



## Community Development Department

**DATE:** April 9, 2024

**FROM:** Ben Ehreth, Community Development Director

**ITEM:** Ordinance 6575

**REQUEST:**

Introduction of and call for public hearing on Ordinance 6575, a request for zoning map amendment from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision.

**BACKGROUND INFORMATION:**

Five Star Storage and Michael Ward are requesting a zoning map amendment from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision. The property is located northwest of Bismarck, north of 57th Avenue Northwest and west of North Washington Street, in the northwest quadrant of the intersection of Sonora Way and ND Highway 1804 Northwest.

Five Star Storage and Michael Ward appealed the February 28, 2024, Planning and Zoning Commission's decision to deny a zoning map amendment from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision, to the Bismarck City Commission at the March 26, 2024, meeting. At the meeting, the Bismarck City Commission voted to reverse the decision of the Planning and Zoning Commission. As part of the action on March 26, 2024, the City Commission asked for the zoning map amendment to be considered prior to a public hearing.

The attached staff report contains a complete review of the request, according to the Comprehensive Plan standards, city ordinances, and other relevant laws.

**RECOMMENDED CITY COMMISSION ACTION:**

Consider the request for Ordinance 6575 to amend zoning from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision, and call for a public hearing for the April 23, 2024, meeting.

**STAFF CONTACT INFORMATION:**

Ben Ehreth, Community Development Director, 701-355-1842, behreth@bismarcknd.gov

Daniel Nairn, Planning Manager, 701-355-1854, dnairn@bismarcknd.gov

Lauren Oster, Planner, 701-355-1846, laoster@bismarcknd.gov

**ATTACHMENTS:**

1. SR\_CapitalElec2nd\_ZC\_040924
2. Findings, Conclusions, Decision

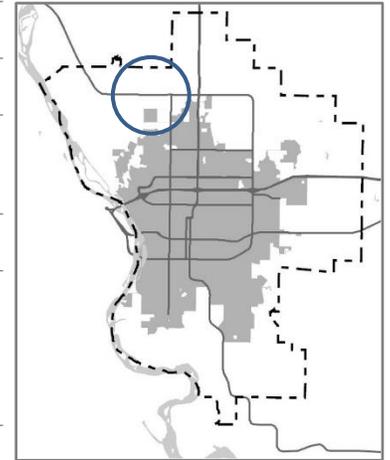
# STAFF REPORT

Application for: **Zoning Map Amendment**

Project ID: **ZC2023-013**

## Project Summary

<i>Title:</i>	Capital Electric Second Subdivision, Lot 2, Block 1
<i>Status:</i>	Board of City Commissioners – Consideration
<i>Property Owner(s):</i>	Michael Ward, Owner Five Star Storage, Applicant
<i>Project Contact:</i>	Jacob Barney, Five Star Storage
<i>Project Location:</i>	Northwest of Bismarck, north of 57th Avenue Northwest and west of North Washington Street, in the northwest quadrant of the intersection of Sonora Way and ND Highway 1804 Northwest
<i>Project Size:</i>	7.04 acres
<i>Applicant Request:</i>	Rezone to Conditional MA – Industrial to enable the use of a self-storage facility
<i>Staff Recommendation:</i>	Approve with conditions



## Site Information

<i>Existing Conditions</i>		<i>Proposed Conditions</i>	
<i>Lots/Blocks:</i>	1 Lot in 1 Block	<i>Lots/Blocks:</i>	1 Lot in 1 Block
<i>Land Use:</i>	Agriculture/Undeveloped	<i>Land Use:</i>	Conditional Light Industrial
<i>Future Land Use:</i>	Industrial Flex (IF)	<i>Future Land Use:</i>	Industrial Flex (IF)
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	Conditional MA – Industrial
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	Conditional MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
<i>Max Density:</i>	A – 1 unit / 40 acres	<i>Max Density:</i>	Conditional MA – N/A

## Area Information

<i>Zoning Jurisdiction:</i>	Extraterritorial Area (ETA)
<i>Township:</i>	Hay Creek (organized)
<i>Neighborhood:</i>	Undefined

## Property History

<i>Zoned:</i>	10/1998
<i>Platted:</i>	04/05
<i>Annexed:</i>	N/A

(continued)

**Project Narrative**

Michael Ward and Five Star Storage are requesting approval of a zoning map amendment from the A – Agriculture zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision. The applicant is proposing to develop the property to include a self-storage facility. The conditional MA – Industrial zoning would limit the use of the property to storage, as proposed.

The Planning and Zoning Commission considered this request on January 24, 2024. The Planning and Zoning Commission held a public hearing on

the zoning map amendment on February 28, 2024, and denied the request.

The applicant and owner appealed the Planning and Zoning Commission’s decision to the Bismarck City Commission at their March 26, 2024, meeting. The City Commission voted to reverse the decision of the Planning and Zoning Commission and asked that the zoning map amendment be considered prior to a public hearing. A copy of the findings, conclusions, and decisions from this appeal is attached.

