

**TENTATIVE AGENDA
MCKENZIE COUNTY PLANNING & ZONING BOARD**

February 9, 2026 (All times Central Time)

Call Meeting to Order

Pledge of Allegiance

Roll Call

Approve Agenda

Approve Minutes

1. December 8, 2025 Meeting Minutes

Unfinished Business

1. #22-25CUP - Blue Diamond Proppants

Public Hearings

1. #01-26VAR - Roxey Barnhart
2. #01-26LS - Roxey Barhhart
3. #01-26LM - Roxey Barnhart
4. #02-26LS - Samuel Huebner
5. McKenzie County Land Development Ordinance Amendment

Discussion Items:

Public Comment

Adjournment

UPCOMING MEETINGS

Next Meeting - March 9, 2026, 5:00 p.m.

Next Meeting - April 13, 2026, 5:00 p.m.

Planning and Zoning Commission Minutes

December 8, 2025

Meeting was held at the McKenzie County Courthouse County Commission Boardroom in Watford City, ND and called to order at approximately 5:00 PM.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Members Present: Cody Knetzger, Butch Fleck, Craig Hystad, Jim Jeske, John Irwin, Howdy Lawlar, Lance Renville, Steve Sanford

Members Absent: Tim Transtrom

Staff Present: Planning Attorney Ari Johnson, Director Kimpel, Code Enforcement Officer Raul Sanchez, Administrative Assistant Brooke Simons

Staff Absent: Planner Candy Lundgren

For others, see sign in sheet at end of minutes.

APPROVE AGENDA:

Motion to approve December 8, 2025 meeting Agenda with the change to move unfinished business item #3 to after public hearing; Motion Howdy Lawlar; Second by Steve Sanford; Voice Votes: all Ayes.

Motion to approve December 8, 2025 agenda with the change to move unfinished business Item #3 to after public hearing passes.

APPROVE MEETING MINUTES:

Motion to approve November 10, 2025 Meeting Minutes as presented; Motion by Craig Hystad; Second by Steve Sanford; Voice Votes: all Ayes.

Motion to approve November 10, 2025 Meeting Minutes as presented passes.

ELECT NEW CHAIRPERSON & VICE CHAIR

Motion to nominate Cody Knetzger for Chairperson; Motion by Howdy Lawlar; Second by Craig Hystad

Cody Knetzger accepts nomination. Voice Votes: All Ayes;
Motion to nominate Cody Knetzger for Chairperson passes.

Motion to nominate Butch Fleck for Vice Chair; Motion by Craig Hystad; Second by John Irwin

Butch Fleck accepts nomination. Voice Votes: All Ayes;
Motion to nominate Butch Fleck for Vice Chair passes.

UNFINISHED BUSINESS:

#07-25CUP – Magnus Services

A discussion was held on #07-25CUP – Magnus Services. Prior to Discussion Howdy Lawlar recused himself. Director Kimpel stated that this was tabled back at the September 9, 2025 meeting. In the September meeting applicant was bringing 5 existing workforce housing unit into compliance with the McKenzie County Land Development Ordinance and were requesting to add 4 additional workforce housing units to the property. It was tabled due to the status and conditions the property was in. Code Enforcement took pictures of status of the property and showed to Board Members. Applicant had fixed all concerns on the property. Concerns from the public stating that it will be nice if the applicant can keep the conditions of the permit. That it will help the surrounding landowners for the company to be held accountable.

Staff report attached at the end of these minutes.

Motion to approve #07-25CUP – Magnus Services by Butch Fleck; Second by Lance Renville; voice votes; All Ayes.

Motion to approve #07-25CUP – Magnus Services as presented passes.

#15-25CUP – Rafael Lazaro Arreola

A discussion was held on #15-25CUP – Rafael Lazaro Arreola. Code Enforcement officer stated that this was tabled back at the October 13, 2025 meeting. It was tabled due to the status and conditions the property was in. Code Enforcement took pictures of status of the property and showed to Board Members. Applicant stated that he had satisfied what the Board was asking him to do.

Staff report attached at the end of these minutes.

Motion to approve #15-25CUP – Rafael Lazaro Arreola contingent on Code Enforcement officer approving applicant has met County Expectations by Craig Hystad; Second by Jim Jeske; voice votes; All Ayes.

Motion to approve #15-25CUP – Rafael Lazaro Arreola as presented passes.

PUBLIC HEARINGS:

#14-25CUP-RBW – Logan Kostelecky

A discussion was held on #14-25CUP-RBW – Logan Kostelecky. Raul Sanchez presented the #14-25CUP-RBW Staff Report, for a reclamation bond waiver to remove the reclamation bond requirement and 5-year bond estimate update from the required conditions of #14-25CUP.

Staff report attached at the end of these minutes.

Motion to approve #14-25CUP-RBW – Logan Kostelecky by Butch Fleck; Second by Craig Hystad; voice votes; All Ayes.

Motion to approve #14-25CUP-RBW – Logan Kostelecky as presented passes.

#16-25LS – Shane Jorgenson:

A discussion was held on #16-25LS – Shane Jorgenson. Brooke Simons presented the #16-25LS Staff Report, to split off an irregular shaped tract of 5 Acres for a home in the SW of the property.

Staff report attached at the end of these minutes.

Motion to approve #16-25LS – Shane Jorgenson by Steve Sanford; Second by Lance Renville; voice votes; All Ayes.

Motion to approve #16-25LS – Shane Jorgenson as presented passes.

#10-25ZC – Jesse Bennett:

A discussion was held on #10-25ZC – Jesse Bennett. Brooke Simons presented the #10-25ZC Staff Report, to change 5 Acres zoned as R-1 to Agricultural.

Staff report attached at the end of these minutes.

Motion to approve #10-25ZC – Jesse Bennett by Jim Jeske; Second by Lance Renville; voice votes; All Ayes.

Motion to approve #10-25ZC – Jesse Bennett as presented passes.

#20-25CUP – West Dakota Water:

A discussion was held on #20-25CUP – West Dakota Water. Brooke Simons presented the #20-25CUP Staff Report, for a permanent underground fresh water pipeline to supply a well pad.

Staff report attached at the end of these minutes.

Motion to approve #20-25CUP – West Dakota Water by Howdy Lawlar; Second by Craig Hystad; voice votes; All Ayes.

Motion to approve #20-25CUP – West Dakota Water as presented passes.

#22-25CUP – Blue Diamond Proppants Tabled:

A discussion was held on #22-25CUP – Blue Diamond Proppants. Brooke Simons presented the #22-25CUP Staff Report, to have an operation for frac sand production, including mining frac sand in 9 phases that are 20-acres each and a sand washing/drying facility. A discussion was held and the public voiced concerns regarding the following:

- Number of trucks it would bring to the road.
- Dust control for nearby houses.
- Township representative would like to have it go back to the Township.

Staff report attached at the end of these minutes.

Howdy Lawlar moved to table the Conditional Use Permit #22-25CUP – Blue Diamond Proppants request until the January 12, 2026 meeting.

#21-25CUP – ibV Energy – Cattle Creek Solar:

A discussion was held on #21-25CUP – ibV Energy – Cattle Creek Solar. A petition from the public consisting of 391 signatures was shown to the board members. McKenzie County Planning and Zoning Attorney stated that in North Dakota there is not a law or process for a petition. The names are not validated and we treat the petition as 391 people making a public comment. A discussion was held and the public voiced concerns and questions regarding the following:

- Class 1 literature study on all 1200- acres.
- Property value study for surrounding landowners was done by Kirkland Appraisal.
- Why did you choose Rural North Dakota?
- All components of the solar panel/ equipment must be able to have traceability.
- ibV stated they have to sell power in competition with existing utilities most of which in the United States are regulated monopoly that can rate base cost. This is how power is bought and sold in this Country.
- Loss of grazing land.
- EPA regulates contaminants that come out of solar panels.
- The Community is saying they don't want this and they have done their part and the land already has its scars.
- Have you talked to any of the local volunteer fire who would have to come out and fight/ contain the fire?
- The noxious weed problems that it will bring to the surrounding landowners that farm.

Staff report attached at the end of these minutes.

Motion to deny Conditional Use Permit #21-25CUP – iBv Energy – Cattle Creek Solar by Butch Fleck; Second by Craig Hystad; voice votes; All Ayes.

Motion to deny #21-25CUP – ibV Energy – Cattle Creek Solar as presented passes.

PUBLIC COMMENT:

No public comment requests were received.

DISCUSSION ITEM:

Director Kimpel presented the 2026 proposed McKenzie County Planning & Zoning Meeting Schedule.

Motion to approve 2026 Meeting Schedule by Howdy Lawlar; Second by Jim Jeske; voice votes; All Ayes.

Motion to approve – 2026 Meeting Schedule as presented passes.

ADJOURNMENT

The meeting adjourned at 8:45 PM; Motion to Adjourn by John Irwin; Second by Craig Hystad; Voice Votes: all Ayes.

Motion to Adjourn passes.

The next meeting of the McKenzie County Planning and Zoning Board will be held on Monday January 12, 2026 at the McKenzie County Courthouse, 201 5th Street NW, County Commission Boardroom at 5 PM.



Meeting Sign-In Sheet

Meeting Date: December 8, 2025

Name: (Please print name legible)	Phone #:	Agenda Item #:
Kathy James	701.260.4363	Solar
Vicki Wild		
Gordon Sanders		Solar
Pat Ripa		3
ERIC WEDZUP		3
Robin Saiz		3
Jason Faller		3
Sharon Faller		3
Jim Talbert		1
Allan Lassey	701-570-5111	5
Donna Lassey	701-570-5112	
Steven Bruins		3
Gary Bruins		3
Carmen Evenson	(760) 220-3733	
Michelle Simonson		3
Andy Bednark	701 580-2792	5
Brent Arnesgard	701-897-2012	3 - Solar
Stacy Arnesgard	701-770-7492	3 - Solar
LAZARO ARNEGARD	(208) 550-9545	PERMIT
John Carms	701 570 6261	



Meeting Sign-In Sheet

Meeting Date: December 8, 2025

Name: (Please print name legible)	Phone #:	Agenda Item #:
Ryan Thompson	701-770-4602	Solar
Tony Lucyk	832-954-5165	#5
LOWAN HIBBARD	920 573 0970	#5
Doug Gullikson	406 484 0204	#5
Laurie Johnson	616-514-7744	#3
Darlene Markheit	406-350-2409	solar
Kimberly McAlister	406-366-6563	3
Steve Long	406-480-4487	5
Stacey Lassey	303 921 6760	5
David Jarvey	406-480-9213	5
Kirk Olson	701-770-1791	3
Mike Ober	701-770-8286	3
Quita J. Horvath	701-570-6129	solar 3
Bruce Kleppen	701-580-1122	3
C. Stroh	—	7
Donald A. Forlund	701 842-2035	SOLAR
Regina L. Stokley	406-360-7294	solar
Tim Pickering	—	—

McKENZIE COUNTY

Planning and Zoning Commission

#07-25CUP Magnus Services LLC

Application:	July 14, 2025
Hearing Date:	Postponed by applicant from August 11 to Tuesday September 9, 2025 Tabled until December 8, 2025
Description:	NW1/4,NE1/4 Sec-25,T-151N, R-99W PID 66-00-10825 with an address of 12644 32nd St NW in McKenzie County, ND
Owner(s)/Applicant:	Magnus Services LLC
Reason for Request:	Applicant wishes to bring 5 existing workforce housing units, Commercial truck parking and one existing live work unit into compliance with the McKenzie County Land Development Ordinance and are requesting to add 4 additional workforce housing units to the property.

Comprehensive Plan Land Use: Agriculture

Zoning: Agriculture

Findings of Fact:

1. The proposed use is conditionally allowed in the agricultural district.
2. All Public notifications have been made.
3. Staff has received no comments from the public.
4. Applicant is the owner of the property.
5. Applicant has an approved weed plan from the McKenzie County Weed Department.
6. Applicant has been in contact with State food and Lodging.
7. Applicant was told a new Approach permit was not needed as they are not changing the use.
8. Property is not in an organized township.
9. Applicant has received responses from 911 and EMS.
10. Applicant has a current Certificate of Good Standing from the State of North Dakota.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria: including being in compliance with the ordinance prior to approval of Conditional Use Permit.

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The establishment, maintenance or operation of the conditional use shall not be detrimental to or endanger public health, safety, comfort or general welfare, as it is already in existence.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposal will temporarily impact the agricultural viability of the project area. However, applicant must get a reclamation bond and return the property to it agricultural condition when project is completed.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed conditional use does not and shall not impede the normal orderly development of the surrounding property as it is already existing.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Adequate measures have been taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street and will be off 32nd St NW

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Applicant shall follow all state and local regulations.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Staff Recommends Approval of Conditional Use Permit #07-25CUP Magnus Service, to bring 5 existing workforce housing units, Commercial truck parking and one existing live work unit into compliance with the McKenzie County Land Development Ordinance and add are requesting to add 4 additional workforce housing units to the property. Adopt the findings and conditions as provided in the Staff Report. ""

Conditions:

1. Applicant shall post on site a sign, four-foot by eight-foot (4x8) that is visible from the road providing access to the site. The sign shall identify the company name, project name, site address and emergency contact name and phone number, per the McKenzie County Land Development Ordinance 2-20
2. Applicant shall maintain access roads and the site for emergency vehicles to be able to access and maneuver around the site in all types of weather.
3. The applicant shall not deposit any snow or water onto neighboring properties and dispose of storm water onsite through an approved engineering method
4. The applicant shall obtain a building permit for any proposed above-ground structures as required by the Planning Department.
5. Maintain weed control as approved by the McKenzie County Weed Control Officer
6. The applicant shall adhere to all State laws, regulations, and conditions for the operation of the proposed facility.
7. Applicant shall not rent out work force housing to anyone but his own employees.
8. Applicant agrees that this will be temporary housing, and will be in use only during active work times.
9. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2-13-3 (B) of the McKenzie County Land Development Ordinance. The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and reseed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.
10. Per the McKenzie County Land Development Ordinance, The estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director.
11. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5-13-11 of the McKenzie County Land Development Ordinance.
12. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.
13. Applicant shall obtain a skid unit permit from the McKenzie County Building Dept for each skid unit as defined in NDCC 57-02.4
14. Applicant shall obtain a building permit for any new structures added to the property.
15. All security lighting must be downward facing.
16. The live work unit is only for a managers quarters and shall not be used as rental unit.
17. Applicant agrees that the commercial truck parking is for employees only.

18. Site shall be inspected annually to ensure compliance with the listed conditions. Any violation could result in revocation of the permit.

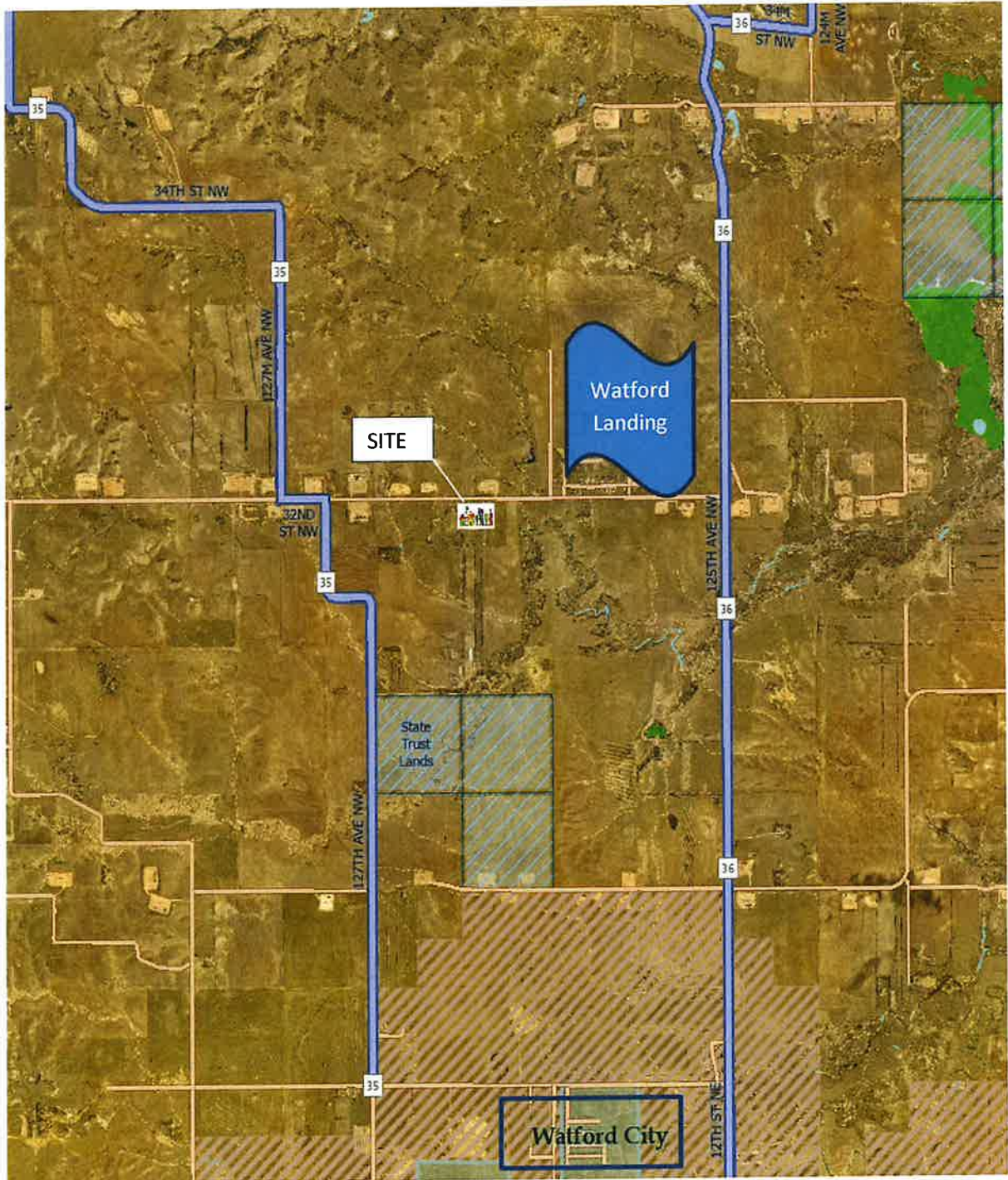
19. The workforce housing portion of this permit must be renewed annually with the McKenzie County Planning and Zoning Department.

#07-25CUP Magnus Services

PID # 66-00-10825

S-25,T-151N,R-99W

Vicinity MAP

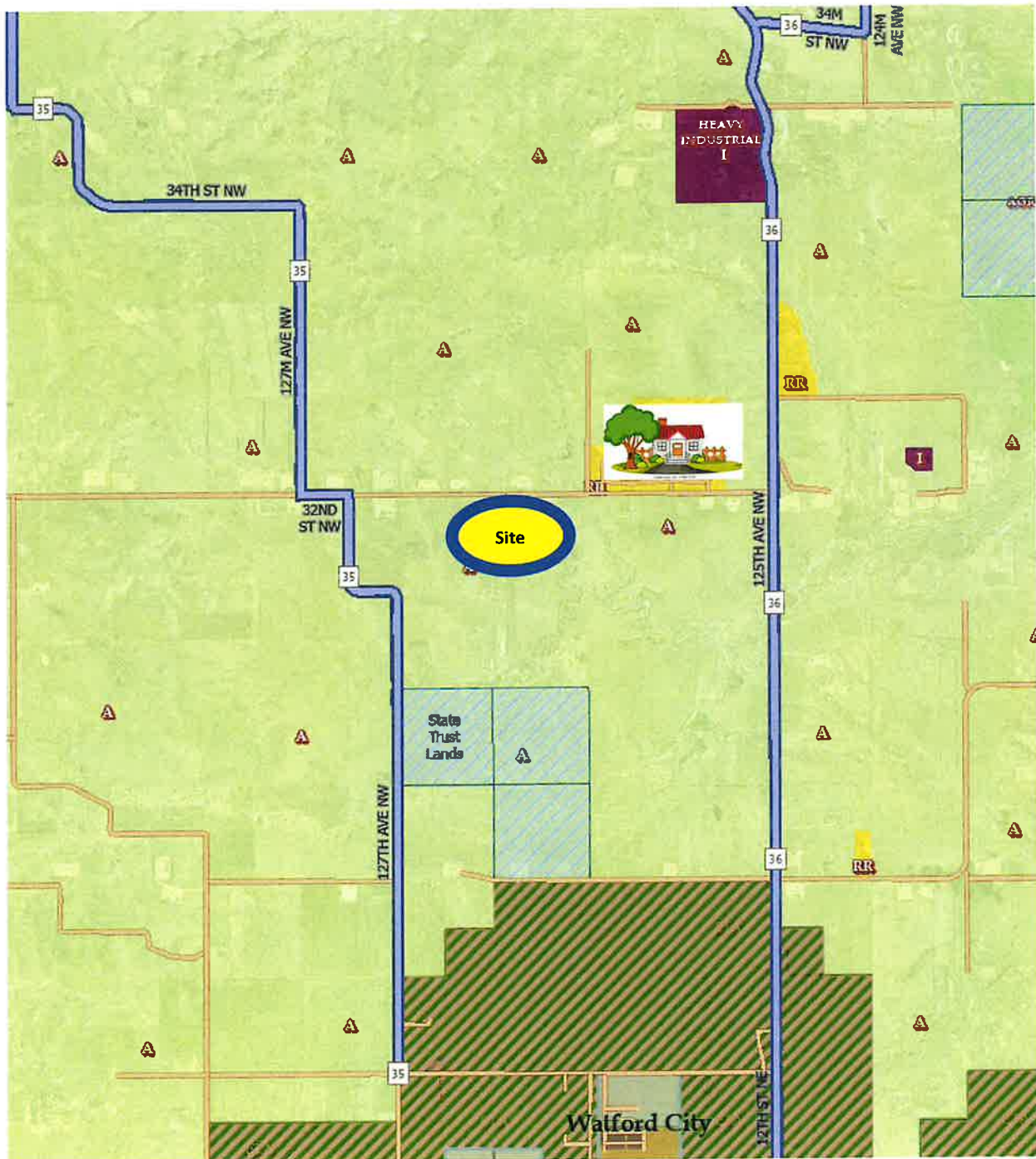


#07-25CUP Magnus Services

PID # 66-00-10825

S-25,T-151N,R-99W

Current Comprehensive Plan Map-Agricultural

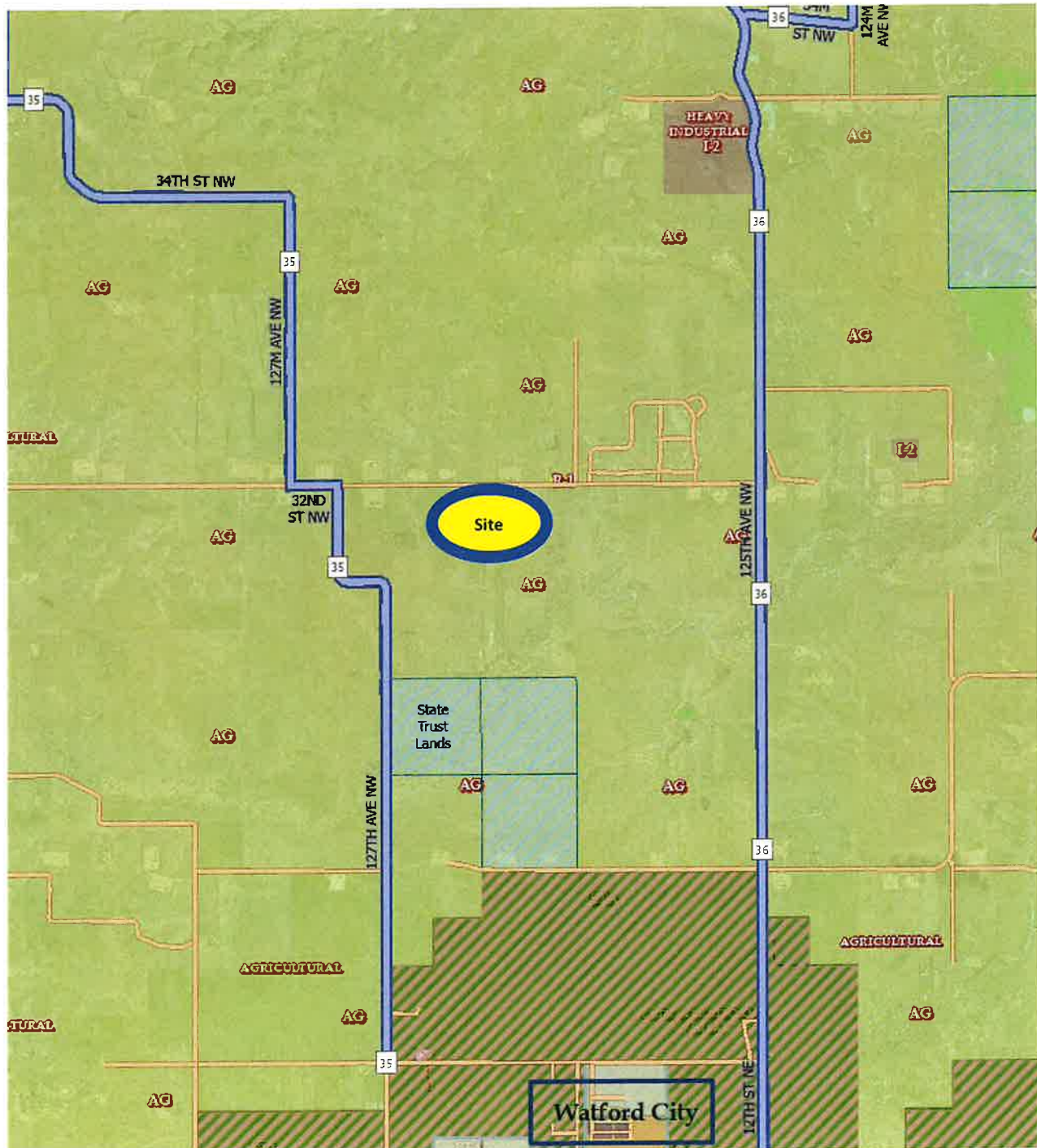


#07-25CUP Magnus Services

PID # 66-00-10825

S-25,T-151N,R-99W

Zoning Map- Agricultural



#07-25CUP Magnus Services

PID # 66-00-10825

S-25,T-151N,R-99W

SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#15-25CUP Rafael Lazaro Arreola

Application:	Sept 15, 2025
Hearing Date:	Oct 13, 2025
Description:	Section 12, Township 145-N, Range 99-W, IT 1151 PT E1/2, SW1/4 Parcel ID #: 180013000
Owner(s)/Applicant:	Rafael Lazaro Arreola
Reason for Request:	Owner is requesting a Conditional Use Permit to allow a storage yard including heavy equipment storage.

Comprehensive Plan Land Use: Light Industrial

Zoning: Light Industrial

Findings of Fact:

1. All Public Notifications have been made.
2. No Comments have been received.
3. Applicant is the property owner.
4. Applicant has reached out to Emergency management.
5. Applicant has reached out to 911.
6. Applicant has received no comment from ND DOT.
7. Applicant has an approved Weed Plan from the McKenzie County Weed Department.
8. Applicant has received no comment from Storm water
9. Applicant has reached out to the Fire District.
10. The surrounding property is a mix of Agricultural and Industrial.
11. The project is not in an organized township.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

- a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger public health, safety, comfort or general welfare.

The storage yard is not expected to endanger public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The storage yard is subject to the conditions of 3-16-1 Highway Corridor Overlay District which includes "Enhanced standards for Buildings, Landscaping and other improvements constructed on the properties bordering and within the transportation corridors."

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding property would not be affected by a storage yard.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

No new utilities are needed, ND DOT has no comments regarding the current approach.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

The approach is existing and is located on US-85N and has received no comments from the NDDOT.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed conditional use permit shall conform to all applicable regulations of the district or the Conditional Use Permit shall be placed before the board for revocation.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Light Industrial.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Staff Recommends approval of 15-25CUP Rafael Lazaro Arreola to the County Commission to allow for a storage yard including heavy equipment storage on the property. Adopt the findings and conditions as provided in the staff report.""

Conditions:

1. The applicant shall mark the site with address/project identification in correspondence with section 2-20 of the McKenzie County Land Development Ordinance including but not limited to a (4'x8' sign) visible from the road. A sign permit must be granted and installation of the sign is to be completed within thirty (30) days from County Commission approval.

2. The applicant shall adhere to the noxious weed containment plan as approved by the County Weed Control Officer.
3. The applicant shall adhere to all Federal, State and local laws, regulations and conditions for the operation of the proposed facility.
4. The applicant shall provide the County Planning Department with all federal and state approvals or denials along with any violations relating to the project.
5. The applicant shall provide a Reclamation Bond subject to the conditions set forth the McKenzie County Land Development Ordinance section 2-13. "The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and re-seed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota."
6. This Conditional Use Permit is subject to section 2-13-3 (F) Which states "The estimated cost of removal and reclamation for reclamation bonds shall be reviewed and if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years." If inflation has increased in the five (5) year timeframe the applicant shall acquire a new engineer's estimate and a new Bond shall be submitted to the Planning and Zoning Director.
7. All Security Lighting shall be downward facing.
8. Any proposed structures to built will require a building permit.
9. Applicant shall take measures to alleviate or minimize mud tracking onto Highway 85N.
10. This site through this Conditional Use Permit shall not be used as a truck depot.
11. The applicant shall maintain a site free of garbage, from within the site and outside sources.
12. Workforce housing will not be allowed.
13. All setbacks are to be met.
14. The applicant shall provide a buffer Per the McKenzie County Land Development Ordinance section 3-16, a Light buffer yard is to be created between the property and the highway. Additionally, per section 3-16-3 (D)(4) "Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing."
15. Any changes to in area or use shall require an amendment to the existing Conditional Use Permit.
16. Any Skid units proposed to be on site shall require a Skid Unit Permit.
17. No hazardous materials will be allowed on site.
18. There shall be no more than 3 Campers and or Recreational Vehicles are to be stored on site and may not be in use.
19. The site shall not be used as a salvage yard for junk or non functioning vehicles.
20. This conditional Use permit will remain in force however, if there are violations or changes of the approved conditions this CUP will be placed before the board of County Commissioners for revocation.

21. This Conditional Use permit will be inspected annually.

15-25CUP Lazaro Arreola

PID #: 18-00-13000

S-12, T-145N, R-99W

Vicinity Map



15-25CUP Lazaro Arreola

PID #: 18-00-13000

S-12, T-145N, R-99W

Comprehensive Plan Map – Light Industrial



15-25CUP Lazaro Arreola

PID #: 18-00-13000

S-12, T-145N, R-99W

Zoning Map Current – Light Industrial

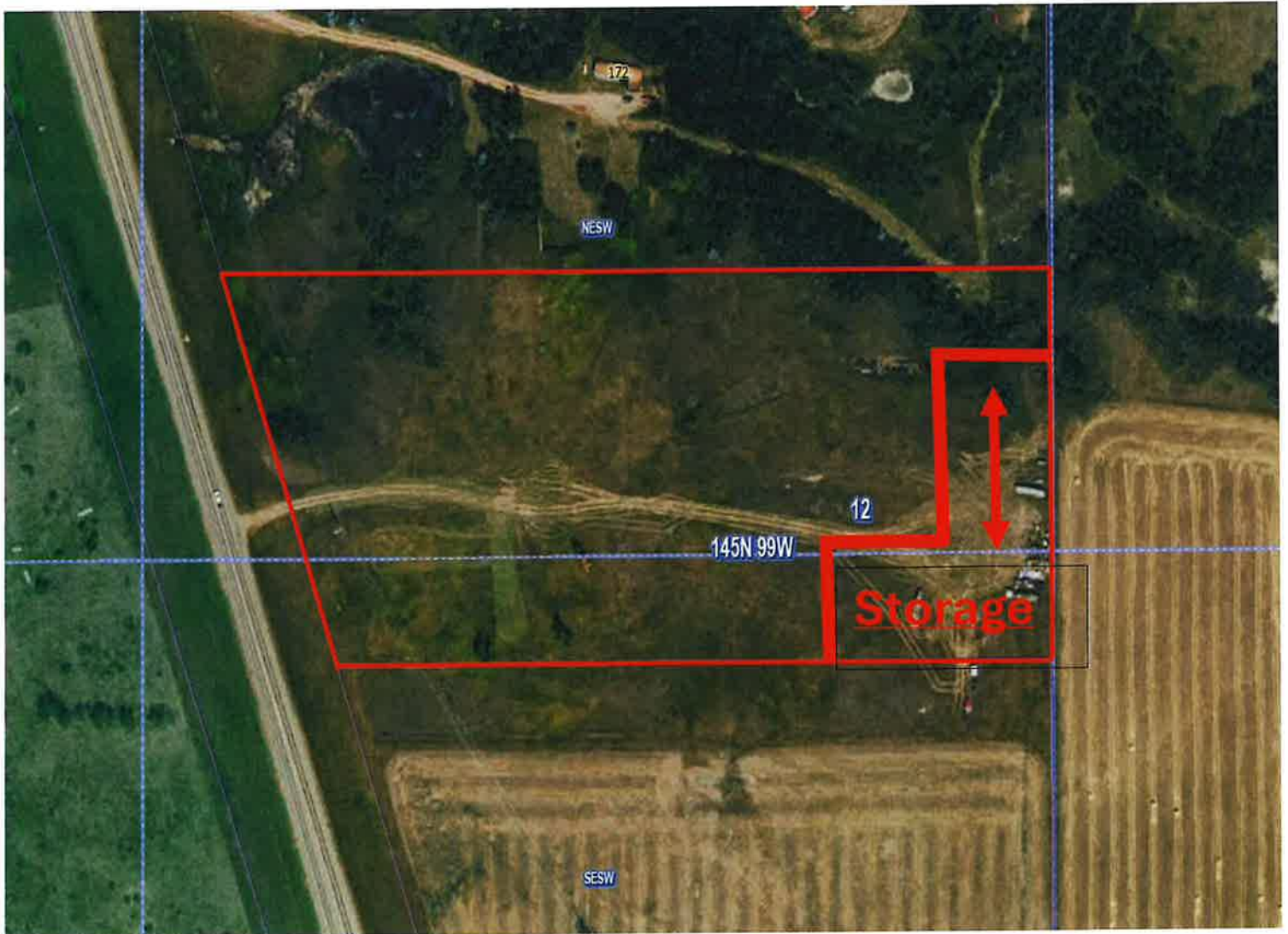


15-25CUP Lazaro Arreola

PID #: 18-00-13000

S-12, T-145N, R-99W

SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

14-25CUP-RBW Logan Kostelecky

Application:	10/27/2025
Hearing Date:	12/08/2025
Description:	NW 1/4 S-27, T-146N, R98W, PID 39-00-08600 with an address of 186 122nd Ave NW Grassy Butte, ND.
Owner(s)/Applicant:	Logan Kostelecky
Reason for Request:	The applicant is requesting a Reclamation Bond Waiver to remove the reclamation bond requirement and 5 year bond estimate update from the required conditions of 14-25CUP

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. The proposed use is conditionally allowed in the agricultural district.
2. All Public notifications have been made.
3. Staff has received no comments from the public.
4. Applicant does not own the property but has owners permission.
5. Applicant has a storm water permit valid August 14, 2025.
6. Applicant has an approved Weed Plan from McKenzie County Weed Department
7. Applicant is not required to get an approach permit from a lease road.
8. Applicant does have a current Certificate of Good Standing from the State of North Dakota.
9. Applicant has a current water permit.
10. Landowner has signed Indemnification and hold harmless agreement.
11. Landowner has signed property owner acknowledgement.
12. Pond liner is 45Mil RLLDPE Smooth liner with a 35 year lifespan.
13. 14-25CUP was originally approved by the board of county commissioners on September 16, 2025

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed conditional use shall not impede the normal orderly development of the surrounding property.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street. Access is off of a lease road on the property

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend approval of Conditional Use Permit request 14-25CUP-RBW, Logan Kostelecky, to the County Commission to remove the Reclamation bond and five year bond estimate requirement from 14-25CUP.""

Conditions:

1. The applicant shall mark the site with a (4' x 8') sign visible from the road per McKenzie County Land Development Ordinance Section 4-7-1 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County Commission approval.
2. The applicant shall adhere to the noxious weed containment plan as approved by the County Weed Control Officer.
3. The applicant shall allow the local Fire Departments access to water in case of emergencies.
4. The applicant shall adhere to all Federal, State and Local Laws, Regulations, and Conditions for the operation of the proposed facility.
5. The applicant shall provide the County Planning Department with all Federal and State approvals or denials, along with any violations relating to the project for the duration of the project including NDSWC approvals, conditions, violations and expirations.
6. Per McKenzie County Land Development Ordinance Section 4-7 (B), line item number 2, the applicant shall fence around the holding pond with a 4-strand barbed wire fence to be completed prior to reservoir storing measurable water.
7. This site through this Conditional Use Permit shall not be used as a truck depot.
8. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.
9. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5-13-11 of the McKenzie County Land Development Ordinance.
10. Ingress/egress for the site will be completed to the satisfaction of the County Engineering Department. Ingress/egress will not impede public roadway.
11. Access on the private roadway into the site must be maintained for 911 purposes.
12. The applicant shall work with the McKenzie County Road and Bridge department regarding dust control on County Roads.
13. The applicant shall limit sediment runoff from the site by use of perimeter controls on down slope portions of the site (e.g. silt fence) and limit channelized erosion in ditches, swales, and adjacent natural water bodies. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted if required by State or Federal regulations. The site shall be restored and stabilized to pre-project conditions.
14. The applicant shall provide the Planning Department with electronic files of the as-built surveys of all above and below ground equipment and pipelines within one hundred and twenty (120) days of construction being completed.
15. Applicant shall also provide the final/approved Geo-technical Report, construction drawings and spillway design calculations before final approval is granted.

16. Provide approved and final construction plans and storm water management as per NDSWC.

17. Site shall be inspected annually to ensure compliance with the listed conditions. Any violation could result in possible revocation of permit.

14-25CUP-RBW Additional Conditions:

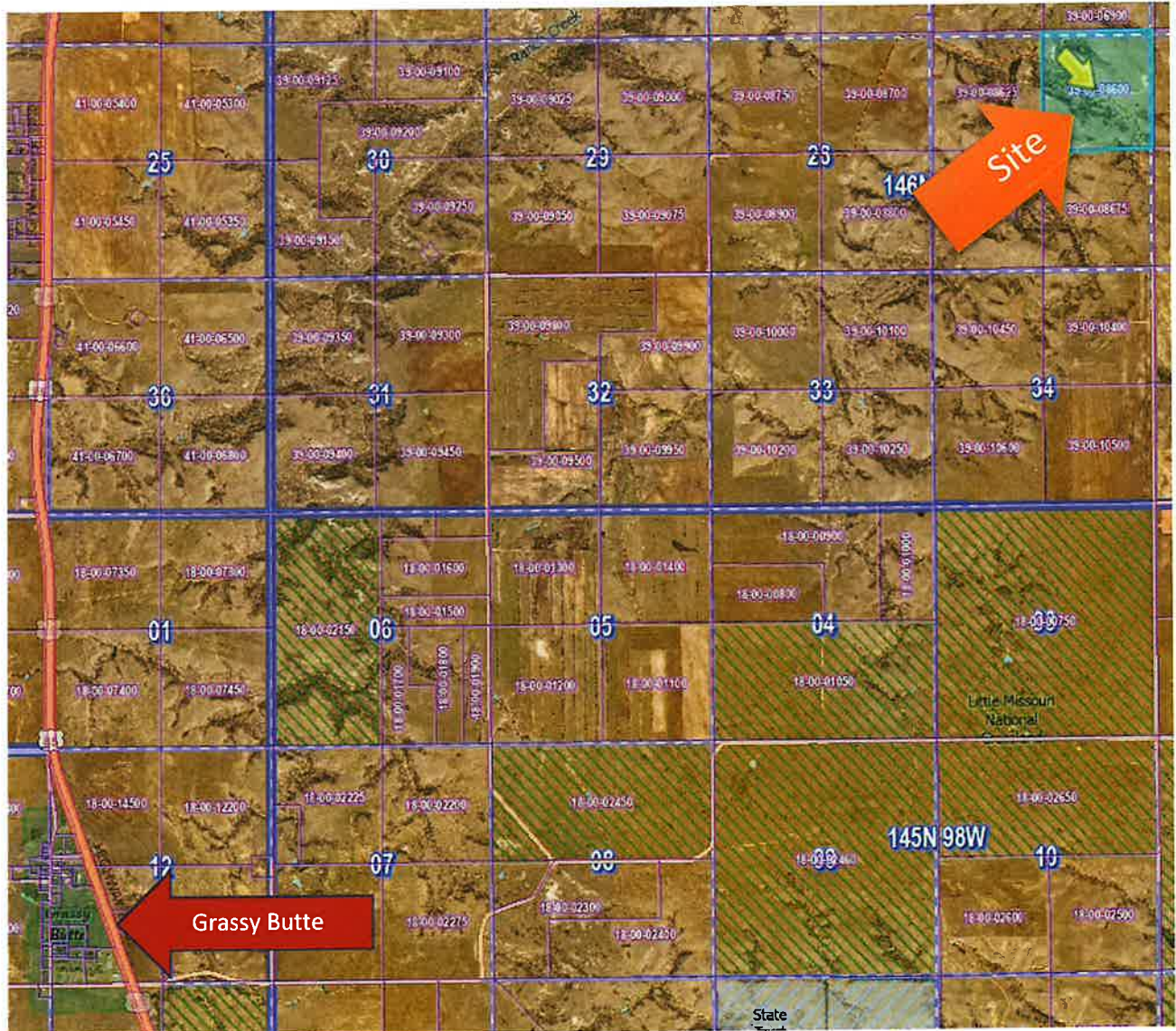
18. Applicant shall maintain the 45Mil RLLDPE Smooth liner.

