisions also exempted various roadways, mostly within the portions of the community that were built out at that time. As proposed, the draft zoning ordinance text amendment would eliminate the application to all principal arterials (except those specifically exempted) and instead apply it to specific major roadway segments. The proposed amendment has been discussed at length with staff from the Engineering Department and the Metropolitan Planning Organization, and represents concurrence on which major roadway segments the greater setback should apply.

Please place this item on the July 12, 2022, and July 26, 2022 City Commission meeting agendas.

BACKGROUND INFORMATION:

The Planning & Zoning Commission held a public hearing on this request on June 22, 2022.

No residents spoke at the public hearing.

At the conclusion of the public hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission unanimously recommended approval of the zoning ordinance text amendment relating to front yard setbacks in the CG and MA zoning districts.

RECOMMENDED CITY COMMISSION ACTION:

July 12th meeting of the Board of City Commissioners – consider the request for a zoning ordinance text amendment as outlined in Ordinance 6514 and call for a public hearing on this item for the July 26th meeting.

July 26th meeting of the Board of City Commissioners – hold a public hearing on the zoning ordinance text amendment as outlined in Ordinance 6514 and take final action of the request.

STAFF CONTACT INFORMATION:

Ben Ehreth, AICP | Community Development Director | 355-1842 | behreth@bismarcknd.gov

Kim Lee, AICP | Planning Manager | 355-1846 | klee@bismarcknd.gov

ORDINANCE NO. 6514

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND SECTIONS 14-02-03, 14-04-03 AND 14-04-06 OF THE CODE OF ORDINANCES OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO FOSTER CARE FOR ADULTS.

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

Section 1. Amend. Section 14-04-12 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the CG Commercial zoning district, is hereby amended to read as follows:

14-04-12. CG Commercial District. In any CG commercial district, the following regulations shall apply:

...

6. Front yard. A fifteen (15) foot front yard shall be required of any building in a CG commercial district except that all structures located on ~~principal arterials~~ specified major roadways shall have a fifty (50) foot front yard. Buildings located on the following ~~principal arterials~~ major roadway segments shall be ~~exempt from~~ subject to the fifty (50) foot front yard requirement: Main Avenue west of 26th Street; State Street between Divide Avenue and Interstate 94; and 7th and 9th Streets between Bismarck Expressway and Boulevard Avenue. US Highway 83/State Street north of East Century Avenue; East Main Avenue/County Highway 10 east 26th Street; ND Highway 1804 west of US Highway 83/State Street; Bismarck Expressway between the Missouri River and I-94; Centennial Road between I-94 and 71st Avenue NE; and 71st Avenue NE between Centennial Road and US Highway 83/State Street; and ND 1804/University Drive south of East Burleigh Avenue.

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Section 2. Amend. Section 14-04-14 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the MA Industrial zoning district, is hereby amended to read as follows:

14-04-14. MA Industrial District. In any MA industrial district the following regulations shall apply:

...

6. Front yard. A fifteen (15) foot front yard shall be required of any building in an MA industrial district except that all structures located on ~~principal arterials~~ specified major roadways shall have a fifty (50) foot front yard. Buildings located on the following ~~principal arterials~~ major roadway segments shall be ~~exempt from~~ subject to the fifty (50) foot front yard requirement: Main Avenue west of 26th Street; State Street between Divide Avenue and Interstate 94; and 7th and 9th Streets between Bismarck Expressway and Boulevard Avenue. US Highway 83/State Street north of East Century Avenue; East Main Avenue/County Highway 10 east 26th Street; ND Highway 1804 west of US Highway 83/State Street; Bismarck Expressway between the Missouri River and I-94; Centennial Road between I-94 and 71st Avenue NE; and 71st Avenue NE between Centennial Road and US Highway 83/State Street; and ND 1804/University Drive south of East Burleigh Avenue.

...

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

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



STAFF REPORT

Application for: **Zoning Ordinance Text Amendment**

Project ID: **ZOTA2022-003**

Project Summary

<i>Title:</i>	Front Yard Setbacks in CG and MA Zoning Districts
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Project Contact:</i>	Kim L. Lee, AICP, Planning Manager
<i>Section(s) Amended:</i>	Section 14-04-12 (CG Commercial District) and 14-04-14 (MA Industrial District) of the City Code of Ordinances
<i>Request:</i>	Modify the front yard setback provisions in the CG and MA zoning district relating to an increased setback along specified roadways

Staff Analysis

The Community Development Department is initiating a zoning ordinance text amendment to modify the front yard setback provisions in the CG and MA zoning districts relating to an increased setback along specified major roadways.

The Bismarck Planning & Zoning Commission considered this zoning ordinance text amendment at the May 25, 2022 meeting and called for a public hearing.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on June 10th and June 17th.

Background

When the zoning ordinance was rewritten in 1982, language was added to the front yard setback provisions of the CG – Commercial and MA – Industrial zoning districts to require a 50-foot front yard setback along principal arterials. The provisions also exempted various roadways, mostly within the portions of the community that were built out at that time. We believe this provision was added to preserve areas that may be needed for future roadway widening projects

and/or to provide an increased setback on roadways with higher speeds.