**Project Context**

*Land uses adjacent to the project area are depicted on the adjacent map:*

*A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.*



The property has been identified as Industrial Flex (IF) in the Future Land Use Plan. The Industrial Flex (IF) areas are flexible employment centers for a range of businesses, primarily for smaller-scale industrial uses and offices. Goals and objectives of this plan as they relate to a zoning map amendment are referenced in review standards below.

Adjacent uses include agricultural uses to the north, west, and east, and residential uses to the south across ND Highway 1804 NW. A substation is located on the lot to the north of the proposed site.

The right-of-way for Sonora Way was granted when the property was platted in 2005; however, the street was never built to County

*(continued)*

Commercial/Industrial Subdivision Roadway standards as the substation to the north generated minimal traffic. Since the proposed self-storage facility will generate increased traffic to this area, Sonora Way will need to be built to the County Commercial/Industrial Subdivision standards at least to the entrance of the substation driveway. A gravel temporary cul-de-sac will also need to be constructed at the end of the street for turnaround purposes.

### Public Engagement

The public was duly notified of this request at the Planning and Zoning Commission level. A notice was published in the Bismarck Tribune on February 16 and February 23, and 30 letters were mailed to the owners of nearby properties on February 15, 2024.

Basic project information, with the ability to contact staff for more details, has been provided publicly online through the Community Development Activities map.

Two members of the public spoke at the Planning and Zoning Commission hearing. One written comment was received by staff prior to the public hearing on February 28, 2024, was distributed to the Planning and Zoning Commission, and summarized by staff during the oral presentation.

The signatory of the written public comment expressed concern about having storage units at that specific location. This comment was addressed by the applicant and the owner's consultant stating that this zoning map amendment and the development of storage units within this lot would follow the Bismarck's Future Land Use Plan.

Additional public engagement, in the form of publications in the Bismarck Tribune and letters to adjacent property owners, will commence if the Board of City Commissioners calls for a public hearing on this request. Any public comments received before the public hearing at the Board of

City Commissioners will be summarized by staff during the oral presentation.

### Review Standards and Findings of Fact

*The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.*

*The Future Land Use Plan is adhered to with the proposed zoning map amendment ([Future Land Use Plan](#))*

**Yes.** The proposed zoning map amendment is within the area designated as Industrial Flex (IF) in the Future Land Use Plan, as described in the Project Context section above. The proposed zoning district would generally conform to the character of this district.

The applicant is aware of the Bismarck's Growth Phasing Plan and intends to annex into the city once city services are available. However, connection to city services is currently not feasible as the closest city service are half a mile from the property.

*The proposed amendment is compatible with adjacent land uses and zoning ([Goal S10-a](#), [S5-a](#))*

**Yes, with** certain conditions applied to this zoning district. Adjacent uses are described in the project context section above. The proposed conditional zoning district would allow self-storage. Certain conditions including design, aesthetic, and development standards applied to the proposed zoning would alleviate potential incompatibilities to adjacent land uses in the future. A densely landscaped 20-foot-wide buffer yard is required along the south and west sides of the lot. Example architectural renderings from another Five Star Storage site, showing examples of materials and potential landscaping, is attached. Additionally, an example electrical plan for

(continued)

another Five Star Storage site, showing how the site lighting is evaluated and contained within the property, is also attached. The proposed conditional zoning restricts more intensive uses, including, but not limited to:

- Retail Group B, which includes vehicle sales
- Service Group B, which includes motor vehicle repair garages
- Wholesale trade and distribution
- Hotel/Motel

With these conditions, development that may be anticipated from the proposed zoning would have no negative impact on the surrounding properties.

*A change in conditions or by an error in the zoning map has occurred since the previous zoning classification was established ([Goal S9-e](#))*

**Yes.** The current zoning district of A – Agricultural was established prior 1980. Conditions have changed since this time including the adoption of new comprehensive plans.

*Undue restriction of housing options or access to neighborhood amenities would not result from the proposed zoning map amendment ([Goal S1-a](#), [Goal T1-c](#))*

**Yes.** The proposed conditional zoning map amendment would not adversely impact housing opportunities in any way.

*The goals and objectives of Together 2045 Bismarck's Comprehensive Plan would be advanced by the proposed zoning ordinance text amendment ([Comprehensive Plan](#))*

**Yes.** The proposed conditional zoning map amendment would conform to the Industrial Flex (IF) designation as outlined in the Future Land Use Plan.

*The general intent and purpose of the zoning ordinance would be adhered to with the proposed zoning map amendment (Section 14-02-01; [NDCC 40-27-03](#))*

**Yes.** The proposed zoning map amendment would support the purpose of the zoning ordinance, as stated in the City Code of Ordinances and North Dakota Century Code.

*Proper administrative procedures related to the request are being followed (Section 14-07-02, [NDCC Chapter 40-47](#))*

**Yes.** All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. The applicant has submitted a complete application for a zoning map amendment, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission.