14-25CUP-RBW Logan Kostelecky

Parcel ID#: 390008600

S-27/T-146N/R-98W

Vicinity Map

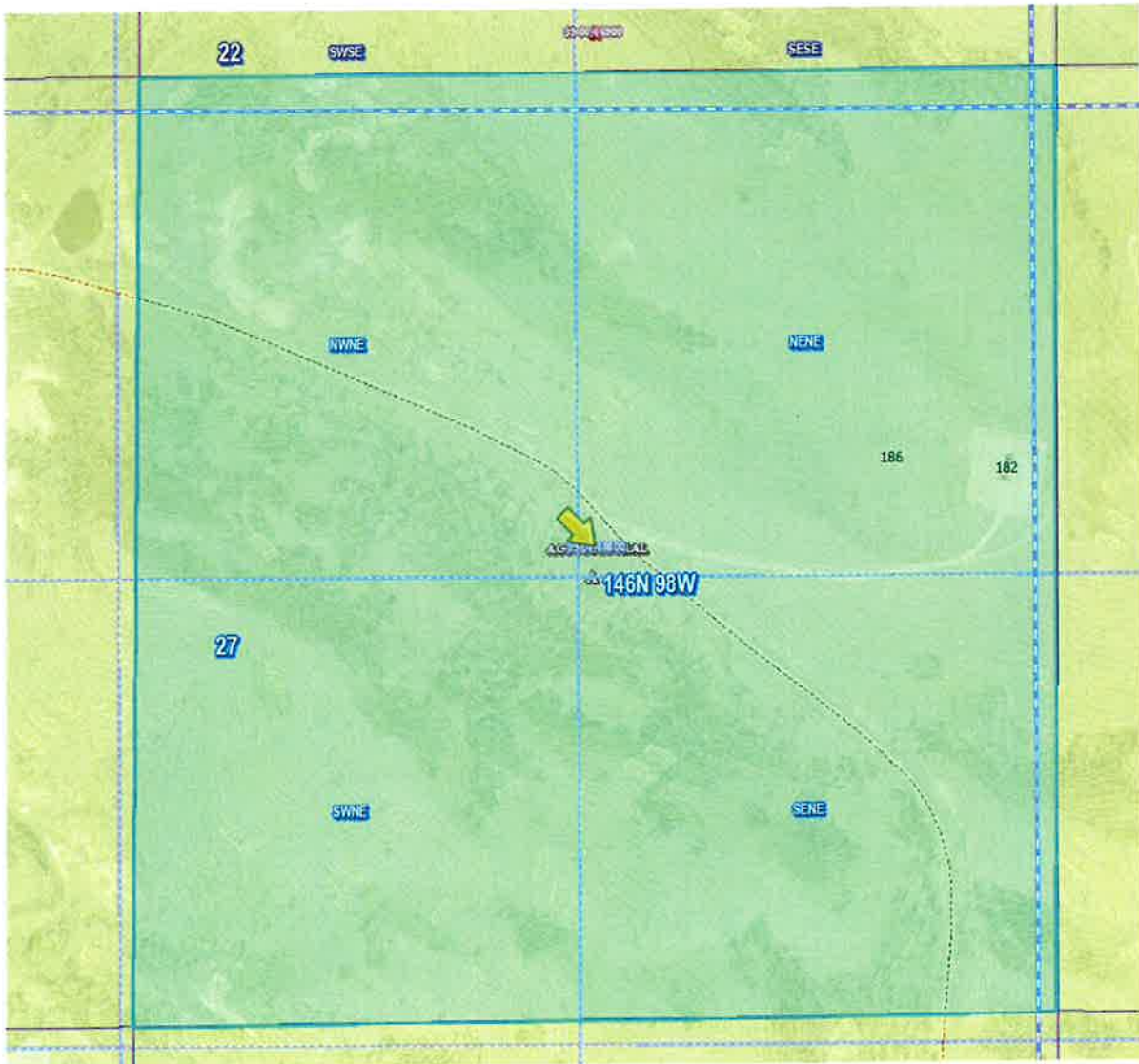


14-25CUP-RBW Logan Kostelecky

Parcel ID#: 390008600

S-27/T-146N/R-98W

Current Comprehensive Plan Map - Agriculture

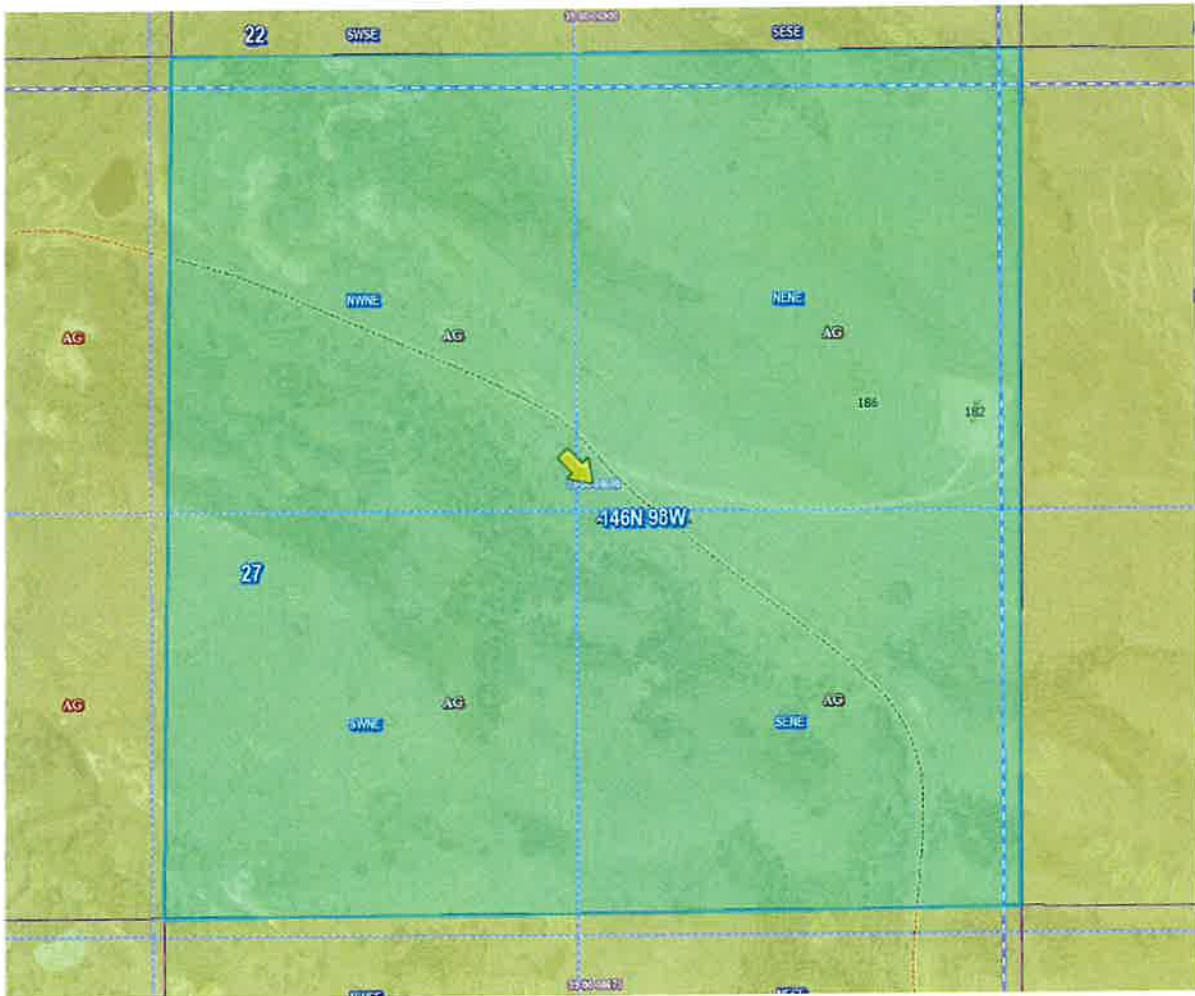


14-25CUP-RBW Logan Kostelecky

Parcel ID#: 390008600

S-27/T-146N/R-98W

Current Zoning: Agricultural

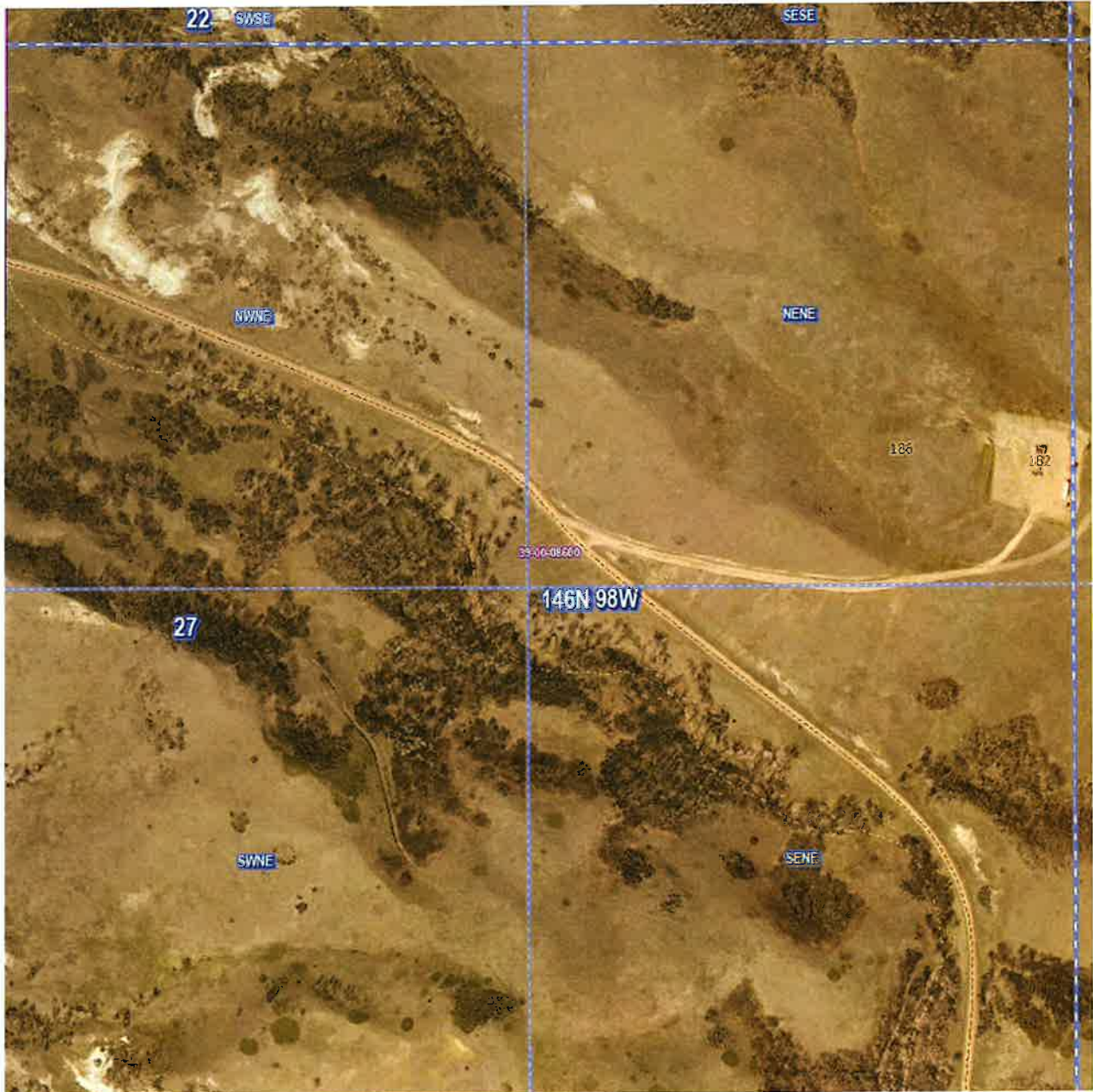


14-25CUP-RBW Logan Kostelecky

Parcel ID#: 390008600

S-27/T-146N/R-98W

Site Map:



McKENZIE COUNTY

Planning and Zoning Commission

#06-25LS Shane Jorgenson

Application:	November 13, 2025
Hearing Date:	December 8, 2025
Description:	11540 HWY 23 SW1/4 of NE 1/4 S-23, T-150N, R-97W PID 130011500
Owner(s)/Applicant:	Shane Jorgenson
Reason for Request:	Applicant would like to split off an irregular shaped tract of 5 acres for a home in the SW of the property

Comprehensive Plan Land Use: Agriculture

Zoning: Agriculture

Findings of Fact:

1. All requirements for public notifications have been made.
2. Staff has received no comment.
3. Applicant is not the property owner but has owner permission
4. Property is not located in an organized Township.
5. Applicant has EMS approval.
6. Applicant has 911 approval.
7. Applicant has Watford City Fire District approval.
8. Applicant has an approved weed permit from McKenzie County Weed Department.
9. Applicant has NDDOT approval for the Approach.
10. Surrounding Zoning is Agricultural.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

- a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed conditional use shall not impede the normal orderly development of the surrounding property.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Adequate measures have been taken to provide ingress and egress to the property as approved by NDDOT.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Surrounding Zoning is Agricultural.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Staff Recommends Approval of Lot Split 06-25LS Shane Jorgenson to allow the 5 acre irregular tract to the BOCC. Adopt the findings and conditions as presented in the Staff Report.""

Conditions:

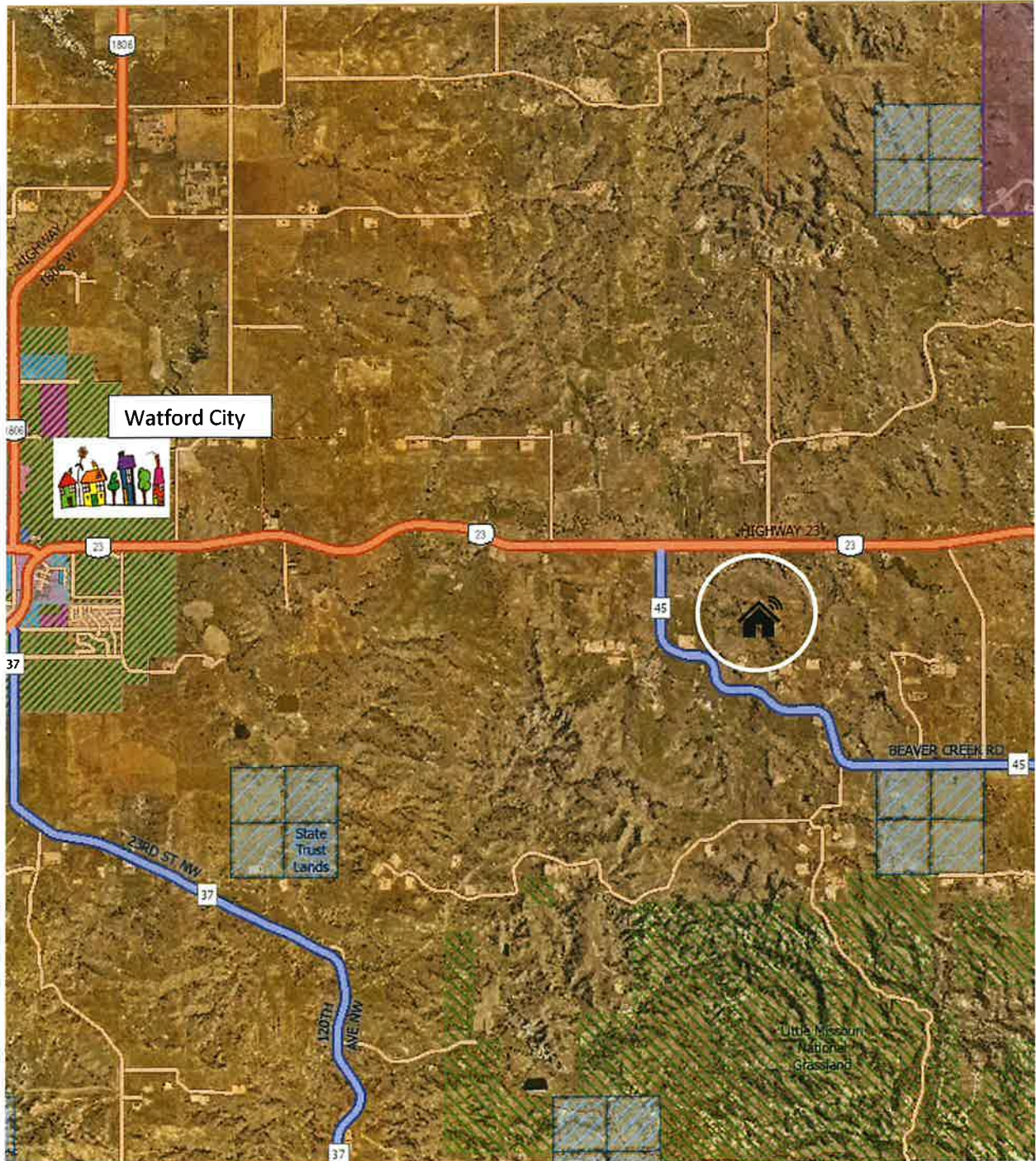
- 1 Applicant shall follow the Weed Plan as permitted by the McKenzie County Weed Department.
2. Applicant shall apply for a 911 approved address verification with GIS.
3. Applicant shall obtain a building permit before commencing construction on any buildings.

#06-25LS

PID # 13-00-11500

S-23,T-150N,R-97W

Vicinity MAP

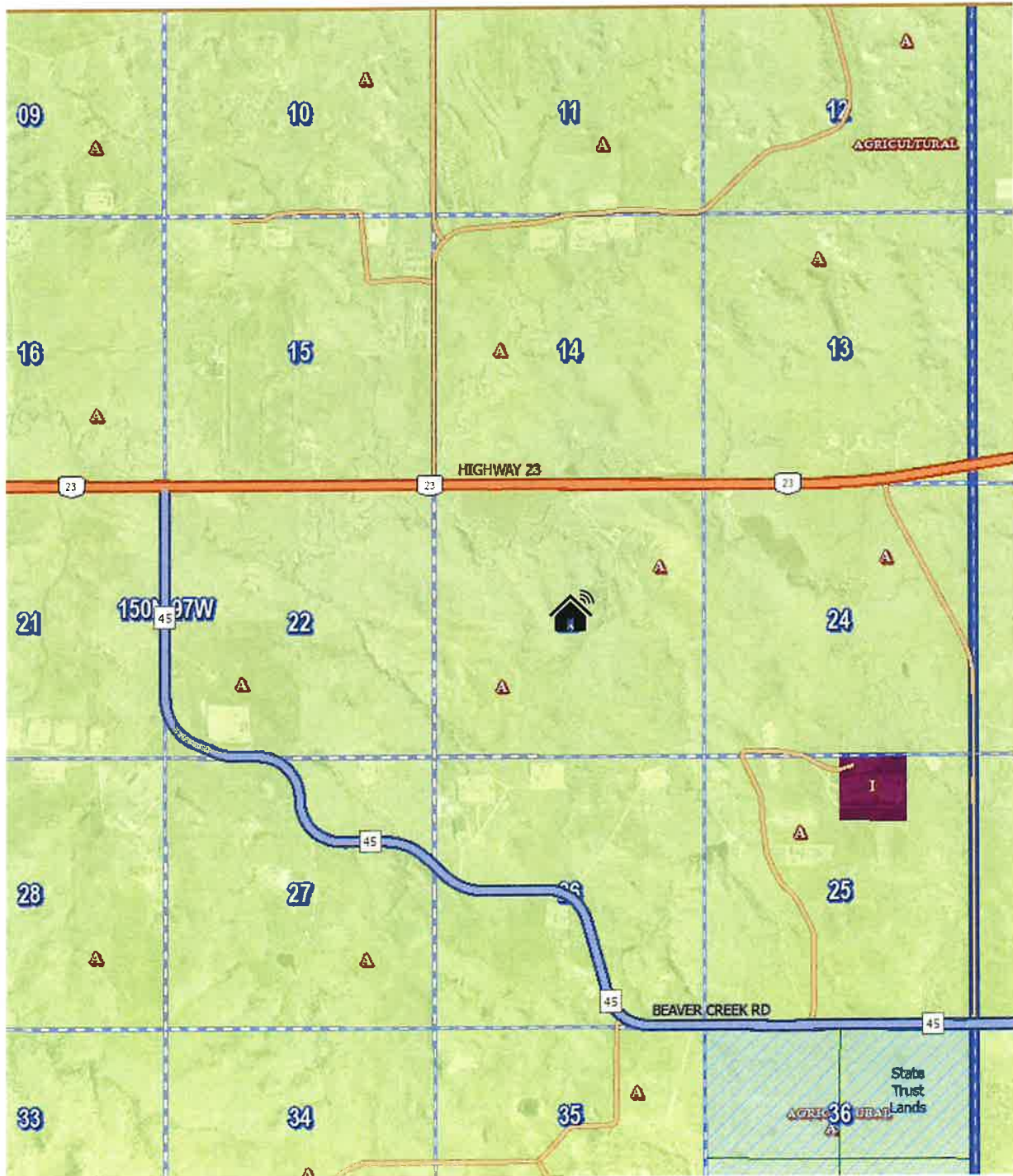


#06-25LS

PID # 13-00-11500

S-23,T-150N,R-97W

Current Comprehensive Plan Map-Agricultural



S-23,T-150N,R-97W

Zoning Map-Agricultural

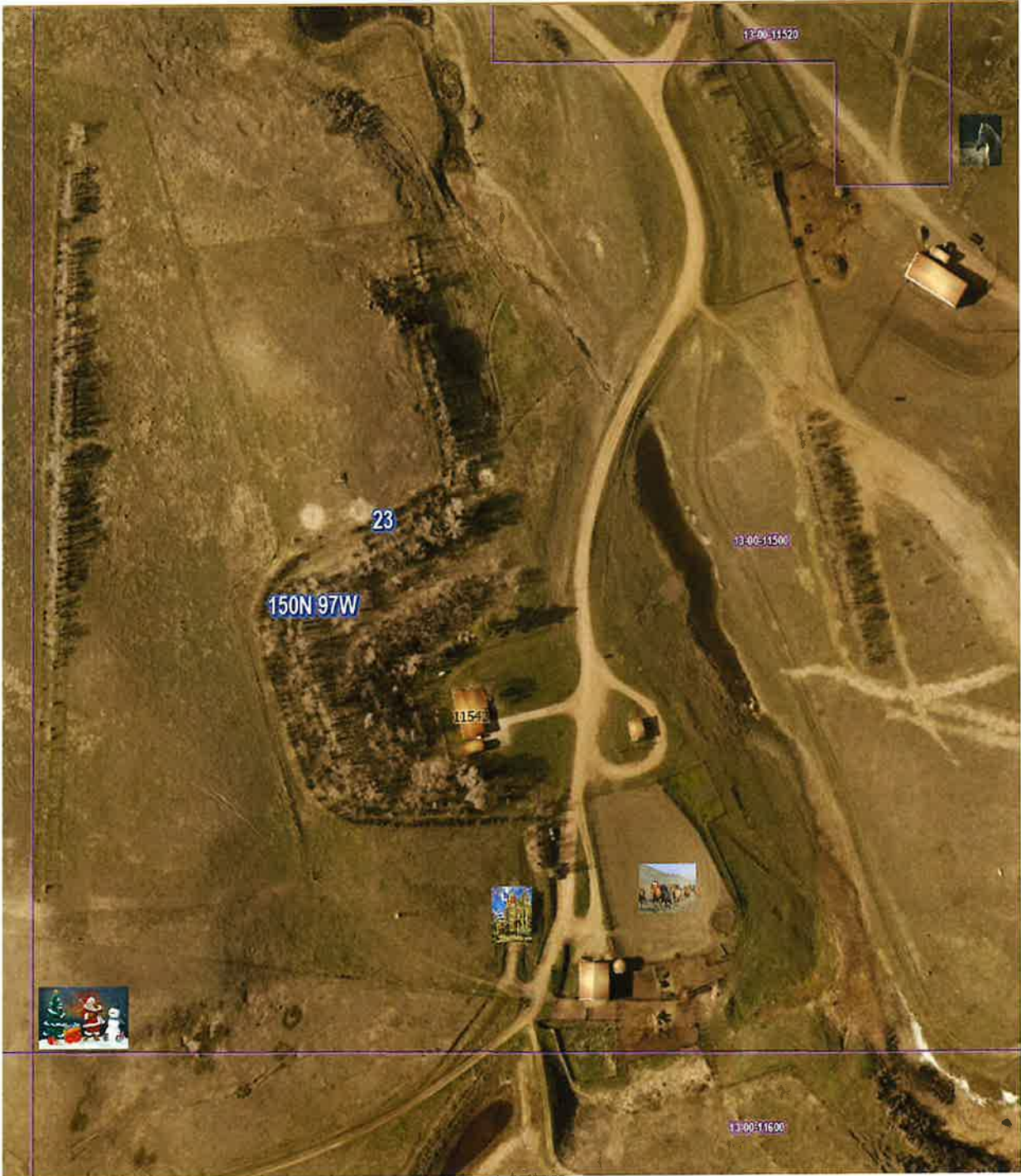


#06-25LS

PID # 13-00-11500

S-23,T-150N,R-97W

SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#10-25ZC Jesse Bennett

Reason for Request:	Change 5 acres zoned R-1 to Agricultural
Hearing Date:	December 8, 2025
Location:	SW1/4 NE1/4 S19, T-149N ,R-98W IT 2589 & 2590 PID 63-00-09457 2047 125th Ave NW Watford City ND 58854
Owner(s)/Applicant:	Jesse Bennett

Existing:		Proposed:	
CP Land Use:	Transitional	CP Land Use:	Transitional
Zoning:	Residential Low Density	Zoning:	Agricultural
Setbacks:	30 Feet 10 Feet 25 Feet	Setbacks:	25 Feet 25 Feet 25 Feet
Lot Area:	5 Acres	Lot Area:	5 Acres

McKENZIE COUNTY

Finding of Fact:

1. All Requirements for public notification have been satisfied.
2. No Comments have been received.
3. Applicant is the property owner.
4. Property is not in an Organized Township.
5. Per the McKenzie County Lands Use Designation, Agricultural is consistent with the current comp zone.
6. Surrounding land use is Agricultural, Commercial And Industrial.
7. The proposed use shall conform to all applicable regulations of the county and state.

Growth Management Plan Consistency:

This Zone Change is consistent with the Growth Plan of McKenzie County

Suggested Motion:

Recommend approval of Zone Change Request #10-25ZC Jesse Bennett to the County Commission to allow the Zone Change from R-1 to Agricultural. Adopt the findings as provided in the report.

Vicinity Map

PID # 63-00-09457

S-19,T-149N,R-98W

Vicinity Map

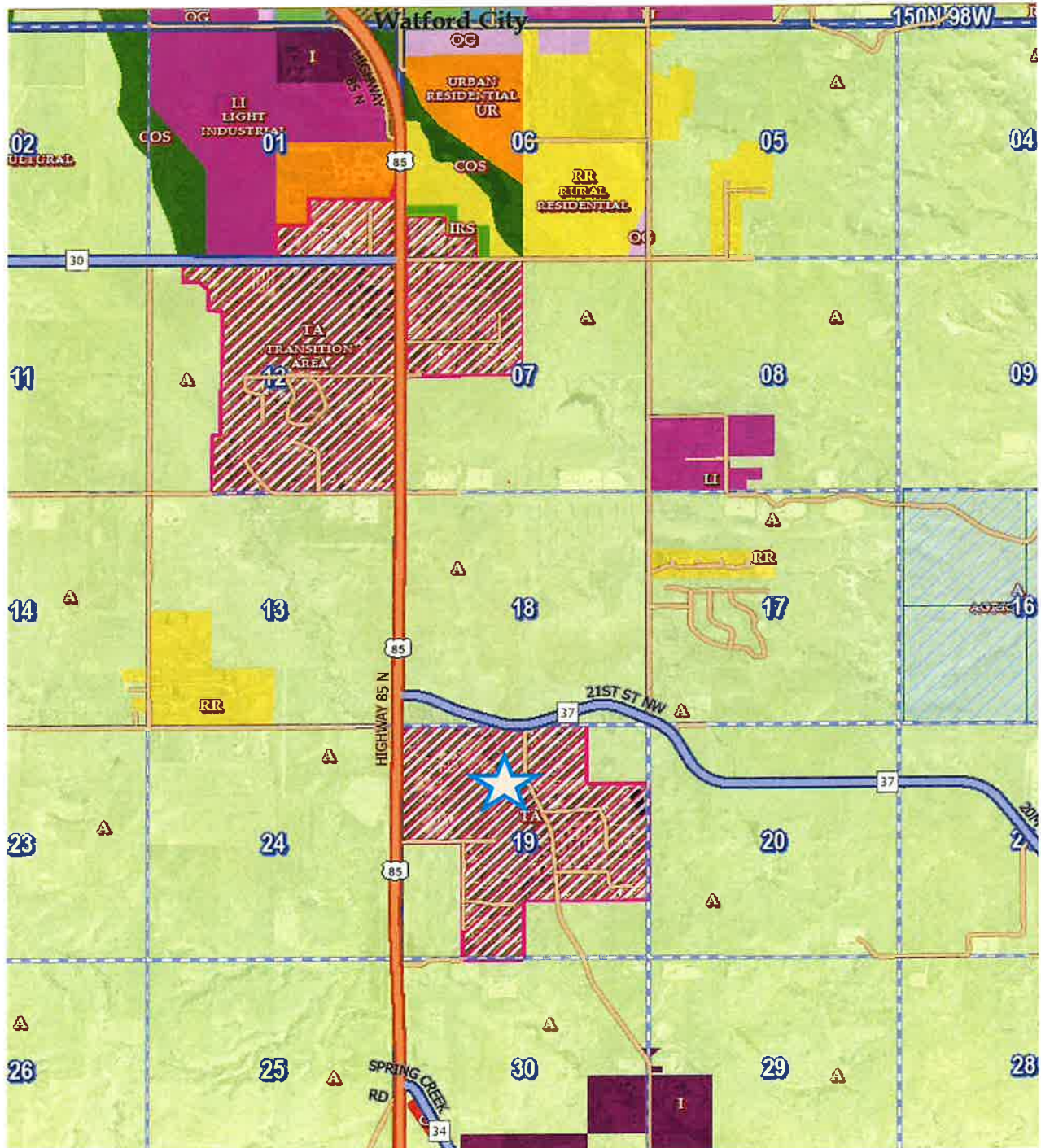


#10-25ZC

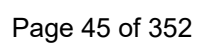
PID # 63-00-09457

S-19,T-149N,R-98W

Current Comprehensive Plan Map-Tansitional



Zoning Map-Residential Low Density R-1



#10-25ZC

PID # 63-00-09457

S-19,T-149N,R-98W

SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#20-25CUP - West Dakota Water

Application:	November 11, 2025
Hearing Date:	December 8, 2025
Description:	S:5, T: 149N, R: 99W, PID #: 650002700 and in S:6, T: 149N R: 99W, PID #'s: 650003200, 650003250 in McKenzie County
Owner(s)/Applicant:	Clayton & Vicki Monsen/ West Dakota Water
Reason for Request:	Applicant wishes to install a permanent underground freshwater pipeline.

Comprehensive Plan Land Use: Agricultural
Zoning: Agricultural

Findings of Fact:
1. All requirements for public notification have been satisfied. 2. Staff has received no comments. 3. Applicant is not the landowner, but has landowners permission. 4. Parcels are not in an organized Township. 5. Applicant has an approved weed permit from the McKenzie County Weed Department. 6. Applicant has reached out to McKenzie County Road and Bridge. 7. Applicant has approval from 911 Coordinator. 8. Applicant has approval from Emergency Response Manager. 9. Applicant has reached out to North Dakota Division of Water Quality. 10. Applicant has approval from Arnegard Fire. 11. Surrounding Zoning is Agricultural. 12. Use is conditionally allowed in the Agricultural District.

Conditional Use Permit Criteria::
No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The pipeline will be buried and will only be used to transport non-potable fresh water.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

Agreement for all affected properties have been obtained so the affected properties are aware of the impacts this project will have on their enjoyment and value of their property. Adjacent properties will not be affected.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding property is Agricultural and will not adversely affect the surrounding area.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities, access roads, drainage, or other necessary site improvements have been or are being permitted.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Any ingress or egress to the property will be approved by the McKenzie County Road Department.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

A permanent fresh water pipeline is conditionally allowed in the agricultural district

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends Approval for this Conditional Use Permit.

Suggested motion: "Recommend Approval of Conditional Use Permit #20-25CUP West Dakota Water to allow a permanent underground fresh water pipeline to the County Commission to adopt the findings and conditions as provided in the Staff Report. ""

Conditions:

1. The applicant shall mark the site with a (4' x 8') sign visible from the road per McKenzie County Land Development Ordinance Section 2-20 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County

Commission approval.

2. The applicant shall adhere to the noxious weed containment plan as approved by the McKenzie County Weed Control Officer.

3. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2-13-3 (B) of the McKenzie County Land Development Ordinance. The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and reseed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.

4. Per the McKenzie County Land Development Ordinance, the estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director.

5. The applicant shall allow the local Fire Departments access to water in case of emergencies.

6. The applicant shall adhere to all Federal, State and Local Laws, Regulations, and Conditions for the operation of the proposed facility.

7. The applicant shall provide the County Planning Department with all Federal and State approvals or denials, along with any violations relating to the project for the duration of the project including NDSWC approvals, conditions, violations and expirations.

8. Applicant shall provide approved and final construction plans and storm water management as per NDSWC.

9. This site through this Conditional Use Permit shall not be used as a truck depot.

10. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.

11. The applicant shall not deposit any snow or water onto the neighboring properties and dispose of storm water onsite through an approved engineering method.

12. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5-13-11 of the McKenzie County Land Development Ordinance.

13. Ingress/egress for the site will be completed to the satisfaction of the County Engineering Department. Ingress/egress will not impede public roadway.

14. Access on the private roadway into the site must be maintained for 911 purposes.

15. Applicant shall work with the McKenzie County Road Department regarding Dust control both in and out of the pit per 4-14 (G) Dust Control: Best management practices should be implemented to control the dust associated with surface mining. Dust palliatives should be implemented to reduce dust on internal road systems. If direct access to the site is off a County Road, the owner and operator of the site shall request the Road and Bridge Department to apply dust palliatives to the County Road. If direct access to the site is off a non-County Road, the owner and operator of the site shall apply dust palliatives to the road at least one-

quarter (1/4) of a mile in each direction of all access points and must be applied each year prior to May 31 and again before August 31. When the owner and operator of the site is required to apply dust palliatives to non-County Roads, receipts or other appropriate proof that dust palliatives were applied shall be submitted to the Planning Department. of the McKenzie County land Development Ordinance.

16. Applicant shall submit a stormwater management plan and erosion control plan to the Engineering Department in accordance with Section 2-17 and 2-18 prior to construction commencing. Storm water management plan and erosion control plan shall be approved by the Engineering Department prior to construction commencing.

17. The applicant shall provide the Planning Department with electronic files of the as-built surveys of all above and below ground equipment and pipelines within one hundred and twenty (120) days of construction being completed.

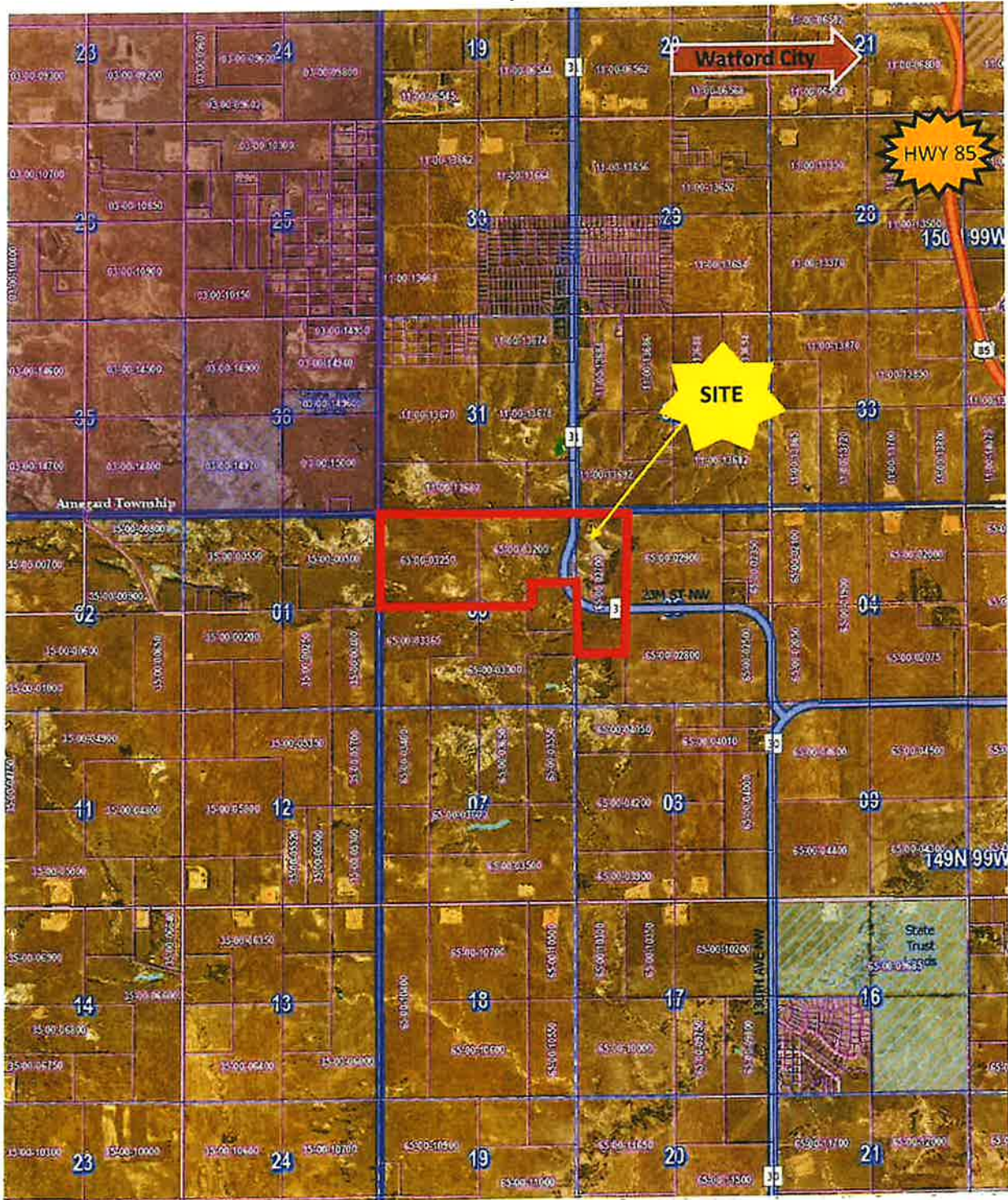
18. Applicant shall also provide the final/approved Geo-technical Report, construction drawings and spillway design calculations before final approval is granted.

#20-25CUP

PID # 650002700, 650003200, 650003250

S: 5,T: 149,R: 99 & S:6, T: 149, R:99

Vicinity MAP

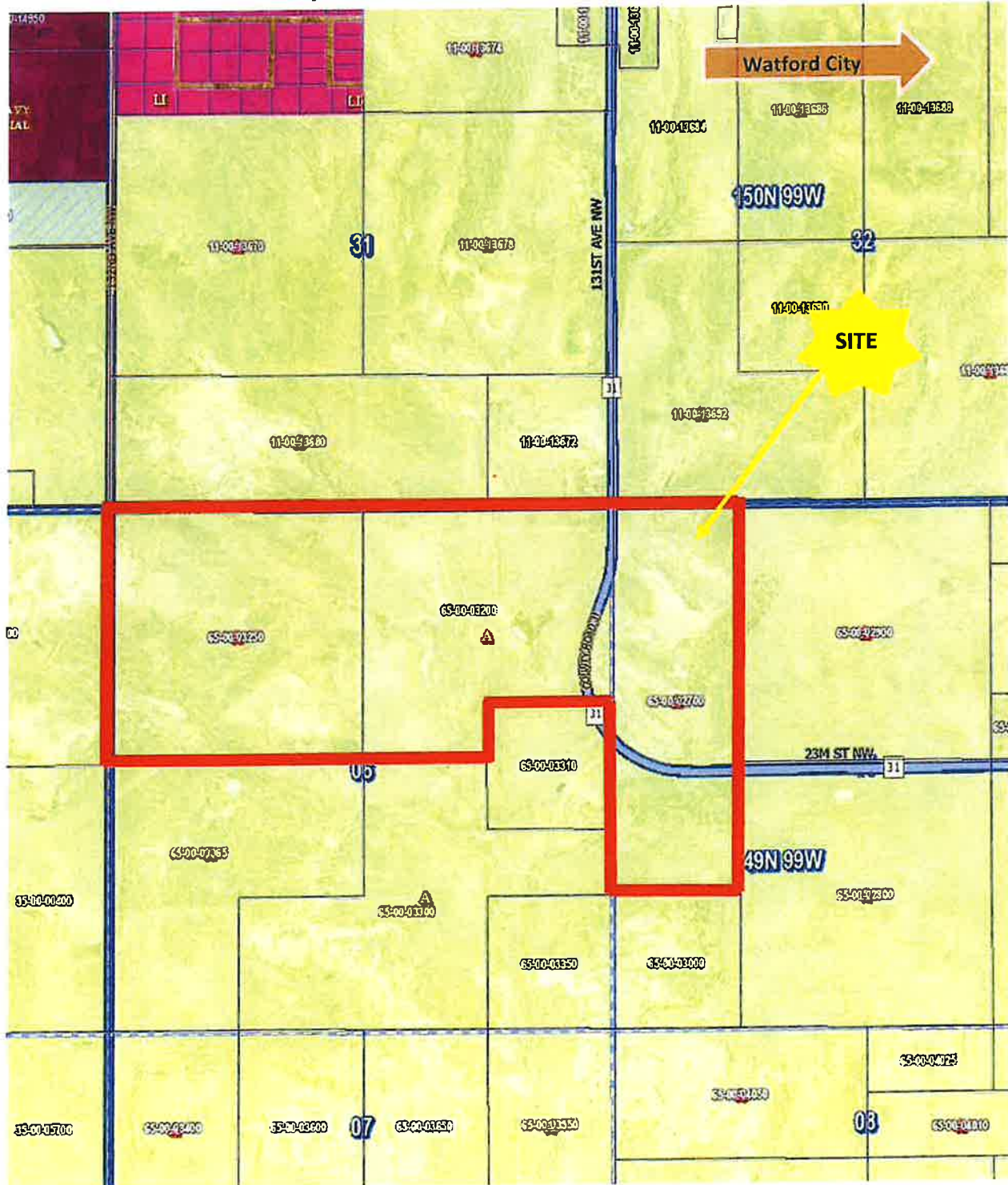


#20-25CUP

PID # 650002700, 650003200, 650003250

S: 5,T: 149,R: 99 & S:6, T: 149, R:99

Comprehensive Plan Map- Agricultural

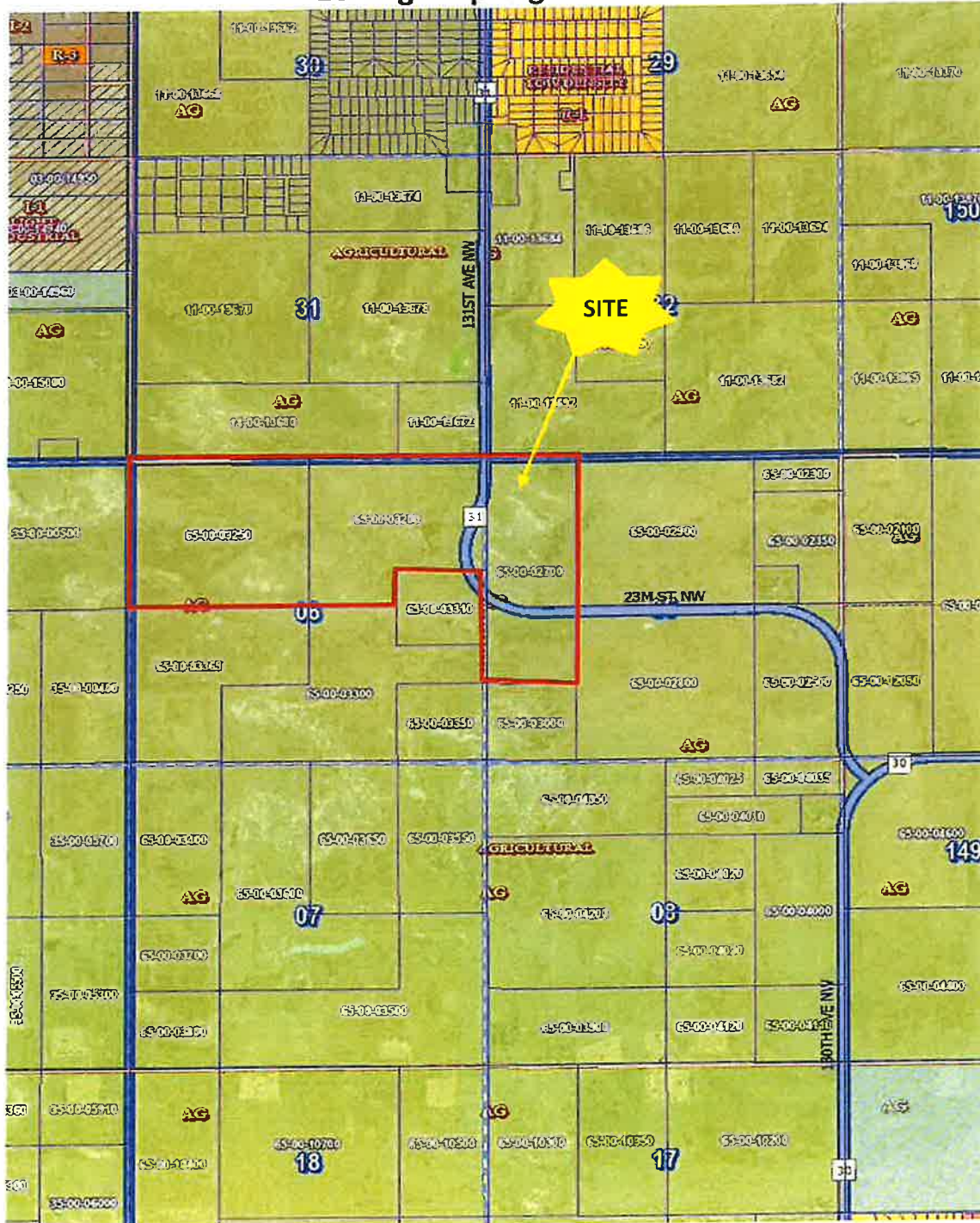


#20-25CUP

PID # 650002700, 650003200, 650003250

S: 5,T: 149,R: 99 & S:6, T: 149, R:99

Zoning Map- Agricultural

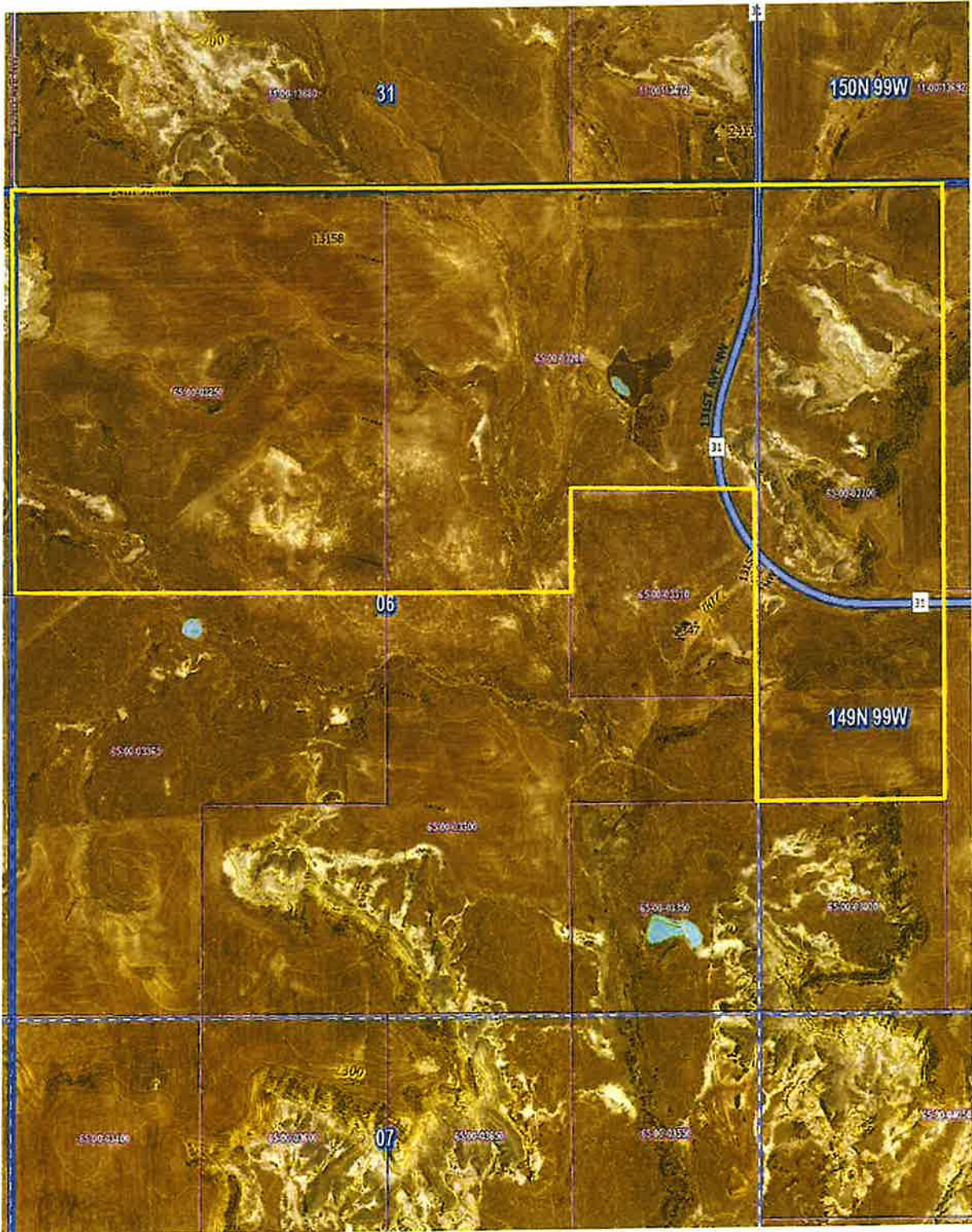


#20-25CUP

PID # 650002700, 650003200, 650003250

S: 5,T: 149,R: 99 & S:6, T: 149, R:99

SITE MAP



Slawson Kahuna Fresh Water



10/6/2025, 11:25:37 AM

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Slawson Exploration

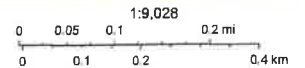
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Proposed

NDTownships_4529

Sections_shp_1820

1979dff56ed-layer-53



Esri, HERE, Garmin, IPC, Maxar

Maxar | USDA-FSA Aerial Photography Field Office, ND GIS Hub | The data were made possible by a public/private partnership including the U.S. Bureau of Land Management, several state agencies, local governments, The Montana Power Company, Montana/Dakota Utilities, and Burlington Northern Santa Fe Railroad. West Dakota Water

McKENZIE COUNTY

Planning and Zoning Commission

#22-25CUP - Blue Diamond Proppants

Application:	November 11, 2025
Hearing Date:	December 8, 2025
Description:	15592 36th St NW, Cartwright, S: 34, T: 152, R:103, PID #'s 210026300, 210026550, and 210026100 in McKenzie County, ND
Owner(s)/Applicant:	Douglas Gullikson/ Logan Hubbard - Blue Diamond Proppants
Reason for Request:	Applicant wishes to have an operation for frac sand production, including mining frac sand in 9 phases that are 20-acres each and a sand washing/ drying facility.