Over the years, variances from the 50-foot front yard setback have been granted on a case-by-case basis primarily based on site conditions. In addition, staff have also discussed the pros and cons of this requirement and have tried to identify ways to balance the desire to preserve the City’s ability to widen major roadways with the desire to maximize buildable area in the developed portions of the community. The City’s Infill and Redevelopment Plan, adopted in 2017, also supports modifications to this ordinance provision.

As proposed, the draft zoning ordinance text amendment would eliminate the application to all principal arterials (except those specifically exempted) and instead apply it to specific major roadway segments.

The proposed amendment has been discussed at length with staff from the Engineering Department and the Metropolitan Planning Organization, and represents concurrence on which major roadway segments the greater setback should apply.

(continued)

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

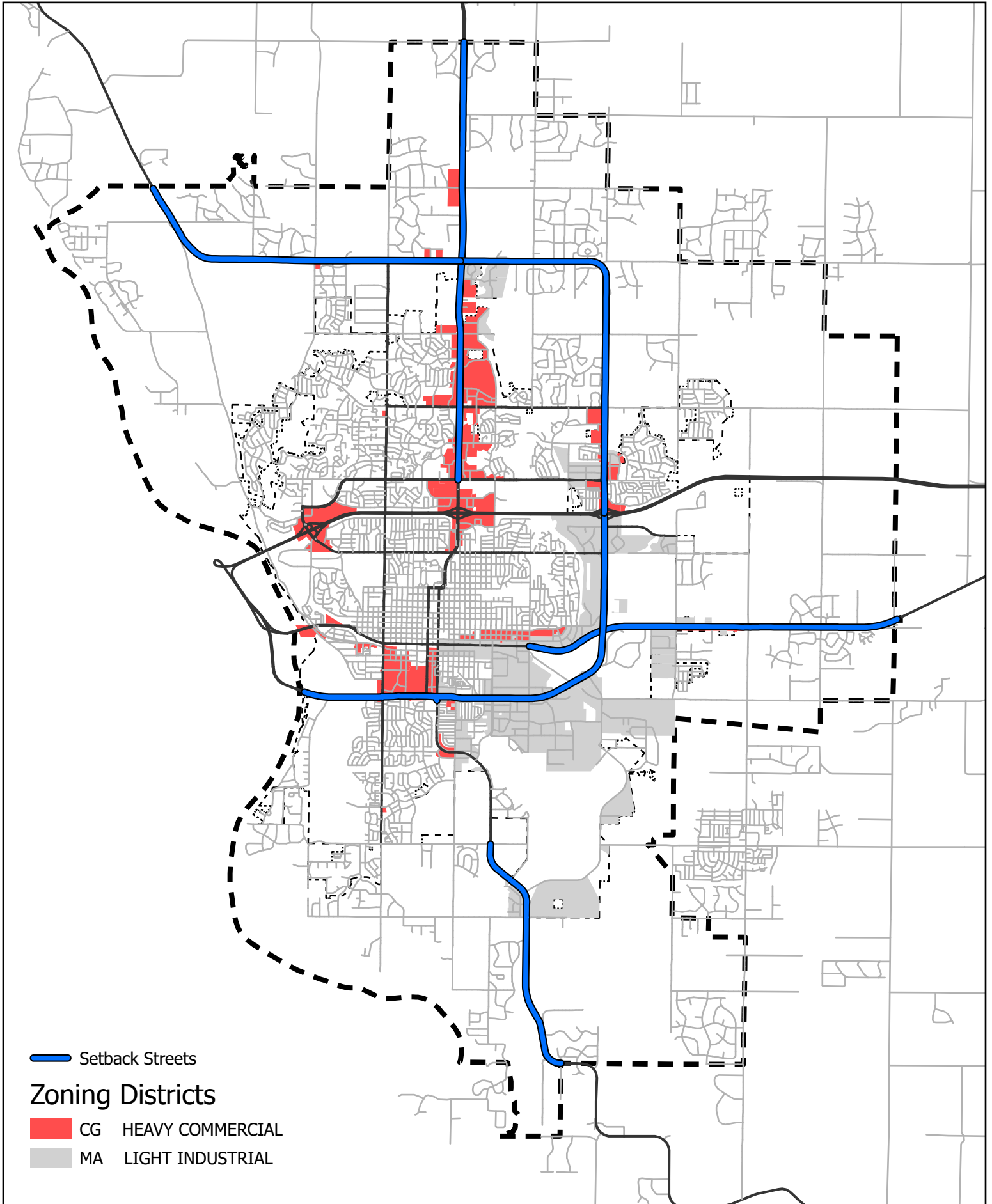
Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Section 14-04-12 (CG Commercial District) and Section 14-04-14 (MA Industrial District) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Attachments

1. Draft zoning ordinance amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov



— Setback Streets

Zoning Districts

- CG HEAVY COMMERCIAL
- MA LIGHT INDUSTRIAL

This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.

0 8,145 16,290 32,580 Feet