*The public health, safety and general welfare will not be adversely impacted by the proposed zoning map amendment ([Goal S10-a](#))*

**Yes.** As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare.

### Staff Recommendation

Based on the above findings, staff recommends approval on the zoning map amendment from the A – Agriculture zoning district to the Conditional MA – Industrial zoning district, as outlined in the attached draft zoning ordinance, for Lot 2, Block 1, Capital Electric Second Subdivision with the following conditions:

1. Comply with all relevant design, aesthetic, and development standards.

### Attachments

(continued)

1. Draft Zoning Ordinance
  2. Zoning and Plan Reference Map
  3. Proposed Zoning Map
  4. Example Architectural Renderings from Another Five Star Storage Location
  5. Example Electrical Plan from Another Five Star Storage Location
  6. Appeal Findings, Conclusions, & Decisions
- 

*Staff report prepared by:* Lauren Oster, Planner

701-355-1846 | [laoster@bismarcknd.gov](mailto:laoster@bismarcknd.gov)

# **CITY OF BISMARCK**

## **ORDINANCE NO. 6575**

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

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

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural zoning district and included in the Conditional MA – Industrial zoning district:

Lot 2, Block 1, Capital Electric Second Subdivision

This Conditional MA - Industrial zoning district is subject to the following additional standards:

1. *Uses Permitted*. The following uses are permitted within this Conditional MA – Industrial zoning district:
  - a. Industrial group A, limited to storage buildings and warehouses, including rental and condo storage units.
  - b. Utility service group.All other uses not included in this list shall be prohibited.
  
2. *Special Uses*. There are no uses allowed as special uses within this Conditional MA – Industrial zoning district.
  
3. *Dimensional Standards*.

- a. Lot Area. The minimum lot area is ten thousand (10,000) square feet.
- b. Lot Width. The minimum lot width is sixty (60) feet measured along the front building line.
- c. Lot Coverage. The maximum lot coverage for buildings and required parking is eighty (80) percent of the total lot area.
- d. Front Yard. The minimum front yard setback is fifty (50) feet from the property line adjacent to ND Highway 1804 and fifteen (15) feet from the property line adjacent to all other roadways.
- e. Side Yards. No side yards are required except where a lot adjoins a residential district.
- f. Rear Yard. The minimum rear yard setback is ten (10) feet.
- g. Height Limits. The maximum building height is seventy-five (75) feet.

#### 4. *Design and Aesthetic Standards.*

- a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, to create a lessened visual impact upon the surrounding land uses and to stimulate and protect investment through the establishment of high standards with respect to materials, details, and appearance.
- b. Building Materials. All building facades shall be designed with finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or prefinished metal architectural panels. All elevations, especially those facing a public right-of-way, must be visually pleasing and must not be exclusively covered in prefinished metal panels if this material is used.

The following building types and materials are expressly prohibited: wood as an exterior wall finish, except where used as an accent material and exposed, untextured, uncolored, unaugmented concrete.

All subsequent renovations, additions and related structures constructed after the construction of the original building shall be constructed of materials comparable to those used in the

original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

- c. Enclosed Building Requirement. All production, processing, storage (excluding the storage of vehicles allowed over the WAPA easement), sales, display, or other business activity shall be conducted within a completely enclosed building.
- d. Outdoor Storage. Outdoor storage is only permitted for temporary vehicle storage within the WAPA easement area on the northern portion of the lot if agreed to by the utility entity. Continuous storage of vehicles involving 12 or more consecutive months without moving the vehicle(s) from the property is prohibited.

5. *Other Development Standards.*

- a. Buffer Yards. In addition to the requirements of Section 14-03-11, a 20-foot-wide buffer yard shall be provided along the south side, adjacent to ND Highway 1804 NW, and west side of the lot. Said buffer yard shall be densely planted in conjunction with site development with the minimum number, species and size of trees and shrubs required for a 20-foot buffer yard in the City's landscaping ordinance (2 shade trees, 4 ornamental trees, 3 large upright coniferous trees, 10 small upright coniferous trees and 14 shrubs).
- b. Lighting. Lighting at entrances, exits, and drive aisles between buildings is permitted provided that any associated glare does not create a public nuisance or traffic safety hazard. High-intensity lighting devices oriented outward, including but not limited to laser lights, strobe lights, searchlights, and beacons, are not permitted.

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

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



# Zoning and Plan Reference Map

ZC2023-013

CAPITAL ELECTRIC SECOND SUBDIVISION, L2, B1

## Zoning Districts

<b>A</b>	Agriculture
<b>RR</b>	Rural
	Residential
<b>R5</b>	Residential
<b>RMH</b>	Manufactured Home Residential
<b>R10</b>	Residential
<b>RM</b>	Residential Multifamily
<b>RT</b>	Residential (Offices)
<b>HM</b>	Health and Medical
<b>CA</b>	Commercial
<b>CG</b>	Commercial
<b>MA</b>	Industrial
<b>MB</b>	Industrial
<b>PUD</b>	Planned Unit Development
<b>DC</b>	Downtown Core
<b>DF</b>	Downtown Fringe