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. All requirements for public notification have been satisfied.
2. Staff has received public comment.
3. Property is located in an organized Township and has Sioux Township Approval with Conditions.
4. Applicant is not the landowner, but has landowners permission.
5. Applicant has an approved weed permit from the McKenzie County Weed Department.
6. Applicant has reached out to McKenzie County Road and Bridge, and has applied for required permit.
7. Applicant has approval from the 911 Coordinator.
8. Applicant has approval from Emergency Response Manager.
9. Applicant has reached out to Division of Water Quality.
10. Applicant has approval from Sioux Yellowstone Fire District.
11. Applicant has provided a map of the proposed mining areas divided into 9 phases of 20-Acres each.
12. Applicant will be required to reclaim each 20-acre phase prior to opening a new one.
13. Parcel # 210026300 has 2 existing buildings that applicant wishes to utilize. One building as an office building and the other as maintenance shop and inventory storage.
14. Surrounding Zoning is Agricultural.

15. Use is conditionally allowed in the Agricultural District.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The establishment, maintenance or operation of the conditional use could be detrimental due to the proximity of a residential home close to the frac sand production proposal. The closest home is 350 ft. from the parcel line and approximately 1047 feet from the proposed mining area.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposal will temporarily impact the agricultural viability of the project area. However, the site will be conditioned to include reclamation after each 20-Acre phase is completed prior to starting any other phase, and be completely returned to it's former state after project is complete.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

Once the frac sand production is no longer in use, the land will be remediated back to its agricultural state and will not impede the normal development of surrounding properties. Agricultural use adjacent to the project will not be impeded with conditions that require dust control onsite and along the access route to the project site.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Applicant is working with McKenzie County Road and Bridge to ensure proper permitting for the requirement.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Ingress and egress will be permitted per McKenzie County Road and Bridge.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Applicant shall abide by all federal, state, and local regulations.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend Approval of Conditional Use Permit #22-25CUP Blue Diamond Proppants for frac sand production to the County Commission to adopt the findings and conditions as provided in the Staff Report.""

Conditions:

1. The applicant shall mark the site with a (4' x 8') sign visible from the road per McKenzie County Land Development Ordinance Section 2-20 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County Commission approval.
2. Maintain weed control as approved by the McKenzie County Weed Control Officer
3. The applicant shall adhere to all State laws, regulations, and conditions for the operation of the proposed facility.
4. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2-13-3 (B) of the McKenzie County Land Development Ordinance. The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and reseed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.
5. Per the McKenzie County Land Development Ordinance, The estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director.
6. Applicant must reclaim each 20-Acre phase as outlined on the map provided by applicant before moving on to the next section.
7. Applicant must call McKenzie County Planning and Zoning to schedule an inspection with the Code Enforcement Officer after each reclamation prior to moving on to any other phases.
8. Have a 100' knock off zone on site, the knock off zone shall include a cattle guard or other approved method to remove debris from the tires of the trucks, and shall make sure mud is not being tracked onto the highway. Applicant shall be responsible for cleaning up any and all track out that may occur on the highway.
9. Applicant shall post a sign at the exit that reads: All loads exiting the area must be tarped and or otherwise covered. It is the responsibility of the driver to insure the tarping of all loads.
10. The applicant shall not deposit any snow or water onto the neighboring properties.
11. No trailers or workforce housing is allowed on site.
12. Building and/ or SKID Permits must be obtained for all proposed structures onsite.

13. Applicant must enter into a Haul Road Agreement for 153rd Ave NW, 36th St NW, 152M Ave NW with Sioux Township for maintenance above and beyond McKenzie County's routine maintenance.

14. Dust control both in and out of the pit per 4-14 (G) Dust Control: Best management practices should be implemented to control the dust associated with surface mining. Dust palliatives should be implemented to reduce dust on internal road systems. If direct access to the site is off a non-County Road, the owner and operator of the site shall apply dust palliatives to the road at least one-quarter (1/4) of a mile in each direction of all access points and must be applied each year prior to May 31 and again before August 31. When the owner and operator of the site is required to apply dust palliatives to non-County Roads, receipts or other appropriate proof that dust palliatives were applied shall be submitted to the Planning Department of the McKenzie County Land Development Ordinance.

15. Access on the private roadway into the site must be maintained for 911 purposes.

16. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5-13-11 of the McKenzie County Land Development Ordinance.

17. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.

18. Applicant shall submit a stormwater management plan and erosion control plan to the Engineering Department in accordance with Section 2-17 and 2-18 prior to construction commencing. Storm water management plan and erosion control plan shall be approved by the Engineering Department prior to construction commencing.

19. Applicant shall provide the county Planning and Zoning Department with all Federal and State approvals and denials along with any violations relating to the project for the entire duration of the project.

20. All Security lighting shall be downward facing and shall not glare on the adjacent property or the public travel way.

21. Applicant shall provide a medium density buffer yard, per McKenzie County Land Development Section 2-12-7 Table 2-5 and Section 2-12-5 Table 2-2 planting size requirements.

22. All set backs are to be met for all portions of the operation.

23. All open pit mining operations shall be set back a minimum of 100 ft. from the ROW or road easement line or 133 ft. from a section line whichever is greater.

24. Site shall be inspected annually to ensure compliance with the listed conditions. Any violation could result in possible revocation of permit.

Public Comments

Brooke Simons

From: andyb grahamandsonsnd.com <andyb@grahamandsonsnd.com>
Sent: Friday, December 5, 2025 10:14 AM
To: Brooke Simons
Subject: Frac sand mine

Good day my name is Andrew bednarik I live at 152nd Ave NW Cartwright ND 58830 I have many concerns about this proposed project they have stated at the township meeting that will be taking a million tons a year for the next 35 years out of this location if so what is the plans for the road improvements like pavement and turn lanes on county 16 hours of operation are a concern as well as it is next door to my residence and continuing reclamation and dust control as the stated they want to open up 300-600 acres of sand without proper regulations that could turn into a massive dust bowl thank you for your time

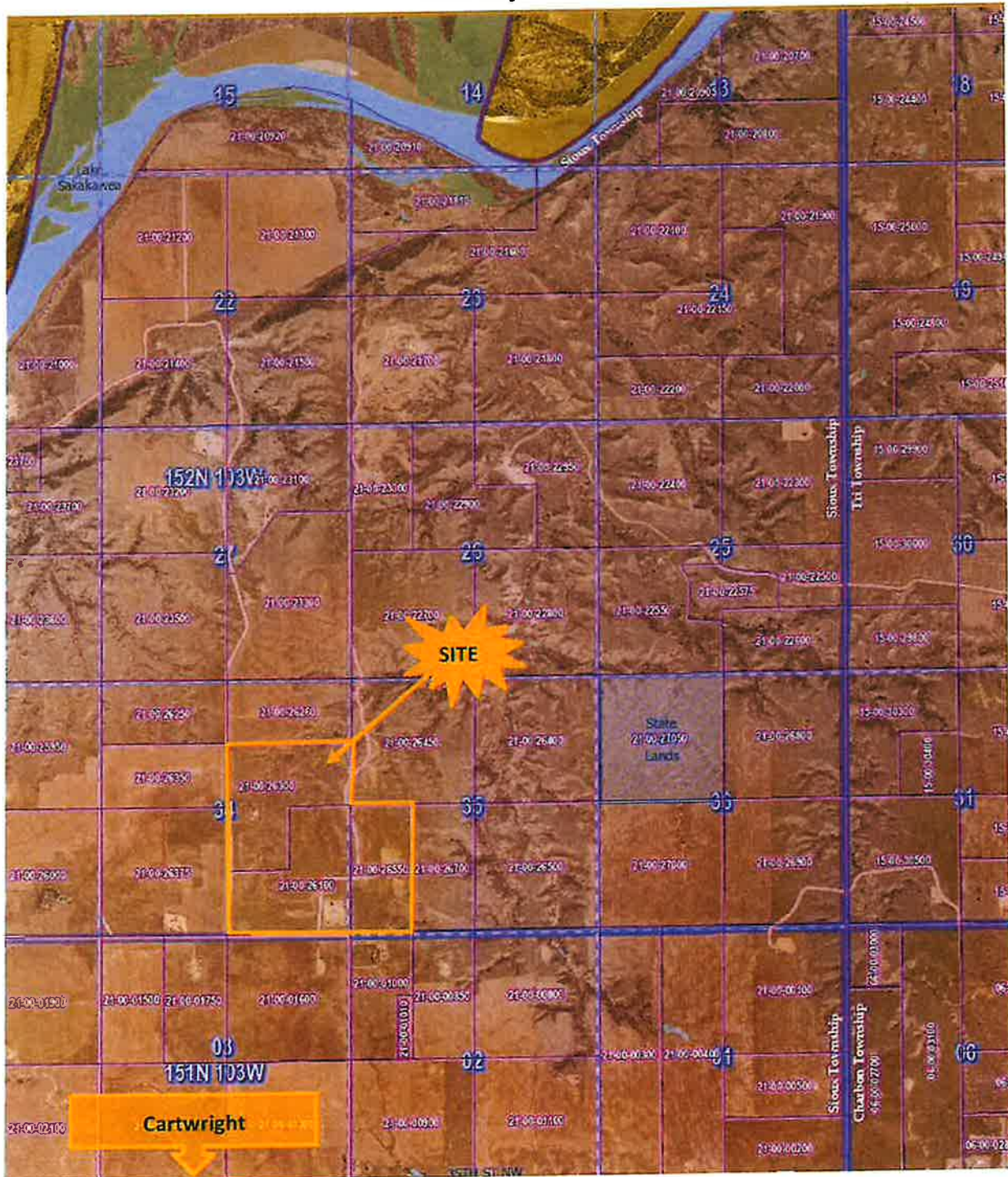
Get [Outlook for iOS](#)

#22-25CUP

PID # 210026300, 210026550, 210026100

S: 34,T: 152,R: 103

Vicinity MAP

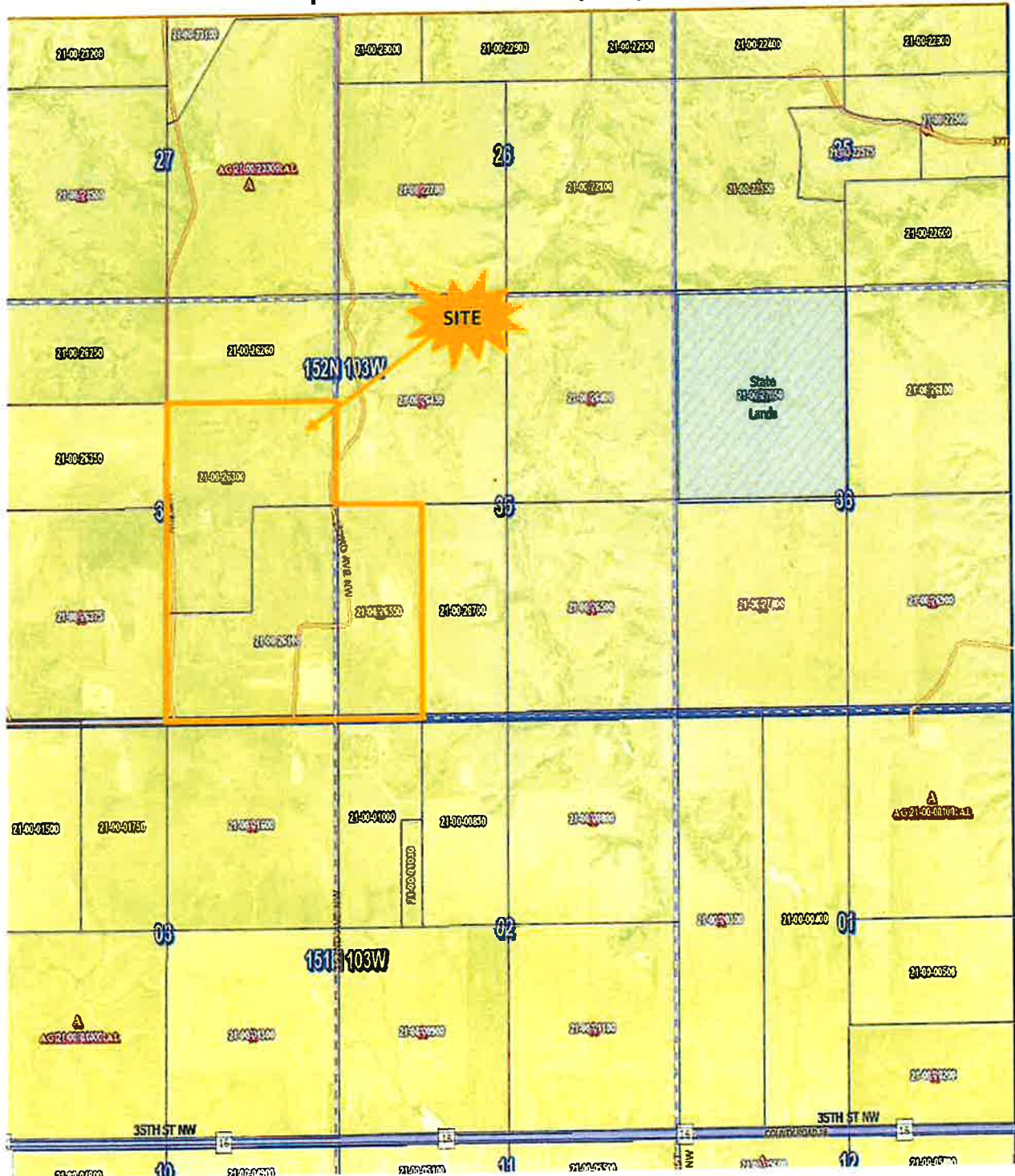


#22-25CUP

PID # 210026300, 210026550, 210026100

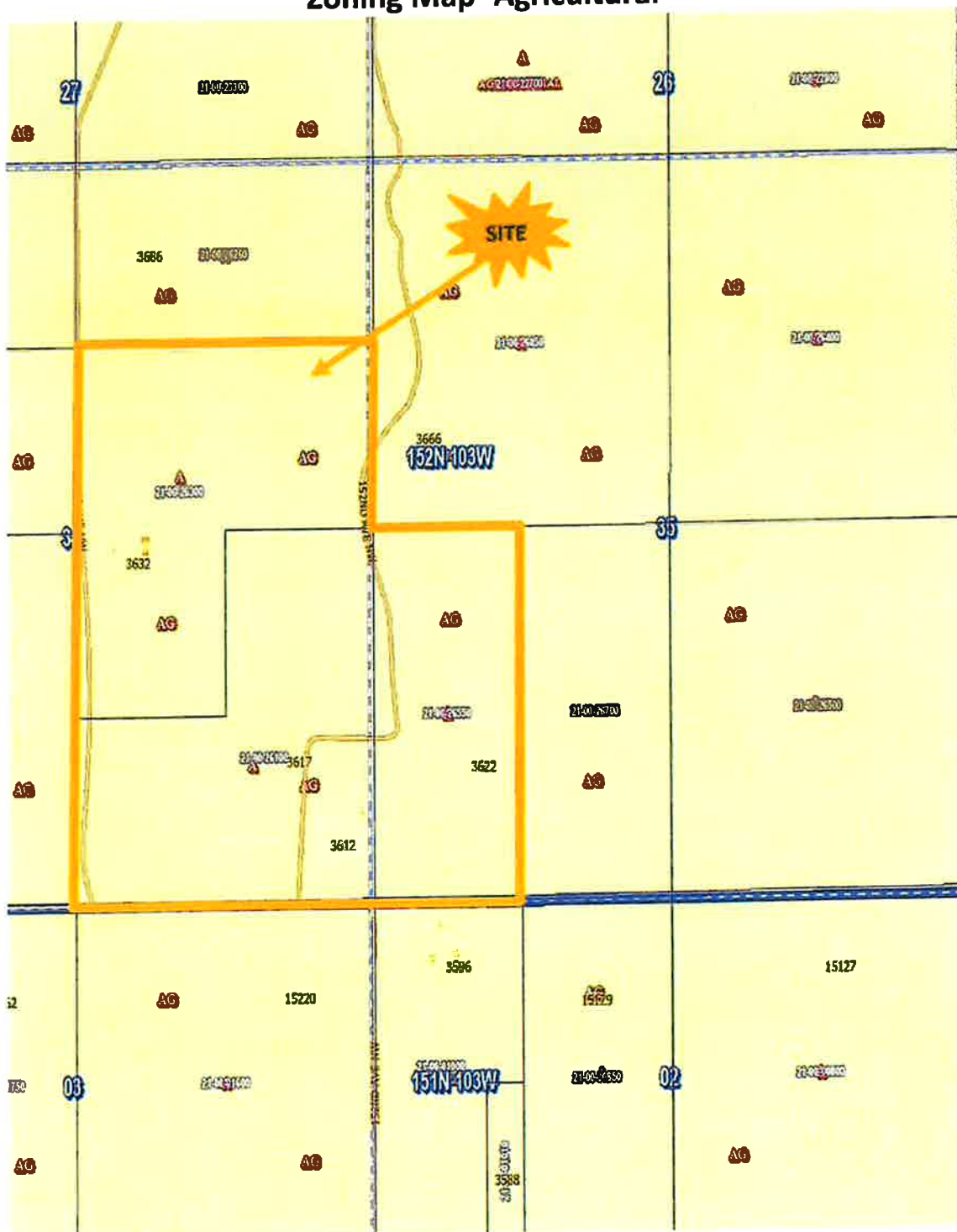
S: 34,T: 152,R: 103

Comprehensive Plan Map- Agricultural



S: 34,T: 152,R: 103

Zoning Map- Agricultural



#22-25CUP

PID # 210026300, 210026550, 210026100

S: 34,T: 152,R: 103

SITE MAP

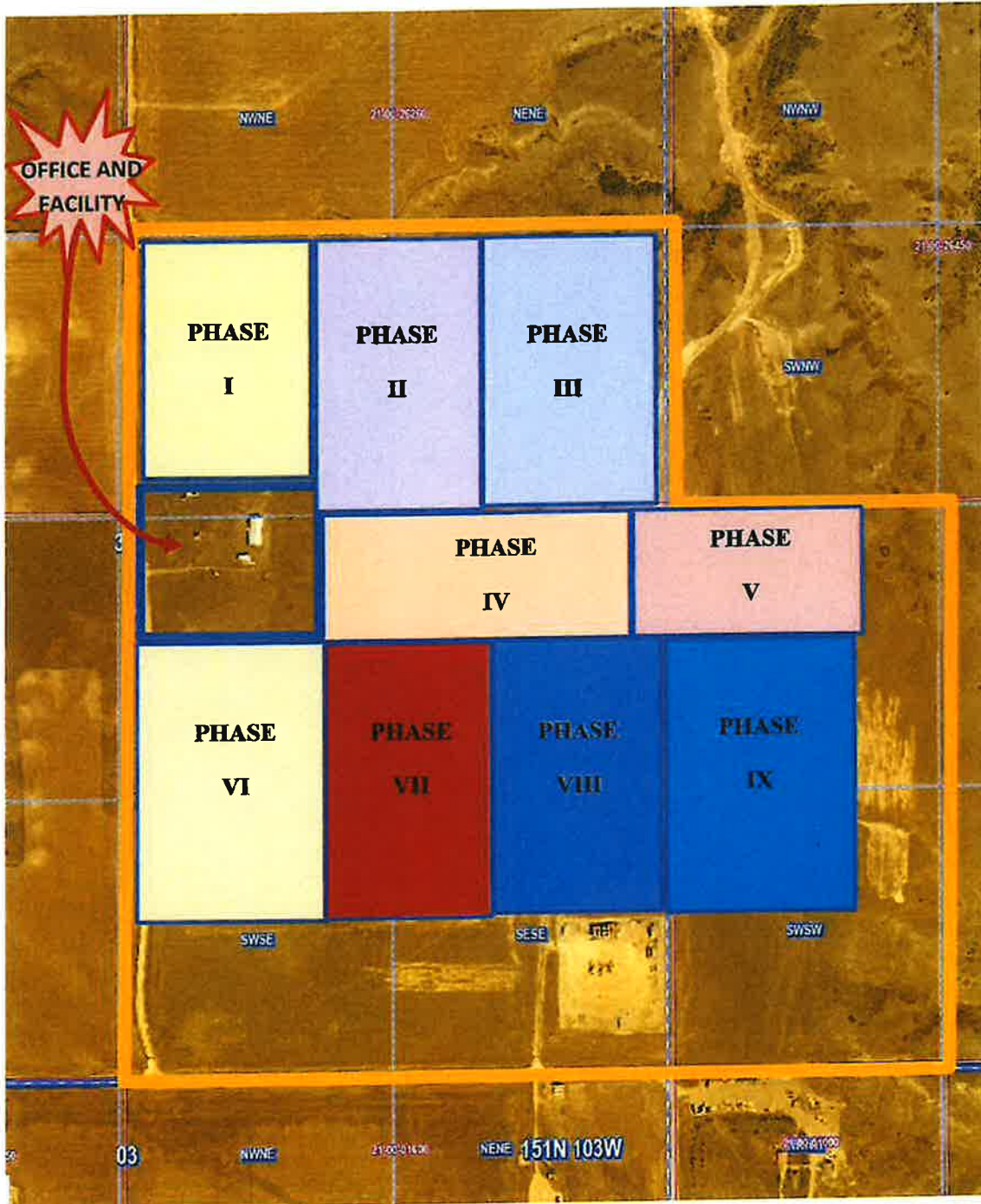


#22-25CUP

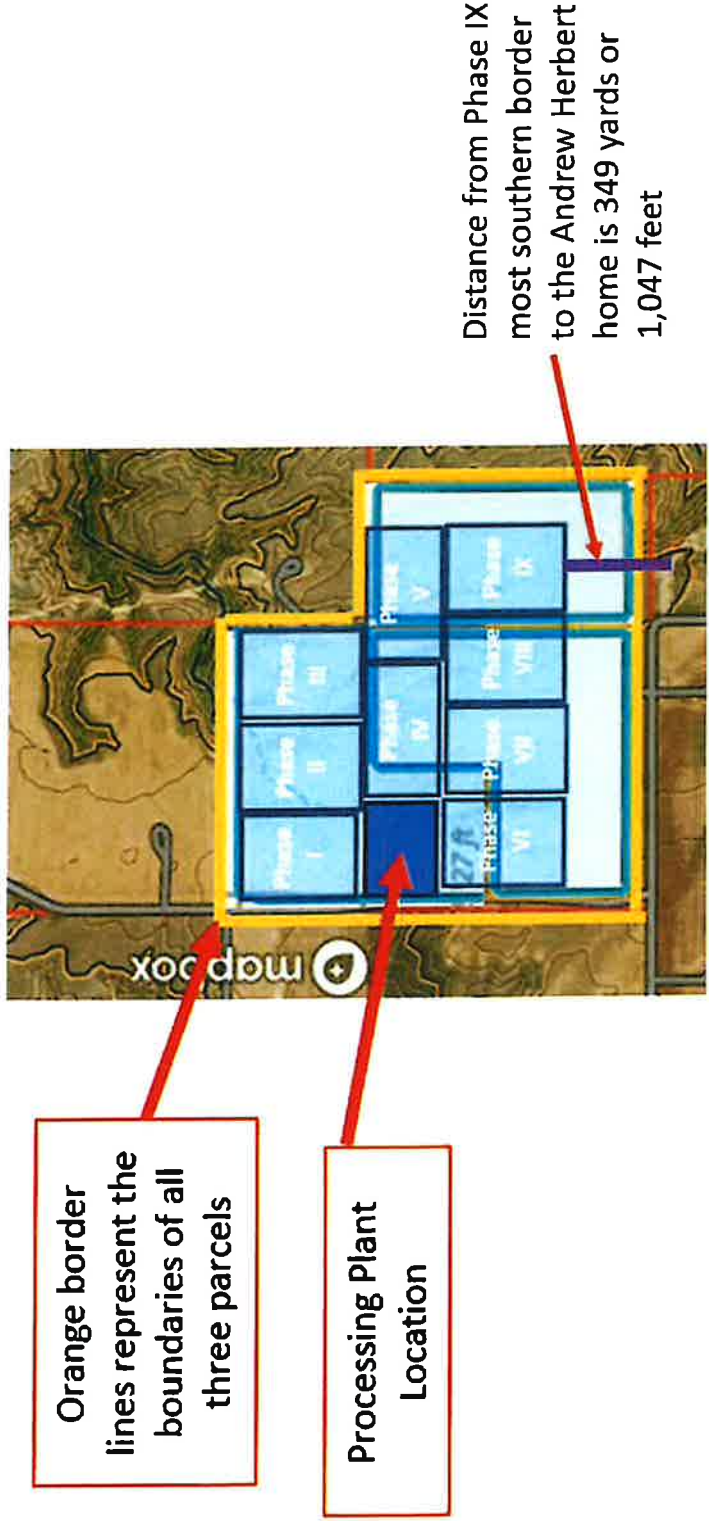
PID # 210026300, 210026550, 210026100

S: 34,T: 152,R: 103

PHASE MAP



Mining Plan overlaid parcels 21-00-26550, 21-00-26300, and 21-00-26100



McKENZIE COUNTY

Planning and Zoning Commission

21-25CUP IBV Energy /Cattle Creek LLC

Application:	October 15, 2025
Hearing Date:	November 10, 2025 Tabled until December 8, 2025
Description:	T-150N, R-100W, Section-5, PIDs 03-00-02100, 03-00-02400, Section-6 PIDs 03-00- 02520 & 03-00-02580, T-151N, R-100W, Section-20, PIDs 14-00-06500, 14-00-06700, Section-21, PIDs 14-00-06800, 14-00-07100, 14-00-07200, Section-27, 14-00-09850 Section-29, PIDs 14-00-10500, 14-00-10600, 14-00-10700 Section-31, 14-00-11800, 14-00-11900 Section-32, PIDs 14-00-12300, 14-00-12400, 14-00-12500, 14-00-12550 Section-33, PIDs 14-00-12600, 14-00-12650, 14-00-12700 Section-34 PID 14-00-13200
Owner(s)/Applicant:	Hovde, Chamness / IBV Energy
Reason for Request:	Applicant would like to install an approximately 850-acre solar farm on 23 parcels in Central McKenzie County ND

Comprehensive Plan Land Use: Agriculture

Zoning: Agriculture

Findings of Fact:

1. The proposed use is conditionally allowed in the agricultural district.
2. All Public notifications have been made.
3. Staff has received written comments from the public.
4. Applicant does not own the properties but has all participating parcel/ land owners permission.
5. Applicant has been in contact with the North Dakota Dept of Health Storm Water Program, and has provided a storm plan but has not yet applied for their permit with the state.
6. Applicant has an approved Weed Plan from McKenzie County Weed Department for all parcels included in the proposed plan.
7. Applicant has been in contact with the McKenzie County Road and Bridge Department. Road and Bridge prefers Board of County Commission Approval prior to processing any Applications, to date applicant has not responded to the latest inquiry from the Engineering director.
8. Applicant has been in Contact with NDPSC. NDPSC does require the County decision regarding the Conditional Use Permit prior to the applicant applying for the State Permit.
9. Applicant has been in contact with 911/ Fire services.

10. Applicant has been in contact with EMS.
11. Applicant has reached out to NDIC and was told they had no jurisdiction.
12. Applicant has provided a list of all adjacent landowners within 1/2 mile.
13. Applicant has provided a list of all participating landowners
14. The majority of property is not in Arnegard Township, but Applicant has been in contact with Arnegard Township and the township will not be commenting on the proposal as there is not supposed to be anything above ground in in the township. Parcels within the township boundary are for utilities.
15. Applicant has submitted a decommissioning plan.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

Cattle Creek is not expected to adversely affect the public health and safety of McKenzie County. A solar energy system is subject to numerous regulations and required studies analyzing the impacts of the facility on the local community. The McKenzie County Ordinance requires several studies including but not limited to visual assessments, sound assessments, landscaping and weed management, and glare assessments which have been provided with this application. Additionally, the project must adhere to all applicable federal and state regulations, which include additional studies for cultural resources, wetlands, threatened and endangered species, decommissioning, stormwater, and others as required.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposal will temporarily (for the life of the project) impact the agricultural viability of the project area. However, the site will be conditioned to include reclamation at the end of the solar farms life. At such time, the area is required to be returned to its pre-construction condition, including but not limited to, removing all above ground structures, all underground structures to a depth of four (4) feet, pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and reseed the site with native grasses and vegetation.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The Ordinance has setbacks which the project is required to abide by. Solar facilities in operation are proposed to be low impact developments with very limited traffic and strain on county resources. The project is proposed to be setback away from neighboring properties and should not impact adjacent uses which are primarily farming operations.

d. Adequate utilities, access roads,(built to county standards, drainage and/or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Adequate utilities, access roads, drainage or other necessary site improvements will be provided to accommodate the proposed conditional use.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The project will comply with the zoning requirements set forth by McKenzie County and other governing agencies such as the North Dakota Public Service Commission, with whom Cattle Creek has already met to plan the submission of the project's application for a Certificate of Site Compatibility. The project application provides the compliance measures to which Cattle Creek will abide by, along with the zoning regulations.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Staff Recommends Approval of Conditional Use Permit #21-25CUP IBV Energy to the BOCC to allow the Solar Farm. Adopt the findings and conditions as presented in the Staff Report."

Conditions:

1. The applicant shall mark each individual location with a (4' x 8') sign visible from the road per McKenzie County Land Development Ordinance Section 2-20 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County Commission approval.
2. Maintain weed control as approved by the McKenzie County Weed Control Officer
3. The applicant shall adhere to all State laws, regulations, and conditions for the operation of the proposed facility.
4. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2-13-3 (B) of the McKenzie County Land Development Ordinance. The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and reseed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.
5. Per the McKenzie County Land Development Ordinance, The estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US

Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director.

6. Applicant shall fulfill all State and Federal requirements for environmental review and permitting, including a wetland determination, wetland mitigation, archeological and Biological surveys and storm water permitting, in coordination with the U.S. Army Corps of Engineers, The U.S. Fish and Wildlife Service, North Dakota Game and Fish, the State Historic Preservation Office and other agencies, as needed.

7. Project shall not be constructed on wetlands

8. Applicant shall provide to scale horizontal and vertical (elevation) drawings. Drawings must show the location of solar arrays, access roads, any required landscaping, occupied buildings within and adjacent to the site, utility buildings, and property lines.

9. Applicants shall prepare a visual impact assessment for the proposed Solar Energy System. The visual impact assessment must analyze the potential visual impacts of solar panels and fencing from nonparticipating properties. To mitigate visual impacts, the Board of County Commissioners may require vegetative screening or buffering in accordance with Section 2-12 of this Ordinance.

10. Applicants shall satisfy all requirements for subdivision platting and Easement recordation, as needed.

11. A ground-mounted Solar Energy System shall not extend more than 20 feet above grade when solar arrays are oriented at maximum tilt.

12. Panels shall be placed at least two (2) feet off the ground when oriented at maximum tilt, as measured from the panel edge, and allow at least four (4) feet of clearance for mowing and other maintenance.

13. Setbacks shall be measured as the horizontal distance between the nearest solar array or other structural component integral to Solar Energy System operation and the roadway centerline. All Setbacks may be reduced by up to 50 percent if solar arrays are fully screened from the Setback point of measurement, so long as Development satisfies the Agricultural District (AG) Setback requirements (Table 3-2) and McKenzie County's general roadway Setback standards (Section 2-10).

14. Any reduction to required setbacks shall be approved by the Planning and Zoning board.
Continued on next page

15. A ground-mounted Solar Energy System shall not be located over a septic system.

16. Roads accessing the Solar Energy System may be required by the County Engineer. The location and construction of access roads and other infrastructure shall, to an extent reasonably practicable, minimize disruption to the landscape, farmland, and agricultural operations. All public roads must be constructed to McKenzie County standards. The applicant shall ensure that, following completion of construction of a Solar Energy System, County roads will be repaired or restored to a condition satisfactory to the County Engineer.

17. Access on private roadways must be maintained for 911 purposes.

18. Applicant shall work with McKenzie County Regarding dust control.

19. Power and communication lines running between the banks of solar arrays may be placed above ground, provided they do not extend above the solar modules. Power and communication lines to Electrical Substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Planning and Zoning Director in the following cases:

(a) Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(b) When required by the utility company.

20. Grassland/grazing vegetation shall be installed and maintained for the duration of use. Panels shall be placed to allow vegetation to establish and become self-sustaining, and to facilitate mowing and maintenance of the site. A seeding plan and maintenance plan shall be submitted prior to issuance of the building permit.

21. The owner/operator of the Solar Energy System shall allow the McKenzie County Soil Conservation District to conduct site visits to verify that ground cover is properly maintained. McKenzie County may require submittal of an inspection fee prior to construction to support ongoing inspection of ground cover.

22. Applicant shall arrange Solar panels to enable crop production and grazing, and to mitigate the loss of farmland in a safe and effective manner.

23. Large-scale tree removal is discouraged. Permittees shall minimize removal of trees and shall not remove tree groves or shelterbelts without written approval of the landowner. Any trees removed shall be replaced on a 1:1 ratio within one-year of removal and relocated to the perimeter of the Solar Energy System.

24. Applicant shall provide a Medium Density buffer yard, per the McKenzie County Land Development Ordinance. Section 2-12-7, Table 2-5 and Section 2-12-5 Table 2-2 planting size requirements.

25. Prior to construction, the applicant shall prepare a public safety plan in consultation with local fire departments, law enforcement, and the McKenzie County Emergency Management Coordinator.

26. A minimum 6-foot security fence shall enclose all electrical and mechanical components of the Solar Energy System. Fences shall be maintained by the owner/operator of the facility. Lock boxes and keys shall be stored at locked entrances for emergency personnel access.

27. To mitigate fire risk, vegetation clearance shall be maintained around the site perimeter. A clear area with a minimum width of 10 feet of defensible space shall be maintained within the fence line with additional defensible space outside the fence line. The Developer/operator of the Solar Energy System shall be responsible for maintaining this area free of potential fire hazards in accordance with the approved public safety plan.

28. Within one (1) year of termination or abandonment of leases or Easements for a Solar Energy System in McKenzie County, the permittee shall, at its expense, fully remove all Solar Energy System structures and components from the site. This includes all associated above ground and below ground infrastructure, which must be placed in a landfill approved for disposal of such materials. Any Easements of record must be released.

29. Surface Restoration. Areas disturbed by the construction or decommissioning of a Solar Energy System shall be restored to their original condition and shall be graded, top soiled, and reseeded according to Natural Resource Conservation (NRCS) recommendations or similar best practices, unless the landowner requests in writing that access roads or other Development be retained.

30. Applicant shall keep the area free from Garbage, from within and outside sources, during and after construction.

31. Any changes to area or volume will require an amendment to the permit.

32. Security lighting shall be downward facing.

33. Applicants shall not deposit any snow or water on adjoining properties and shall dispose of storm water through an approved Engineering Method.

34. The applicant shall limit sediment runoff from the site by the use of perimeter controls on downslope portions of the site (e.g. silt fence) and limit channelized erosion in ditches, swales and adjacent natural water bodies. A Storm Water plan shall be submitted if required by State or Federal regulations. The site shall be restored and stabilized to pre-project conditions.

35. In the event of a natural disaster, any damage to the site or the solar energy system must be cleaned up and/or panels replaced within 180 days of the date the damage occurred.

36. Site shall be inspected at least annually to ensure compliance with the listed conditions. Any Violation could result in revocation of permit.

PUBLIC COMMENT

Shannon & Jason Faller
13549 30th Street NW
Arnegard, ND 58835
November 5, 2025

McKenzie County Planning and Zoning Commission
1300 12th St SE Ste. 214
Watford City, ND 58854

Re: Opposition to the Proposed Cattle Creek Solar Project

Dear Members of the Planning and Zoning Commission,

We are writing as residents and property owners at 13549 30th Street NW, Arnegard, ND, to express our strong opposition to the proposed Cattle Creek Solar Project in McKenzie County. While we understand and support the importance of renewable energy development, this project is ill-suited for our community and would impose another layer of industrial stress on land and residents who have already endured the long-term impacts of energy development—especially from the oil industry—over the past decade.

Our region has lived for years under the weight of oil development. Companies promised responsible operations, reclamation, and maintenance of well sites—but those promises were always not kept. Many reclaimed areas were left covered in noxious weeds, poorly graded soil, and standing water due to lack of proper drainage. These neglected sites scar the landscape and reduce the productivity of surrounding farmland.

In addition, heavy oilfield traffic has taken a severe toll on our roadways. Local and county roads have deteriorated to the point where they are often unsafe or nearly impossible to drive on with standard vehicles. Residents and farmers continue to bear the cost of that damage in vehicle repairs, travel delays, and increased safety risks.

The *Cattle Creek Solar Project* document itself notes that the proposed site “consists of land historically in agricultural use with oil and gas encumbrances throughout.” That means the land is already burdened by prior energy use and its unresolved consequences. Adding another large industrial project—especially one spanning over 850 acres, with plans for expansion—will only compound these problems.

The project involves the installation of photovoltaic panels, inverter skids, transformers, a SCADA system, stormwater basins, security fencing, gates, and access roads. This is an industrial-scale operation, not a compatible neighbor for rural or agricultural areas. Once constructed, the site will transform from open, productive land into a fenced and restricted energy compound, permanently altering the character and appearance of our community.

The planned stormwater basins, drainage systems, and extensive grading will disrupt natural water flow and soil structure—issues that already plague our area due to previous oil-related disturbances. The addition of miles of fencing and restricted access zones will further fragment wildlife habitat and block open land that once supported both agriculture and native species.

We have seen what happens when energy projects claim they will “reclaim” land—often the result is invasive weeds, erosion, and no long-term maintenance. There is no reason to expect a different outcome here.

Both oil and solar developments devalue nearby properties due to increased noise, visual pollution, and loss of scenic or agricultural character. Property owners have already absorbed these losses once through oil operations. Asking residents to accept another industrial-scale project next door—with no direct benefit—is unreasonable and unfair.

The project states its purpose is to “supply competitively priced electricity to the adjacent transmission network” and connect to Basin Electric’s Patent Gate Substation, which participates in the Southwest Power Pool market. This arrangement means that while our community bears the environmental and infrastructure impacts, it cannot be guaranteed that the energy produced will be supplied to local residents. Therefore our community will experience years of

construction, environmental stress, and infrastructure damage without receiving lower energy costs or tangible local benefits in return.

Construction is expected to begin in 2027 and the project to become operational by 2029, resulting in at least two years of heavy equipment operation, dust, and noise. The company also states that “a comprehensive decommissioning plan will be submitted with the Conditional Use Permit,” which means no binding restoration plan currently exists. Given the oil industry’s history of unmet reclamation promises, this raises serious concerns about what will actually happen to the land once the panels reach the end of their lifespan.

Our community has given enough. We have supported energy development in good faith, only to see our land, roads, and environment deteriorate. Now, with this proposed solar farm, we are again being asked to shoulder the environmental, visual, and infrastructural burden of another industrial project—on the same land already impacted by oil extraction.

The ibv Energy Partners has offered surrounding landowners an easement contract, including ourselves. At this time we have not been able to secure legal counsel to review the contract due to conflicts local legal counsels have tied to the project and for that reason we ask that the conditional use permit not be approved until legal counsel can be secured.

This easement contract:

- Provides no liability coverage or indemnification for landowners.
- Allows the developer to expand beyond what is expressly granted in the contract without further approval
- Landowner cannot terminate easement even if Developer defaults; remedies are limited to legal action.
- Landowner waives rights to claim overburdening, allowing unlimited assignments.
- Landowner cannot terminate under any circumstances; Developer can terminate at will.
- Prohibits the landowner from discussing terms with advisors or potential buyers.
- Developer may record a memorandum, creating a public encumbrance.

The Cattle Creek Solar Project may represent renewable energy, but it does not represent responsible planning or fair treatment of rural residents. The 850-acre footprint, coupled with the area’s history of oil-related damage and unfulfilled reclamation promises, makes this project unacceptable for our community. Ibv Energy Partners needs to take full responsibility for this project and all possible scenarios; at this time, their project plan does not.

We respectfully urge the Planning and Zoning Commission to deny the Conditional Use Permit for the Cattle Creek Solar Project and to protect the remaining agricultural and natural character of McKenzie County.

Thank you for your service and your attention to the long-term well-being of our community.

Sincerely,

Jason and Shannon Faller
701-586-3288

Sandee Kimpel

From: Marie Myers <mnmyers85@yahoo.com>
Sent: Monday, October 20, 2025 7:48 AM
To: Sandee Kimpel
Subject: RE: Information request

Good morning Sandee,

Thank you for sending the slides. Will there be another meeting about the solar farm? The slides weren't very informative for some of the questions I had. If there is not, I vote against the solar farm.

Thank you,
Marie

[Yahoo Mail: Search, Organize, Conquer](#)

On Fri, Oct 17, 2025 at 10:53 AM, Sandee Kimpel
<skimpel@co.mckenzie.nd.us> wrote:

Good Morning Marie,

It was nice to meet you. Please find attached the information that was presented at last nights meeting. Please let me know if you have any questions.

Thanks and Have a Great Day!

Sandee

From: Marie Myers <mnmyers85@yahoo.com>
Sent: Thursday, October 16, 2025 11:42 PM
To: Sandee Kimpel <skimpel@co.mckenzie.nd.us>
Subject: Information request



IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender
mnmyers85@yahoo.com

Hi Sandee,

Candy Lundgren

From: Sandee Kimpel
Sent: Friday, November 7, 2025 8:02 AM
To: Candy Lundgren
Subject: FW: Solar Farm
Attachments: PropertyValue.bmp

From: Darlene McWhorter <djmcwhorter51@gmail.com>
Sent: Friday, November 7, 2025 6:58 AM
To: Sandee Kimpel <skimpel@co.mckenzie.nd.us>
Subject: Solar Farm

11/7/25

Sandee Kimple

Director

McKenzie County Planning Committee

Dear Miss Kimple;

There is a concern for the viability of the Cattle Creek Solar, LLC project. It does not seem that the numbers add up. The millions of dollars that have been spent on this solar project already and the millions of dollars they say it will additionally cost sounds excessive. These Green Energy projects were started with government subsidies, what happens when they dry up.

With the short days fall to spring and snow cover the output has to decrease 1% to 12%. Research I found shows that the initial degradation of solar panels is 1% to 3% and typical degradation .3% to .5% a year. Cattle Creek Solar has not provided what rate they will be selling their electricity for so how is anyone able to determine if the solar facility is a viable operation.

Cattle Creek Solar is an LLC, a Limited Liability Corporation a Delaware Corporation, owned by Invenergy, LLC which is owned by BlackRock Inc. investment group. If Cattle Creek Solar does not meet expectations, they can sell to whomever and all the plans and policies go out the window. It feels like Cattle Creek Solar has misrepresented this project or why else would they try to entice us with cash to sign this agreement. It's not because they are good neighbors. By what I read in the contract Cattle Creek Solar circulated, it would give them permission to add other components to their facility such as Data Storage Facilities and others. It would also remove any liability for damages caused by the operation of the solar farm facility.

I also found a study done by Energy Technologies Area of Berkeley National Laboratory. Berkeley made a study in six states and found that LSPVPs had a 4% to 5.8% negative impact on homes within .5 mile.

We also are concerned that with the angle of the panels it will cause an intense glare from the sun towards our property.

We urge the McKenzie County Planning Commission to deny Cattle Creek Solar, LLC a permit for a solar farm in McKenzie County.

Sincerely

Kenneth McWhorter

Do large-scale photovoltaic projects impact sales prices of close-by homes?

March 2, 2023



New Berkeley Lab study finds evidence of relative decreases in home sale prices within 0.5 miles of large-scale photovoltaic projects in three of six states studied.

The construction of large-scale photovoltaic projects (LSPVPs), defined here as ground-mounted photovoltaic generation facilities with at least 1 megawatt (MW) of direct current generation capacity, can be linked to a number of possible local economic impacts, including job creation, tax revenue, local landowner income, and changes to home sale prices to name a few. Many of these economic impacts remain understudied and/or undiscovered; in this study, we partly fill that gap by evaluating the impact of LSPVP development on home sale prices.

The new Lawrence Berkeley National Lab analysis “Shedding light on large-scale solar impacts: an analysis of property values and proximity to photovoltaics across six U.S. states” compiles a unique dataset that includes home transactions and LSPVP footprints in California (CA), Connecticut (CT), Massachusetts (MA), Minnesota (MN), New Jersey (NJ), and North Carolina (NC), which together account for over 50% of the installed MW capacity of LSPVP in the U.S. Our analysis includes over 1,500 LSPVPs and over 1.8 million home sale transactions.

The study, published in Energy Policy in open-access format, is available here: <https://emp.lbl.gov/publications/shedding-light-on-large-scale-solar>. The authors will host a webinar covering the results of the study on March 22nd at 12 PM Eastern / 9 AM Pacific.

Our analysis finds that the effects of large-scale solar projects on home sale prices depend on many factors that are not uniform across all solar developments or across all states.

For homes within 0.5 miles of a LSPVP compared to homes 2-4 miles away, we found a reduction in home sale prices in MN (4% reduction), NC (5.8%), and NJ (5.6%) and no statistically significant effects in the other three states (CA, CT, and MA). Using data from all six states, we identified a home sale price reduction of 1.5% for homes within 0.5 miles of a LSPVP compared to homes 2-4 miles away. For the mean selling price in our sample of roughly \$400,000, a 1.5% diminution equates to roughly \$6,000.

Sandee Kimpel

From: Darlene McWhorter <djmcwhorter51@gmail.com>
Sent: Monday, October 27, 2025 8:06 AM
To: Sandee Kimpel
Subject: Cattle Creek Solar

I Kenneth McWhorter, adjacent land and home owner to the proposed Cattle Creek Solar farm, I'm writing this letter in protest of this solar farm facility. The solar farm will negative affect our property value because of its close proximity to our home. It will be unsightly and visible of everywhere on our property. I believe Cattle Creek Solar, LLC has exaggerated its nonimpact to area. They boast of being a good neighbor but then also want us to sign a contract that would release them from liability for damages to the area.

For several reasons I don't think this facility is good or necessary for our area. I am in Protest of a permit for Cattle Creek Solar, LLC project in McKenzie County, ND.

Sandee Kimpel

From: Darlene McWhorter <djmcwhorter51@gmail.com>
Sent: Monday, October 27, 2025 8:10 AM
To: Sandee Kimpel
Subject: Cattle Creek Solar

I Darlene McWhorter, adjacent land and home owner to the proposed Cattle Creek Solar farm, I'm writing this letter in protest of this solar farm facility. The solar farm will negative affect our property value because of its close proximity to our home. It will be unsightly and visible of everywhere on our property. I believe Cattle Creek Solar, LLC has exaggerated its nonimpact to area. They boast of being a good neighbor but then also want us to sign a contract that would release them from liability for damages to the area.

For several reasons I don't think this facility is good or necessary for our area. I am in Protest of a permit for Cattle Creek Solar, LLC project in McKenzie County, ND.

Darlene McWhorter
13545 30th St NW
Arnegard, ND 58835
406-350-2409

November 7, 2025

To Whom It May Concern:

I am writing this letter in regards to the solar panel farms. I have been a McKenzie County resident for over 30 years. This letter will tell you the many reasons as to why I feel we should not be using solar panels as they have been proposed in McKenzie County. There is a growing concern of environmental and reliability aspects that need to be addressed.

- Solar energy is not 100% percent reliable, especially in North Dakota, and back up generators are needed so we are already relying on fossil fuels for this "green energy." This also applies to the manufacturing, installation, transportation of said solar panels.
- When solar panels break down or are damaged, the ground underneath get polluted because they contain cadmium and lead. Also, hydrochloric acid, sulfuric acid, gallium arsenide, and copper-indium-gallium-Di selenide, etc are all used the manufacturing process as well. If that wasn't enough, disposing of them also leaches these toxic elements into the soil.
- Recycling solar panels comes at a high cost and most companies just dispose of them to become a problem later. This would then become the governments problem and fall into the laps and pocketbooks of the taxpayer.
- Speaking of pocketbooks; governments are offering subsidies to bring down the cost of solar panels but adding more of this would just add to the financial burden of energy cost that is already happening.
- North Dakota is known for its beautiful views and its unpredictable weather patterns. These snowy, overcast, temperature drops and spikes will all affect the solar panel's ability to function correctly or at all. Our property values will drop within view of the solar panel farms because who wants to look at that when they drive by or out their front window of their house?
- These solar farms will impede migration of not just birds but also deer and other migratory animals. In the southwest corner of North Dakota, there is an incentive to remove woven wire because it impedes the movement of antelope. Do we not think that an entire field of reflective panels is not going to hurt the wildlife?

We need to be respective of our wildlife and to the people who have been living in McKenzie County for decades and lifetimes. We do not want solar panel farms in our county.

Oren & Kathy Hagen
13472 33rd St NW
Arnegard ND 58835

10 Biggest Disadvantages Of Solar Energy

Written by Tim Rhodes updated Nov 1, 2025

A quick look at the disadvantages of solar energy may just show that with everything in life, nothing is perfect.

To everything, there are always advantages and disadvantages, but the decision to forge ahead with a thing is usually from the realization that the good outweighs the bad.

Discussions on alternative sources of energy have always been there for the last couple of years.

Companies like Tesla are presenting quality solar solutions designed and developed for day to day uses, but these products are quite expensive.

There are some downsides to solar energy that demand your attention before considering them as a replacement for the currently used energy sources today.

First and foremost, solar energy is produced from nature and it depends on many factors that are not consistent and reliable.

Most of the companies that offer solar energy solutions haven't reached that quality benchmark.

So, let's have a close look at the 10 biggest disadvantages of solar energy.

1. Lack of Reliability

Solar energy is far from being reliable compared to other energy sources like nuclear, fossil fuels, natural gas, etc.

Since solar energy depends on sunlight, it can only produce energy in the daytime.

Solar panels can't produce energy at night so some systems can store energy ultimately making the system more expensive.

Another method used by some solar panel systems is to use a backup from other non-renewable energy sources.

These types of systems, however, cannot be considered as purely environment-friendly.

Dependence On Sunlight

The dependence on sunlight restricts the output potential of solar plants to 35% – 40%.

Solar energy is heavily dependent on government subsidies, so this questions the economic reliability of the industry.

Reducing the cost of solar energy systems with subsidies using taxpayer money is not exactly reducing anything.

The cost of these systems must be reduced by advancement in the technology behind these systems and investment in R&D on solar energy.

The output of solar panels varies according to changing seasons getting more sunlight in summer and less in winter.

That's not an attribute of a reliable system.

Large scale industries that demand steady reliable power supply can't rely on such energy sources.

2. Pollution

One of the factors that make solar energy more interesting is the environmentally friendly benefits it brought with it.

The real question is beyond theory when watching from a practical standpoint how environmentally friendly can it be when implemented in a company or house.

Since solar energy is not 100% reliable, we'll certainly need backup generators to maintain the energy supply which runs on the same fossil fuels which are considered bad for the environment.

The manufacturing, installation, transportation, and maintenance of solar panels produce 0.18 pounds of CO₂ for every kW hour.

While considering these factors, we can't say solar panel systems are entirely free from CO2 emissions.

Toxicity Of Solar Panels

Solar panels have toxic metal components containing cadmium and lead.

The manufacturing of solar panels uses hazardous and toxic elements like hydrochloric acid, gallium arsenide, sulfuric acid, copper-indium-gallium-diselenide, etc.

In 2016, The International Renewable Energy Agency (IRENA) came up [with a study](#) that reveals that there were 250,000 metric tonnes of solar panel waste at the end of that year.

Another study by the Electric Power Research Institute (EPRI) concluded that the disposal of solar panels is a major issue since toxic materials from these panels will leach into the soil.

Also, there is the question of what happens to these large numbers of solar panels containing toxic elements at the end of their life span.

Recycling of solar panels is a costly process, so solar panel installation companies just leave dumping to clueless consumers which will lead to a huge pile of toxic solar waste in the future.

All the toxic waste would finally fall into the lap of governments who will be responsible for protecting the environment and will be forced to use taxpayer's money to recycle or dispose of them.

3. Installation Area

In comparison with other energy sources, solar energy utilizes a very large area for set up.

Usually, rooftops are considered for solar panels the structure or shape of the house can be an issue for installation.

The world's [largest solar farm](#) in Morocco which produces 580 MW power has the size of 35,000 football fields.

Tamilnadu in India has a solar farm that covers 10 square km which produces only 600 megawatts of energy.

For a normal house, a 9.45 kW system will need an area of 1,862 square foot roof.

In some cases, when the rooftop area is not enough to place panels that are needed to meet the energy requirements ground-based panels are used.

To generate power for big companies that consume a lot of power, they will need a very large unused area to install solar panels.

Large Installation Areas

Large installation areas will be an issue in inner cities and areas with limited space.

When we compare this with the space required for other energy sources like nuclear power plants, the space needed is quite large.

In a time when the devices and batteries are getting smaller in size with the fast development in science and technology, a solar farm with a large number of giant solar panels doesn't look like an energy source for the future.

Houses of middle-class people who can benefit from a cheap source of electricity cannot afford a large space for solar panel installation on their rooftops.

With the fast increase in population in developing countries, the land prices will get higher in the future further adding cost to the already expensive solar panels.

4. Inefficiency

The efficiency of a solar panel is usually measured by how much solar energy a panel converts to usable power.

To get an idea of how efficient solar panels are, let's take a look at some of the top solar panels and their efficiency below:

- REC Solar (21.7%)
- SunPower (22.8%)
- LG (21.7%)
- Solaria (20.5%)
- CSUN (21.2%)

The efficiency rating of old solar panels installed in the 2000s is below 15%.

Even the modern ones are only able to convert 30% of solar energy to usable power.

If we consider the most efficient solar energy systems which rotate with the sun's position, theoretically, even they only have an efficiency rating of 85%.

To get a clear picture of the scale of this inefficiency, we just need to compare this to 91% efficient Nuclear plants in the United States.

According to a study by the Qualitative Reasoning Group of Northwestern University, solar panels installed on the roofs of houses only convert 14% of available solar energy into power.

According to the laws of thermodynamics, solar panels can never achieve 100% efficiency.

The best solar panels can come up with is 85% efficiency which is only possible when all other factors are perfect.

Most of the commonly used solar panels won't track the sun's position.

These types of solar panels only have an efficiency of 55% when we look into it from a theoretical standpoint.

The intensity of sunlight is not consistent round the clock.

It will vary with time and this will eventually affect the efficiency of a solar energy system.

Efforts To Improve Efficiency

It's good to see the efficiencies of these systems are improving with the development of the technology behind solar energy.

But for solar energy systems, even if we improve efficiency by technological advancement, there are natural factors involved which we won't be able to improve.

Companies like Tesla Powerwall are advancing fast in the technology behind battery storage.

Efficient affordable battery storage can improve the efficiency of solar panels in the future.

5. Expensive Energy Storage

The huge installation cost of solar energy systems has been a major discussion for a long time now.

Energy storage cost is making the already expensive solar energy systems more expensive.

The solar battery is a new technology just like solar panels.

Its cost depends on the materials used in its manufacturing and how much power it can generate.

Solar cells need some rare materials like copper indium gallium selenide and cadmium telluride.

This will keep the prices of solar panels high even though the installation costs have been reduced over the years.

Solar panels needed to power a typical home would cost thousands of dollars which makes the power they produce more expensive than existing energy sources.

Governments are providing heavy subsidies to bring down the cost of solar panels, but this would just add to the burden of taxpayers.

Another thing to be considered is that the expensive batteries these solar panels use as a backup won't come under the warranty offered by the company.

So, the replacement of those batteries will be a huge expense for the homeowner in the future.

An interesting fact to consider here is that using energy from the grid at night and solar energy in the day will be a more cost-effective idea than spending money on expensive batteries for solar panels.

How Expensive Are These Batteries?

According to a recent [post in electrek.co](#), Tesla is charging \$64,634 for a 1,862 square foot solar roof which generates 9.45kW of power.

This price would go up after adding the cost of Powerwall and roof repair expenses which are estimated to be roughly \$10,050, and \$10,630

The cost of just the Tesla solar rooftop is around \$35 per square foot.

A Tesla Powerwall 14kWh battery will cost around \$7,100, including installation charges.

These batteries are best in the market, but very expensive.

LG's 9.3 kWh Chem RESU battery costs \$6,000 to \$7,000 without including the cost of an inverter.

For a normal four-bedroom house, it would need three Tesla Powerwall batteries for storing power for a single day which would cost around \$18,000 in total.

Even though the installation cost has been reduced with technological advancement over the years, it still has not reached that level where we can consider it as an affordable energy source.

6. Weather Dependence

It is a fact, that solar energy can't be converted to power during rainy and cloudy days.

We also know that solar panels are completely dependent on sunlight to function efficiently.

Considering these facts, it is obvious that the efficiency of solar energy systems falls considerably low on cloudy and rainy days.

In habitually foggy areas, the production of solar energy will be reduced as well.

[National Renewable Energy Laboratory](#) has postulated that solar resource during foggy or low-cloud conditions is approximately 10% of the value under clear-sky conditions.

Rainy states in the United States like Hawaii or Louisiana won't be a good choice for solar panel installation.

Power generation from solar panels depends on seasons as well.

In summer, the panels would get more sunlight and can produce more power while in winter, panels won't be able to generate enough energy to meet needs.

Factors That Affect Solar Panels

Factors like temperature variations, snow, and wind can affect solar panels badly.

Some studies show that after temperature rises above 87 degrees Fahrenheit, each one-degree rise in temperature will lead to a decrease in solar panel efficiency by 1%.

According to some studies, it shows that the efficiency of solar panels goes down by 50% if there is more cloud cover to block the sunlight.

[Thermodynamic panels](#) are considered as a solution to generate power at night and in winter as it depends on temperature rather than sunlight.

The solar panel installation team should be well aware of the wind patterns and weather conditions in the area.

This is necessary for determining the solar panels suitable for installation in those conditions, otherwise, it won't give the expected efficiency.

It's good news, that some solar panels are tested under extreme weather conditions and certified by [Underwriter Laboratories](#).

This will certainly help homeowners or companies interested in installing solar panels on their property.

7. Difficulty In Finding A High-Quality Local Installer

There aren't many popular companies in the solar energy sector.

It would be difficult to find even one reputable solar panel installation company in most communities.

Lack of competition in the solar energy sector gives customers fewer options to choose from.

Most homeowners have to depend on pushy salesmen from new solar panel companies who might not have enough knowledge of what they are doing and this might lead homeowners to bad deals which they regret later.

[Marketplaces like SolarSage](#) are good initiatives to help homeowners choose from multiple quotes on a single platform.

The report by the U.S Department of Energy's National Renewable Energy Laboratory suggests that homeowners need to compare as many solar energy options as possible before picking one.

Customers are more likely to go for big companies when choosing a company for their solar panel installation which mostly leads to disappointment in the solar sector.

The quotes offered by large solar installers and small ones have a huge difference of \$2000 to \$5000.

Leading consumers to pay more for the service than its worth.

These few companies are asking for long term commitments like 10 to 20 years which is too long for a homeowner.

Certifications like [NABCEP](#) will help consumers find better companies to purchase solar energy products with confidence.

8. The Lifespan Of Solar Panels

In a perfect scenario, if correct inspections and care have been done, the lifespan we can expect is around 35 years.

The average life span most customers may get is around 25 years.

Usually, solar panel manufacturers give a warranty of 25 years.

However, it's a fact that the power output of solar panels drops by 0.5% every year.

Since solar panels have a large surface area, chances for physical damages are high.

Heavy wind, snow, or other extreme climatic conditions can also increase the degradation rate.

Homeowners will need to do frequent maintenance and cleaning to get a better lifespan for their solar panels.

Solar panel degradation can happen by small cracks in silicon on solar panels causing issues in electrical connections.

When we compare these facts, with the expected life span of 80 – 100 years of some nuclear plant facilities in the United States, we can confidently say that the solar energy sector needs more research and development to be considered as a better alternative.

9. Difficult To Transfer

A solar panel can be transferred to another house when we consider this from a theoretical standpoint.

In reality, however, the transfer of solar panels is never advised and nearly impossible for a house or business.

Dismantling and refitting of solar panels is a very complicated process.

This process can cause extensive damage to the roof and panels.

Transferring solar panels will need huge installation, maintenance, and transportation cost.

Since solar panels use a lot of space and are tailored for a specific rooftop, chances are low that it can be installed properly on a new rooftop.

Subsidies won't be considered for the re-installation of solar panels.

So, chances are that the consumer will lose a lot of money in the process of transferring solar panels to a new house.

Solar panels are installed considering wind patterns, energy requirements, and many other factors.

These considered parameters may not match the new location of installation.

For homeowners who move around a lot, solar panels don't seem like a good investment.

10. Usage Of Water

Too much water is used in running solar energy systems.

Water is needed for cleaning collectors or concentrators of solar panels.

Some solar energy systems use water to cool down the turbine generators as well.

Since the locations of many large scale solar farms are in deserts, these farms can exploit the water resource to a high extent which may affect the plant and animal life in that area.

Solar farms that use cooling towers may use up to 650 gallons of water for every megawatt-hour produced.

Usage of water can be reduced by using Dry-cooling technology, but in that case, we will need to compromise on the efficiency of the solar energy system.

Dry cooling tech is not as effective as it is supposed to be when the temperature goes up above 100 degrees Fahrenheit.

The Nevada Solar One parabolic plant near Las Vegas consumes about 300,000 gallons per acre yearly.

In India, the government set an ambitious target to be a leader in the solar energy sector by producing 20 GW by 2022 to meet the domestic energy needs and challenges in climate change.

But some studies estimate the water requirements for operation and maintenance of these solar farms to be between 7,000, and 20,000 liters per MW per wash if the solar panels are cleaned weekly.

For a country that already uses too much water for farmers, it is nearly impossible to use that much amount of water to produce solar energy.

Final Thoughts

Considering the above-mentioned disadvantages of solar energy, it is safe to say solar energy is inefficient and unreliable.

The solar energy sector is not ready to be considered as a replacement for widely used energy sources like nuclear, coal, etc.

The cost of solar panels may seem reduced over the years, but we must look at the fact that the solar industry is standing tall on subsidies and mandates from governments.

Limited environmental benefits do not make solar energy an alternative energy source, it must be consistent and reliable.

Solar energy still needs backup systems which are not a good attribute of a better energy source for companies or industries that need a consistent reliable power supply.

Having said that, the concept of solar energy as an alternative source of energy is encouraging for someone who looks to the future.

With companies like Tesla investing heavily in R&D in solar energy, there are strong chances to see solar energy come out as a strong replacement soon.

November 7, 2025

To Whom It May Concern:

I am writing this letter in regards to the solar panel farms. I have been a McKenzie County resident for over 30 years. This letter will tell you the many reasons as to why I feel we should not be using solar panels as they have been proposed in McKenzie County. There is a growing concern of environmental and reliability aspects that need to be addressed.

- Solar energy is not 100% percent reliable, especially in North Dakota, and back up generators are needed so we are already relying on fossil fuels for this "green energy." This also applies to the manufacturing, installation, transportation of said solar panels.
- When solar panels break down or are damaged, the ground underneath get polluted because they contain cadmium and lead. Also, hydrochloric acid, sulfuric acid, gallium arsenide, and copper-indium-gallium-Di selenide, etc are all used the manufacturing process as well. If that wasn't enough, disposing of them also leaches these toxic elements into the soil.
- Recycling solar panels comes at a high cost and most companies just dispose of them to become a problem later. This would then become the governments problem and fall into the laps and pocketbooks of the taxpayer.
- Speaking of pocketbooks; governments are offering subsidies to bring down the cost of solar panels but adding more of this would just add to the financial burden of energy cost that is already happening.
- North Dakota is known for its beautiful views and its unpredictable weather patterns. These snowy, overcast, temperature drops and spikes will all affect the solar panel's ability to function correctly or at all. Our property values will drop within view of the solar panel farms because who wants to look at that when they drive by or out their front window of their house?
- These solar farms will impede migration of not just birds but also deer and other migratory animals. In the southwest corner of North Dakota, there is an incentive to remove woven wire because it impedes the movement of antelope. Do we not think that an entire field of reflective panels is not going to hurt the wildlife?

We need to be respectful of our wildlife and to the people who have been living in McKenzie County for decades and lifetimes. We do not want solar panel farms in our county.

Blaine & Jennifer Houland
13474 33rd St NW
Arnegard ND 58835

Dirk McWhorter

413 2nd St NE

Belfield, ND 58622

dirkdakfarm@hotmail.com

7 November 2025

To:

McKenzie County Planning and Zoning Commission

1300 12th Street SE Ste 214

Watford City, ND. 58854

Re: Opposition to the Proposed Cattle Creek Solar Project

Dear Members of the Planning and Zoning Commission,

I am writing as a concerned property owner in McKenzie County to voice my opposition to the proposed **Cattle Creek Solar Project**. While I recognize the value of renewable energy, this particular development is not appropriate for our area and would add yet another layer of industrial pressure to land and residents who have already endured significant impacts from previous energy projects.

For years, our community has dealt with the aftermath of oil development. Promises of proper reclamation and site maintenance were largely unfulfilled. Many former well sites remain in poor condition—overrun with noxious weeds, uneven grading, and standing water caused by inadequate drainage. These issues have diminished land productivity and harmed the local environment.

Road infrastructure has also suffered. Heavy oilfield traffic left county roads in disrepair, creating unsafe conditions and costly burdens for residents. Vehicle damage, travel delays, and safety hazards have become routine.

The Cattle Creek Solar Project itself acknowledges that the proposed site is “land historically in agricultural use with oil and gas encumbrances throughout.” Adding a 1,283-acre solar installation to land already compromised by prior development will only magnify these problems.

This project is industrial in scale. It calls for thousands of photovoltaic panels, inverter skids, transformers, stormwater basins, fencing, and access roads—transforming open farmland into a restricted energy compound. Such a development is incompatible with the rural character of our community.

Environmental concerns are equally troubling. Extensive grading and drainage work will disrupt natural water flow and soil stability, while fencing and restricted access will fragment wildlife habitat. Past experience with energy projects shows that reclamation often falls short, leaving invasive weeds and erosion behind. There is no reason to believe this outcome will be different.

Property values will suffer further. Both oil and solar projects diminish the scenic and agricultural appeal of nearby land. Residents are being asked to accept another industrial neighbor without any direct benefit. The electricity generated will feed into the Southwest Power Pool, not local homes, meaning our community bears the burden without receiving lower energy costs or tangible advantages.

Construction is projected to last two years, beginning in 2026, bringing noise, dust, and heavy equipment traffic. The developer mentions a future decommissioning plan, but no binding restoration commitments exist today. Given the oil industry's track record, this raises serious doubts about long-term land recovery.

Our community has already paid the price for energy development. Adding another large-scale project on land scarred by oil extraction is unreasonable and unfair.

For these reasons, I respectfully urge the Planning and Zoning Commission to **deny the Conditional Use Permit** for the Cattle Creek Solar Project and preserve the agricultural and natural integrity of McKenzie County.

Thank you for considering the long-term interests of our community.

Sincerely,
Dirk McWhorter
dirkdakfarm@hotmail.com

Mark & Bev Maki
PO Box 856
12905 17th St NW
Watford City, ND 58854

December 3, 2025

McKenzie County Planning & Zoning Committee
201 5th St NW
Watford City, ND 58854

Dear Members of the McKenzie County Planning and Zoning Committee,

We are writing to express our strong opposition to the proposed Cattle Creek solar project adjacent to our property and to urge the Committee to deny approval for this project. While renewable energy has a place in future infrastructure, the location, scale, and long-term consequences of this particular installation pose significant risks to our community, our land, and our local environment. The burdens of this project fall squarely on the landowners who live here, while the benefits are largely extracted by outside corporations reliant on temporary government subsidies.

Below are our primary concerns that we hope are fully acknowledged before any decision is made:

1. Loss of Productive Farmland

McKenzie County's agricultural land is among its most valuable resources. Converting farmland into an industrial solar installation removes land from food production for 30–40 years or more. Once this soil is compacted and sterilized, it becomes difficult, if not impossible, to restore to its original agricultural productivity. The loss of farmland is already at a deficit in our state.

2. Threats to Local Wildlife and Habitat

Solar facilities can profoundly disrupt wildlife corridors and habitats. Fencing, reflective surfaces, constant human activity, and noise alter the movement patterns of elk, moose, deer, birds, and smaller animals. Ground-nesting birds lose habitat. These impacts contradict the conservation priorities our county has long upheld, as well as the many programs being provided by Federal, State and local Game and Fish agencies.

3. Hazardous Materials & Long-Term Disposal Problems

Solar panels contain toxic and hazardous materials—including lead, cadmium, and other heavy metals—that pose contamination risks if damaged, weathered, or improperly disposed of. The solar industry still lacks reliable, cost-effective recycling solutions; most panels nationwide end

up in landfills despite claims of recyclability. Whose landfill will be the unfortunate recipient of this hazardous material?

Who will bear the cost and responsibility of disposal 20–30 years from now?

Experience nationwide shows that companies often dissolve or change ownership, leaving landowners or counties with cleanup liabilities they never anticipated. Will the owners of this company sign a personal guarantee for the disposal and clean up of this facility? And a lifelong personal guarantee of their future generations?

4. Unclear Responsibility for Maintenance and Abandonment

Solar companies frequently sell or transfer their assets over time. Without strict, enforceable decommissioning bonds, communities are left with abandoned equipment, environmental hazards, and costly cleanup efforts.

Our county deserves a concrete, legally binding plan that identifies:

Who maintains the site over the lifespan of the project

How long the company is financially responsible

What happens if the company fails, sells, or walks away

How full removal and restoration will be guaranteed

5. Potential Health Concerns

While the company tries to minimize risks, solar panels contain chemicals and heavy metals that can leach into soil and groundwater if panels break, degrade, or burn. Firefighters across the nation have raised concerns about toxic smoke released from burning panels.

With our families, livestock, and crops in close proximity, **any risk to soil, water, or air quality is unacceptable.**

6. Security Risks: Copper Theft & Vandalism

Large solar installations have repeatedly been targets of copper theft, vandalism, and illegal entry nationwide. Rural counties such as ours, without the ability for continual law enforcement presence often struggle to protect these sites.

This poses risks not only to property but also to nearby residents.

7. Significant Visual and Aesthetic Impacts

A massive solar array changes the character of rural land. The proposed placement—directly bordering private property—creates permanent visual pollution, obstructs natural views, and reduces the peaceful, open landscape residents rely on. This is not consistent with the rural heritage or values of McKenzie County. Plus, we already have the oil and it's here to stay. We do not need more environmental challenges in this county.

8. Reduction in Nearby Property Values

Studies and real-life examples across the country show that proximity to solar farms reduces neighboring land values. The loss of open views, increased traffic, industrial appearance, and perceived environmental concerns all contribute to decreased desirability for future buyers.

It is unreasonable that surrounding landowners should lose equity in their property because of a project they did not ask for and do not benefit from. We surely do not want to stand on our property that was purchased not that long ago, and see glaring solar panels.

9. Dependence on Government Subsidies, Not Market Viability

The financial viability of large-scale solar farms is highly dependent on government subsidies, tax credits, and incentives—not on actual market strength. When a project only exists because of temporary policy advantages, its long-term sustainability is questionable. Since these projects are government subsidized, and not cost effective without these subsidies, that means it is our taxpayer money paying for this project. With that said, maybe all bordering landowners should be given a royalty from this solar project.

If the economics collapse—as has happened with numerous solar operations nationwide—local communities are left with abandoned infrastructure and no accountability.

Conclusion

Basin Electric Power Cooperative is building its largest power plant to date between Epping and Ray, ND. This power plant will generate electricity via natural gas, which makes sense. Along with employment for several community residents. Their Pioneer Generation Station near Williston already supplies 407 MW of power. And to quote the Manager of McKenzie Electric, he made the point that the existing transmission system is adequate for the current energy needs of the area.

This proposed solar farm creates risks with minimal benefit to the local community. The long-term environmental, economic, aesthetic, and health consequences far outweigh the short-term gains of a subsidized energy project that primarily serves corporate interests rather than local residents.

We strongly urge the Planning and Zoning Committee to protect the land, property values, character, and safety of McKenzie County by denying permission for this project.

Thank you for your time and consideration. We respectfully request that this letter be added to the official record.

Sincerely,

Mark & Bev Maki



Opposition to the proposed Cattle Creek Solar

Ryan & Cheyanne Thompson

13544 28th St NW

Arnegard, ND 58835

Attn: McKenzie County Planning and Zoning Department

12/5/2025

Dear Board Members,

I wrote a letter 2 years ago in opposition of this solar farm and I have lost a lot of sleep since then. Before a permit is given for this solar farm, my husband and I would like the following questions answered:

- How much will this solar farm devalue the land around it?
- Is the EMF level from the inverters safe?
 - They say solar panels are “low exposure”. Studies done on bioeffects are clearly established and occur at very low levels of exposure to electromagnetic fields and radiofrequency radiation. Chronic base station level exposures can result in illness. This is because they interfere with normal body processes (disrupt homeostasis), prevent the body from healing damaged DNA, produce immune system imbalances, metabolic disruption and lower resilience to disease across multiple pathways. Essential body processes can eventually be disabled by incessant external stresses) and lead to pervasive impairment of metabolic and reproductive functions.
- Is there stipulations on who can buy this lease from ibV in the future? Will it end up in the hands of a foreign entity that is big enough to just pay the fines instead of follow any guidelines? (This happened to a farmer in VA, and now he is left with a “strip mine” You can read the entire article here: https://vchr.org/pdf/energix/news_articles/solar_dreams_turned_into_nightmare_for_wythe_farmer_swva_sun.pdf)
- What happens to the solar farm if ibV Energy Partners goes bankrupt and still has the lease? Who takes care of it then?
- Can heavy metals leach from the panels?
- Will this solar farm create a photovalic heat island?? Will that effect the farm land around it???
- How will this solar farm effect the wildlife? Are there protected prairie chickens in the area?
- What are the plans of a fire (2 have gone through this area in the last 6 years) I’ve read that burning solar panels are so toxic that everyone down wind has to be evacuated? What is the plan in place for that?

- Can you look our 3 young children in the eyes and tell them that the well water they drink will be safe with 1,283 acres of hazardous material above it??? That it won't leach into the soil, eventually contaminating our water? That they won't get cancer, chronic illnesses or die?

Thank you very much for reading and answering our questions. We do not believe this solar farm should be built in our beautiful county.

Respectfully,

Ryan and Cheyanne Thompson

Candy Lundgren

From: bison@restel.com
Sent: Tuesday, November 25, 2025 3:25 PM
To: Candy Lundgren
Subject: Re: Solar
Attachments: image001.emz; image007.emz

Candy: Sorry about that, should have signed it. Next time I will.

Thought I had missed the meeting, will try to get a letter together in support of the PV farm.

Is the meeting going to be live cast, so the snowbirds can join in?

Peter Skedsvold

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Beneath Solar Panels, the Seeds of Opportunity Sprout

Low-Impact Development of Solar Installations Could Be Win-Win-Win for Food, Water and Renewable Energy

April 1, 2019 | By Harrison Dreves | Contact [media relations](#)

On a humid, overcast day in central Minnesota, a dozen researchers crouch in the grass between rows of photovoltaic (PV) solar panels. Only their bright yellow hard hats are clearly visible above the tall, nearly overgrown prairie grasses—which are growing exactly as expected.

Bent over white, square frames, some of the researchers catalog the number and type of native plants growing on a square foot of land. Others press double-forked meters into the ground, measuring the soil moisture below the solar panels and in open ground. Nearby, beekeepers check on the health of local hives.

Their research is part of an ongoing study to quantify the benefits of a new approach to solar installations: low-impact solar development.



By 2050, utility-scale solar installations could cover almost 2 million acres of land in the United States. Traditional solar development would utilize this land for electricity and energy production.

Low-impact solar development, on the other hand, can also **improve soil health, retain water, nurture native species, produce food, and provide even lower-cost energy** to power homes and businesses.

To better understand the benefits of—and barriers to—low-impact solar development, the **Innovative Site Preparation and Impact Reductions on the Environment (InSPIRE)** project brings together researchers from the U.S. Department of Energy's (DOE's) National Renewable Energy Laboratory

(NREL), Argonne National Laboratory, universities, local governments, environmental and clean energy groups, and industry partners. The project is funded by DOE's Solar Energy Technologies Office.

InSPIRE Project Sites



Select from the options below to display all sites using that technology.

- ☐ Beekeeping
- ☐ Dryland Agriculture Co-location
- ☐ Solar-Integrated Greenhouse
- ☐ Beneficial Predators
- ☐ Native Vegetation
- ☐ Co-location of Solar and Agri
- ☐ Pollinator Habitat

Bees Benefit—and That's Just the Beginning

Traditionally, large solar installations are deployed on land that is first leveled, removing much of the topsoil and vegetation. After the mounting racks and solar panels are installed, the ground is covered in gravel or turf grass. With low-impact solar development, the ground may also be leveled in some places, but the topsoil is preserved. After the panels are installed, native and other beneficial vegetation—often friendly to bees and other pollinators—is planted.



A greener way to go green—NREL Analyst Jordan Macknick and Jake Janski of Minnesota Native Landscapes survey the Aurora Solar Project's low-impact installation (left). Compare that to a traditional solar installation at Ft. Carson Army Base in Colorado Springs, Colorado (right).

The deep roots of native vegetation retain more water than turf grass and gravel during heavy storms and periods of drought. They also help retain topsoil and improve soil health over time, even in "brownfield" areas with polluted soils.

Perhaps most importantly, native and flowering vegetation provides a habitat for native species, especially pollinators and other beneficial insects that can improve yields at nearby farms.

"One surprising thing is how rapidly and significantly pollinator-friendly solar has taken off in the states," said Jordan Macknick, NREL's lead energy-water-land analyst and principal investigator for the InSPIRE project. "Every state we work with wants more information on pollinator-friendly solar."

At several InSPIRE sites, local beekeepers and university and national laboratory researchers are tracking their bees' visits to the pollinator-friendly vegetation under the solar panels. The goal is to determine how vegetation at solar sites can benefit insect populations and to understand the extent to which pollinator-friendly solar installations can boost crop yields at surrounding farms.

The low-impact approach also benefits solar developers. For example, skipping the removal of topsoil reduces site preparation expenses. As prices continue to fall for solar panels and other hardware, nonhardware costs (including site preparation) will soon account for 20% of total utility-scale solar costs. Native vegetation, if selected appropriately, also requires less ongoing maintenance than traditional gravel or turf grass approaches, as there is less of a need for mowing or spraying.

Flourishing vegetation can even boost energy production from solar panels. Warmer temperatures can reduce the efficiency with which PV cells convert sunlight into electricity. The ground shading and increased evaporation provided by a healthy layer of undergrowth can actually cool solar panels, increasing their energy output.

“Low-impact solar development, including native and pollinator-friendly vegetation practices, provides numerous, stacked benefits in the form of ecosystem services, operational efficiency, and positive stakeholder relations.”
 —Margot Kreinick, director of sustainability, Enel Green Power North America (highlighting findings from INSPIRE test sites in Florida solar)

So, why isn't low-impact solar development more widely adopted?

"In a risk-averse industry, this is perceived as a risky practice because there haven't been any studies and there isn't any data to say that this works or that there can be benefits to the solar project," said

Macknick. "That's why we are doing the first systematic and robust research on low-impact solar development—to see what works and to quantify costs and benefits."

Low-Impact Solar Saves More Than Soil

At the Minnesota test site, Macknick and his colleagues have planted nine different seed mixes and are studying their impact on temperatures, soil moisture levels, energy production, and maintenance over several years. At sites in six other states, representing the country's diverse climates, similar research is underway.

To ensure research stays abreast of current industry practices, an InSPIRE stakeholder group called ASTRO (Agriculture and Solar Together: Research Opportunities) brings together researchers, solar developers, and government agencies to share the latest data and best practices. Ultimately, InSPIRE's research should yield actionable suggestions for the solar industry, answering questions such as "What seed mixes do we plant to minimize maintenance costs in certain climates?" or "How frequently do we mow?"











At InSPIRE's Massachusetts, Arizona, and Oregon sites, the team is testing a particular low-impact approach that adds food to the mix: agrivoltaics. Growing agricultural crops under the shade of solar panels uses water much more efficiently while shielding plants from the worst of the midday heat.

Agrivoltaics probably won't be feasible for large-scale, single-crop farms that rely on heavy machinery. But preliminary results already suggest it can significantly boost the yields of certain plants in hotter-than-average years. At the Arizona site, cherry tomato yields are doubled and require less water when grown in the shade of solar panels.

The solar energy generation also offers farmers a steady, additional source of income—a valuable assurance in a potentially volatile agriculture industry.

For states and municipalities with limited farmland, agrivoltaics offers another benefit. Gerry Palano, an energy program coordinator for the Massachusetts Department of Agriculture, has been working with cities and farmers to ensure new solar projects strike a balance between meeting the state's renewable energy goals and maintaining local agriculture.

Agrivoltaics could help offset the impacts of extreme weather by reducing water use, increasing food yields, and limiting the negative effects of heat on solar panels.

Low-impact solar development does require additional up-front planning and expenditures, but—according to the data gathered by InSPIRE researchers so far—offers surprisingly robust benefits over time.

Perhaps most importantly, low-impact solar development can make solar projects more responsive to the priorities and concerns of local communities.

Low-impact solar development isn't the only agricultural technology NREL is exploring. See how the Wells Fargo Innovation Incubator (IN²) program, managed by NREL, addresses agricultural technology in the food, energy, and water landscape.

—Story by Harrison Dreves. Photos by Dennis Schroeder. Video by Josh Bauer.

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STORIES

Soil health under solar panels

March 11, 2025



Image courtesy of Jack's Solar Garden.

As solar farms become more widespread, you might be wondering how they affect soil health. In the Midwest, many solar developments are sited on agricultural land due to the ease of construction on vast acres of relatively flat terrain.

If you're a farmer, you understand the importance of healthy soils. The health of your soils is crucial for crop yield, ensuring that there is food in your community and money in your pockets. They also function as a sink for carbon that would otherwise exist in the atmosphere.

Luckily, there is research showing that solar farms don't harm soil health, and can actually improve soil quality in many instances!