## Future Land Use Plan

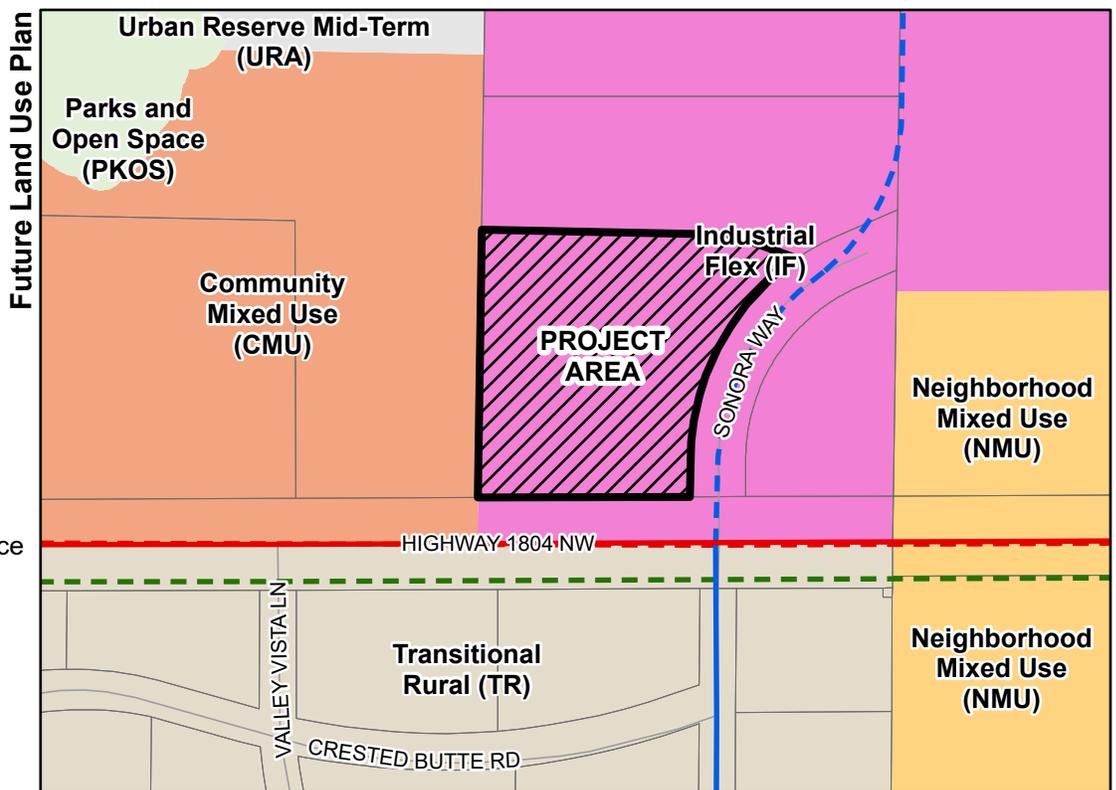
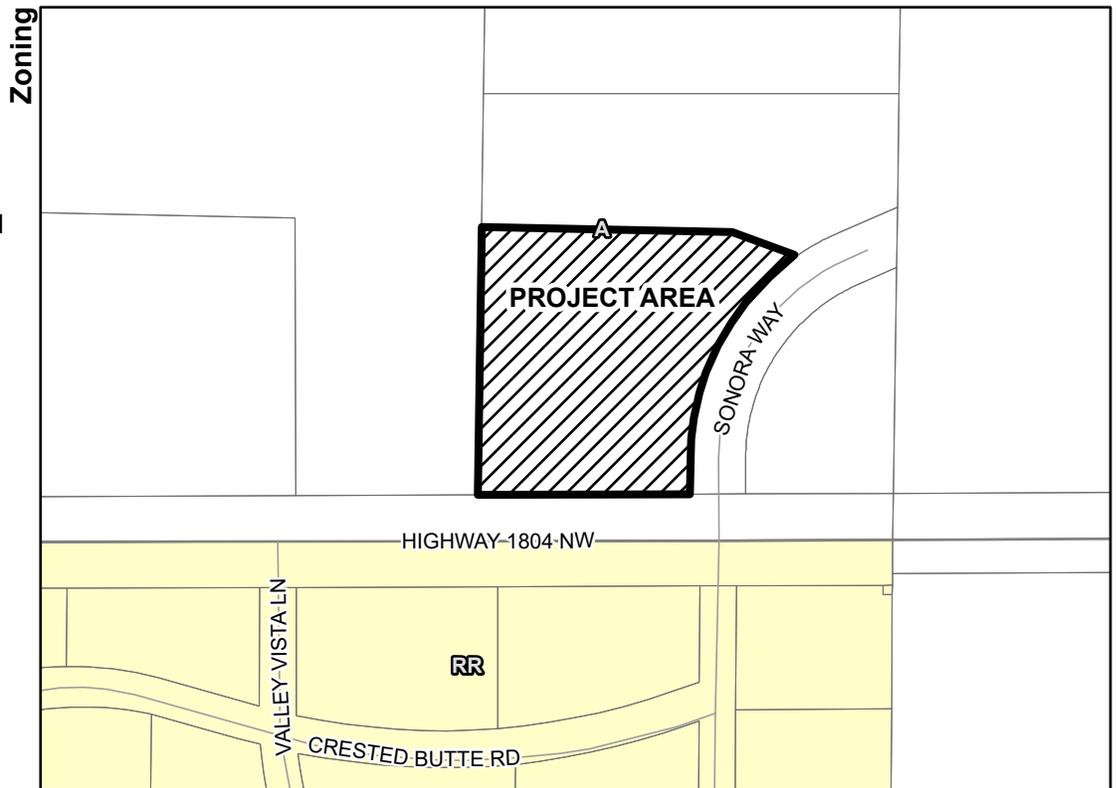
<b>UN</b>	Urban
<b>NMU</b>	Neighborhood Mixed Use
<b>CMU</b>	Community Mixed Use
<b>DMU</b>	Destination Mixed Use
<b>DT</b>	Downtown
<b>IND</b>	Industrial
<b>IF</b>	Industrial Flex
<b>IMU</b>	Industrial Mixed Use
<b>INS</b>	Institutional
<b>RR</b>	Rural
<b>TR</b>	Transitional Rural
<b>PKOS</b>	Parks/Open Space Urban Reserve
<b>URA/URB</b>	Mid/Long-Term