- **Solar farms can provide a much-needed break for farmland that has been in production for countless years.** Conventional agriculture practices such as tillage and regular application of pesticides and fertilizers can lead to a reduction in soil organic matter. Organic matter is the key ingredient for healthy soils, and losing it means spending more money trying to make up the difference with fertilizers.
- **Solar panels provide shade to the soil underneath, which results in cooler temperatures with better water retention.** Soils that can hold more water are less susceptible to runoff and erosion. The microclimate provided by the panels can also lead to an increased diversity of soil microbes. Microbial diversity can help with pest suppression and processing of organic matter.
- **Native vegetation increases organic matter, decreases soil compaction, and provides a habitat for pollinators.** Seeding native plants on solar farms is becoming common practice. There are even solar seed mixes with native plants chosen specifically for their shade tolerance. Penetration of the soil by plant roots creates increased pore space, which leads to less compaction of the soil. One Minnesota study found increases for all habitat and biodiversity measures at a solar farm planted with natives. Not only that, but the shade from the panels can delay the blooms of some plants and extend the window of pollination for nearby agricultural land.

- **Building solar on farms doesn't have to put a stop to agricultural production on the land!** There is a growing field of "agrivoltaics", the co-location of agriculture and solar (photovoltaics). The most common agrivoltaic practice is grazing sheep under solar panels. Solar farms with sheep grazing have seen improvements in organic matter up to 200% in less than seven years. Agrivoltaics can also include crop production. Crops like melons, pumpkins, grapes, lettuce, and broccoli have all been found to thrive on solar farms, and Purdue University is currently studying corn production under raised panels.

Most importantly, solar farms are not permanent. Leases with local farmers typically span 20 to 30 years. Think of it as a temporary "land bank", giving the soil ample time to rest and develop a rich layer of organic matter topsoil. At the end of the lease period, solar land can be converted back to farmland that is more productive than it is today.



Soil health matters to Indiana farmers, no matter whether they are leasing their land for solar deployment or installing solar themselves for their business use. Hundreds of Hoosier farms and rural small businesses are able to save money with solar energy, thanks to the Rural Energy for America Program (REAP). Got a moment? Help protect REAP by telling lawmakers how much you value programs like this.

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Do Solar Farms Damage Soil?

Solar energy has been a renewable energy source for many years to generate clean energy and lower electricity costs. Even though solar panels have been around since 1883, making them more effective, clean, and recyclable is still a work in progress.

There are a few considerations to make when picking your solar panels if you intend to put one on your farm or rooftop. Solar energy is being used to generate power, but the environmental effects of building and operating solar farms have not yet been well investigated.

It is essential to level the soil and remove partial vegetation during the development of solar farm. The time we live in is an agricultural age, and if you think **solar farms** would affect your soil, the answer is they won't, and you don't need to worry about that.

Solar panels are mostly made of silicon, the most abundant earth element. It plays


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that it has no harmful effects on the planet and it is safe to place solar panels near crops.

What Can You Grow Under Solar Panels?



You can plant a range of plants on your land underneath the solar panels, and it would significantly impact your vegetation, depending on the height of the ground mounts your place.

Solar panels don't dry up or heat anything beneath or around the array, which is good news for crops. The solar panels keep conditions more hospitable for certain plants and extend the growth seasons by keeping them cooler during the day and warmer at night.

The growth rate remained unaffected, and studies have revealed that the overall temperatures are roughly equivalent to what they would be in full sunlight.

One study discovered that 20% of the crops grew better than those grown in full sun when put under magenta panels. Additionally, they used less water and

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75% of the crops consumed by people worldwide are pollinated partly by insects, yet they are disappearing swiftly due to anthropogenic pressures and habitat loss. But by growing local plants, like wildflowers, prairie grass, or berries, you'll help protect the world's dwindling pollinator population and perhaps even improve the agricultural yields of nearby fields by increasing pollination.

Relationship Between Soil Health and Solar Panels



Scientists have found that areas usually used for agriculture share many of the same characteristics as the ideal locations for massive solar array construction. Solar panels can help your land manage remote properties where regular electric lines are difficult while supplying clean, economical electricity.

For many landowners, increasing solar production can diversify their sources of income and lower their overall operating expenses. Additionally, solar panels serve various functions, including running machinery and well pumps.

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informed decisions on solar panels. Their analysis suggests that adding solar panels might have some effects. Evidence shows that soil health is not significantly impacted by trace levels of chemicals used in photovoltaic panels.

Additionally, soil covered by panels was up to 10 degrees colder than uncovered soil, resulting in reduced CO2 levels. This is good for soil health, given the rising temperatures in various agricultural and residential locations.

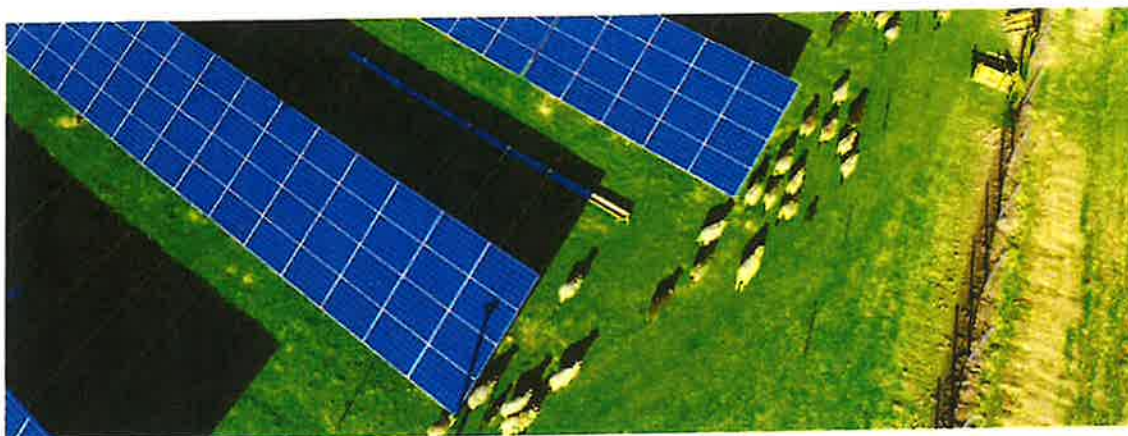
Effect of Solar Panels on Water Distribution

Soil health and PV arrays have been the subject of extensive investigation. Numerous studies have shown that soil beneath ground-mounted panels retains more moisture than nearby soil.

Additionally, the growing plants generate a cooling effect that makes solar panels work more effectively. Crop yields can be increased while reducing water use and increasing energy independence due to the impact of solar panels on soil moisture.

The runoff redirection from panel surfaces is another thing you should consider. You can also use rainwater for irrigation if you make a proper route for water; it will reduce the demands on the solar agriculture farm.

Integrating Grazing With Solar Panels for Better Soil Health


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Researchers have looked into grazing small livestock on land under solar panels. Mainly sheep prosper in these circumstances. Pollinator-friendly flora beneath panel arrays enhances soil quality and contributes to higher crop yields.

An analysis of solar sites has found that the soil under PV panels has higher amounts of carbon and nitrogen without compaction, which is beneficial for the soil and plantation of that land.

Benefits of Solar Panels on Soil and Crops

The locations with solar panels offer significant agricultural advantages in stormwater, crop pollination, and soil just by utilizing the proper seed mixture. Furthermore, in contrast with monocrop turf grasses, which are typical on solar sites in some parts of the regions, it is anticipated that a mix of prairie plants will offer improved hydrologic performance.

Native forbs and grass on the land where solar panels are mounted benefit the soil. These native plants restore the soil with organic matter and provide superior stormwater management. This allows soil fauna and microbes to recover after years of severe compaction, fertilizer application, and pesticide use.

Additionally, when native plants eventually eliminate weeds, they'll maintain the ground cover with just one yearly mowing, which lowers operating expenses.

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Landowners and other agricultural industry stakeholders have become aware of solar panels' advantages and use them to diversify their revenue streams and lower their energy costs.

Impacts of Solar Panels on Animals



You might be asking whether it's okay for domesticated animals to approach or go underneath the ground-mounted solar system if you grow cattle or poultry on that land.

Although it is safe for animals to graze close to the solar panels, if cables are chewed, there is a risk of damage. Larger animals like cattle might jump on the panels and damage the system.



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your farm animals to graze.

Overall Benefits of Solar Farms



Solar energy technology has made tremendous strides in recent years. Solar energy is the most economical and environmentally friendly energy source available today. Just a few of the advantages of solar farms are listed below:

- Solar power plants don't pollute the environment. While some emissions are involved in building a solar farm, they are minimal compared to the majority of conventional energy sources.
- Solar farms use a dependable and clean energy source. The sun will continue to exist for the foreseeable future. You cannot say the same about other energy sources like fossil fuels and coal.
- There is a potential for solar farms across the globe.

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Solar farms not only improve the quality of soil, but also contribute to higher crop yields. Studies have found that the soil beneath the PV panels contained more nitrogen and carbon without being compacted than in equivalent, non-grazing locations.

If you want to go solar and produce clean and green energy, **contact** Coldwell Energy to learn more about our **commercial solar services**.



About Us

Coldwell Energy has been a leader in renewable energy & construction since 1986 offering expert energy services – including solar, battery storage, EV charging, and efficient lighting – for commercial, industrial, and agricultural businesses.

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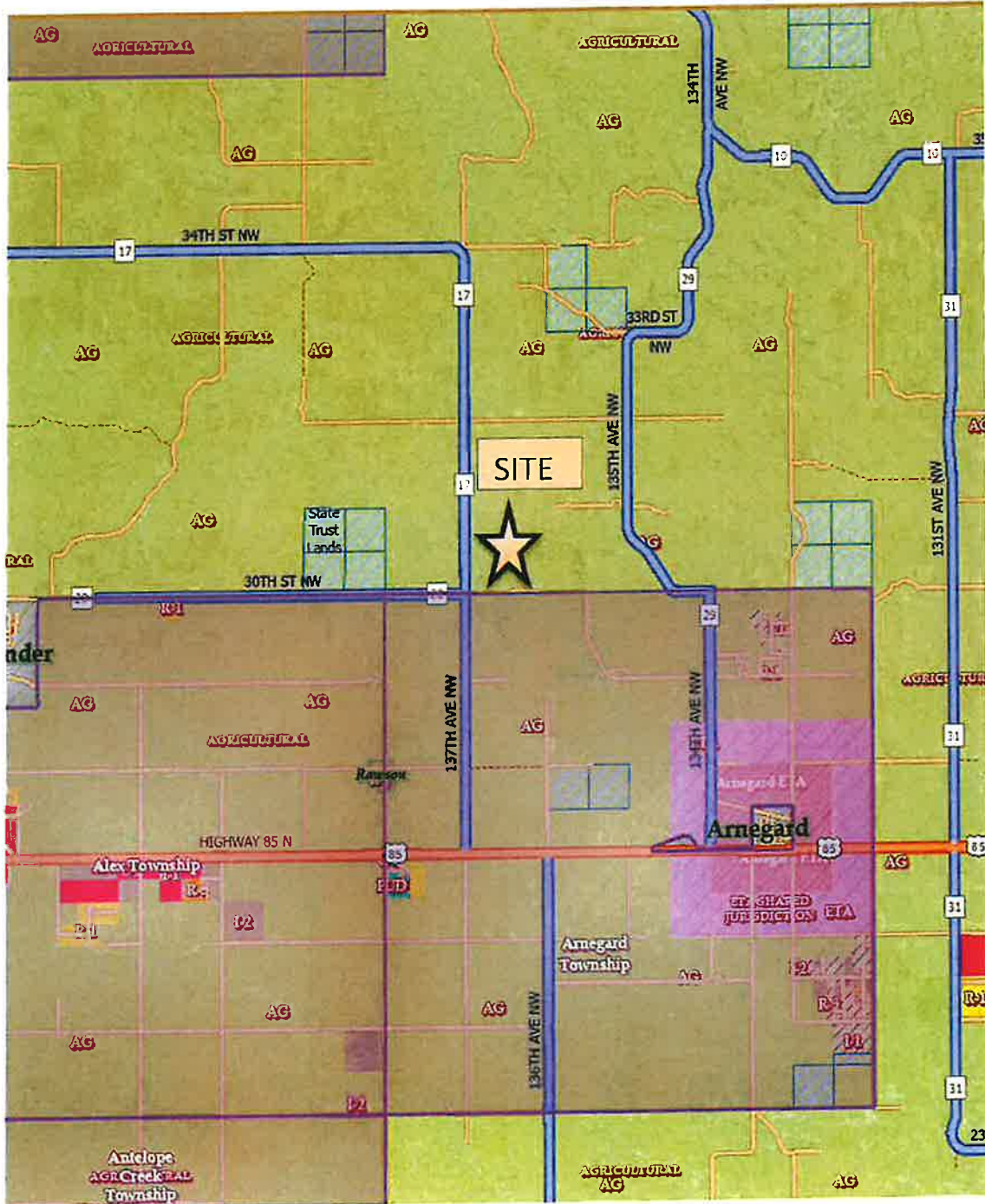
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#21-25CUP IBV Energy

PID # Varied

T-150N and T-151N, R- 100W

Vicinity MAP

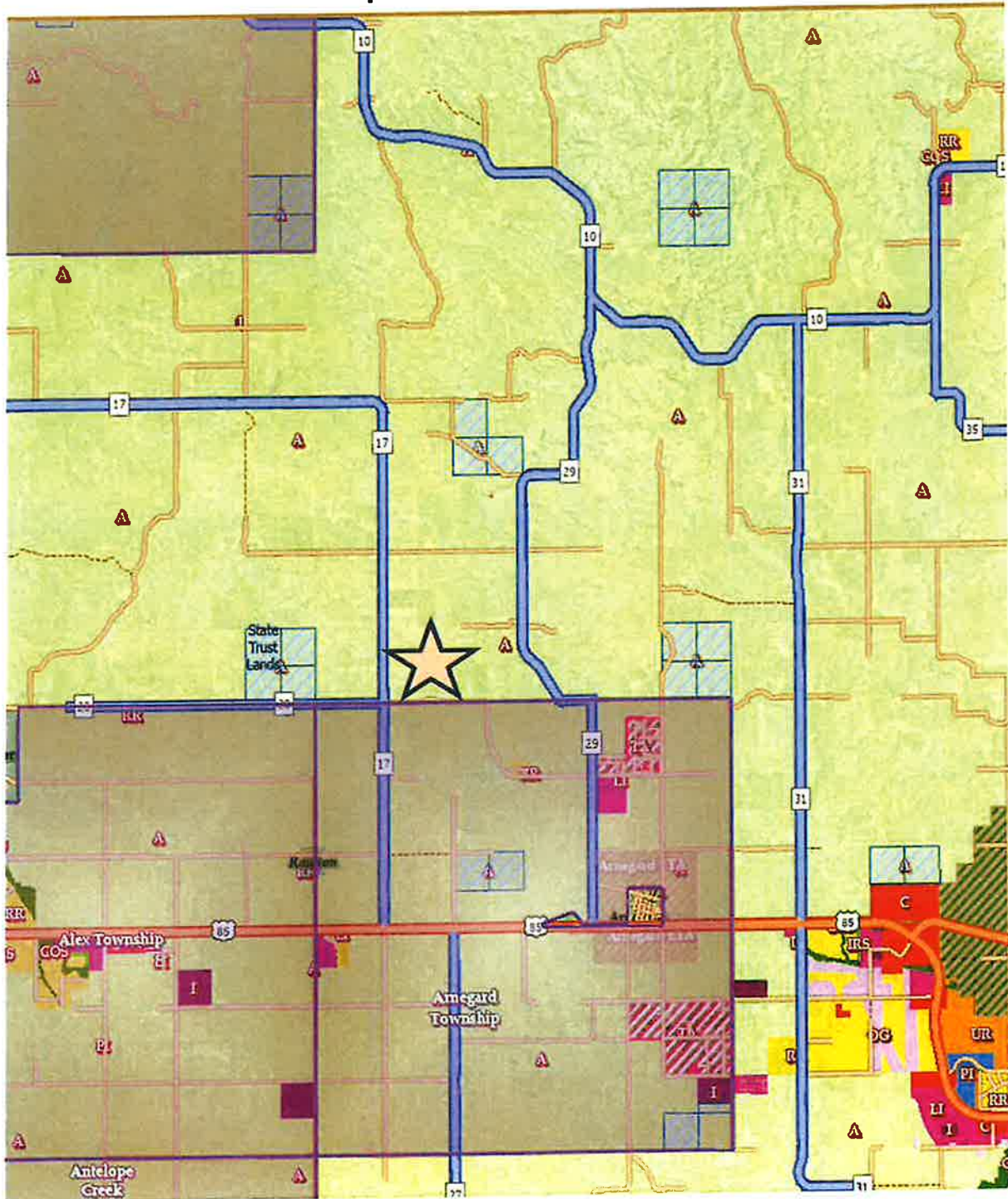


#21-25CUP IBV Energy

PID # Varied

T-150N and T-151N, R- 100W

Current Comprehensive Plan Map-Agriculture

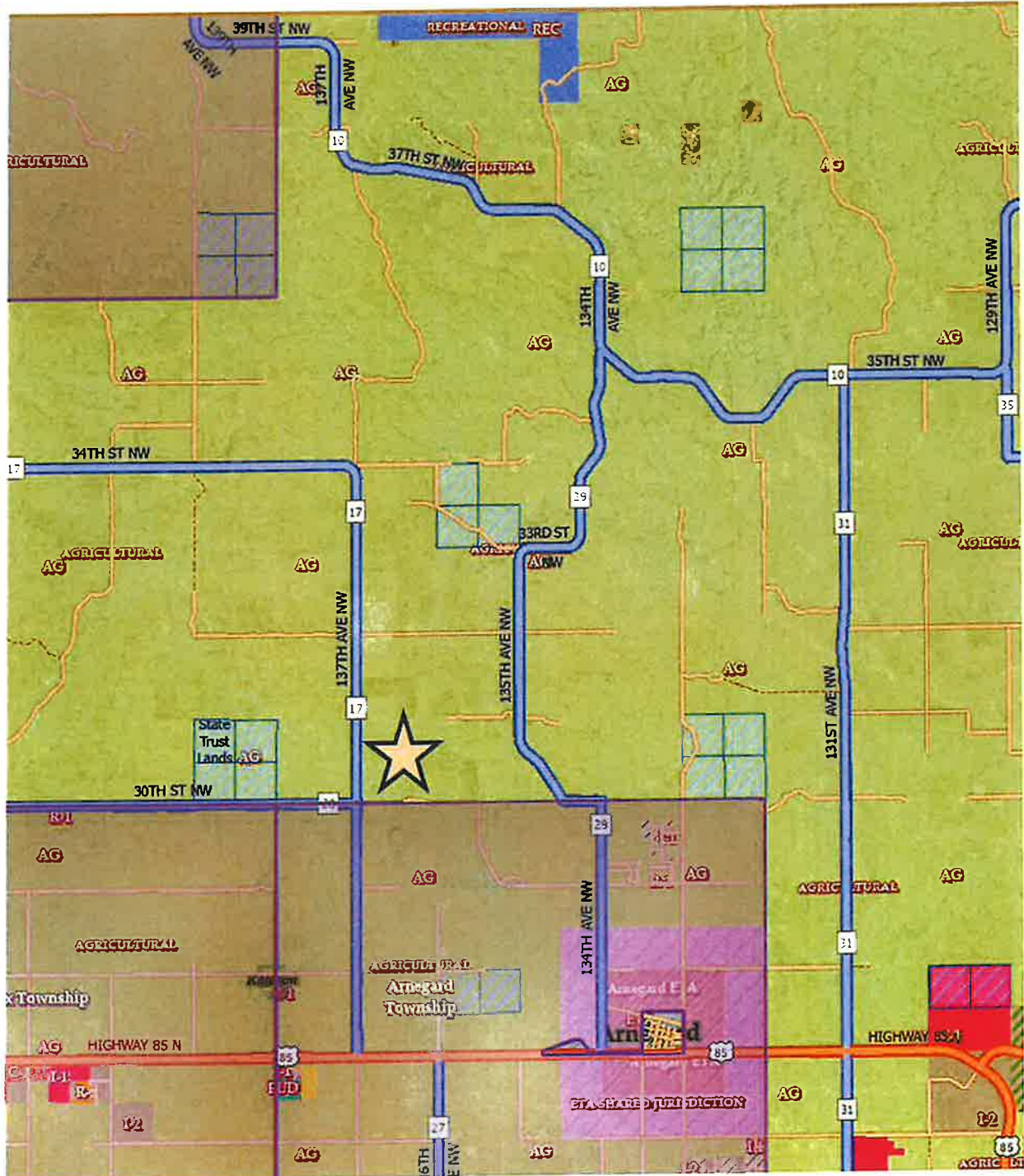


#21-25CUP IBV Energy

PID # Varied

T-150N and T-151N, R- 100W

Zoning Map-Agricultural





Planning and Zoning Commission

#22-25CUP - Blue Diamond Proppants

Application:	November 11, 2025
Hearing Date:	December 8, 2025 Tabled, February 9, 2026
Description:	15592 36th St NW, Cartwright, S: 34, T: 152, R:103, PID #'s 210026300, 210026550, and 210026100 in McKenzie County, ND
Owner(s)/Applicant:	Douglas Gullikson/ Logan Hubbard - Blue Diamond Proppants
Reason for Request:	Applicant wishes to have an operation for frac sand production, including mining frac sand in 9 phases that are 20-acres each and a sand washing/drying facility.

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. All requirements for public notification have been satisfied.
2. Staff has received public comment.
3. Property is located in an organized Township and has Sioux Township Approval with the following Conditions: First condition is that prior to construction of the mine commencing, Applicant is to improve 153rd Ave NW and 36th St NW to local township road standards via a Road Improvement Agreement with Sioux Township. Second condition is that prior to construction of the mine commencing, Applicant needs to enter into a Haul Road Agreement or Road Use Agreement with Sioux Township for 153rd Ave NW, 36th St NW, and 152M Avenue NW.
4. Applicant is not the landowner, but has landowners permission to apply for this permit.
5. Applicant has an approved weed permit from the McKenzie County Weed Department.
6. Applicant has reached out to McKenzie County Road and Bridge, and has applied for required permit.
7. Applicant has approval from the 911 Coordinator.
8. Applicant has approval from Emergency Response Manager.
9. Applicant has reached out to Division of Water Quality.
10. Applicant has approval from Sioux Yellowstone Fire District.
11. Applicant has provided a map of the proposed mining areas divided into 9 phases of 20-Acres each.
12. Applicant will be required to reclaim each 20-acre phase prior to opening a new one.

13. Parcel # 210026300 has 2 existing buildings that applicant wishes to utilize. One building as an office building and the other as maintenance shop and inventory storage.
14. Surrounding Zoning is Agricultural.
15. Use is conditionally allowed in the Agricultural District.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The establishment, maintenance or operation of the conditional use could be detrimental due to the proximity of a residential home close to the frac sand production proposal. The closest home is 350 ft. from the parcel line and approximately 1047 feet from the proposed mining area.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The proposal will temporarily impact the agricultural viability of the project area. However, the site will be conditioned to include reclamation after each 20-Acre phase is completed prior to starting any other phase, and be completely returned to it's former state after project is complete.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

Once the frac sand production is no longer in use, the land will be remediated back to its agricultural state and will not impede the normal development of surrounding properties. Agricultural use adjacent to the project will not be impeded with conditions that require dust control onsite and along the access route to the project site.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Applicant is working with McKenzie County Road and Bridge to ensure proper permitting for the requirement.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Ingress and egress will be permitted per McKenzie County Road and Bridge.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Applicant shall abide by all federal, state, and local regulations.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend Approval of Conditional Use Permit #22-25CUP Blue Diamond Proppants to have an operation for frac sand production to the Board of County Commissioners, Adopt the findings and conditions as provided in the Staff Report.""

Conditions:

1. The applicant shall mark the site with a (4' x 8') sign visible from the road per McKenzie County Land Development Ordinance Section 2-20 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County Commission approval.
2. Maintain weed control as approved by the McKenzie County Weed Control Officer
3. The applicant shall adhere to all State laws, regulations, and conditions for the operation of the proposed facility.
4. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2-13-3 (B) of the McKenzie County Land Development Ordinance. The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures, all underground structures to a depth of four (4) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and reseed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.
5. Per the McKenzie County Land Development Ordinance, The estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director.
6. Applicant must reclaim each 20-Acre phase as outlined on the map provided by applicant before moving on to the next section. It is understood that topsoil from the next phase will be used to reclaim previous phase.
7. Applicant must call McKenzie County Planning and Zoning to schedule an inspection with the Code Enforcement Officer after each reclamation prior to moving on to any other phases.
8. Have a 100' knock off zone on site, the knock off zone shall include a cattle guard or other approved method to remove debris from the tires of the trucks, and shall make sure mud is not being tracked onto the highway. Applicant shall be responsible for cleaning up any and all track out that may occur on the highway.
9. Applicant shall post a sign at the exit that reads: All loads exiting the area must be tarped and or otherwise covered. It is the responsibility of the driver to insure the tarping or covering of all loads.

10. The applicant shall not deposit any snow or water onto the neighboring properties.
11. No trailers or workforce housing is allowed on site.
12. Building and/ or SKID Permits must be obtained for all proposed structures onsite.
13. Applicant must enter into Road Improvement and Haul Road Agreement for 153rd Ave NW, 36th St NW, 152M Ave NW with Sioux Township for maintenance above and beyond McKenzie County's routine maintenance prior to construction.
14. Per Sioux Township approval, prior to construction of the mine commencing, Applicant is to improve 153rd Ave NW and 36th St NW to local township road standards via a Road Improvement Agreement with Sioux Township.
15. Per Sioux Township approval, prior to construction of the mine commencing, Applicant needs to enter into a Haul Road Agreement or Road Use Agreement with Sioux Township for 153rd Ave NW, 36th St NW, and road 152M Ave NW.
16. Per Sioux Townships request, applicant must install and utilize the private speed control system that was presented at the Blue Diamond Proppants informational meeting held on January 5, 2026 with Sioux Township. This system may NOT be placed on the public right of way.
17. Traffic impact study must be completed prior to construction
18. Dust control both in and out of the pit per 4-14 (G) Dust Control: Best management practices should be implemented to control the dust associated with surface mining. Dust palliatives should be implemented to reduce dust on internal road systems. If direct access to the site is off a non-County Road, the owner and operator of the site shall apply dust palliatives to the road at least one-quarter (1/4) of a mile in each direction of all access points and must be applied each year prior to May 31 and again before August 31. When the owner and operator of the site is required to apply dust palliatives to non-County Roads, receipts or other appropriate proof that dust palliatives were applied shall be submitted to the Planning Department. of the McKenzie County land Development Ordinance.
19. Access on the private roadway into the site must be maintained for 911 purposes.
20. Applicant shall not mine more than 1 million tons of sand per year.
21. This Conditional Use Permit is for the mining of Sand only, no other materials may be mined under the terms of this permit. A separate permit would be required for the proposed mining of any additional materials.
22. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5-13-11 of the McKenzie County Land Development Ordinance.
23. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.
24. Applicant shall submit a stormwater management plan and erosion control plan to the Engineering Department in accordance with Section 2-17 and 2-18 prior to construction commencing. Storm water management plan and erosion control plan shall be approved by the Engineering Department prior to construction commencing.
25. Applicant shall provide the county Planning and Zoning Department with all Federal and State approvals and denials along with any violations relating to the project for the entire duration of the project.

26. All Security lighting shall be downward facing and shall not glare on the adjacent property or the public travel way.
27. Applicant shall provide a medium density buffer yard, per McKenzie County Land Development Section 2-12-7 Table 2-5 and Section 2-12-5 Table 2-2 planting size requirements.
28. All set backs are to be met for all portions of the operation.
29. All open pit mining operations shall be set back a minimum of 100 ft. from the ROW or road easement line or 133 ft. from a section line whichever is greater.
30. Site shall be inspected annually to ensure compliance with the listed conditions. Any violation could result in possible revocation of permit.

Public Comments

Brooke Simons

From: andyb grahamandsonsnd.com <andyb@grahamandsonsnd.com>
Sent: Friday, December 5, 2025 10:14 AM
To: Brooke Simons
Subject: Frac sand mine

Good day my name is Andrew bednarik I live at 152nd Ave NW Cartwright ND 58830 I have many concerns about this proposed project they have stated at the township meeting that will be taking a million tons a year for the next 35 years out of this location if so what is the plans for the road improvements like pavement and turn lanes on county 16 hours of operation are a concern as well as it is next door to my residence and continuing reclamation and dust control as the stated they want to open up 300-600 acres of sand without proper regulations that could turn into a massive dust bowl thank you for your time

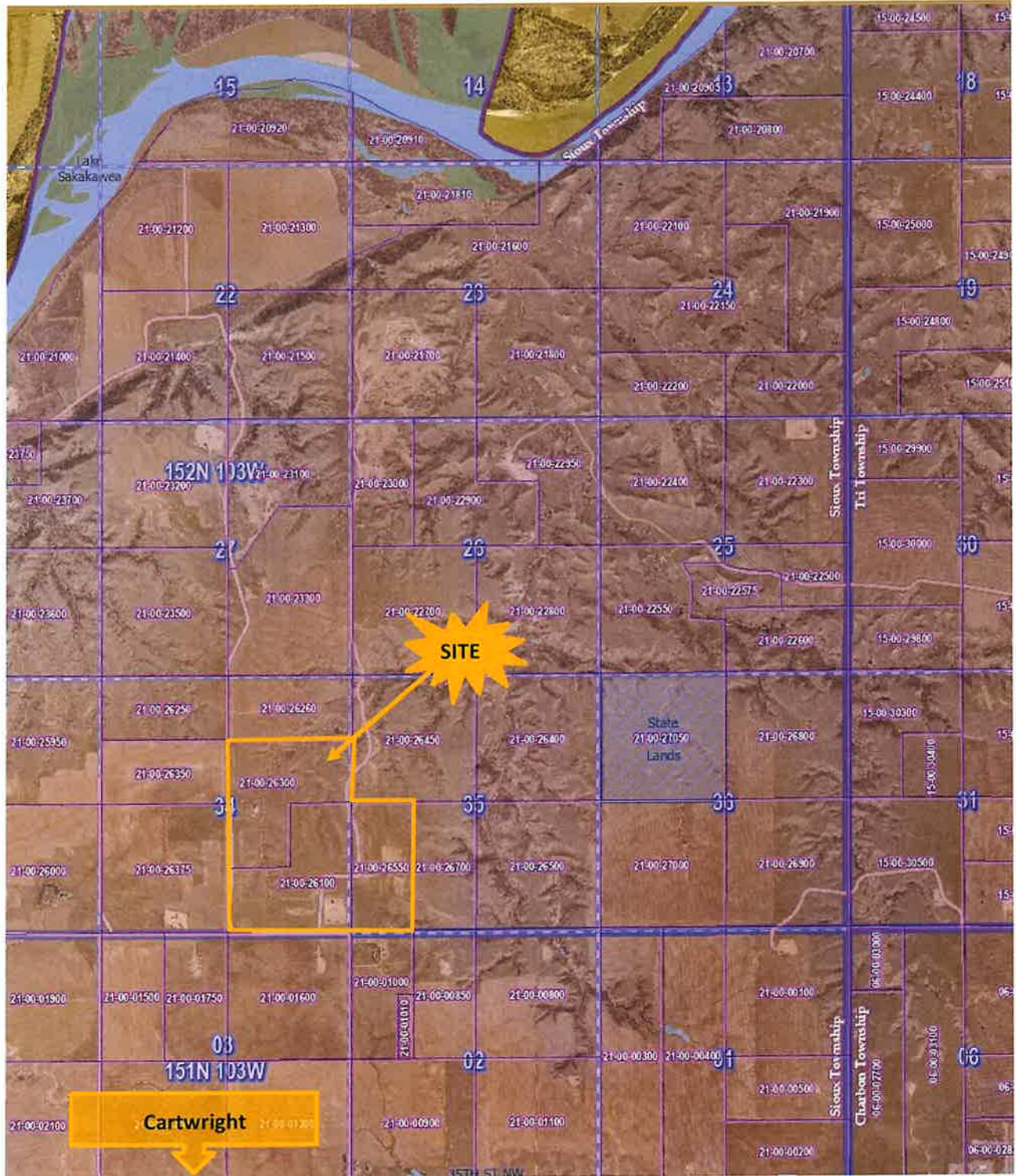
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#22-25CUP

PID # 210026300, 210026550, 210026100

S: 34,T: 152,R: 103

Vicinity MAP

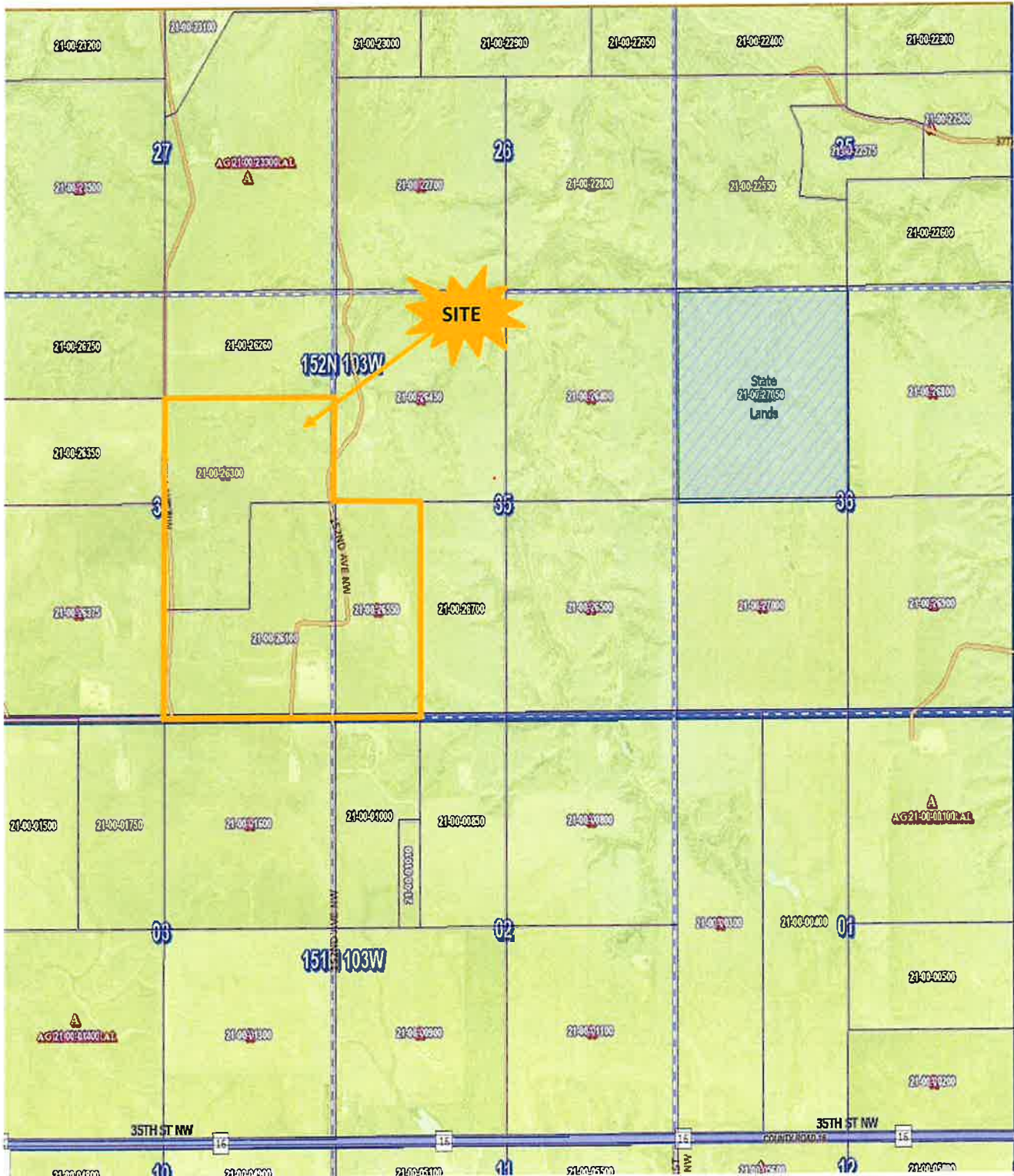


#22-25CUP

PID # 210026300, 210026550, 210026100

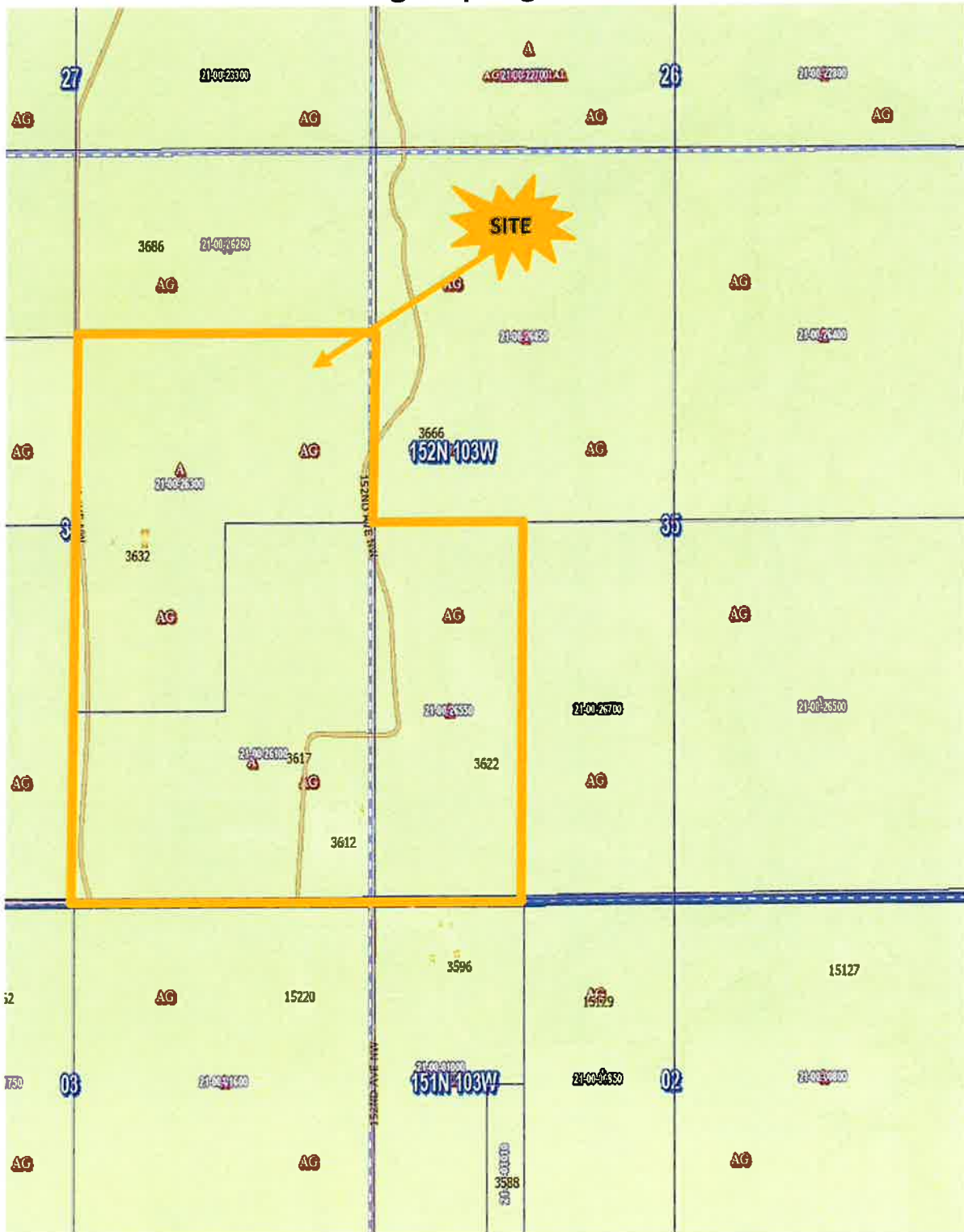
S: 34,T: 152,R: 103

Comprehensive Plan Map- Agricultural



S: 34,T: 152,R: 103

Zoning Map- Agricultural



S: 34,T: 152,R: 103

SITE MAP

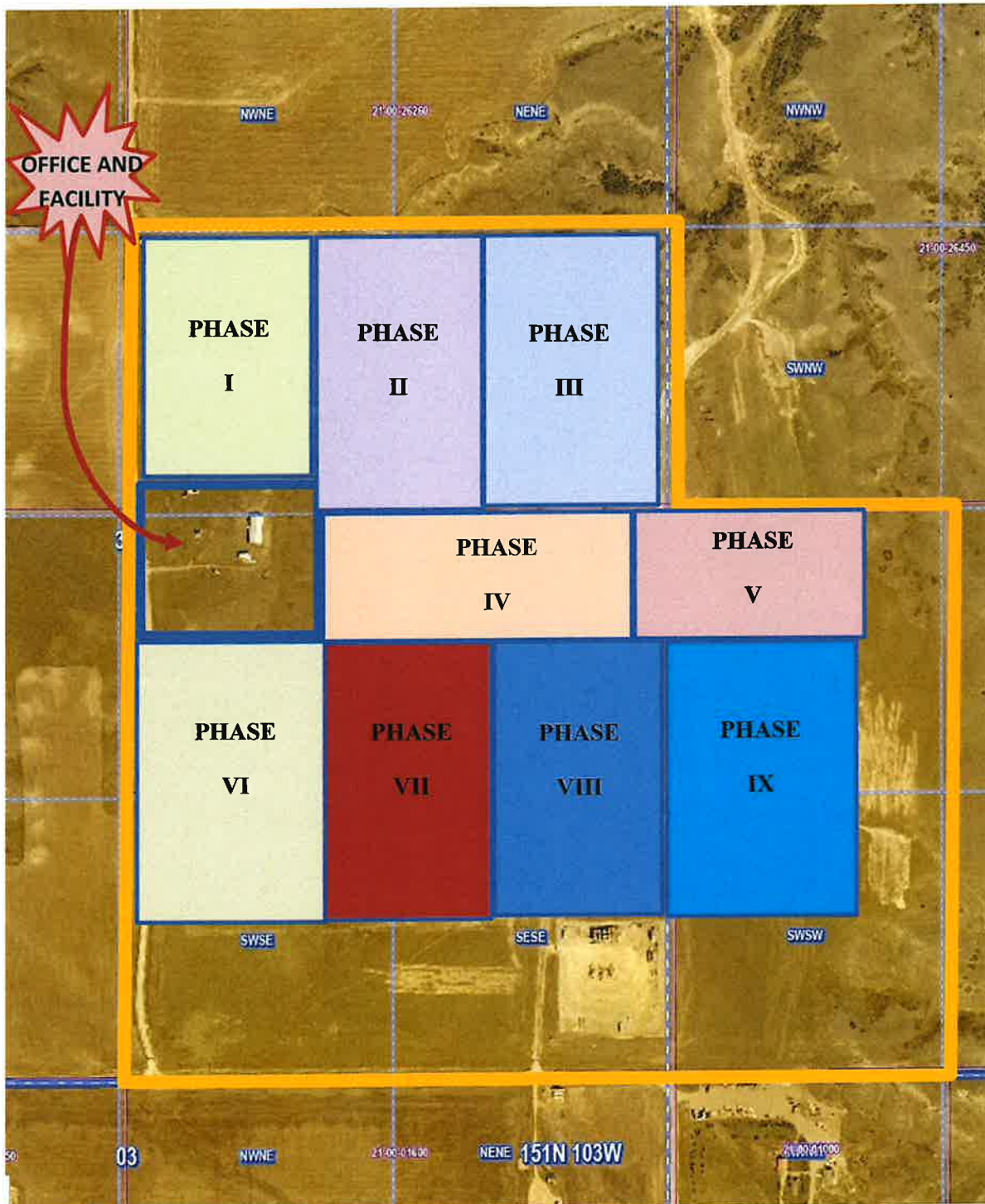


#22-25CUP

PID # 210026300, 210026550, 210026100

S: 34,T: 152,R: 103

PHASE MAP

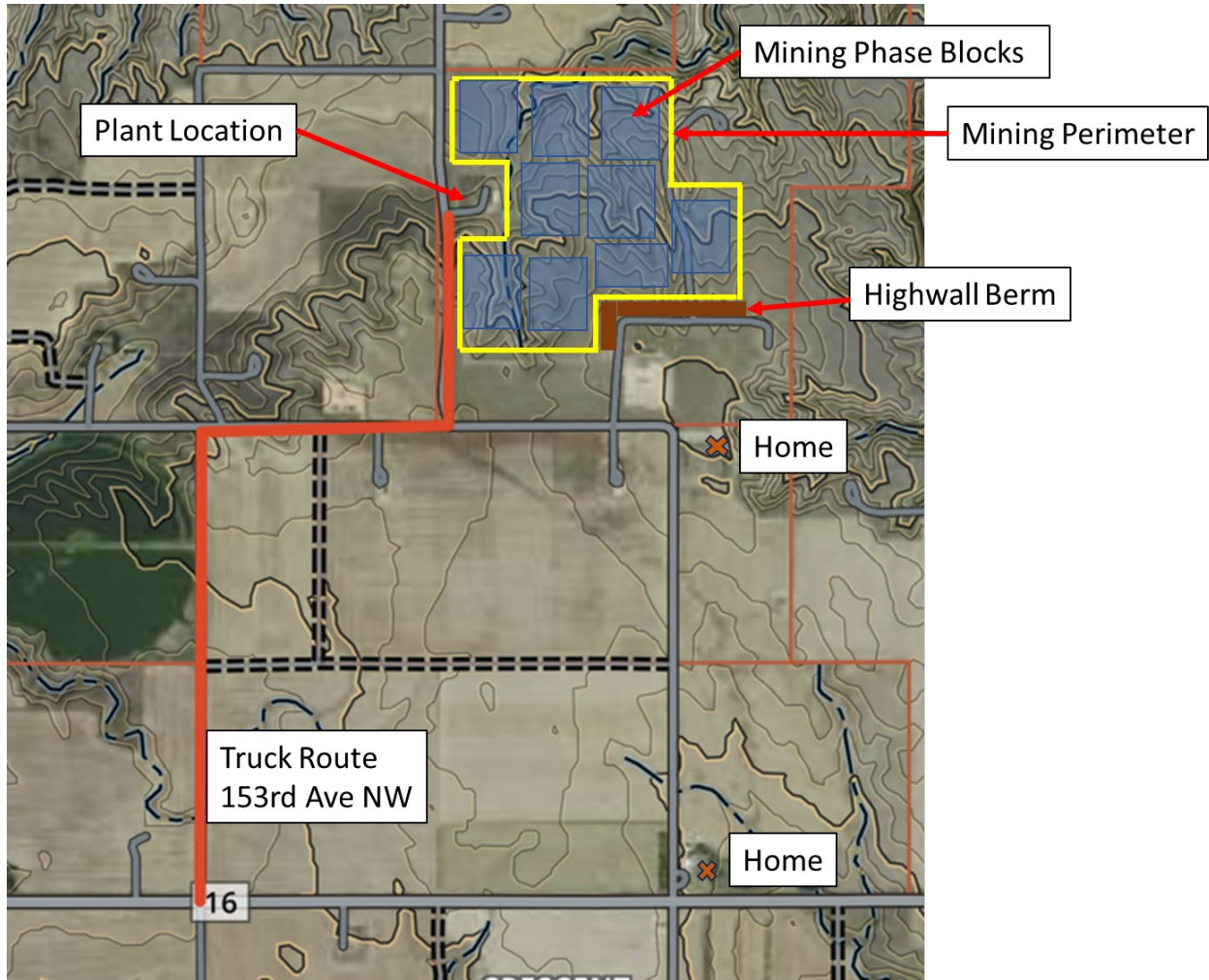


#22-25CUP

PID # 210026300, 210026550, 210026100

S: 34,T: 152,R: 103

Example of Site Layout and Traffic Route



McKENZIE COUNTY

Planning and Zoning Commission

#01-26VAR - Roxey Barnhart

Application:	January 15, 2026
Hearing Date:	February 9, 2026
Description:	W1/2 SE1/4 EX .18 A RW & EX ITS 2173 & 2175 IN SWSE E1/2 SW1/4 EX.52 A RW IN SESW of S: 6, T: 150, R: 101, PID 010002900 in McKenzie County, ND
Owner(s)/Applicant:	Heggen Family Trust/ Roxey Barnhart
Reason for Request:	Applicant wishes to split off a lot less than 5 Acres, approximately 4 acres, in the Agricultural District. The applicant is purchasing the property and has no option for a larger lot.

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. All Requirements for public notifications have been satisfied.
2. Staff has received no comments.
3. Property is located in an organized Township and has Alex Townships approval.
4. Applicant is not the landowner, but has landowners permission and is being required by the existing landowner to apply for this Variance as part of the purchase agreement.
5. Applicant has reached out to EMS.
- 6 Applicant has reached out to 911 Coordinator.
7. Applicant has reached out to Emergency Response.
8. Applicant has reached out to McKenzie County Road and Bridge.
9. Applicant has an approved Weed Permit from the McKenzie County Weed Department.
10. Applicant has reached out to North Dakota DOT.
11. Surrounding Zoning is Agricultural.
12. Per the McKenzie County Land Development Ordinance the minimum lot size in Agriculture is 5 Acres.
13. The original parcel # 01-00-02900 is approximately 123 acres.

14. The 4 acre lot will ultimately be merged with 2 additional lots resulting in a lot approximately 29 acres which is allowed in the Agricultural District.

15. This is a hardship for the applicant as she purchasing the property and has no option to have a larger lot.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

This Variance will not detrimental to or endanger the public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The surrounding area is Agricultural and will not diminish property value or enjoyment of other properties

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding are use is Agricultural, splitting the lot would not adversely affect the surrounding area.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Applicant has all adequate utilities and road access permission.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

The majority of surrounding land use is Agricultural and will have no disturbance to the area.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Proposed lot split will be merged with 2 other existing parcels.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend Approval of Variance #01-26VAR to allow a parcel less than 5 Acres in the Agricultural Zone to the County Board of Commissioners, Adopt the findings and conditions as provided in the staff report."

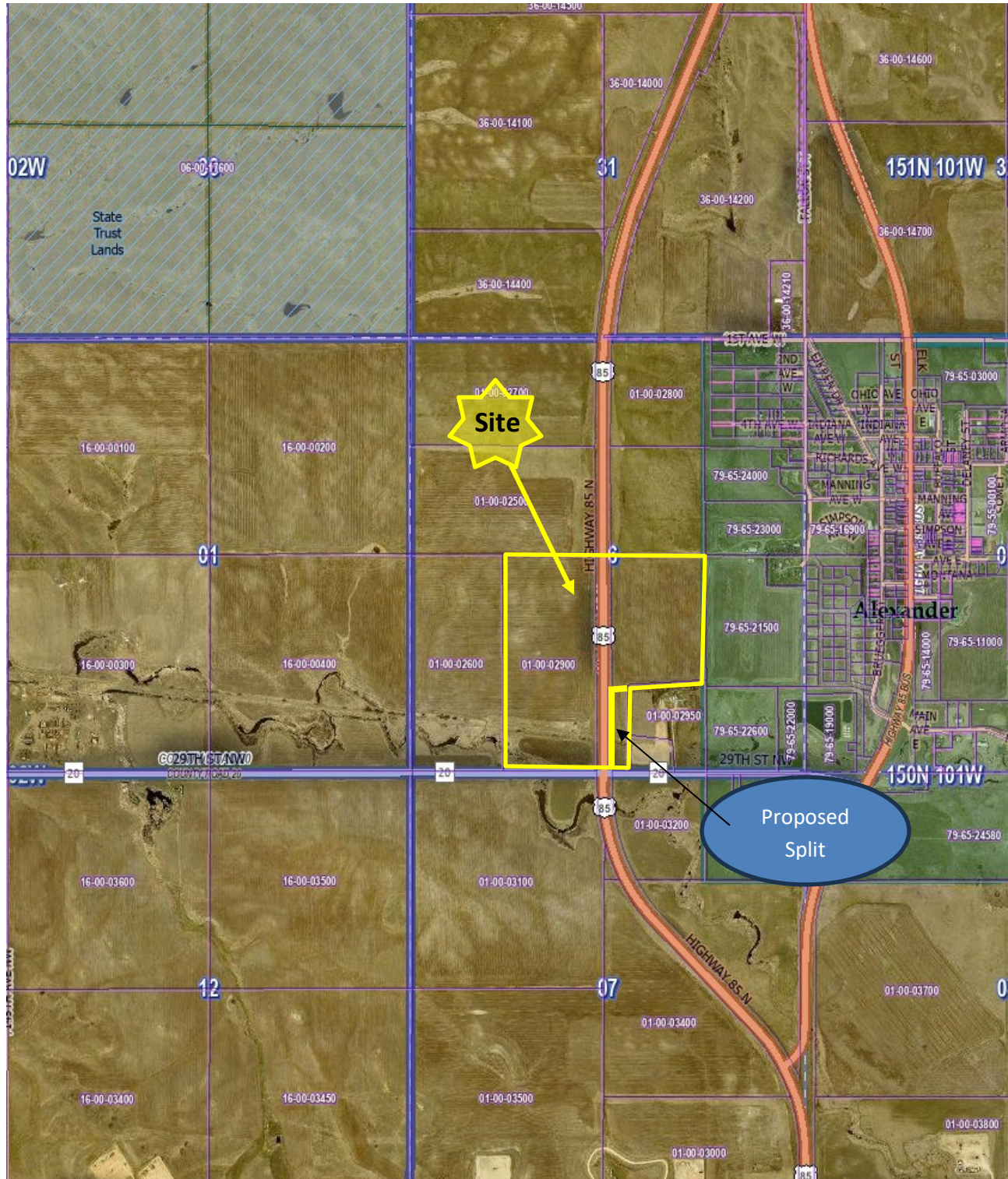
Conditions:

#01-26VAR

PID # 01-00-02900

S: 6, T: 150, R: 101

Vicinity MAP

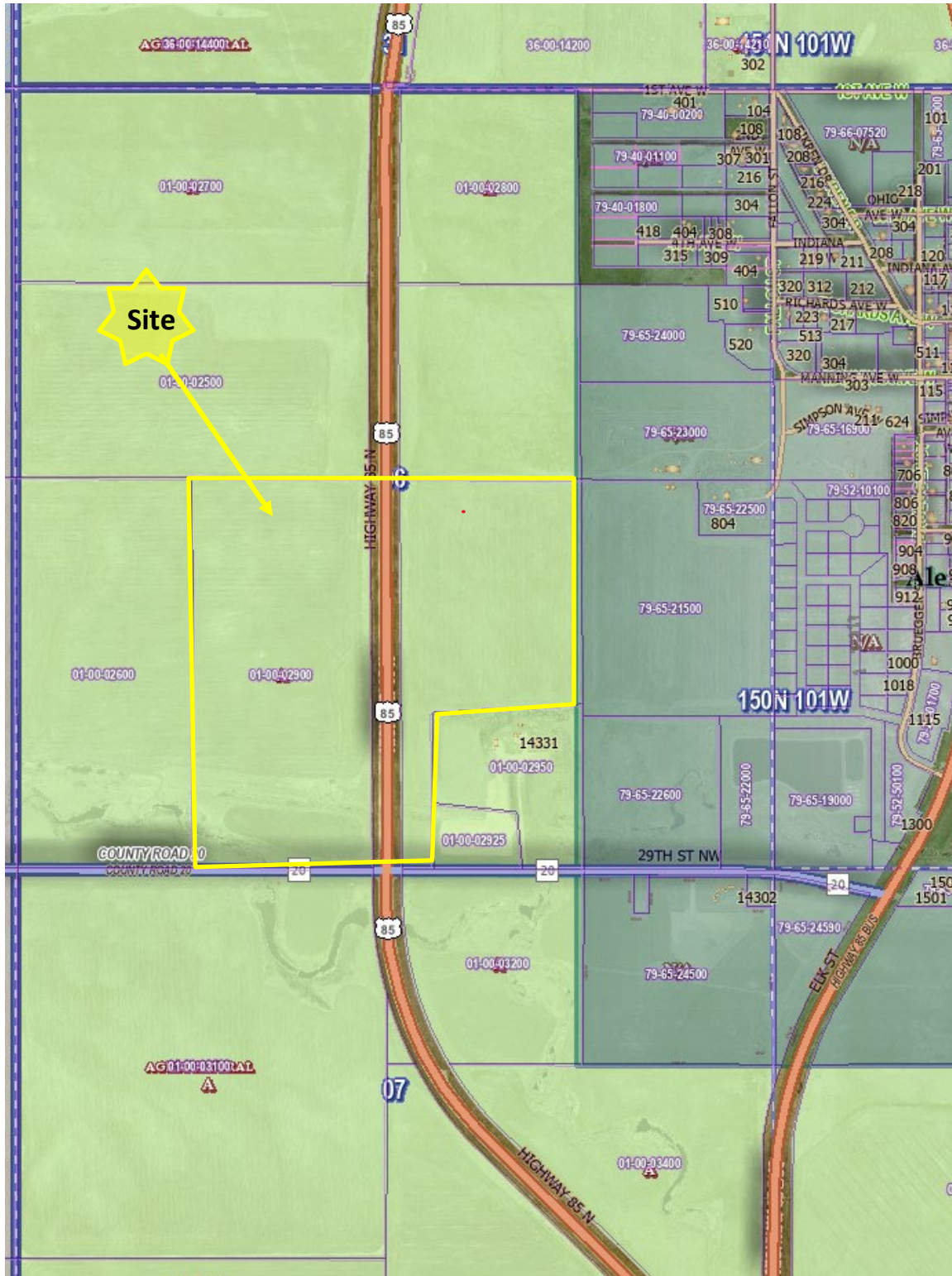


#01-26VAR

PID # 01-00-02900

S: 6, T: 150, R: 101

Comprehensive Plan Map- Agricultural

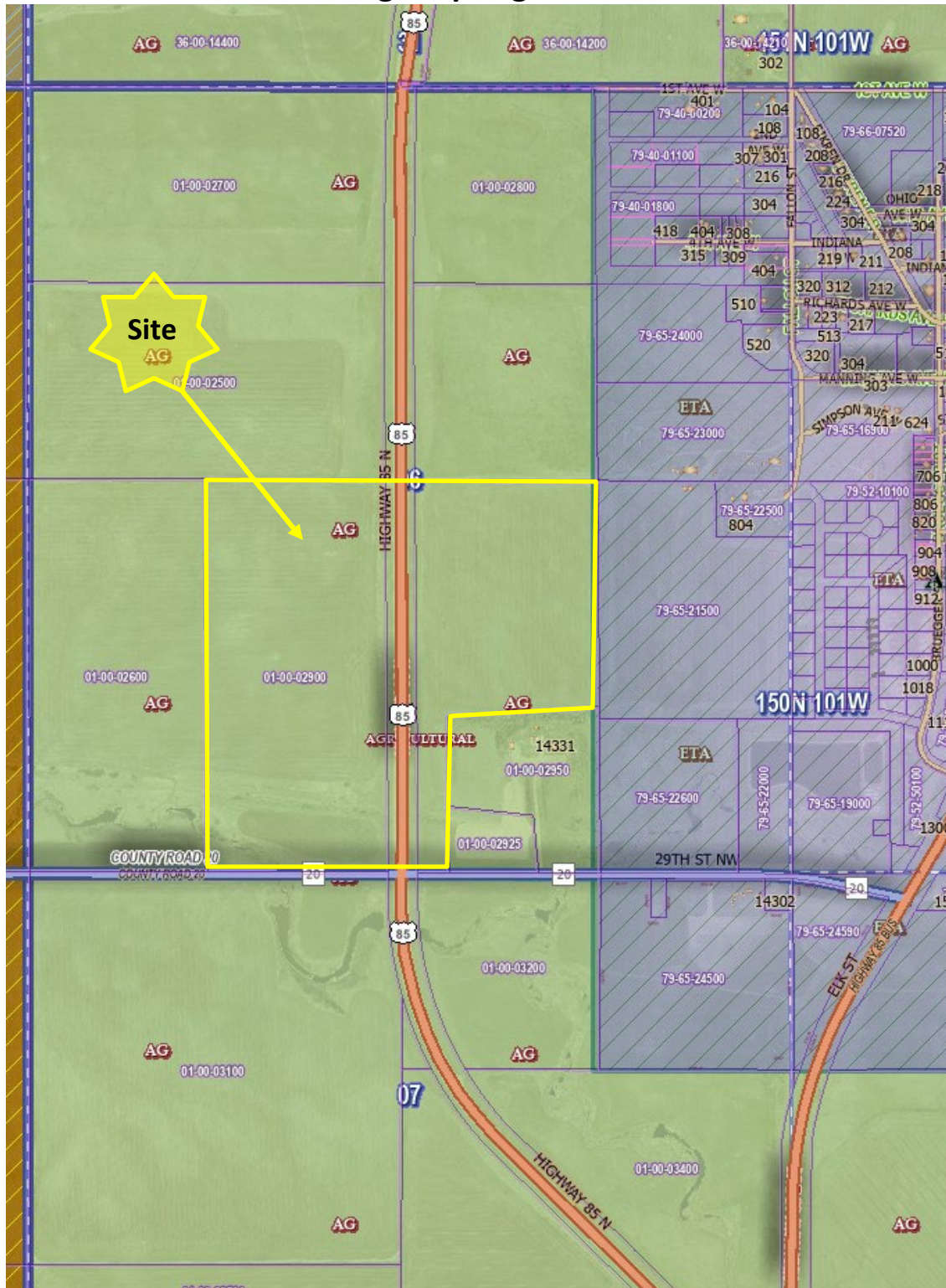


#01-26VAR

PID # 01-00-02900

S: 6, T: 150, R: 101

Zoning Map- Agricultural

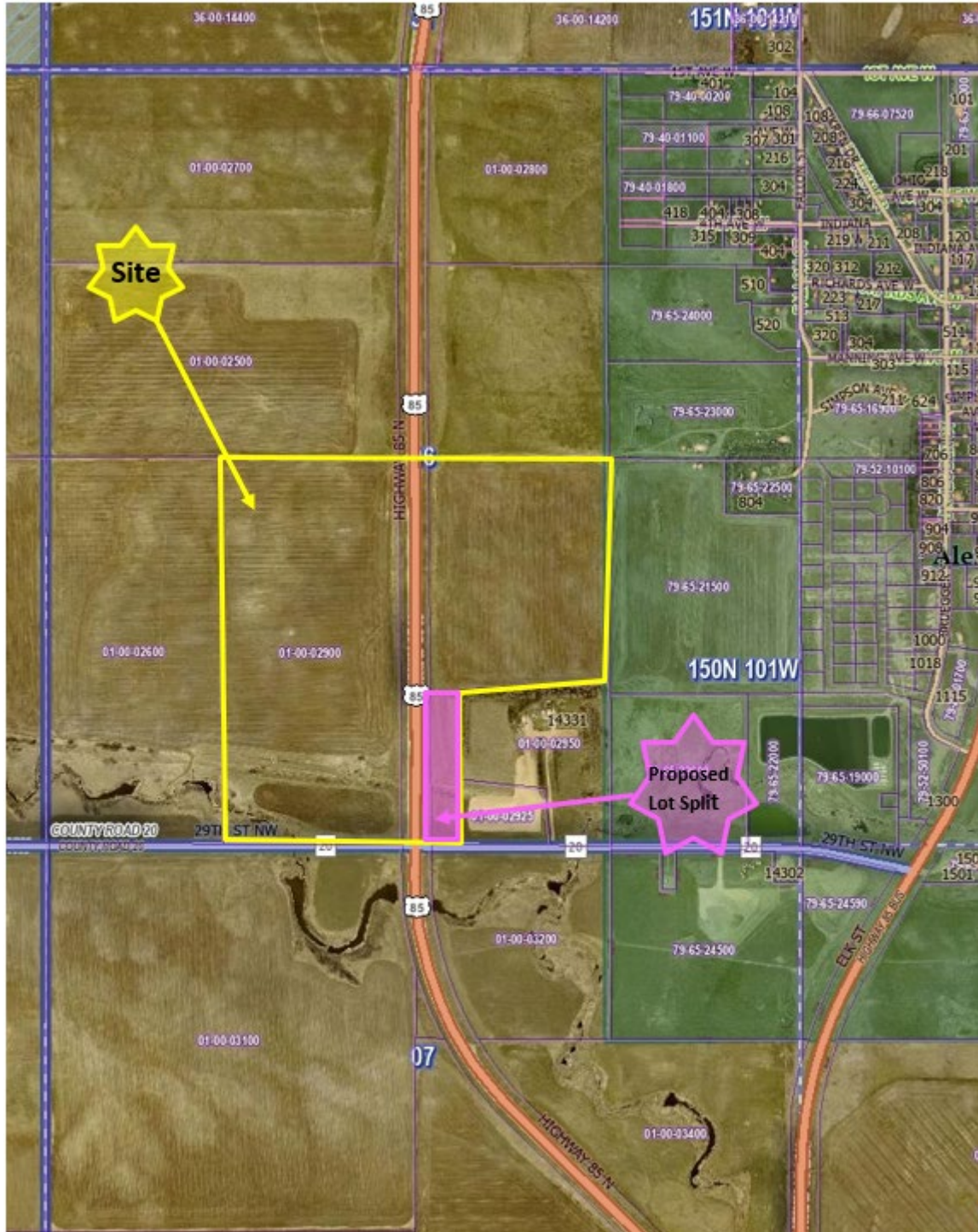


#01-26VAR

PID # 01-00-02900

S: 6, T: 150, R: 101

SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#01-26LS - Roxey Barnhart

Application:	January 15, 2026
Hearing Date:	February 9, 2026
Description:	W1/2 SE1/4 EX .18 A RW & EX ITS 2173 & 2175 IN SWSE E1/2 SW1/4 EX.52 A RW IN SESW of S: 6, T: 150, R: 101, PID 010002900 in McKenzie County, ND
Owner(s)/Applicant:	Heggen Family Trust/ Roxey Barnhart
Reason for Request:	Applicant wishes to split off a lot measuring 1,047.30 feet Long and 149.96 feet wide.

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. All Requirements for public notifications have been satisfied.
2. Staff has received no comments.
3. Property is located in an organized Township and has Alex Townships approval.
4. Applicant is not the landowner, but has landowners permission to apply for the Lot Split.
5. Applicant has reached out to Alexander Fire District.
- 6 Applicant has reached out to 911 Coordinator.
7. Applicant has reached out to Emergency Response Manager.
8. Applicant has reached out to McKenzie County Road and Bridge.
9. Applicant has an approved Weed Permit from the McKenzie County Weed Department.
10. Applicant has reached out to North Dakota DOT.
11. Surrounding Zoning is Agricultural.
12. A variance for a lot less than 5 Acres in the Agricultural District has been approved.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The surrounding area is Agricultural and will not diminish property value or enjoyment of other properties.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding area use is Agricultural, splitting the lot would not adversely affect the surrounding areas.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Applicant has all adequate utilities and road access permission.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

The majority of surrounding land use is Agricultural and will have no disturbance to the area.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend Approval of Lot Split #01-26LS to allow to split off a lot measuring 1,047.30 feet Long and 149.96 feet wide in Agricultural Zoning to the County Commission, Adopt the findings and conditions as provided in the staff report.""

Conditions:

1. The property shall not be split into a lot smaller than 1,047.30 feet Long and 149.96 feet wide.

2. Applicant must apply for any Building Permit with McKenzie County for any and all proposed structures on site.

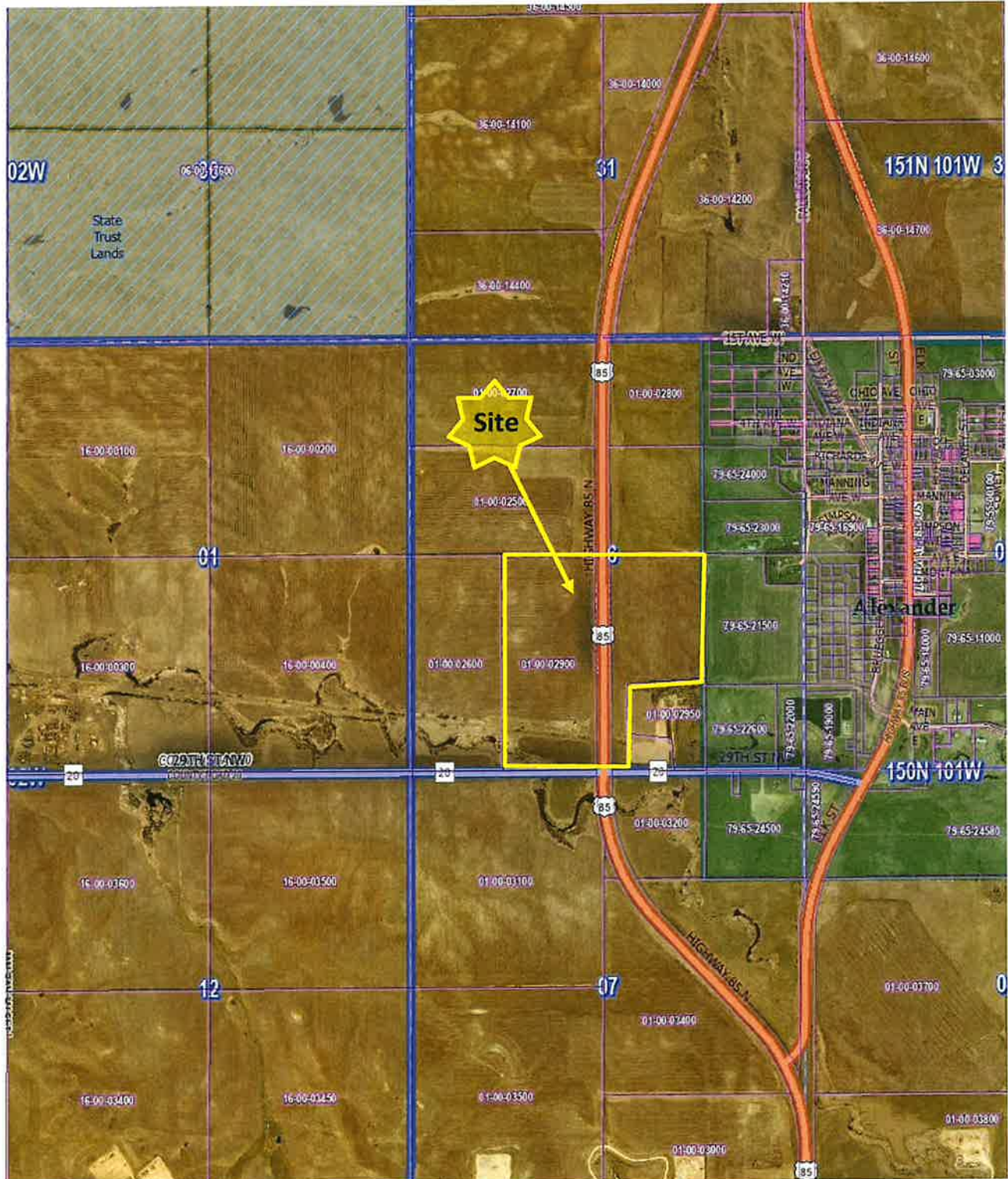
2. Applicant shall adhere to the noxious weed plan as approved by the McKenzie County Weed Control Officer.

#01-26LS

PID # 01-00-02900

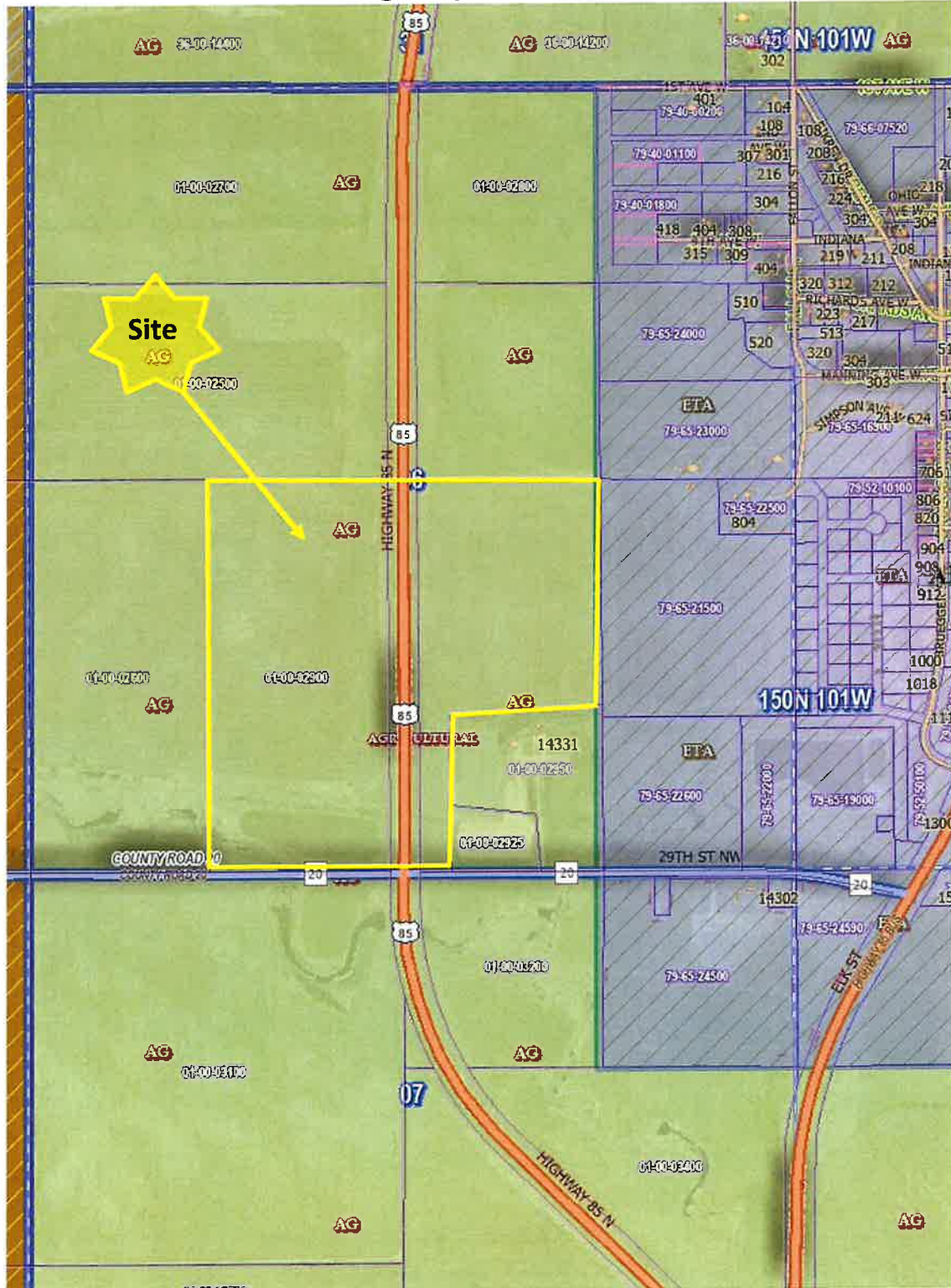
S: 6, T: 150, R: 101

Vicinity MAP



S: 6, T: 150, R: 101

Zoning Map- Agricultural

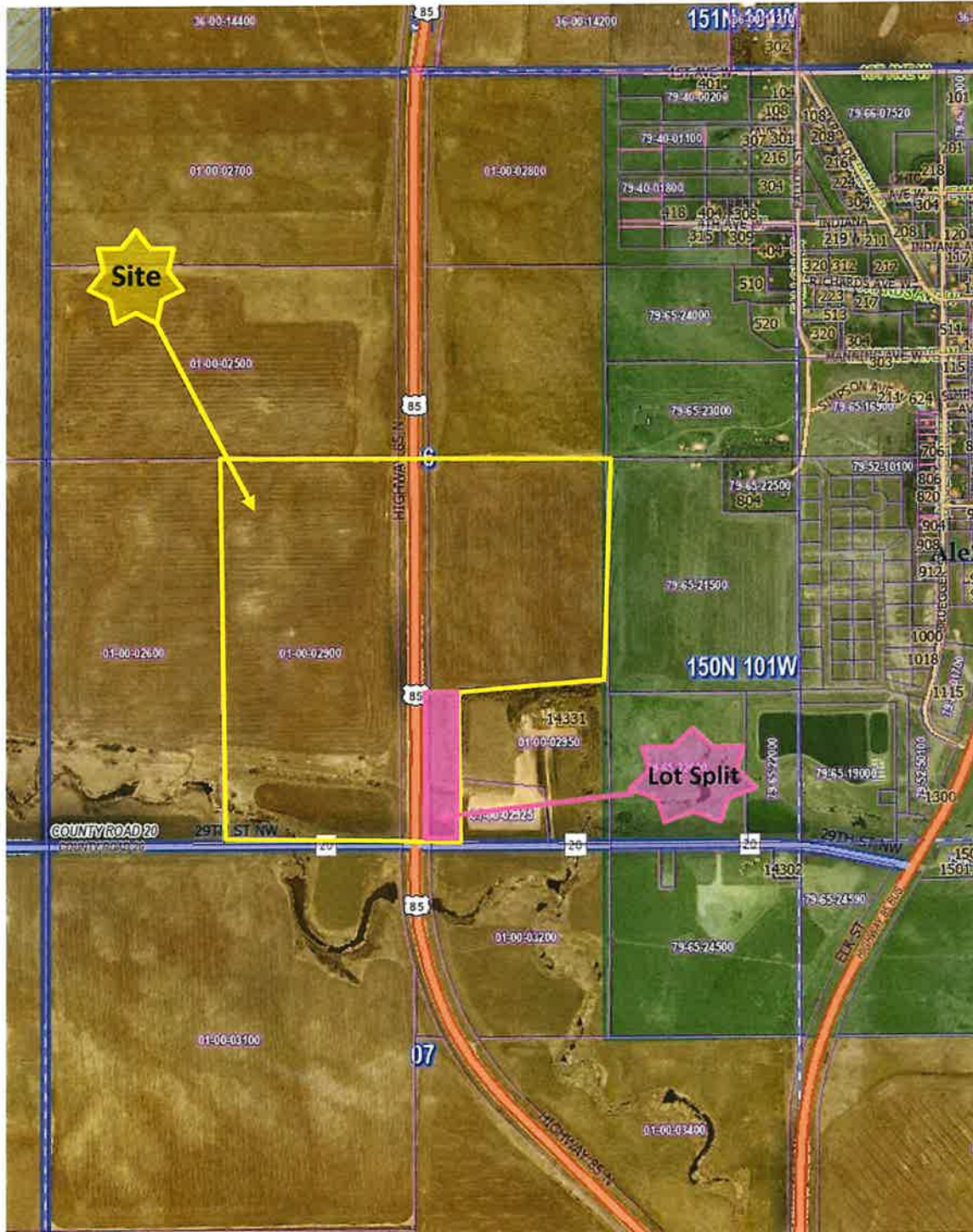


#01-26LS

PID # 01-00-02900

S: 6, T: 150, R: 101

SITE MAP



McKENZIE COUNTY

Planning and Zoning Commission

#01-26LM - Roxey Barnhart

Application:	January 15, 2026
Hearing Date:	February 9, 2026
Description:	SW1/4 S: 6, T: 150, R: 101, PID 010002925 and PID 010002950 in McKenzie County, ND.
Owner(s)/Applicant:	Roxey Barnhart
Reason for Request:	Applicant wishes to Merge 3 lots into 1, resulting in a Parcel of approximately 29 Acres.

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. All Requirements for public notifications have been satisfied.
2. Staff has received no comments.
3. Property is located in an organized Township and has Alex Townships approval.
4. Applicant is the landowner.
5. Parcel 01-00-02925 is 5.62 Acres and Parcel 01-00-02950 is 20 Acres will be merged with the Parcel from Lot Split #01-26LS.
6. Applicant has reached out to Alexander Fire District.
7. Applicant has reached out to 911 Coordinator.
8. Applicant has reached out to Emergency Response Manager.
9. Applicant has reached out to McKenzie County Road and Bridge.
10. Applicant has an approved Weed Permit from the McKenzie County Weed Department.
11. Applicant has reached out to North Dakota DOT.
12. Surrounding Zoning is Agricultural.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

This Lot Merge will not be detrimental to or endanger the public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

This surrounding are is Agricultural and will not diminish property value or enjoyment of other properties in the area.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding us is agricultural, merging these lots will not adversely affect the surrounding areas.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Applicant has all adequate utilities and road access permission.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

The majority of surrounding land use is Agricultural and will have no disturbance to the area.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed Lot Merge will conform within the Agricultural District.

Comprehensive Plan Consistency:
The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:
Staff recommends Approval for this Conditional Use Permit.
Suggested motion: "Recommend approval of Lot Merge #01-26LM Merging 3 parcels into 1, resulting in a parcel of approximately 29 Acres to the Board of County Commission, Adopt the findings and conditions as provided in the staff report.""

Conditions:
1. The applicant shall adhere to the noxious weed containment plan as approved by the County Weed Control Officer.

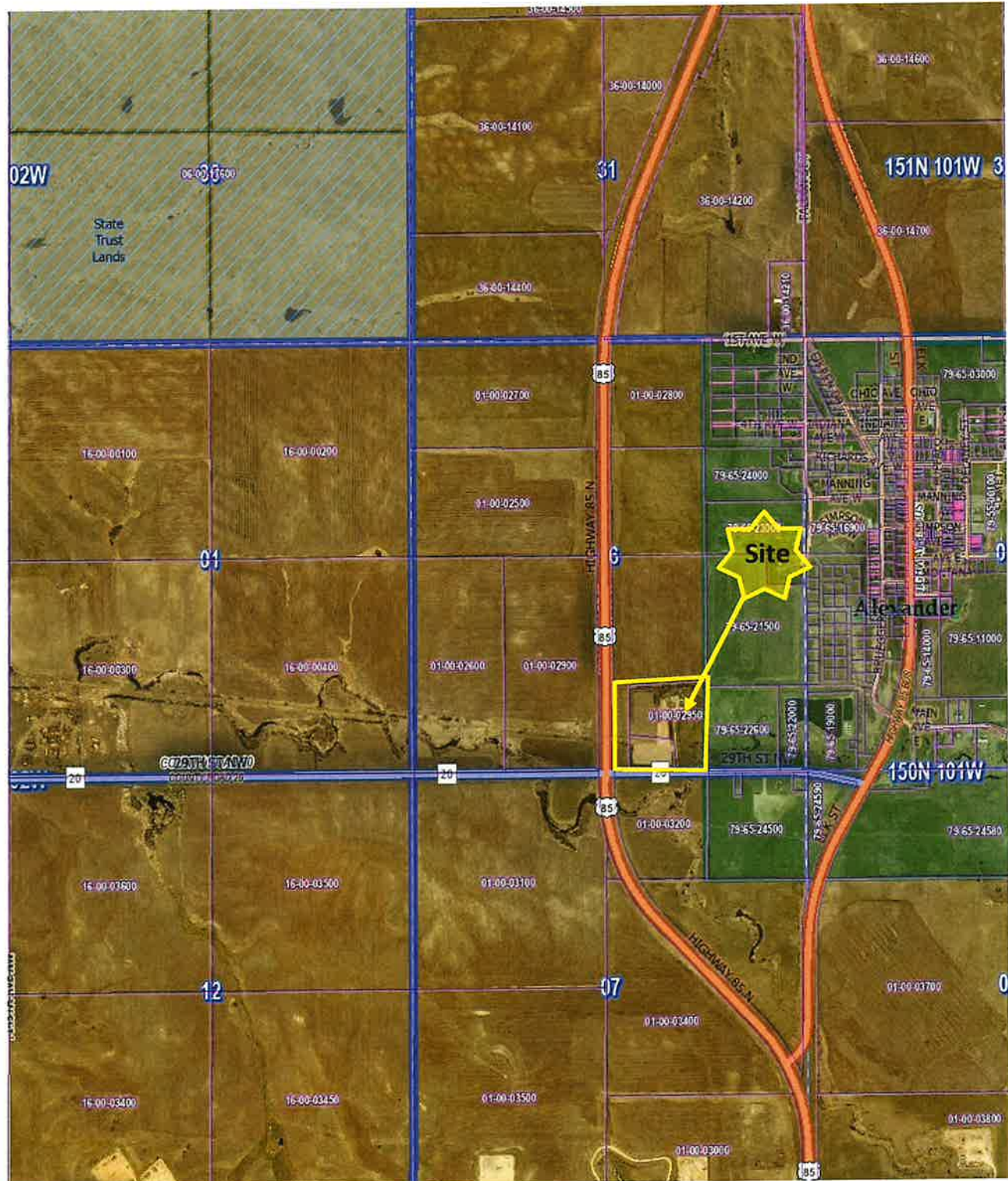
2. Applicant must apply for any Building permit with McKenzie County for any and all proposed structures.

#01-26LM

PID # 01-00-02925 and #01-00-02950

S: 6, T: 150, R: 101

Vicinity MAP



McKENZIE COUNTY

Planning and Zoning Commission

#02-26LS - Samuel Huebner

Application:	December 15, 2025
Hearing Date:	February 9, 2026
Description:	S1/2 NW1/4 S:21, T: 150, R: 97, PID# 130010350 in McKenzie County, ND.
Owner(s)/Applicant:	Jayson and Amy Lund/ Samuel Huebner
Reason for Request:	Applicant wishes to split off 10 Acres off of the existing 79.3 Acres.

Comprehensive Plan Land Use: Agricultural

Zoning: Agricultural

Findings of Fact:

1. All requirements for public notification have been satisfied.
2. Staff has received no comments.
3. Applicant is not the Landowner, but has Landowners permission to apply for this Lot Split.
4. Applicant has reached out to EMS.
5. Applicant has reached out to 911 Coordinator.
6. Applicant has reached out to Watford City Fire District.
7. Applicant has reached out to McKenzie County Road and Bridge.
8. Applicant has reached out to North Dakota DOT.
9. Applicant has applied for a Weed Permit from McKenzie County Weed Department.
10. Surrounding Zoning is Agricultural.

Conditional Use Permit Criteria::

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The proposed lot split will not be detrimental to or endanger the public health, safety, comfort or general welfare.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The surrounding area is Agricultural and will not diminish property value or enjoyment of other properties in the area.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding use is Agricultural, splitting the lot would not adversely affect the surrounding areas.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Applicant has applied for all adequate utilities and road access permission per McKenzie County.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

The majority of surrounding land use is Agricultural and will have no disturbance to the area.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed lot split will conform within the Agricultural District.

Comprehensive Plan Consistency:

The subject land area is designated in the land use plan as Agricultural.

Staff Recommendation:

Staff recommends **Approval** for this Conditional Use Permit.

Suggested motion: "Recommend approval of Lot Split Permit #02-26LS Splitting 10 acres from the existing 79.3 Acres to the Board of County Commission, Adopt the findings and conditions as provided in the staff report.""