## Active Mobility Plan

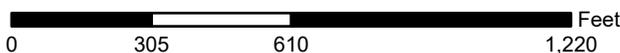
— Future Shared Trail

## Major Street Plan

- Existing Arterial
- - - Future Arterial
- Existing Collector
- - - Future Collector
- Existing Interstate
- - - Future Interstate



*This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.*



City of Bismarck  
 Community Development  
 Planning Division  
 January 18, 2024



# Proposed Zoning Change

ZC2023-013

CAPITAL ELECTRIC SECOND SUBDIVISION, L2, B1

## Proposed New Zoning Map

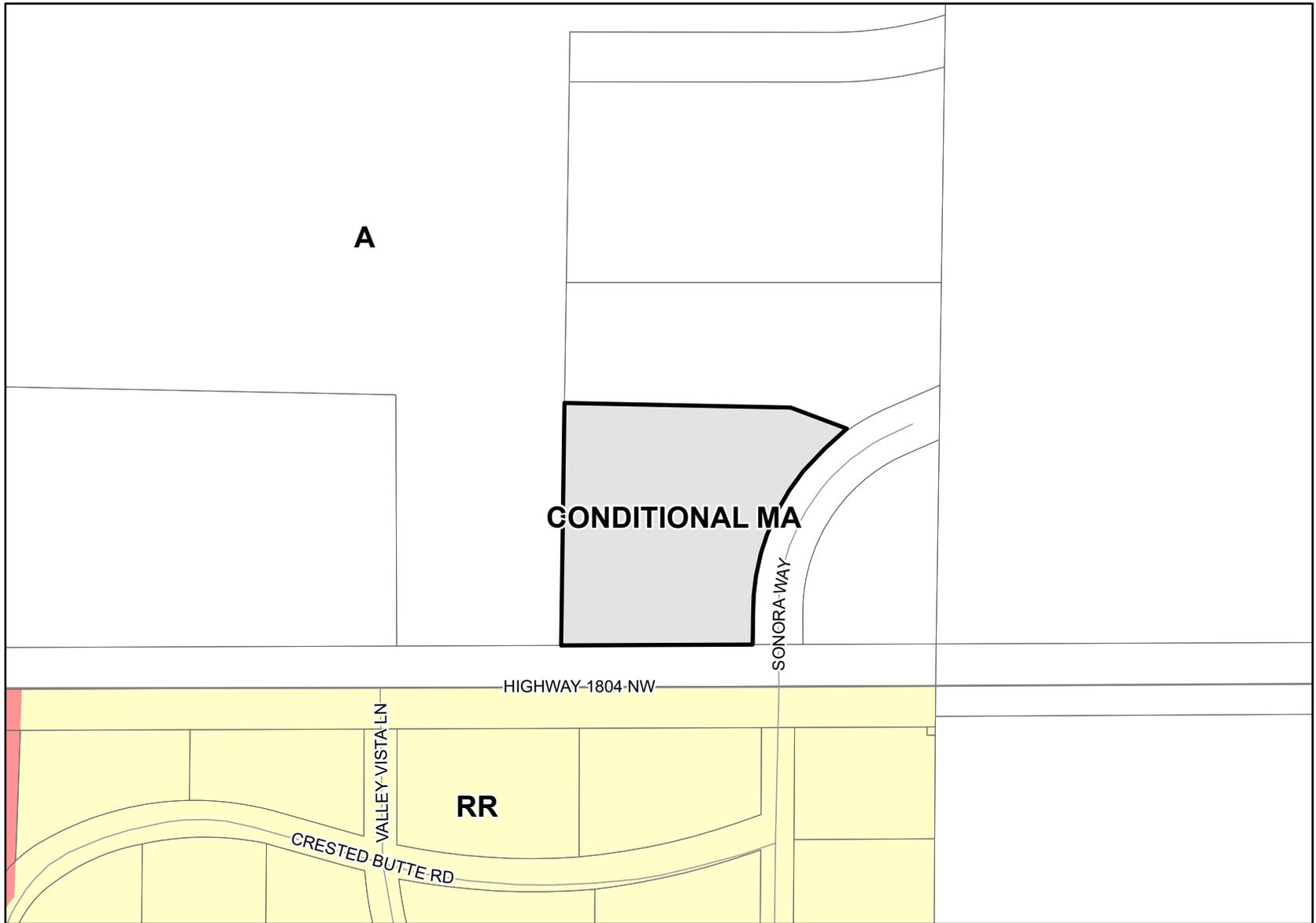
Project Area (zoning within is proposed)