Conditions:

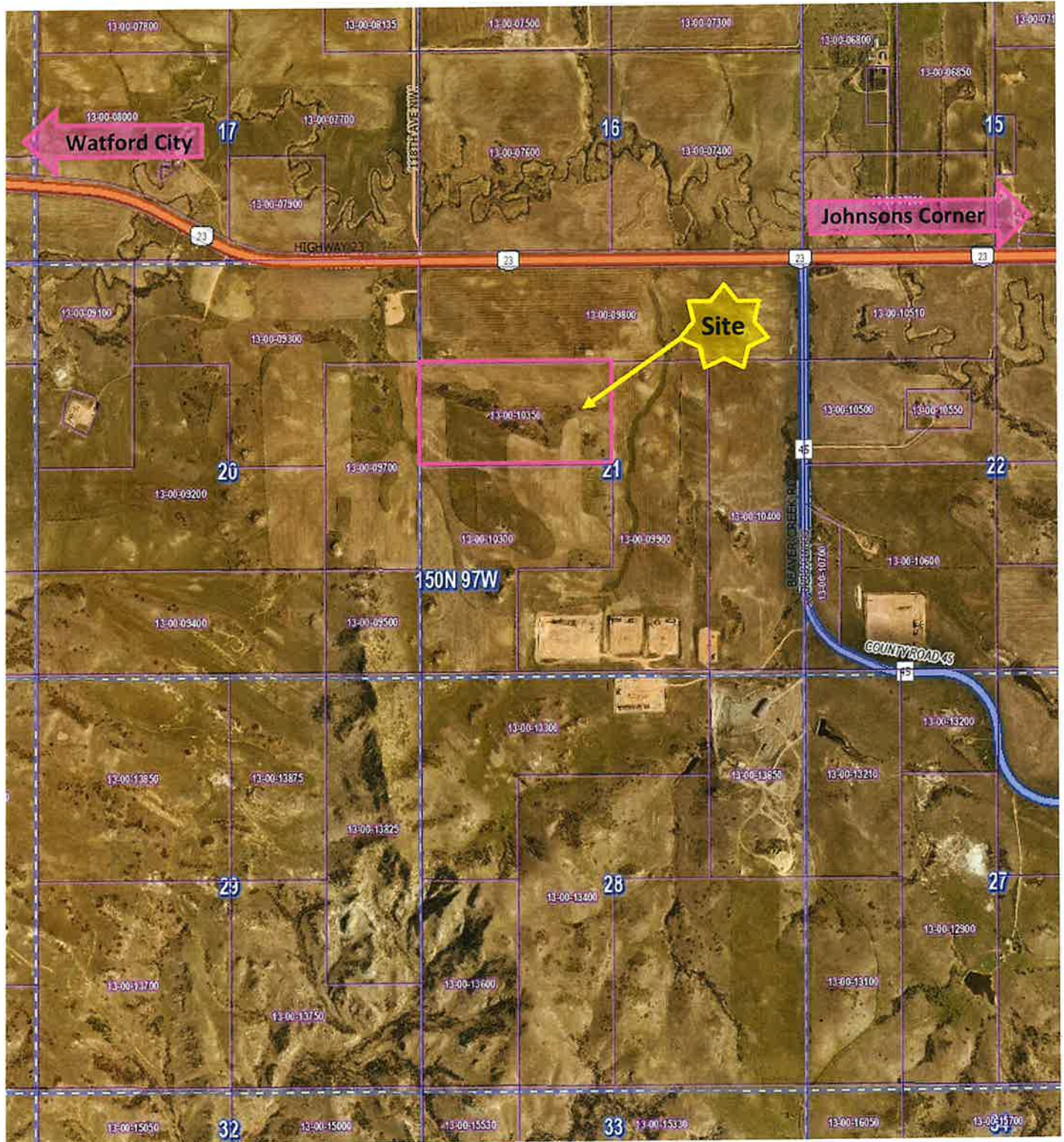
1. The applicant shall adhere to the noxious weed containment plan as approved by the County Weed Control Officer.
2. Applicant must apply for any Building permit with McKenzie County for any and all proposed structures on the site.

#02-26LS

PID # 13-00-10350

S: 21, T: 150, R: 97

Vicinity MAP

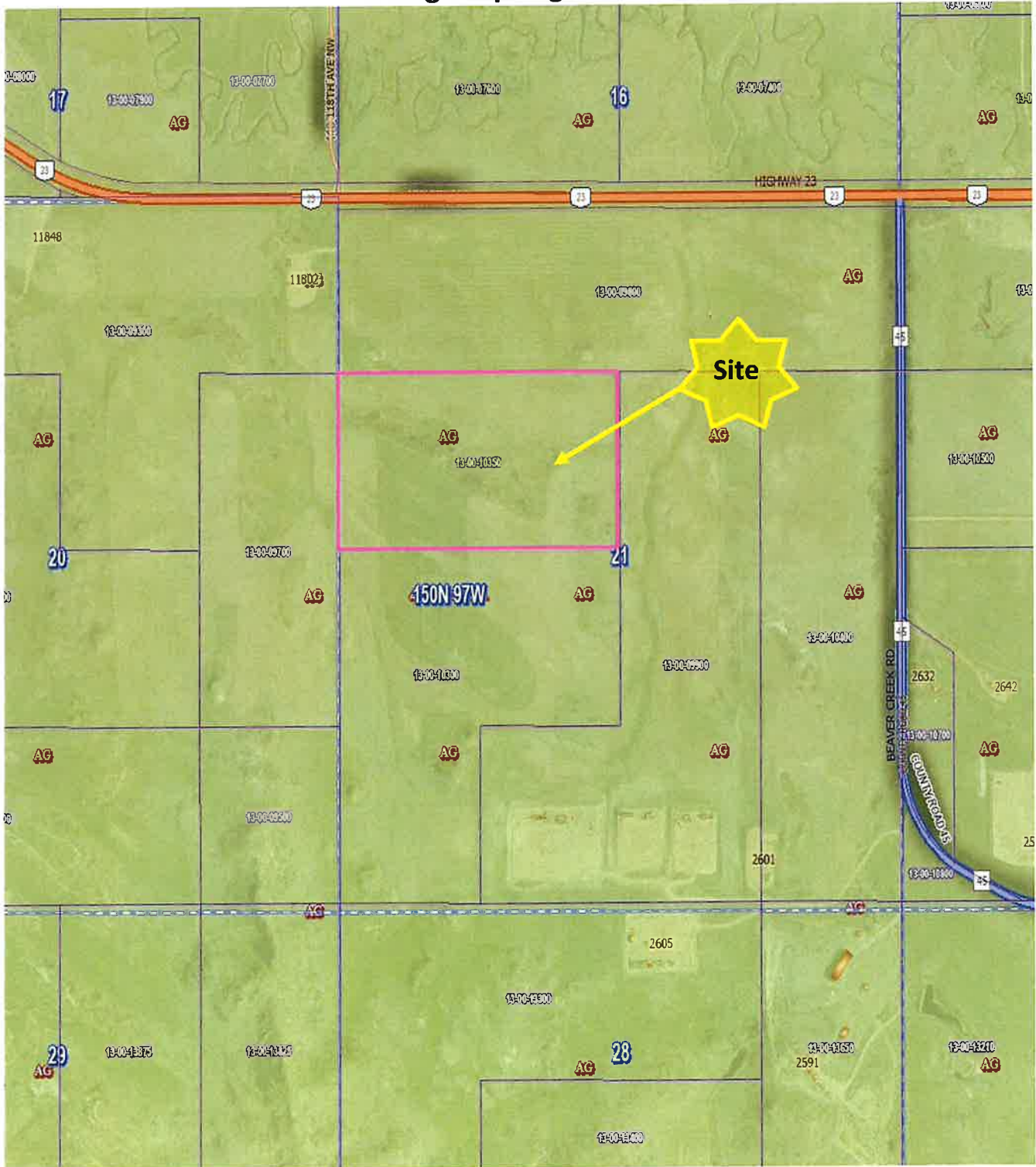


#02-26LS

PID # 13-00-10350

S: 21, T: 150, R: 97

Zoning Map- Agricultural



#02-26LS

PID # 13-00-10350

S: 21, T: 150, R: 97

SITE MAP



McKenzie County, North Dakota
Land Development Ordinance

February 9, 2026

DRAFT

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ARTICLE 1. INTRODUCTION

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Sec. 1-1 Title and Scope

The McKenzie County Zoning Ordinance, Zoning Map, and Subdivision Regulations, shall collectively be known as the Land Development Ordinance and may be cited as the LDO or the Ordinance.

The Land Development Ordinance includes the North Dakota Building Code, International Fire Code, and other codes, regulations, and modifications as directed by the McKenzie County Board of County Commissioners.

Sec. 1-2 Purpose and Intent

This Ordinance is set forth to direct and guide the Development of McKenzie County; to promote the health, safety, and well-being of the citizens of McKenzie County; and to promote the sound and desirable use of the lands of McKenzie County.

Sec. 1-3 Authorization

This Ordinance is developed and enacted under authority granted in North Dakota Century Code (NDCC) Ch. 11-33. which states: “For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of County commissioners of any County may regulate and restrict within the County, subject to section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes.” This Ordinance is also developed and enacted under authority granted in NDCC 11-33.2 regarding subdivisions.

To the extent allowable by the NDCC, the North Dakota Administrative Code (NDAC), and other state and federal laws, the County shall exercise its rights to promote the health, safety, and wellbeing of the citizens of McKenzie County by regulating land uses, Development, construction and building code through this Ordinance.

Sec. 1-4 Definitions

1-4-1 General Terms

- A. The word shall is taken to mean mandatory; may is taken as permissive.
- B. Words used in the present tense shall also be applied in the future; words used in the singular shall also be applied in the plural.

1-4-2 Specific Terms

Accessory: A subordinate Use or Structure which is clearly incidental to and serves exclusively to the Principal Use or Structure and shall be located on the same Lot.

Accessory Farm Labor Housing: Accessory residential structures that house people seasonally employed by the residents of the farm or Owners of the property and that is not used for rental purposes.

Accessory Live-work Unit: A permanent structure that includes space for a commercial enterprise as well as one housekeeping unit of the individual(s) responsible for management or security.

Accessory Parking: Parking or storage of machinery, vehicles, watercraft, and any other equipment that is clearly incidental to and serves exclusively to the Principal Use or Structure and shall be located on the same Lot. Accessory Parking shall be reasonable in proportion to the Principal Use or Structure on the Lot. All machinery, vehicles, watercraft, and other equipment that is parked or stored as Accessory Parking must be (a) kept in fully enclosed storage or (b) in operable condition and, if originally licensed for use on public highways and not presently used for Agriculture upon the lot, titled, licensed, and insured for use on public highways in the name of one or more occupants of the Lot.

Accessory Residential Structure: A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Administrative Permit: A permit issued by the Planning and Zoning Director for a specific use authorized by the Board of County Commissioners.

Adult Entertainment Center: Either of the following:

- A. An enclosed building in which the principal use is the sale of books, magazines, videos, or other items that are distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or anatomical areas.
- B. An enclosed building used on a regular basis for presenting pictorial materials, visual images, or live entertainment distinguished or characterized by an

emphasis on matters depicting, describing, or relating to specified sexual activities or anatomical areas.

Agriculture: Any use of land or structures for the growing, raising or production of agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, livestock, field grains, seeds, hay, apiary and dairy products, and the processing for commercial purposes of livestock or agricultural commodities. An agricultural operation includes the residential structures and any crop/grain or livestock handling or holding facilities on the farm which are necessary to the operation. An agricultural operation also includes the storage of such machinery, vehicles, and other equipment that are (a) in operable condition and actually used for the agricultural operation on the farm or (b) in inoperable condition but have historically been used for the agricultural operation on the farm or by the present owner of the farm. This definition excludes Commercial Feedlots.

Agritourism: Any agriculturally-based operation or activity at a farm that brings visitors to the farm for enjoyment or education.

Agrivoltaics: A solar energy system co-located with an agricultural use or uses, such as crop production, grazing, beekeeping, etc.

Airport: Any area of land or water, or both, designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

Airport Elevation. The highest point of an Airport's usable landing area measured in feet from mean sea level.

Alley: A minor street providing vehicular service access to the back or the side of two or more properties.

Alteration: As applied to a structure, a change or re-arrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Amendment: Any change, revision or modification of either the text of this Ordinance or the County Zoning Map.

Animal Hospital or Clinic: An establishment where animals are admitted principally for examination, treatment, board and care by a doctor of veterinary medicine.

Animal Unit: A number used to normalize the number of animals (e.g., head) for each specific livestock type which produce comparable bulk quantities of manure.

Approach End of Runway. The first portion of the Runway available for landing. If the Runway threshold is displaced, the displaced threshold serves as the Approach End of Runway.

Approach Surface. A surface longitudinally centered on the extended centerline of each Instrument Runway, extending outward and upward from the end of the primary surface and at the same slope as the approach zone Mean Sea Level Height limitation slope. The approach surface is five hundred (500) feet wide at the edge adjacent to the Primary Surface and expands outward uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface.

Aquaculture: The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

Area of Special Flood Hazard: The land in the floodplain subject to a one percent or greater chance of occurrence of a Flood in any given year.

Automobile Repair Shop: An area of land, including structures thereon, that is used for the repair and servicing of automobiles and/or trucks of no greater than 14,000 pounds gross vehicle weight rating.

Bar: An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises. Food sales, if any, are subordinate to the sales of alcoholic beverages.

Base Flood: The Flood having a one percent chance of being equaled or exceeded in any given year.

Basement: A story of a structure which has a greater portion of its height below the ground surface than above it.

Batch Plant: An industrial facility used for the production of asphalt or concrete, or asphalt or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

Batch Plant, Temporary: A temporary facility that produces or processes concrete or asphalt only for use in one construction project and only for the duration of that project.

Battery: A single cell or an interconnected group of cells arranged electrically in series, parallel, or a combination of both, designed to charge, discharge, and store energy through electrochemical processes.

Battery Cell: A fundamental electrochemical unit, consisting of an anode and a cathode, designed to absorb, store, and release electrical energy.

Battery Energy Storage System (BESS): A system that houses batteries within a physical container. The container includes secondary containment for safety, as well as systems for cooling, ventilation, fire suppression, and electronic monitoring.

Residential BESS: A battery system below twenty (20) kWh; may be coupled with onsite solar or wind generation for household energy use.

Commercial BESS: A battery system below two hundred (200) kWh; may be used in conjunction with onsite solar or wind generation for household, business, or farm/ranch use.

Major BESS: A system with a total energy storage capacity of greater than two hundred (200) kWh. Major BESS installations must be classified exclusively as only one of the following.

Utility-Scale BESS: A standalone high-capacity battery system deployed at substations or as a dedicated land use exceeding two hundred (200) kWh.

Integrated Wholesale BESS: A high-capacity battery system deployed within or as part of large-scale solar or wind facilities exceeding two hundred (200) kWh.

Battery Energy Storage System (BESS) Battery Module: Fundamental component within a Battery Energy Storage System (BESS), comprising multiple interconnected batteries that function as a unit to store and release electrical energy.

Battery Energy Storage System (BESS) Operator: BESS company or owner representative responsible for monitoring, maintaining, and controlling a large-scale battery storage site.

Battery Management System (BMS): A safety system that monitors and regulates the operation of a battery energy storage system. It tracks battery and container conditions such as voltage, temperature, humidity, and gas emissions and can automatically shut down the system if it becomes unsafe.

Bed and Breakfast Inn: An establishment that provides overnight lodging to the public for compensation; caters to the traveling public; is located in the proprietor's residence; and serves only a limited breakfast to registered guests. Mobile homes, trailers, recreational vehicles, and skid units are not Bed and Breakfast Inns.

Block: A part of the platted area bounded by public surface rights-of-way, intersecting streets and/or railroad.

Bond: A debt security held by the County to ensure certain obligations are met by the applicant.

Bond, Performance: A Bond that is issued guaranteeing the completion of a project or the fulfillment of a particular contract, agreement, or requirement in case the project fails or is left incomplete.

Bond, Reclamation: A Bond held by the County to remove structures, foundations, and disturbance areas and to return the site to its pre-Development state or to productive agricultural use as existed prior to other uses of the site.

Buildable Area: The portion of a lot remaining after required yards and setbacks have been provided.

Building: Any structure designed or intended for the enclosure, shelter, or protection of persons, animals or property.

Building Face: The general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four Building Faces.

Building Height: The vertical dimension measured from the average elevation of the finished lot grade in the front yard to the highest point of a flat roof and to the average height between the plat and ridge of a gable, hip or gambrel roof.

Bulk Dry Storage: A place used to store uncontained solid matter such as powder, grain, stone, sand, etc. Excludes Hazardous Material Storage, Sale, or Distribution.

Car Wash: The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Cemetery: A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

Early Childhood Services. The care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services, as defined by NDCC 50-11.1.

Child Care - Licensed Providers: A program licensed with the State of North Dakota to provide child care. Different types of child care providers are defined below.

Child Care Center: A program licensed to provide Early Childhood Services for at least 19 children.

Child Care, Family: A private residence licensed to provide Early Childhood Services for up to seven (7) children at any one time, except that the term includes a residence licensed to provide Early Childhood Services to two additional school-age children.

Child Care, Group: A child care program licensed to provide Early Childhood Services for up to 30 children.

Child Care, School-Age: A school program licensed to provide Early Childhood Services on a regular basis for at least 19 children aged five years through eleven years.

Child Care, Multiple Licensed Program: An early childhood program licensed to provide more than one type of Early Childhood Services.

Child Care, Preschool: A school program licensed to offer Early Childhood Services for children aged two years to kindergarten, which follow a preschool curriculum designed to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.

Child Care - Unlicensed Providers: A program not licensed with the State of North Dakota to provide child care. Different types of child care providers not licensed with the State of North Dakota are defined below.

Self-declared Provider: An individual who submits voluntary documentation of Early Childhood Services provided in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.

Registered Providers: Are generally registered by Tribal entities.

Club: A building or grounds, or portion thereof, which is owned by or leased to private organizations or non-profit associations for meeting, recreational, or social purposes. The use of such premises is restricted to the members of these organizations and their guests.

College: A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees.

Commercial Feedlot: Establishments engaged in the fattening, raising, or breeding of animals typically for the commercial production of food, where the animals are fed primarily in pens, lots, or buildings (partially or wholly enclosed). This term includes establishments referred to as “Animal Feeding Operations” (AFOs) and Concentrated Animal Feeding Operations (CAFOs) as defined by the North Dakota Department of Environmental Quality (NDDEQ).

Commercial Grain Elevator: A structure or group of related structures whose primary purpose is limited to the receiving, retailing, storage, drying, and transportation of grain which was not grown or raised on the land where the elevator is located.

Commercial Truck: A truck or vehicle of greater than 26,000 pounds GVWR, any trailer of greater than 30,000 pounds GVWR, or any combination of one such motor vehicle and one or more such trailers.

Commercial Truck Parking: Any parcel of land, structure, or other facility that is designed or used to store, park, load, repair and maintain, and/or station one or more Commercial Trucks.

Communication Facility: Structures and towers used to transmit wireless signals.

Comprehensive Plan: The adopted Comprehensive Plan for McKenzie County.

Conditional Use: Uses not automatically a Permitted Use in a zoning district and which requires review and approval by the Board of County Commissioners after a public hearing to determine whether, with certain conditions met and in light of surrounding uses and the specific location, it is consistent with the purpose and the intent of these zoning regulations.

Conforming: A Use, Lot, or Structure that complies with all requirements of this Ordinance and other regulations adopted by the county.

Conical Surface. A surface extending outward and upward from the periphery of the Horizontal Surface at a slope of twenty to one (20: 1) for a horizontal distance of four thousand (4,000) feet.

County: McKenzie County, North Dakota.

County Road Improvement Standards: Road design standards and typical section requirements as maintained by the County Engineer.

Cultural Center: A library, museum, or similar facility that promotes cultural enrichment or community engagement.

Data Center: A facility which houses computer or network equipment, systems, servers, and related appliances or components used primarily for the storage, management, processing, and transmission of digital data. Includes facilities with cryptocurrency mining.

Decibel (dB): The unit used to express the intensity of sound, typically measured using the “A” scale to approximate the human ear’s response to different frequencies. This unit of measurement is used by Federal and State agencies to measure environmental noise impacts. It is a logarithmic value to the base 10, where an increase of 10 decibels indicates a doubling of noise exposure. On the decibel scale, near absolute silence is designated as 0 dB. Human voice typically has a volume of 60 dB. The primary American National Standard for noise meters is ANSI/ASA S1.4, which specifies performance and accuracy requirements for sound level meters.

Departure End of Runway. The end of the Runway available for the ground run of an aircraft departure.

Development: The placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density of intensity of use of land, change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or Alteration of the size of any structure, including any facility of any private, public, or municipal utility.

Development Agreement: A contractual agreement between a person and the County to develop a parcel of land.

Development Plan: A document including maps and data for Development of an area as provided by this Ordinance.

Developer: Any person or persons undertaking any Development as defined in this Ordinance.

Domestic Farm Animals: Cattle, calves, horses, mules, swine, sheep, goats, poultry or other similar birds and animals.

Dwelling: Any Structure or portion thereof, used for human habitation including single family and multiple family units but not including hotels or vehicles designed for camping such as Recreational Vehicles.

Dwellings, Attached: Includes vertically or horizontally attached Dwelling Units, such as twin homes, apartments, and condominiums.

Dwelling, Duplex: A single structure containing two (2) Dwelling Units on a shared lot.

Dwelling, Single Family Detached: A structure containing one (1) Dwelling Unit.

Dwelling Unit: A room or group of rooms with individual kitchen and bathroom facilities that is designed or intended for occupancy by a single family.

Easement: A burden upon land as defined by NDCC Ch. 47-05-01. May be public or private.

Electrical Substation: An assembly of equipment in an electrical power system through which electrical energy is passed. An Electrical Substation is a part of an electrical generation, transmission, and distribution system that redistributes power and/or transforms voltage from high to low, or the reverse.

Electrical Transmission Facility: Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.

Encroachment: Any fill, building, structure or use including accessory uses extending into the required yard areas of a lot.

Energy Conversion Facility (Electric): Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.

Energy Conversion Facility (Gas or Liquid): Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.1.

Energy Transmission Facility (Gas or Liquid): Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.1.

Entertainment Establishment: A business that provides entertainment, including theaters, bowling alleys, miniature golf, and the like, but excluding Adult Entertainment Centers.

Equestrian Event: Any exhibition or competition involving horses whose purpose is to test or advance the skills of a horse or its rider, such as but not limited to horse shows, schooling events, horse training seminars or clinics, open houses, cutting competitions, rodeos, or jackpot roping contests.

Extraterritorial Jurisdiction: The area around a city that extends beyond the incorporated city limits as outlined in NDCC 40-47-01.1; wherein the city is permitted zoning jurisdiction as provided in NDCC 40-47-01.1.

Family: A group of one or more persons occupying premises and living as a single housekeeping unit.

Farm: A lot within McKenzie County containing at least forty (40) acres which is used for the production of agricultural crops or livestock, or raising, feeding or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

Feedlots that are operated as a separate pursuit shall be deemed Commercial Feedlots and shall not be construed as farming or incidental to a farming operation.

Farm-Related Business: A business to promote, sell or enhance the agricultural products or services of the Farm or ranch where it was produced. Includes feed grain sales, agricultural supply sales; trailer sales; welding services; fence construction; riding stables; water well drilling service; septic cleaning service; and other similar uses as determined by the Planning Director or their designee.

Farm, Limited: Land used for farming activities limited to crop production and grazing where no permanent structures are established to support the use.

Farm Stand: A building or structure used for the retail sales of local fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other

local unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, and similar items as determined by the Planning and Zoning Director or their designee.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of waters from any source.

Freshwater Depot: Storage, collection, or sale of freshwater for industrial or commercial use from surface or groundwater supplies that is not a Freshwater Storage Pond.

Freshwater Pipeline: A pipeline that transports fresh water, whether the pipeline is buried or above-ground, and all mechanical apparatus that is used to operate the pipeline.

Freshwater Pipeline, Industrial Use: A Freshwater Pipeline that supports oil or gas extraction, processing, production, or related activities, such as waste fluid injection.

Freshwater Pipeline, Non-Industrial Use: A Freshwater Pipeline that is not an Industrial Use Freshwater Pipeline.

Freshwater Pipeline, Temporary: An above-ground pipeline that transports freshwater and is in place for six (6) months or less.

Freshwater Storage Pond: Storage, collection, or sale of freshwater for industrial or commercial use from surface or groundwater supplies that is accomplished exclusively with earthworks, landscaping, and/or use of a liner without any permanently installed mechanical apparatus.

Frontage Road: Minor street that is parallel to and adjacent to arterial streets and highways that provides access to abutting properties and protection from through traffic.

Garage: A building for the storage, repair or maintenance of motor vehicles.

Golf Course: A tract of land laid out for playing a game of golf and improved with tees, greens, and fairways. A golf course includes a clubhouse and shelters as accessory uses.

Good Standing: The property owner, the applicant, and any legal entity the applicant has a financial interest in or a business affiliation with, are:

- A. Current in the payment of all monies owed to the political subdivision, including, but not limited to:
 - 1. **McKenzie County property taxes.**

2. **Planning Department permit fees, including any planning and zoning permits, building permits, or building code and inspection fees.**
3. **Liens placed on properties in McKenzie County.**
4. **Not in breach of any contractual obligation with McKenzie County.**
5. **Not in violation of any violation of this Ordinance.**

B. The applicant shall provide documentation of good standing with the State of North Dakota, certified by the Secretary of State, to demonstrate their record of compliance with all applicable North Dakota laws.

Green Space: Land that is partly or completely covered with grass and maintained trees, shrubs, or other vegetation, including:

- A. Parks
- B. Community Gardens
- C. Cemeteries
- D. Schoolyards
- E. Playgrounds
- F. Public seating areas
- G. Public plazas

Government Administration or Maintenance Facility: A government service facility providing direct or indirect services to the public wherein large aggregations of people are probable, especially those such as employment offices, public assistance offices, motor vehicle registration and licensing services, and similar activities commonly accustomed to having sizeable assemblages of people queueing, tarrying, biding, or waiting for service, whether pedestrian or vehicular. This includes buildings associated with the storage and maintenance of vehicles and equipment to provide public services.

Greenhouse: An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale.

Group Home: Any community residential facility, foster home, family care facility, or other similar home for individuals with a developmental disability (NDCC 25-16-14.).

Hazard to Air Navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Hazardous Material Storage, Sale, or Distribution: The storage, sale or distribution of any substance, as determined by the Department of Fire Prevention and State Fire Marshal, that, because of its quantity, concentration, or physical or

chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

Health Care Facility: A facility or institution that provides services for personal health maintenance, diagnosis or treatment of diseases, pain, injury, or other physical or mental condition, including but not limited to a general hospital, diagnostic center, treatment center, rehabilitation center, extended care center, hospice, outpatient clinic, or combination of such uses.

Heavy Equipment: A movable or transportable vehicle or other apparatus commonly used in commercial, industrial, or construction enterprises, such as but not limited to trucks, trailers, bulldozers, cranes, backhoes, rollers, loaders, lifts, having a gross weight of 2.5 tons or more.

Heavy Equipment Repair: The commercial repair of Heavy Equipment.

Heavy Equipment Storage: The open air or enclosed storage of Heavy Equipment.

Historical Monument and/or Structure: Any structure, building, or place associated with an outstanding person, specific event, or period of history.

Homestead Parcel: A parcel of agricultural land that was set aside for a Dwelling where the Dwelling was constructed prior to 1990.

Home Occupation: Any occupation, profession, or business activity which is conducted by a resident(s) of the premises and up two full-time or four part-time employees in addition to the resident(s), which is conducted in whole or part in the Dwelling Unit or accessory building, and which is clearly incidental and secondary to the use of the Dwelling for residential purposes.

Horizontal Surface. A horizontal plane one hundred fifty (150) feet above the Airport Elevation that is established by swinging arcs ten thousand (10,000) feet in radius from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.

Hotel: A permanent structure with lodging accommodations whether or not meals are provided. Mobile homes, trailers, recreational vehicles and skid units shall not be considered a Hotels.

Housekeeping Unit: a single living unit, consisting of a room or suite or combination of rooms, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Hunting Lodge: A structure containing basic amenities providing sleeping accommodations reserved for hunters during the hunting season and otherwise unoccupied.

Inert Waste: Non-putrescent solid waste which will not generally contaminate water or form a contaminated leachate and further defined in N.D.A.C. Title 33-20.01.1-03.26. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to construction and demolition material, such as metal, wood, brick, masonry, and concrete, asphalt, concrete, and tree branches.

Infrastructure Improvements: Street grading, surfacing, installation of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, and trees.

Instrument Runway. A Runway having an existing, approved, or planned instrument approach procedure.

International Fire Code (IFC). A code that establishes minimum safety requirements for fire prevention, fire protection, and life safety systems in buildings, developed by the International Code Council (ICC).

Kennel: Any premises where dogs, cats, or other household pets are boarded, bred, or maintained for compensation.

Landfill: Specially selected, designed, and operated sites for disposal of solid waste in accordance with NDCC Ch. 23-29-03 and the provisions of this Ordinance.

Landlock: A Lot that has no access to a Public Way either directly or through a private access easement.

Lawful: Conforming or Non-Conforming.

Livestock: Domestic animals customarily raised or kept on farms for profit or other purposes including fur bearing animals.

Livestock Auction Yard: An enclosure or structure designed or used for holding livestock for the purpose of sale or transfer by auction, consignment, or other means.

Lot: A tract of land that is separately described by reference to specific, whole lots within a subdivision plat that has been approved by the County and recorded; by reference to whole quarter-quarter sections and/or government lots within the Public Land Survey System; or by reference to whole Auditor's Irregular Tracts that were separately numbered prior to McKenzie County's first adoption of a subdivision resolution.

Lot Coverage: The total area of structures expressed as a percentage of the total lot, plot, or tract.

Lot Depth: The mean horizontal distance between the front and rear lot lines.

Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots all sides of a lot adjacent to streets shall be considered frontage.

Lot Line: The property line bounding a lot.

Lot Line Adjustment: When the boundaries between two or more lots are adjusted such that the total number of lots remains the same.

Lot Merger: The process of taking two or more lots or parcels and assembling them into one larger parcel.

Lot Width: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

Manufacturing, Heavy: An industrial establishment engaged in the manufacturing, assembly, fabrication, packaging, or processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an establishment having the potential to produce noise, dust, glare, odors, or vibrations beyond its property line. This term includes but is not limited to the manufacture of alcoholic beverages, chemicals, concrete/stonework, metal materials, lumber, or agricultural, construction, or mining machinery. This term also includes establishments with exterior storage/production yards.

Manufacturing, Light: An industrial establishment engaged in the indoor manufacturing, assembly, fabrication, packaging, or other processing of finished parts or products, primarily from previously prepared materials, where there are few external effects across property lines. This term includes but is not limited to a business engaged in the processing of assembly of food, textile, leather, wood, paper, plastic, ceramic, or metal products, but does not include basic industrial processing from raw materials.

Manufactured Home: A prefabricated home that is assembled following U.S. Department of Housing and Urban Development (HUD) standards, which is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a Permanent Foundation when connected to the required utilities.

Manufactured Home Park: A lot or contiguous lots of land developed for the placement of manufactured homes, which is under single control or ownership and may include a person, firm, association, partnership, or entity.

Marijuana: as defined in NDCC 19-24.1-01.

Mean Sea Level Height. The elevation above mean sea level.

Medical Marijuana: Any “Medical cannabinoid product” as defined in NDCC 19-24.1-01.

Medical Marijuana Distribution Center: any “Dispensary” as defined in NDCC 19-24.1-01.

Medical Marijuana Manufacturing Center: any “Manufacturing facility” as defined in NDCC 19-24.1-01.

Medical Marijuana Registered Designated Caregiver: any “Designated caregiver” as defined in NDCC 19-24.1-01.

Medical Marijuana Qualifying Patient: any “Qualifying patient” as defined in NDCC 19-24.1-01.

Megawatt (MW): A unit of power equal to one million watts, commonly used to express the capacity of power plants and large-scale energy systems.

MET Tower: Temporary and permanent meteorological towers used for the measurement of wind speed.

Mining, Surface (Commercial): Processes for the commercial removal of minerals, such as sand, gravel, scoria, and rock, from the surface of the earth. Includes crushing, handling, and bulk storage of extracted materials. This definition does not include borrow sites used for one-time use on a specific project. The mine is privately owned and operated.

Mining, Surface (Public): Processes for the removal of minerals for public purposes, such as sand, gravel, scoria, and rock, from the surface of the earth. Includes crushing, handling, and bulk storage of extracted materials. This definition does not include borrow sites used for one-time use on a specific project. The mine is publicly owned and operated.

Mobile Home: As defined by the U.S. Department of Housing and Urban Development (HUD), a mobile home is a factory-built home constructed prior to June 15, 1976. Mobile Homes do not conform to current federal housing standards and are considered Non-Conforming Uses.

Modular Home: A Permanent Dwelling constructed offsite, where modules are transported and assembled onsite. Modular homes must meet all applicable local and state building code requirements and must be aesthetically indistinguishable from a Dwelling constructed onsite.

National Electrical Code (NEC): A set of safety standards and guidelines developed by the National Fire Protection Association (NFPA) for the safe installation and maintenance of electrical systems.

National Fire Protection Association (NFPA): A global nonprofit organization that develops and publishes standards and codes to reduce the risk of fire, electrical, and other hazards, ensuring safety in design, construction, and operation of systems, including battery energy storage systems.

NDAC: North Dakota Administrative Code.

NDCC: North Dakota Century Code.

NDIC: North Dakota Industrial Commission.

Non-Conforming: A Use, Lot, or Structure lawfully established prior to the passage of this Ordinance or Amendments thereto, which does not conform with the provisions of this Ordinance or Amendments thereto.

Non-Participating: Any landowner that is not Participating.

Non-Traditional Livestock: The keeping or raising of animals for personal or commercial purposes, which are classified by the North Dakota Department of Agriculture as “Non-Traditional Livestock.”

Nursing Home: A facility licensed by the State of North Dakota for the aged or chronically or incurably ill persons are provided with food and shelter or care for compensation, but not including a Health Care Facility.

Obstruction. Any Vertical Structure, growth, or other object, including a mobile object, which exceeds a limiting Mean Sea Level Height set forth in *Section 3-18* of this Ordinance.

Office: A room, suite of rooms, or building in which a person transacts the affairs of a business, service, industry, or government.

Open Space: Any open land that is undeveloped, meaning that it has no structures upon it and is not used or intended for vehicle parking or travel or for industrial or commercial activities. This definition includes Green Space.

Owner: The person who holds fee title to a structure or land, including any person who is a joint tenant, tenant in common, tenant by the entirety, or sole owner of the whole or any part of such structure or land. Include record property owners. When appropriate the Planning and Zoning Director may rely on the County tax records to determine the name and address of the owner of a parcel.

Owner’s Association: An incorporated or unincorporated group of individuals comprising a homeowner’s association, merchant’s association, community association, or other group of individuals with similar interests in a defined area.

Park: Any area designated by a local, state, or federal government that is predominately Open Space, used principally for active or passive recreation, and not used for a profit-making purpose. This definition does not include Wildlife Management Refuge.

Participating: Any landowner which has an interest to see a proposed Development manifest on their Lot.

Permanent Dwelling: A Dwelling that is set on a Permanent Foundation. Unit types are stick-built and Modular Homes.

Permanent Foundation: A concrete foundation and footings that extends below frost depth and are set for the soil conditions. Manufactured Homes and Mobile Homes are not considered Permanent Dwellings.

Permit: A written document issued by McKenzie County that grants permission to perform an act or service.

Permitted Use: A Use that is allowed in the applicable zoning district and complies with the requirements of this Ordinance.

Person: Any natural person, firm, partnership, association, social or fraternal organization, corporation, trustee, estate, government entity, or other body corporate.

Pipelines: An apparatus designed or used to transport fluids within a sealed conduit and the apparatus is reasonably necessary for the operation of the pipeline.

Place of Religious Assembly: Any building or site, the primary use of which is public religious assembly or worship, irrespective of the denomination or religion practiced.

Planned Unit Development (PUD): An area of land to be developed as a single project for a number of uses consistent with this Ordinance.

Planning Department: The McKenzie County Planning and Zoning and Building Departments.

Plat: A document drawn to scale, showing the division, consolidation, and/or rearrangement of a piece of land. It gives the legal descriptions of pieces of real property by lot and block number and rights-of-way.

Post Office: A facility that contains service windows for mailing packages and letters, post office boxes, offices, sorting and distribution facilities for mail, and may include vehicle storage areas.

Primary Surface. A surface longitudinally centered on a Runway. The Primary Surface extends two hundred (200) feet beyond the Approach End of Runway / Departure End of Runway point for each Runway. The width of the Primary Surface shall be established for each Runway at each Public-Use Airport for which a Public-Use Airport Overlay District is established.

Principal: The main Use or Structure to which the premises is devoted and the primary purpose for which the premises exists.

Prohibited: Not Lawful.

PSC: Public Service Commission

Public Way: Any dedicated and recorded Right-of-Way including Alleys, bikeways, sidewalks, streets, roads or highways.

Public Safety Facility: A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

Public-Use Airport. A public-use Airport for which a Public-Use Airport Overlay District is established by McKenzie County.

Radio and/or Television Broadcasting Station: An establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures. This term includes all associated Communication Facility(ies).

Radioactive Waste: A solid waste material containing radioactive materials and subject to N.D.A.C. Title 33-10.

Recreational Vehicle: A vacation trailer or other vehicular or portable unit that is either self-propelled or towed or carried by a motor vehicle and, is intended for human occupancy, and is designed for vacation, recreational or residential uses.

Recreational Vehicle Park: A tract of land designed, utilized and operated on a fee or other basis as a place for the temporary parking of occupied recreational vehicles.

Recreational Vehicle Storage: A tract of land designed, utilized and operated on a fee or other basis as a place for the temporary parking of unoccupied recreational vehicles.

Residential Truck Parking: The parking of no more than one Commercial Truck at a residence for no more than one consecutive week without the Commercial Truck leaving the property for at least four hours, provided that the person who primarily operates the Commercial Truck is a resident of the residence at which it is parked.

Restaurant: A Use that involves the preparation and retail sale of food and beverages, whether alcoholic or non-alcoholic. The majority of sales must come from food and non-alcoholic beverages.

Retail Sales: A Use that includes the sale or lease of goods or food items directly to consumers, in which all merchandise and transactions are located indoors.

Retail Sales, Outdoor: Use of the property for the display and sales of products that are intended for outdoor use, including but not limited to, automobiles, farm implements, manufactured homes, recreational vehicles, storage sheds, burial monuments, and the like.

Right-of-Way (ROW): The area of land, either public or private, over which the right of passage exists.

Rooming House: Any Dwelling in which more than three (3) persons are housed or lodged for hire, with or without meals.

Runway. A defined area on an Airport or Public-Use Airport prepared for landing and takeoff of aircraft along its length.

Salvage Yard: A tract of land or structure, or part thereof, used primarily for the collecting, storage or sale of scrap or discarded material or for the collecting, dismantling, storing or salvaging of machinery, vehicles, watercraft, and any other equipment that is not in running order or for the sale of parts thereof.

School: An institution providing full time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state. This definition excludes College and Child Care, Preschool.

Seasonal Residence: Building used seasonally or intermittently, generally as a base for hunting, fishing, and/or outdoor recreation.

Service Station: Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the public.

Services, Automotive Repair: An establishment performs auto collision repair, paint detailing, transmission repair, tire installation, wheel alignment, upholster repair, lubrication work, and the like.

Services, Contractor's Office: An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office.

Services, Personal: Establishments providing nonmedically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats (self-service laundries); psychic readers; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

Services, General Repair: Establishments primarily engaged in repair services to individuals and households, such as appliance repair, small engine repair, jewelry repair, and the like, but excluding repair to automobiles and machinery.

Setback: The line within a property defining the required minimum distances between any structure or use and the adjacent Right-of-Way line, road Easement line, or property line of any lot.

Sight Triangle: The area of visibility necessary on a corner to allow for the safe operation of vehicles, trains, pedestrians, and cyclists in the proximity of intersecting streets, rail lines, sidewalks and bicycle paths.

Site Plan: A detailed plan for making improvements to one or more lots for the purpose of Development as provided in this Ordinance.

Skid Unit: Any "Skid unit" or "Crew housing facilities" as defined in NDCC 57-02.4-01.

Skid Unit Permit: Any "Crew housing permit" as defined in NDCC 57-02.4-01.

Slaughterhouse: A Building or Structure designed for the confinement, slaughter, and preparation of livestock for distribution to butcher shops or Retail Sales establishments such as grocery stores. A Slaughterhouse may include packing, treating, storage, or sale of the product on the premises.

Solar Energy System: A device, array of devices, or structural design feature that provides for the generation, storage, or transmission of photovoltaic electricity or that utilizes solar energy for space heating or cooling, interior lighting, or water heating. Solar energy systems may distribute energy for wholesale.

Solar Energy System (SES), Accessory: A device such as rooftop solar panels or stand-alone panels that generate and utilize solar energy or photovoltaic electricity on-site. An accessory SES is limited to no more than one-hundred (100) kilowatts and does not distribute electricity for wholesale. It is considered an accessory use on the parcel(s) on which it is located.

State Highway: Any road under the jurisdiction of the State of North Dakota.

Stockyard: Services involving the temporary keeping of livestock for slaughter, market, or shipping.

Storage Yard: Facilities characterized by open air storage of inventory, equipment, or vehicles, and light or heavy trucking activity, but not involved in manufacturing or production.

Storage, Oil/Gas: Above or below ground tank, reservoir or structure used to store, mix, or separate coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide.

Storage, Self-Service: Secured storage units that provide for interior storage only and that are constructed on Permanent Foundations.

Stormwater Management: means any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after Development activities.

Street: A way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place or however otherwise designated.

Arterial Street: A street that provides for through traffic movements of light and heavy vehicles between or around areas. Access to abutting property may be provided and street or road design speeds shall exceed 30 miles per hour.

Collector Street: A street that carries traffic from minor streets to arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a Development.

Minor Street: A street that is used primarily for access to the abutting property.

Half-Street: A half-street is when a street is constructed from the center line of the road to one edge of the pavement.

Structure: The word “structure” shall be construed as though followed by the words “or part or parts thereof” and is a combination of any materials fixed to form a Building, or related facilities for the use of occupancy by persons, or property. Structure includes buildings, towers, and Signs. The term excludes fences less than 8.5 feet in height.

Subdivision: The division, consolidation, or rearrangement of land according to a Plat; any plat or plan which includes the creation of any part of one or more streets, public Easements, or other rights-of-way, whether public or private, for access to or from any such lot, tract or parcel; and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.

Substantially Completed: More than 50% of the approved application has been completed.

Substantial Improvements: Any reconstruction, rehabilitation, addition or other improvement to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

Temporary: One year or less except when otherwise noted in a specific section of this Ordinance.

Temporary Housing: Housing that is not permanent. This includes Recreational Vehicles, Skid Units, Workforce Housing, and Manufactured Homes not on a Permanent Foundation.

Temporarily Permitted Use: A Use which has a definite time period as one of its conditions.

Temporary Public Gathering or Event: A single-purpose event, including the consumption of food and beverages, such as a wedding, concert, fair, or festival not to exceed one (1) month in duration.

Terminal, Transit: Any premises for the transient housing or parking of motor-driven buses and/or taxis. Bus terminals include the loading and unloading of passengers at a common location to facilitate transfer between bus routes/lines.

Terminal, Freight: Any premises used by a motor freight or heavy rail company(ies) as a carrier of goods, which is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods.

Traffic Impact Study: An engineering study that determines the potential traffic impacts of a proposed traffic generator.

Transitional Surface. A surface extending outward at a 90-degree angle to the Runway centerline and the Runway centerline extended at a slope of seven to one (7:1) from the sides of the Primary Surface and Approach Surface to where they intersect the Horizontal Surface and Conical Surface.

Underwriters Laboratory (UL): An independent safety science organization that develops standards and conducts testing and certification to ensure the safety, performance, and compliance of products, including battery energy storage systems and related components.

Use: The conduct of an activity or the performance of a function or operation, on a Lot or in a Building or Structure.

Utility: The basic facilities for public use such as water, sanitary and storm sewers, electricity, gas and telephone lines.

Variance: An adjustment to any regulation in this Ordinance allowed if unique circumstances meet the criteria established in Section 5-9-2.

Vertical Growth. Any object of natural growth that is vertical, such as a tree.

Vertical Structure. An object, including a mobile object, constructed or installed by man, including but without limitation buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Warehouse: Facilities characterized by enclosed structures with the purpose of containing inventory, equipment, or vehicles, and light or heavy trucking activity, but not involved in manufacturing or production.

Waste: Any garbage, refuse, sludge from a waste treatment plant, or air pollution control facility and other discarded waste material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities and further defined in NDCC Ch. 23-29-03.14 The term does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or the by-product material as defined by the Atomic Energy Act of 1954, as amended.