City Limits

### Zoning Districts

- A** Agriculture
- RR** Rural Residential
- R5** Residential
- RMH** Manufactured Home Residential
- R10** Residential
- RM** Residential Multifamily
- RT** Residential (Offices)
- HM** Health and Medical
- CA** Commercial
- CG** Commercial
- MA** Industrial
- MB** Industrial
- PUD** Planned Unit Development
- DC** Downtown Core
- DF** Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district



City of Bismarck  
Community Development  
Planning Division  
January 18, 2024

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FIVE STAR  
STORAGE



FIVESTAR  
STORAGE



FIVE STAR  
STORAGE





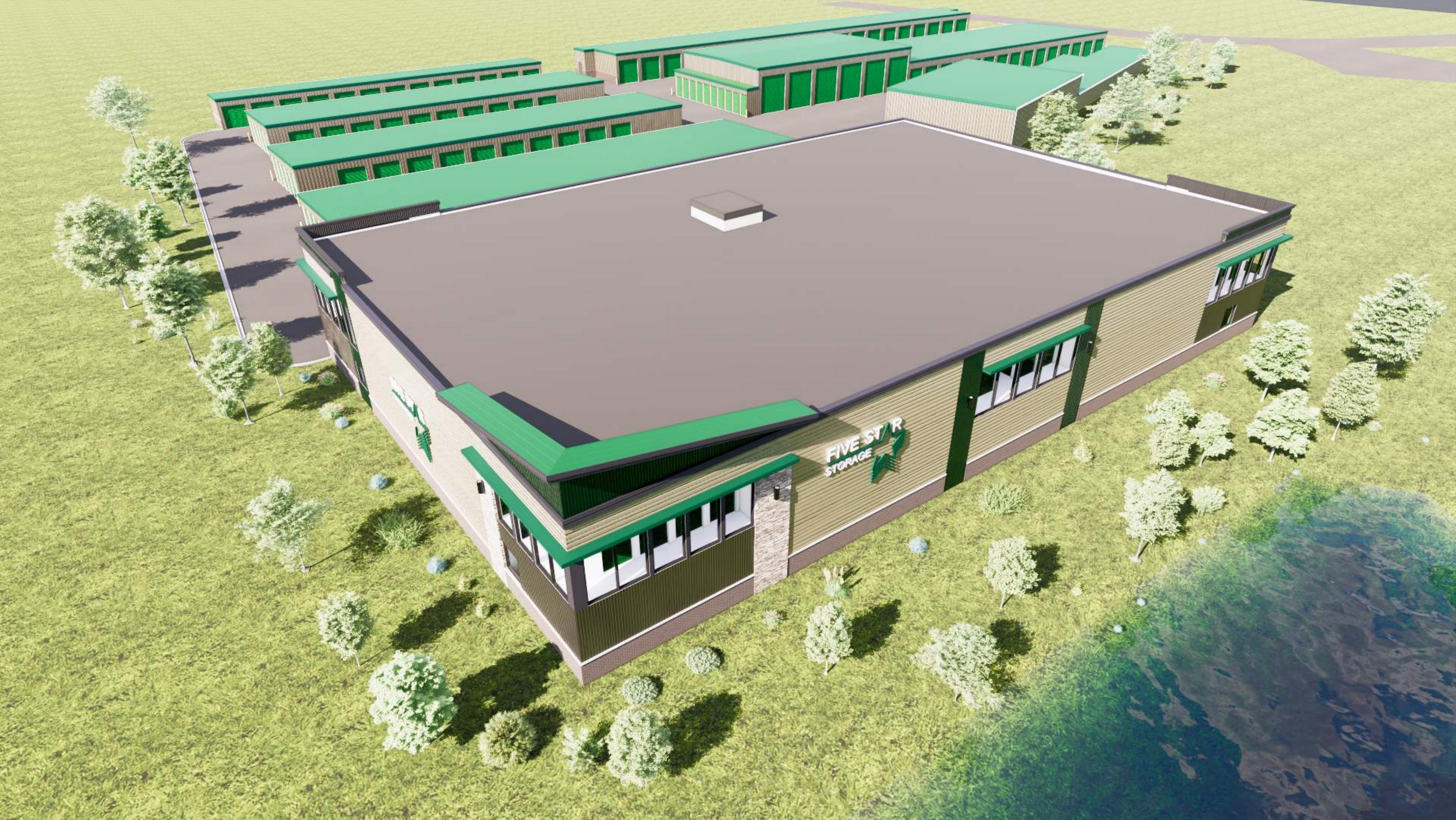
FIVE STAR  
STORAGE





FIVE STAR  
STORAGE



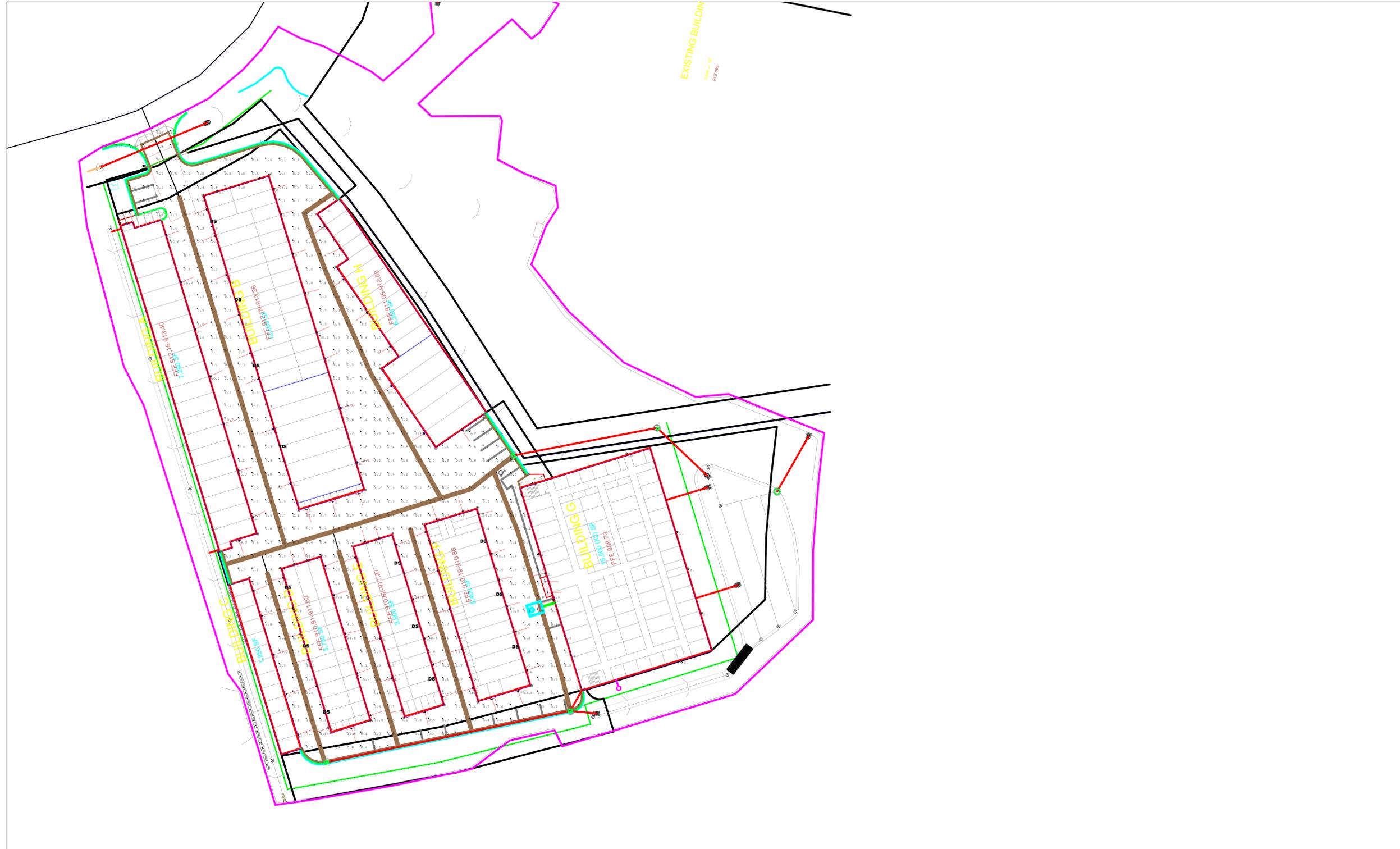


FIVE STAR  
STORAGE

Luminaire Schedule									
Symbol	Qty	Label	Arrangement	LLF	Description	Arr. Watts	Lum. Lumens	Mounting Height	
1	CC	Single	0.900	TGS ALPE2-S-L-C-4-U-FM-D ON 15FT SSS POLE ON A 2.5FT BASE	78.5	12345	17.5		
8	BB	Single	0.900	TGS CUDWR-0411-W-C-BK UP/DOWN CYLINDER	18.5	2307	9, 12, 16		
2	DD	Single	0.900	ELITE RL677-1000L-DIMTR-120-27K/30K/40K/50K/90-WH JBOX MOUNT	14.4	1244	9		
10	AA1	Single	0.900	OWP-FC-116-LED-1500L-2800L-4000L-DIM10-120-347V-30K-40K-50K(4000L)	31.294	3922	12.5, 14.5, 16.5		
82	AA	Single	0.900	OWP-FC-116-LED-1500L-2800L-4000L-DIM10-120-347V-30K-40K-50K(2800L)	19.31	2626	7, 8.5, 9, 12		

Calculation Summary									
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min		
CALC POINTS GROUND	Illuminance	Fc	3.38	27.6	0.0	N.A.	N.A.		
centerline	Illuminance	Fc	0.17	0.5	0.0	N.A.	N.A.		
entrance typical wall pack	Illuminance	Fc	5.53	6.6	4.3	1.29	1.53		
MAIN ENTRANCE	Illuminance	Fc	10.67	13.0	9.0	1.19	1.44		
PROPERTY LINE	Illuminance	Fc	0.14	0.2	0.1	1.40	2.00		
PROPERTY LINE 1	Illuminance	Fc	0.10	0.1	0.1	1.00	1.00		
PROPERTY LINE 2	Illuminance	Fc	0.10	0.1	0.1	1.00	1.00		
PROPERTY LINE 3	Illuminance	Fc	0.10	0.1	0.1	1.00	1.00		
PROPERTY LINE 4	Illuminance	Fc	0.10	0.1	0.1	1.00	1.00		
PROPERTY LINE 5	Illuminance	Fc	0.13	0.2	0.1	1.30	2.00		

GENERAL NOTES:  
A. PULSE PRODUCTS DOES NOT ASSUME RESPONSIBILITY FOR THE INTERPRETATION OF THIS CALCULATION OR COMPLIANCE TO THE LOCAL, STATE, OR FEDERAL LIGHTING CODES OR ORDINANCES.  
B. LIGHTING LAYOUT IS NOT INTENDED FOR CONSTRUCTION DOCUMENTS BUT ONLY TO ILLUSTRATE THE PERFORMANCE OF THE PRODUCT.  
C. ALL READINGS/CALCULATIONS SHOWN ARE SHOWN ON WORKPLANE OR FLOOR DEPENDING ON SPACE ACTIVITY.



Plan View  
Scale: 1 inch= 35 Ft.

**BISMARCK BOARD OF CITY COMMISSIONERS**

IN THE MATTER OF THE )  
APPEAL OF FSS MANAGEMENT, LLC ) **FINDINGS, CONCLUSIONS & DECISION**  
FIVE STAR STORAGE )

Re: Lot 2, Block 1, Capital Electric Second Subdivision

1. The Bismarck Board of City Commissioners considered the appeal of FSS Management, LLC DBA Five Star Storage (APPELLANT) from the Bismarck Board of Planning and Zoning Commission's denial of a zoning change from A – Agricultural zoning to the Conditional MA – Industrial zoning district. The hearing on the appeal was held on March 26, 2024, in the Tom Baker Meeting Room of the City/County building in Bismarck. Appellant appeared and presented testimony at the hearing. Ben Ehreth, Community Development Director, appeared and reported the action of the Bismarck Planning and Zoning Commission and informed the City Commission of the situation and explained the requirements of the zoning ordinance. Jacob Barney who is employed by the APPELLANT appeared and presented as well as the landowner Ward Farms' attorney Bob Martin. After all of the parties were given an opportunity to present evidence, the City Commission makes the following:

**FINDINGS OF FACT**

2. Appellant requested that the zoning designation of the property from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district be made for Lot 2, Block 1, Capital Electric Second Subdivision.
3. According to the applicant, they requested the zoning map amendment to develop a self-storage facility. The property has been identified as Industrial Flex in the Future Land Use Plan. Staff recommended approval with conditions. Concerns raised by members of the public, both during the hearing and in the written comment, were related to the proposed storage use adjacent to rural residential areas and the increase in traffic to this area. Other concerns raised related to crime, incompatibility with current neighborhood character, and the additional distraction it would have to the traveling public, especially those experiencing the Lewis and Clark Trail along ND Highway 1804.
4. The Bismarck Planning and Zoning Commission, at their meeting of February 28, 2024, held a public hearing on the request and denied the request 5 to 3, noting that the proposed amendment is not compatible with adjacent land uses and zoning.

5. Appellant timely appealed.

6. At the hearing on the appeal, Community Development Director Ehreth presented the history of the matter. The APPELLANT indicated that the project meets the Future Land Use Plan, Comprehensive Plan and ordinances. They indicated that storage buildings are a use in the industrial flex designation. The area needs self-storage closer to their residences, and this project would be a good buffer between the residential uses and the power substation already in place. Traffic impacts would be lower with the storage units than another use in the industrial flex. The crime issue for storage units was when the units were kept in industrial areas away from people but now they see very little crime with the cameras and building closer to residential. Attorney Bob Martin, who represents Ward Farms who is the owner of the real property which APPELLANT intends to purchase, also spoke of the cooperation for the last two years while the comprehensive plan was finalized and how this property is part of a larger plan for the property that his client owns in that area.

### CONCLUSIONS OF LAW

7. That pursuant to City Ordinance 14-01-06, the hearing on an appeal of the Planning and Zoning Commission will only consider the question of whether or not to reverse the decision, introduce the ordinance, if necessary, and call for a public hearing on the zoning change ordinance. At the hearing, only the aggrieved applicant or their representative, a person entitled to receive mailed written notice of the application or an officer, department, board or bureau of the city may argue for or against the appeal. No new evidence may be presented and the review is limited to the record as received from the planning and zoning commission and the arguments at the hearing.

### DECISION

8. Based upon the findings and the conclusions, the Board of City Commissioners reverses the February 28, 2024, decision of the Bismarck Planning and Zoning Commission on the above property, introduces the ordinance and calls for a public hearing on the zoning change ordinance.

**Accordingly**, the Board of City Commissioners **REVERSES** the decision of the Bismarck Planning and Zoning Commission and **GRANTS** the relief requested in the appeal.