Asbestos Waste: any waste containing 1 percent or more asbestos.

Hazardous Waste: Any waste or combinations of wastes of a solid, liquid, contained gaseous, or semi-solid form as further defined in NDCC Ch. 23-20.3-02 and NDCC Ch. 33-24-02.

Industrial Waste: All waste resulting from an industrial, manufacturing service or commercial activity as defined by NDCC Ch. 23-29-03.

Inert Waste: Any “Inert waste” as defined in NDAC Title 33-20.01.1-03.

Infectious Waste: Municipal and residual waste which is generated in the diagnosis, treatment, immunization or autopsy of human beings or animals, in research pertaining thereto, in the preparation of human or animal remains for interment or cremation, or in the production or testing of biologicals, and which falls under one or more of the following categories: Cultures and stocks, Pathological wastes, Human blood and body fluid waste, Animal wastes, Biological waste, and Used sharps.

Household Waste: Non-hazardous or infectious waste commonly associated with residential and commercial garbage.

NORM: Naturally Occurring Radioactive Material. These radioactive elements are naturally present in low concentrations in earth's crust and are brought to the surface through human activities such as oil and gas exploration or mining and through natural processes like leakage of radon gas to the atmosphere or through dissolution in ground water.

Solid Waste Landfill: A site for the isolation of waste materials from the environment until it is safe. Non-hazardous solid waste is regulated by federal and state regulations.

TENORM: Technologically Enhanced Naturally Occurring Radioactive Material. This is Naturally Occurring Radioactive material that through a processing or distillation activity has concentrated the radioactive material.

Waste Tires: A waste tire includes a repairable tire, scrap tire, and altered waste tire to be disposed.

Waste Management Facility: Any plant or facility engaged in the treatment, storage, or disposal of waste.

Wholesale Activities, Including Outdoor Storage: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This includes the outdoor storage of inventory and/or capital necessary to support the business activity.

Wholesale Activities, Excluding Outdoor Storage: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Business activities are conducted wholly within the enclosed structure and excludes the outdoor storage of inventory and/or capital necessary to support the business activity.

Wildlife Management Refuge: An area maintained in a natural state for the preservation of both animal and plant life.

Wind Energy Conversion System (WECS): Any device that is designed to convert wind power to another form of energy such as electricity, mechanical or heat.

Wind Energy Conversion System, Accessory. A device such as a wind charger, windmill, or Wind Turbine and associated facilities that converts wind energy to electric energy intended for use onsite. Accessory WECS are comprised of one or more devices with a capacity of less than one-hundred (100) kilowatts that generate power for a single Farm, residence, or business. They do not distribute electricity for wholesale. Accessory WECS are treated as accessory structures and must comply with all regulations pertaining to accessory structures.

Wind Energy Facility: A facility directly generating electricity or indirectly generating electricity or energy through production of hydrogen, compressed air or other energy carrier from conversion of wind to energy and consisting of one or more Wind Turbines under common ownership or operating control, and includes Electrical Substations, temporary and permanent MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity directly, or through wind energy conversion to another form of energy, to off-site customer(s).

Wind Turbine: A Wind Energy Conversion System that converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, blade, tower, base, and pad transformer.

Workforce Housing: Housing used for the purpose of housing workers on a Temporary basis. Housing types can be permanent or temporary. Housing may include but is not limited to skid units, trailers, and recreational vehicles.

Yard: A space on the same Lot with the Principal Buildings or Structures, open, unoccupied and unobstructed by Buildings or Structures from the ground upward.

Front Yard: Yard extending across the full width of the Lot from side Lot Lines, the depth of which is the least distance between the front Lot Line and the front Setback line or Building Face. The front shall be the side of the Lot that abuts public Right-of-Way. If multiple sides of a Lot abut public Right-of-Way, the owner shall determine which side shall be the Front Yard.

Rear Yard: A Yard extending across the full width of the Lot from side Lot Lines, the depth of which is the least distance between the rear Lot Line and the rear Building Face of the Principal Building.

Side Yard: A Yard extending from the rear line of the required Front Yard to the rear Lot Line, the depth of which is the least distance from the side of the Principal Building and the side Lot Line.

Zoning Map: Official map of all the zoning districts as described in this Ordinance.

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ARTICLE 2. GENERAL PROVISIONS

Contents

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[Section 2-2: Compliance with Ordinances, Statutes, and Regulations](#)

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Sec. 2-1 Jurisdiction

The Land Development Ordinance shall apply to all areas of McKenzie County, except:

- A. Townships which have not by resolution relinquished the power to enact zoning regulations to the County.
- B. Within an incorporated city boundary
- C. A city's exclusive Extraterritorial Jurisdiction as authorized by NDCC Section 40-47-01.1, if any.
- D. Lands within the tribal boundaries as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs.
- E. Land under ownership of the Federal government.

Sec. 2-2 Compliance with Ordinances, Statutes, and Regulations

No structure or land shall be occupied unless in conformity to this Ordinance and:

- A. The provisions of the North Dakota Century Code and the Administrative Code.

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B. Federal law.

Sec. 2-3 Exceptions

Uses specifically exempted from County jurisdiction according to statutes of the North Dakota Century Code, NDCC Ch. 38-08. 38-08.1. 38-12. 38-12.1. 38-19. 38-22. 54-17.3. and 54-17.4., shall be exempted from this Ordinance.

Sec. 2-4 Severability

If any part or provision of this Ordinance or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its effect to that part, provision, section or application directly involved in the controversy and expressly adjudged invalid and shall not affect or impair the integrity or validity of the remainder of the Ordinance or its application to other persons, property or circumstances.

Sec. 2-5 Replace

All previous zoning regulations or parts of County regulations, existing ordinances and provisions which address zoning are hereby replaced with this Ordinance.

Sec. 2-6 Non-Conforming Uses or Structures

2-6-1 Authority to Continue

A Non-Conforming Use or Structure may be continued subject to the provisions of this section. A Non-Conforming Use or Structure is appurtenant to the land upon which it was established.

2-6-2 Termination Events

Non-conforming uses must be terminated upon the first of the following events to occur:

- A.** Change in Use
- B.** Change in the density of Use
- C.** Building modifications other than routine maintenance
- D.** Intentional demolition
- E.** Destruction of a structure or at least fifty (50) percent of a Structure by fire or similar occurrences
- F.** Discontinuance or abandonment of the Use for one hundred and eighty (180) consecutive days.

2-6-3 Expansion Prohibited

A Non-Conforming Use or Structure that existed prior to, or is created by, the adoption of this Ordinance or an Amendment thereto shall not be expanded to occupy or disturb an area within a Lot larger than existed at the date of the adoption of the respective Ordinance for which the Non-Conforming status was established. To change the zoning of a Lot that pre-existed before the adoption of this Ordinance shall not constitute an end to the Non-Conforming Use or Structure.

2-6-4 Public Exception

In the event any portion of a Lot is acquired for public Use, whether by eminent domain or by the landowner's consent, all existing, Lawful Uses and Structures of the affected Lot may, if not otherwise allowed by this Ordinance, be continued as Non-Conforming Uses or Structures unless and until an independent termination event occurs.

Sec. 2-7 Conditional Uses

Where a use is designated as a Conditional Use in, it must follow all provisions in this Ordinance and the Board of County Commissioners may require certain conditions of approval. See [Section 5.13](#) of this Ordinance for Conditional Use permitting standards.

Sec. 2-8 Prohibited Uses

A Prohibited Use as defined in this Ordinance shall not be allowed and any person who maintains a Prohibited Use is in violation of this Ordinance.

Sec. 2-9 Road, Traffic, and Access Requirements**2-9-1 Access Requirements**

- A. The County Engineer shall review proposed points of ingress or egress to any lot, tract, parcel, or Development from any street or highway under McKenzie County's jurisdiction and will follow the Road and Bridge Department Approach Permit Policy.
- B. In approving Development relying on any state road or highway, the decision-making individual or body as provided in Section 5-1 of this Ordinance must have written approval from the North Dakota Department of Transportation (NDDOT) of said access.
- C. Refer to the Road and Bridge Department Approach Permit Policy regarding additional access requirements and guidelines. Note that the Road and Bridge Department Approach Permit Policy is not subject to enforcement as stipulated in this Ordinance.

2-9-2 Sight Triangle

At all intersections where stop control (2-way and all-way) is not proposed, Sight Triangle areas or dedicated Right-of-Way shall be required and shall include the area on each street corner that is bounded by the line which connects the sight or connecting points located on each of the Right-of-Way lines of the intersecting street. Any plantings or structures placed within the Sight Triangle area shall not exceed thirty (30) inches in height. A public right-of-entry shall be reserved for the purpose of removing any object, material or otherwise, that obstructs clear sight. The Sight Triangle distances as shown in the diagram and table below shall be required.

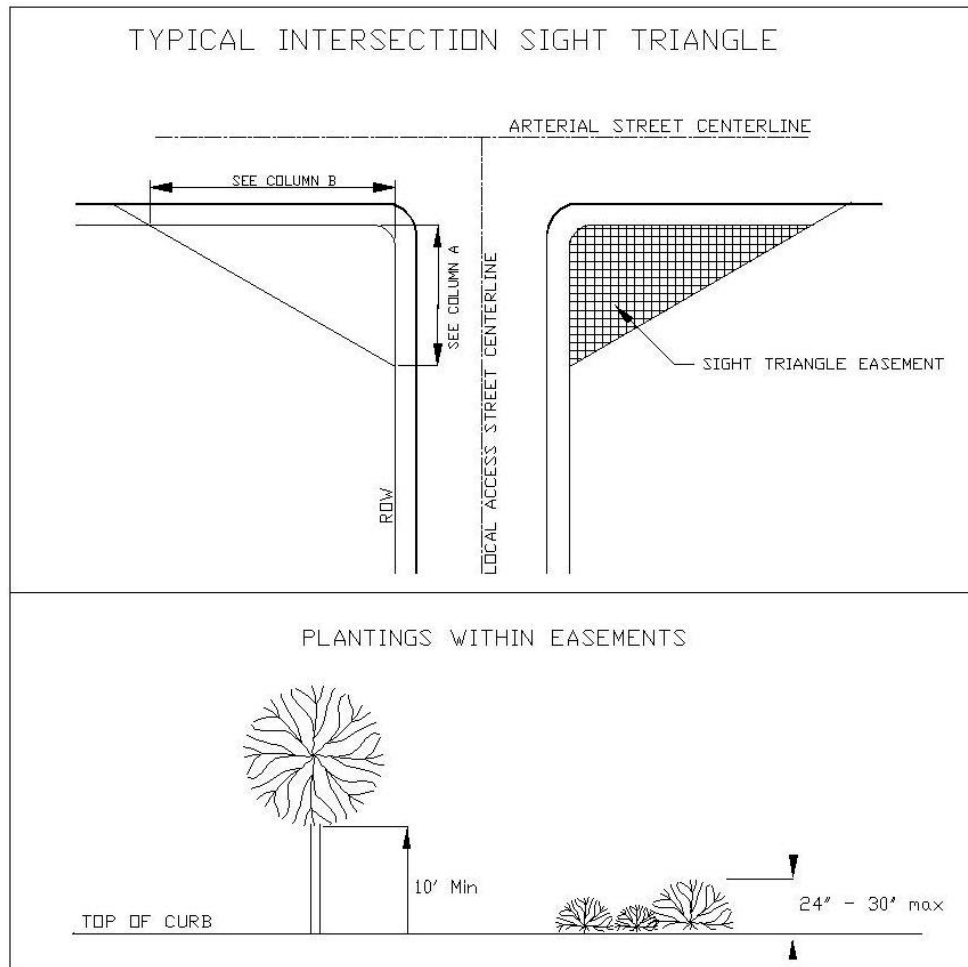


Table 2-1. Slight Triangle Requirements

	Clear Sight Setback – Column A	Clear Sight Setback – Column B

		Local	Collector	Arterial
Local	30'	30'	120'	150'
Collector	120'	30'	120'	150'
Arterial	150'	30'	120'	150'

2-9-3 Traffic Impact Study

A. Purpose. The purpose of the traffic impact study is to identify the adequacy of the transportation system to serve a proposed Development and the expected effects of the proposed Development on the transportation system. McKenzie County may require a traffic impact study to determine the effects of Development on public roads and determine what improvements are needed, if any, to maintain safe, efficient traffic operations.

B. Applicability.

1. Traffic impact studies may be required by the County Engineer at any of the following stages of Development:

- a. Application for a Comprehensive Plan land use Amendment
- b. Application for a zone change
- c. Application for a major subdivision
- d. Application for a Conditional Use permit
- e. Application for a building permit

2. A traffic impact study shall be required for:

- a. Any Development that can be reasonably expected to generate more than 500 vehicle trips during a single day and/or more than 100 vehicle trips during a single hour. Trips are external to the site.
- b. Any proposed zoning or land use change that, after development is completed, can be reasonably expected to generate more than 300 trips during a single day more than the previous zoning or land use condition.

3. A traffic impact study may be required for:

- a. Any Development that can be reasonably expected to generate more than 200 vehicle trips during a single day and/or more than 40 vehicle trips during a single hour.
- b. Any Development in which, based on the engineering judgment of the County Engineer, the proposed Development would significantly affect the adjacent roadway system. Examples include but are not limited to

proposals adding traffic to or creating known or anticipated safety concerns or proposals that will generate a significant amount of truck traffic (more than 30 trips per day or over 5% of site traffic.)

- C. Trip Generation.** To verify the proposed number of trips for development detailed in Section 2-9-3(B), the County Engineer may request any Development to verify the expected number of trips per day generated by the Development, which is done using the current Trip Generation Manual from the Institute of Transportation Engineers.
- D. State Coordination.** Proposed Development that receives access from a State Highway requires coordination with the State Department of Transportation, wherein a traffic impact study may be required by the State Department of Transportation in compliance with state guidelines.
- E. Study Requirements.** The following items are required as part of the traffic impact study. The County Engineer has the authority to waive any of the requirements of this section based on professional engineering judgement.
1. A summary of the proposed Development, the major findings of the analysis, and proposed mitigation measures.
 2. A vicinity map showing the location of the proposed project in relation to the transportation system.
 3. Existing traffic volumes using the best available data, unless the County Engineer determines that new traffic counts are necessary.
 4. Sight distance evaluation at study intersections.
 5. Study intersection design, including a recommendation on the need for right and/or left turn lanes. This recommendation must follow the State Department of Transportation's "Guidelines for the Installation of Turn Lanes along State Highways". If turn lanes are recommended, the study should use State Department of Transportation design practices to indicate the length of the proposed turn lanes including tapers, etc.
 6. Capacity analysis at intersections and segments within the study area, as appropriate. The analysis should document:
 - a. Existing traffic volumes using the best available data, unless the County Engineer determines that new counts are necessary due to recent Development changes in the area.
 - b. Existing performance of the transportation system, including Levels of Service (LOS) and volume/capacity ratios.
 - c. Complete trip generation figures for all aspects of the proposed Development, including the number of trips by vehicle type (cars and trucks), and time-of-day entering/exiting percentages.

- d. Forecast volumes and performance of the transportation system with the Development at buildout.
 - e. Directional trip distribution (for example, 30% from the west, 70% from the east). For Development that is expected to generate a significant amount of Commercial Truck traffic (more than 30 trips per day or 5% of site traffic), indicate if the truck directional distribution varies from the vehicle directional distribution.
- 7. Crash data analysis at existing study intersections.
 - 8. Traffic signal warrant analysis – with a recommendation of signalization (including timing, phasing, protected/permissive turns, and other signal coordination), roundabout or other traffic control devices.

F. Process

- 1. The County Engineer shall be consulted by a potential applicant prior to the submission of an application of a Comprehensive Plan Amendment, zone change, subdivision or building permit to determine if a traffic impact study is required.
- 2. The Developer shall be responsible for the cost of the traffic impact study, unless a condition exists where cost sharing may occur, as determined by the County Engineer.
- 3. When required as part of an application listed in Section 2-9-3(B)(1), a complete traffic impact study must be submitted for the application to be considered complete. The traffic impact study shall be submitted with the complete application by the established deadline for the application type.
- 4. The traffic impact study must be signed and stamped by a Professional Engineer registered in the State of North Dakota.
- 5. Improvements recommended as a result of the traffic impact study will be required upon application approval by the Planning and Zoning Board to be either:
 - a. constructed and in place before commencement of operations, or
 - b. bonded to assure completion prior to application approval.

Sec. 2-10 Road Setbacks

- A.** Setbacks shall apply to Buildings and Structures. Setbacks shall be measured from the ROW line or Easement line, which defines the road corridor.
- B.** Signs shall follow Setbacks as provided in Section 2-20, not the requirements in this Section (2-10).

- C. When there is conflict between the Setbacks listed below the greater setback shall apply.

2-10-1 State Highway Setback

Setback of Structures, excluding Signs, shall be a minimum of one-hundred-feet (100') from the ROW line or Easement line. When state or federal guidelines specify a minimum setback, the greater setback shall apply.

2-10-2 County Road and Township Road Setback

- A. Setback of Structures over three (3) feet in height shall be a minimum of seventy-five (75) feet from the ROW line, or road Easement line.
- B. No visual obstructions higher than three (3) feet shall be allowed within one-hundred (100) feet from each side of the intersection of roads under the County jurisdiction and within thirty (30) feet of each side of the intersection of driveways, approach roads, and County roads.

2-10-3 Private Road and Subdivision Road Setback

Setback shall be measured from ROW line or road Easement line and shall be as described in the zoning district.

2-10-4 Section Line Setback (Section Lines without Roads)

All Structures shall be Setback from section lines a minimum of one-hundred-thirty-three (133) feet.

Sec. 2-11 Parking Standards and Requirements

2-11-1 Parking Stalls Required

Parking requirements for specific Uses are provided in the list below and are tied to a Development's intensity as defined by the square footage of the Structures onsite, number of beds or vehicles, or size of property dedicated to a particular Use. Parking shall be provided for each Use separately as provided in this Section. Uses that require a Conditional Use Permit may be subject to additional parking requirements as determined by the Board of County Commissioners in approving any Conditional Use.

- A. Except for Commercial Feedlots, Agricultural Uses as identified in Table 3-1 are exempt from the parking requirements in this Section.
- B. Commercial Feedlot – 1 space per 500 square feet
- C. Retail Sales – 1 space per 250 square feet
- D. Restaurant – 1 space per 100 square feet
- E. Office – 1 space per 250 square feet

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- F. Warehouse – 1 space per 1,000 square feet
- G. Manufacturing, Light or Heavy – 1 space per 500 square feet
- H. Dwellings – 2 spaces per Dwelling Unit
- I. Workforce Housing – 1.2 spaces per bed
- J. Government Administration or Maintenance Facility – 1 space per 300 square feet
- K. Recreational Uses as identified in [Table 3-1](#). – 5 spaces per acre
- L. Place of Religious Assembly – 1 space per 5 seats in main gathering area or 1 space for every 50 square feet in the main gathering area, whichever is greater.
- M. Manufactured Home Park – 2 spaces per Manufactured Home
- N. Recreational Vehicle Park – 2 spaces per Recreational Vehicle

2-11-2 Parking Area Design

- A. Parking stalls shall be a minimum of nine (9) feet wide and twenty (20) feet long.
- B. Parking lot aisles shall be a minimum of twenty-five (25) feet wide for two-way traffic, or twenty (20) feet for one-way traffic.
- C. As required, all road approaches, driveways and parking lots shall be paved unless waived by the Planning and Zoning Director. Any denial of a request to waive the paving requirements may be appealed to the Board of County Commissioners as provided in Section 5-15 of this Ordinance.
- D. Parking lots shall have a minimum of a two (2) percent cross slope for positive drainage.

2-11-3 Residential Truck Parking

Residential Truck Parking shall follow the additional provisions below:

- A. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) for GVWR, Materials, and driver guidelines must be followed.
- B. Under no circumstances shall a motor vehicle which contains Division 1.1, 1.2, or 1.3 materials or any other hazardous materials be allowed to be parked within 300 feet of a Dwelling or place where people work, congregate, or assemble.

Sec. 2-12 Landscaping Standards

2-12-1 Purpose

Landscaping standards are intended to promote desired aesthetics, enhance property value, and soften the transition between differing land uses.

2-12-2 Applicability

Landscaping is required within parking lot perimeter strips (Section 2-12-6) and within buffer yards that separate abutting zoning districts (Section 2-12-7).

2-12-3 Exceptions

- A.** Unless required as a condition of approval as part of a Conditional Use Permit, the Agricultural District is exempt from all landscaping requirements.
- B.** No trees or shrubs shall be planted in an area that is required to remain free of vegetation by this Ordinance or any law.
- C.** Landscaping requirements shall not apply in Easements for pipelines and utilities.
- D.** No tree shall be planted within ten feet (10') of a fire hydrant.
- E.** The Planning and Zoning Director may waive or modify landscaping requirements if site conditions are not conducive to landscaping. Conditions that are not conducive to landscaping include, but are not limited to, soil conditions, safety hazards, water availability, and utility interference. Any denial to a request to waive or modify landscaping requirements may be appealed to the Board of County Commissioners as provided in Section 5-15 of this Ordinance.

2-12-4 Landscaping Plan Required

- A.** A landscaping plan shall be submitted and approved prior to issuance of a building permit. A landscaping plan is required under the following circumstances:
 - 1. For any new commercial, industrial, public/institutional Structures
 - 2. For any new Manufactured Home Park or Development that includes Dwellings, Attached (More than 4 Units).
 - 3. For any existing commercial, industrial, public/institutional Structure where the area is proposed to be expanded by more than 1,000 square feet or 10 percent, whichever is greater.
 - 4. For any existing Manufactured Home Park or Development that includes Dwellings, Attached (More than 4 Units) where additional Dwelling Units are proposed.

5. For any new parking area.
6. For any existing parking area that is expanded by 10 or more stalls.

B. Landscaping plans shall contain the following information:

1. North arrow and scale.
2. Location of existing and proposed parking areas.
3. Site drainage patterns.
4. Location of Easements.
5. Number of parking spaces and the preferred parking perimeter landscaping option, as required in Section 2-12-6.
6. Identification of the required buffer yard type (Light, Medium, or Heavy) and the preferred landscaping option (A, B, or C), as required in Section 2-12-7.
7. Names of all tree species to be planted on site.
8. Location of walls and fences.
9. Number of shrubs or types perennial grasses to be used per unit length of buffer yards and perimeter parking strips.

2-12-5 General Standards

- A. Plant Selection:** Plants must be rated to survive in USDA Hardiness Zone 4a or lower.
- B. Plant Diversity:** No more than 50 percent (50%) of the required number of trees or shrubs may be comprised of any one (1) species.
- C. Tree and Shrub Heights:** Trees and shrubs shall satisfy the minimum height requirements listed in [Table 2-2](#).

Table 2-2. Planting Requirements

Type of Plant	Minimum Size at Installation	Minimum Size at Maturity
Broad leaf/deciduous	5 feet above grade	20 feet
Evergreen/coniferous	4 feet above grade	15 feet
Shrub	2 gallon container	4 feet
Perennial Grasses	1 gallon container	2.5 feet

- D. Installation:** Landscaping shall be installed within eighteen (18) months of building permit approval. Tree installation shall follow NDSU Extension

planting guidelines. Spring planting is preferred for most tree species. Should the eighteen (18) month timeframe from when building permit approval conclude following September 26, but before May 15 of the subsequent year, all planting shall occur by September 26 nearest the end of the eighteen (18) month timeframe.

- E. Maintenance:** Property Owners shall be responsible for regular maintenance of all required vegetation and/or fencing. Dead or diseased plants shall be promptly removed and replaced within the next growing season. Required vegetation that is not properly installed, maintained, or replaced shall be in violation of this Ordinance and subject to enforcement provisions of Section 5-16.
- F. Ground Cover:** Exposed ground not occupied by trees or shrubs shall be landscaped with grass, landscaping stones, wood chips, or other landscaping material to be kept free of weeds.
- G. Existing Plants:** Plants that exist on a site prior to Development may be used to satisfy all or a portion of required landscaping provided they meet the requirements of this section.

2-12-6 Parking Lot Perimeter Landscaping

- A.** Landscaped buffers shall be located between adjacent roadway rights-of-way and off-street parking areas/vehicular circulation areas within the front or side street setback, in accordance with [Table 2-4. Buffer Yard Types](#).
- B.** Plants shall be spaced evenly to form a continuous row, straight or curvilinear.
- C.** Buffer widths shall be measured from the property line.

Table 2-3. Parking Lot Perimeter Landscaping Standards

Parking Lot Size	Planting Strip Minimum Width	Minimum Materials per 30 Linear Feet
1-9 stalls	5 feet	--
10-49 stalls	6 feet	Option A – 6 shrubs
		Option B – 12 perennial grasses
		Option C – Decorative fence
50+ stalls	8 feet	Option A – 6 shrubs + 1 tree
		Option B – 12 perennial grasses + 1 tree

2-12-7 Buffer Yards

- A. Placement:** Buffer yards shall be located along the entire length of any side or rear property line between adjacent zoning districts, as required in [Table 2-3. Parking Lot Perimeter Landscaping Standards](#). Buffer yards may overlap with other required yards or setbacks.
- B. Materials:** Buffer yards shall be used solely for landscaping/screening. No structure or impervious surfaces shall be allowed in buffer yards, excepting fences and walls.
- C. Buffer Yard Types:** There are three buffer yard types: Light, Medium, and Heavy. Each type has landscaping requirements corresponding to the degree of difference between two adjacent zoning districts as shown in Table 2-4 and Table 2-5.

Table 2-4. Buffer Yard Types

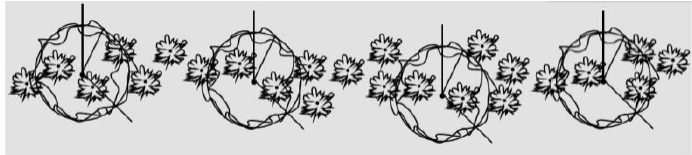
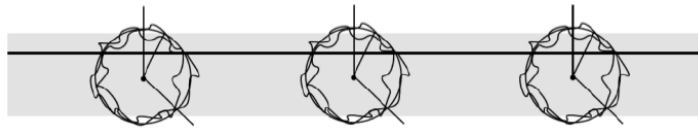
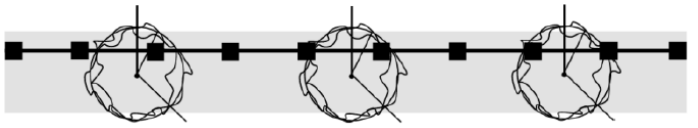
		Adjacent District							
		AG, R5-A	R-1	R2, R3	REC	C-1	I-1	I-2	P
Proposed District	AG, R5A	--	--	--	--	--	--	--	--
	R-1	--	--	--	Light	Light	--	Heavy	Med
	R2, R3	--	--	--	Light	--	--	Heavy	Light
	REC	--	Light	Light	--	--	Light	Med	--
	C-1	--	--	--	--	--	Light	Med	--
	I-1	--	Med	Med	Light	Light	--	Light	Med
	I-2	--	Heavy	Heavy	Med	Med	--	--	Heavy
	P	--	Med	Light	--	--	Med	Heavy	--

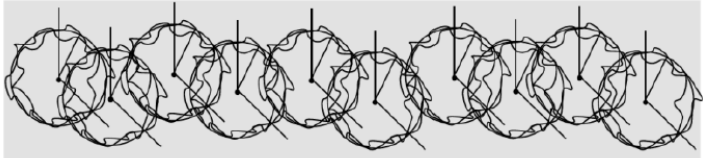
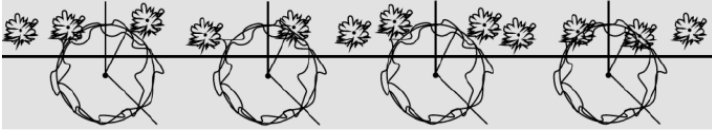
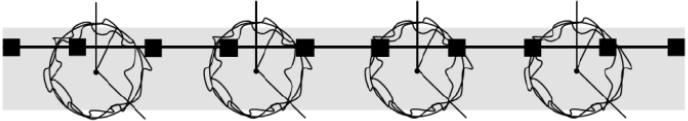
D. Landscaping Options:

1. Landscaping options for each buffer yard type are listed in [Table 2-4](#).
2. A fence or masonry wall constructed to a minimum height of six (6) feet but not to exceed nine (9) feet may be substituted to fulfill a portion of the planting requirements as indicated in Table 2-5 Table 2-4 details requirements for opaque and non-opaque fencing.
3. If the Planning and Zoning Director determines that a buffer yard is not conducive to planting, an opaque fence or masonry wall, berm or series of berms, or combination thereof may be required to fully screen the site. Berms shall have a minimum height of four (4) feet. To accommodate berms, the buffer yard may need to be wider than required in Table 2-4.

E. Existing Buffer Yards: When an existing buffer yard does not meet the current buffer yard requirements, the buffer yard shall be improved to meet the requirements of this section. The trigger for this requirement is stipulated in [Section 2-12-4](#).

Table 2-5. Buffer Yard Requirements

Light Buffer Yard		
Option	Materials per 100 Linear Feet	Illustration
A	Buffer Width: 25' Trees: 4 Shrubs: 24 Barrier: None	
B	Buffer Width: 15' Trees: 2 Shrubs: 16 Barrier: Non-opaque fence	
C	Buffer Width: 10' Trees: 3 Shrubs: 0 Barrier: Opaque fence	
Medium Buffer Yard		
Option	Materials per 100 Linear Feet	Illustration
A	Buffer Width: 25' Trees: 6 Shrubs: 24 Barrier: None	
B	Buffer Width: 15' Trees: 3 Shrubs: 9 Barrier: Opaque fence	
C	Buffer Width: 10' Trees: 3 Shrubs: None Barrier: Wall	
Heavy Buffer Yard		
Option	Materials per 100 Linear Feet	Illustration

A	Buffer Width: 25' Trees: 10 Shrubs: 0 Barrier: None	
B	Buffer Width: 15' Trees: 4 Shrubs: 12 Barrier: Opaque fence	
C	Buffer Width: 10' Trees: 4 Shrubs: None Barrier: Wall	

2-12-8 Fences

A. Opaque Fences:

1. Opaque fences shall provide full screening and shall be constructed of wood or composite/vinyl material that has the appearance of wood.
2. Opaque fences utilized within a required buffer yard shall have a minimum height of six (6) feet. All other opaque fences shall have a minimum height of five (5) feet. No opaque fence shall exceed nine (9) feet in height.
3. No opaque fence shall be erected within the front yard of any residential lot.

B. Non-Opaque Fences:

1. Non-opaque fences include all semi-transparent fences that are constructed of woven wire (e.g., chain link fence), lattice framework, wood rails, or in-line boards or metal tubing, excluding decorative fences.
2. All non-opaque fences shall have a minimum height of four (4) feet and a maximum height of six (6) feet.

C. Decorative Fences:

1. Decorative fences shall be constructed of metal tubing, such as wrought iron or aluminum, to a minimum height of three (3) feet and a maximum height of four (4) feet.
2. A decorative fence shall not include a chain link fence or any other type of woven fence.

D. No permanent fence shall be constructed within a road Right-of-Way or within the ditch back slope.

2-12-9 Screening of Outdoor Storage Areas and Trash Containers

- (A) All trash containers for multifamily buildings shall be placed within a trash enclosure constructed of a minimum five (5) foot high opaque fence or wall.
- E. In commercial districts, all trash containers shall be placed within a trash enclosure constructed of a minimum five (5) foot high opaque fence or wall.
- F. Additional screening requirements are stipulated in Section 3-16.

Sec. 2-13 Bonds**2-13-1 Purpose**

Among other purposes, bonds are a mechanism used to protect the County from unnecessary financial problems caused by property abandonment, violations of contract agreements, and/or correcting violations of the Zoning Ordinance.

2-13-2 Exceptions

- A. The bonds that are specified in this Ordinance may be waived if an applicant can show to the satisfaction of the County that the required Bond duplicates the purpose of a Bond that is required by state or other law and that such Bond will remain in effect at all times applicable to the Bond specified in this Ordinance.
- B. Pipelines, other than those transporting freshwater, are exempt from the Bond requirements listed in this code. This exemption includes the portions of a pipeline that are brought to the surface for valves, maintenance or other necessary uses. Bonding for other surface structures and facilities are not exempt.

2-13-3 Reclamation Bonds

- A. A Reclamation Bond is required for some Permitted Uses (as required specifically in certain zoning districts) and many Conditional Uses and temporary Site Plans.
- B. The Bond shall be for one hundred and fifty (150) percent of the estimated cost to remove all above ground structures and all underground structures, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a pre-Development appearance, and re-seed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.

- C. An estimate of the cost shall be subject to approval of the Planning and Zoning Director. Any denial may follow the Appeal procedures as provided in Section 5-15.
- D. The Bond shall be presented to the Planning and Zoning Director within sixty (60) days of the later of the following:
 - 1. Approval of a permit for which the Bond is required;
 - 2. If any other county, state or federal permit, certificate, determination or approval is needed in order for the permittee to commence construction, the permittee shall notify the Planning and Zoning Director within thirty (30) days of the issuance of the last such permit, certificate, determination or approval, if applicable.
- E. No Development may commence prior to presenting the Bond in the amount of the approved cost estimate to the Planning and Zoning Director. Failure to provide the Bond within the time required or if the Bond expires, is cancelled or revoked, or otherwise becomes uncollectible by the County, may result in revocation following the procedures as provided in Article 5 of this Ordinance.
- F. The estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director, and shall comply with parts (B) – (F) of this section.

2-13-4 Performance Bonds

- A. A Performance Bond shall be required when a person has agreed to construct, repair, or build a road, building, structure, or other items for the benefit of the public or the County.
- B. The Performance Bond may be released when the construction has been completed and confirmed by the County.
- C. The County reserves all rights to enforce its contracts, including bonds.

2-13-5 Violation Bonds

A Bond shall be posted when filing an application and the applicant has been notified that the land use applied for is in violation of this Ordinance. The applicant shall post a Bond equal to one hundred fifty (150) percent of the amount estimated by a licensed engineer and approved by the Planning and Zoning Director, to be required to terminate the violation and bring the land or structure into compliance with this Ordinance.

Sec. 2-14 Dedication of Land for Streets

Whenever a parcel of land to be subdivided as a subdivision contains a street or public way, such street or Alley shall be dedicated to the public at the location and details shown on the final plat. The Developer or Owner's Association is required to maintain all roads to and within a project unless the road has been designated by the County to be a County-maintained road, or is a township road designated to be maintained by an organized township. All non-section line roadways shall be the responsibility of the subdivision Developer. Nothing in this section shall require the County to build or maintain roads built on section lines.

Sec. 2-15 Authority to do Business

No building, structure, or land shall be occupied unless the owners of record, owners not of record non-residential, tenants non-residential, occupants, and operators of the same are all one of the following:

- A. A living natural person who is legally capable of owning, renting, occupying, or operating the subject structure, or land and who has an address in the United States of America as shown in the office of the McKenzie County Recorder indexed to the subject land or as available to McKenzie County officials inquiring about the person's address at the location of the subject structure, or land.
- B. An entity other than a natural person that has and at all times maintains a registered agent in North Dakota on file with the North Dakota Secretary of State and remains in good standing with both the North Dakota Secretary of State and the applicable government body regulating the business entity in the jurisdiction where it was organized.
- C. A deceased natural person who, during his or her life, lifetime, complies with subdivision (A) above and whose estate has either not yet been admitted to probate in North Dakota or is currently admitted to probate in North Dakota.
- D. An appropriate government entity authorized by North Dakota law to own, lease, occupy, or operate the subject building, structure, or land.
- E. One of the forgoing acting as a guardian, conservator, or trustee for one or more beneficiaries who are all one of the forgoing in an arrangement recognized by North Dakota Law.

Sec. 2-16 Skid Unit Permit Fee**2-16-1 Requirements**

- A. Pursuant to NDCC Ch. 57-02.4 the County imposes an annual fee per unit for all Skid Units that are occupied in the County. The fee shall be for all Skid Units

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as defined in NDCC Ch. 57-02.4-01. The fee is established by resolution of the Board of County Commissioners.

- B.** The fee shall be for units used for housing or a place of business for a period of time three (3) months or longer.
- C.** The fee shall be placed in the County's general fund to offset the cost of services provided including but not limited to policing, road maintenance and construction, social services, and general County services.
- D.** Every year each permitted Skid Unit is to display a reflectorized permit sticker indicating that the current yearly fee has been paid. A permit stickers shall be obtained at the office of the Planning Department following completion of the Skid Unit Permit Fee Application and payment of the annual fee. The sticker shall be applied to the outside of the Skid Unit and be visible from the street access.
- E.** The fee is due on January 1 of each year the Skid Unit is occupied in the County or at the time of occupation if after January 1. The full fee is due for any part of the year the Skid Unit is occupied in the County and the fee shall not be pro-rated for partial years.

Sec. 2-17 Stormwater Management

2-17-1 Purpose

The purpose of these stormwater management standards is to protect water resources by minimizing the impacts from land use change and Development. Stormwater management helps minimize erosion, reduce Flood risk, and protect water quality by reducing the volume and rate of stormwater flow. The section is intended to ensure that stormwater is managed appropriately protect County water resources after construction is completed.

2-17-2 Application of Regulations

- A.** A stormwater management plan shall be required for the following activities that fall under the jurisdiction of McKenzie County's Land Development Code:
 - 1. Any Development 1 acre in size or greater.
 - 2. Any Development that will have 20,000 square feet of impervious surface area or greater.
 - 3. Any non-agricultural subdivision with five (5) or more buildable lots.
- B.** No building permit, subdivision approval, Conditional Use permit, or permit to allow land disturbing activities shall be issued until the stormwater management plan has been approved or a waiver has been granted in accordance with the provisions of this section.

- C. Stormwater management plans shall be subject to written approval by the County Engineer prior to the public hearing on the planning and zoning application by the Planning and Zoning Board. The decision by the County Engineer may be appealed, as described in Section 5-15.
- D. The following processes and activities are exempt from provisions of this section:
 - 1. Land disturbing activity involving Farm activities.
 - 2. Land disturbing activity involving the construction of one Single-Family Dwelling or one Duplex Dwelling.
 - 3. Emergency work to protect life, limb, or property. This determination is made by the County Engineer.

2-17-3 Waiver of Requirements

- A. The County Engineer may waive the requirements of this section if one of the following conditions is met:
 - 1. A stormwater management analysis was previously performed on the property and the existing stormwater management system is adequate for the proposed Development or use.
 - 2. The proposed Development or use will not permanently and significantly increase the impervious surface area of the property, negatively impact water quality, or permanently increase soil erosion.
- B. The County Engineer may require as a condition of the waiver such dedication or construction, or agreement to dedicate or construct, as may be required to adequately meet the standards of this section.

2-17-4 Stormwater Management Plan

- A. Hydrologic Response. The stormwater management plan shall show how the applicant intends to install or construct all facilities necessary to manage increased runoff so that the 2-year, 10-year, and 100-year storm peak discharge rates existing before the proposed Development or land disturbing activity are not increased because of the activity.
- B. Natural Features. To reduce the need to construct stormwater management facilities, the stormwater management plan shall incorporate the use of natural topography and land cover such as wetlands, ponds, and natural swales and depressions to the degree that these features can accommodate increased hydrologic flows without degradation.
- C. Other Agency Requirements. Other standards, including state and federal stormwater permitting requirements, may apply. If the standards of multiple agencies conflict, the more restrictive shall apply. It is the responsibility of the

applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed.

- D. Operation and Maintenance.** Maintenance of stormwater facilities is the responsibility of the property Owner. The stormwater management plan shall include a plan for operation and maintenance that assures ongoing effectiveness. All stormwater facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. The County Engineer may inspect any stormwater management facility at any time. It is the responsibility of the applicant to obtain any necessary Easements to allow access to stormwater management facilities for maintenance purposes.
- E. Expiration.** The stormwater management plan shall expire after one (1) year if construction has not commenced. At such time, a new plan shall be submitted for review.
- F. Approval.** The County Engineer has the authority to approve the stormwater management plan.

2-17-5 Construction Documents

- A.** Construction documents prepared as part of the stormwater management plan must be sealed and signed by a professional engineer registered in the State of North Dakota.
- B.** No building permit shall be issued, nor shall any Development, construction, or land disturbing activity commence on any property subject to a stormwater management plan, until the stormwater management plan has been approved by the County Engineer.
- C.** Construction documents for stormwater management shall be coordinated with the erosion control plan (Section 2-18).
- D.** Permanent erosion control measures (left in place after construction) shall be identified.

2-17-6 Enforcement and Maintenance

- A.** Enforcement of an approved storm water management plan shall include intermittent inspections of the Development from public right of way or Easement by the Planning and Zoning Director or County Engineer. Should any inspections result in a determination of non-compliance with the approved plan the Owner will be notified of the necessary corrective actions. Should such corrective actions not be implemented within the specified time frame designated in the notice, any current permits for construction on such properties may be suspended. If corrective action is not taken within a period of not less than fourteen (14) days from the date of receipt of notice the Owner/Developer

may be subject to legal action to achieve compliance. In the case where non-compliance is associated with overall Development within a subdivision, enforcement could include the suspension and/or revocation of any other permits approved within the subdivision and the Performance Bond may be used to make corrective actions.

- B.** Any damages to public facilities resulting from non-compliance with the storm water management plan (i.e., roadway washout, sediment removal, etc.) shall be corrected by the offending Owner or payment made to the County for the extent of such damages. Costs incurred by the County to correct such damages shall be paid by the Owner or may be assessed to the Development properties.
- C.** Any approvals associated with the stormwater management plans shall be suspended if non-compliance with this section threatens the health, safety, and/or welfare of the public.
- D.** The plan shall include ongoing maintenance of the subject area to ensure compliance with requirements of the County weed control officer. Maintenance shall be the responsibility of the property Owner.

Sec. 2-18 Erosion Control During Construction

2-18-1 Purpose

The requirements of this section are intended to protect McKenzie County's soil and water resources from erosion and sedimentation that may occur during the construction process.

2-18-2 Erosion Control Plan

- A. Requirement.** An erosion control plan shall be required before the commencement of any construction or Development that disturbs one (1) acre or more of land by grading, excavating, or removing the natural topsoil, trees, or other vegetative covering thereon. Erosion and sedimentation control shall be exercised throughout the time of excavation, landfill, and construction. No such work shall be approved until after appropriate seeding, sodding, planting, mulching, or other appropriate erosion control measures have been taken. The erosion control plan is subject to review and approval by the County Engineer prior to approval of the following:
 - 1. Building permit
 - 2. Any planning and zoning application (if such application is required)
 - 3. Any grading adjacent to County right of way
- B. Agricultural Exemption.** Development that is a Permitted Use in the Agricultural District is exempt from the requirements of this section.

C. Standards. The erosion control plan shall address the following minimum standards:

1. The smallest practical area of land will be exposed at any time during Development.
2. When land is exposed during Development, the duration of exposure will be limited to the shortest practical time period.
3. Topsoil shall be removed and stockpiled during grading/Development activities and replaced as needed upon completion in order to facilitate revegetation. The site shall be revegetated promptly upon completion of grading activities.
4. Where necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during Development.
5. Sedimentation basins shall be installed and maintained to remove sediment from run-off waters from land undergoing Development or substantial changes of grade.
6. Permanent vegetation and structures shall be installed as soon as practical in the Development.
7. The Development plan shall be adapted to the topography and soils of the site so as to create the least erosion potential.
8. Wherever feasible, trees, shrubs, and natural vegetation shall be retained and protected to control erosion.
9. Water pumped from a Development site shall be treated by temporary sedimentation basins, grit chambers, sand filters, soil concentrators, or other appropriate controls as necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or Flood occurring on the Development site, receiving channels, or wetlands.
10. Construction contractors shall ensure that all waste and materials including garbage, debris, wastewater, toxic materials, and hazardous materials are properly disposed of off-site and are not carried by runoff into any water course, storm sewer system, or wetland.

Sec. 2-19 Fire Protection

A. Adequate fire protection must be provided and maintained for all residential, commercial, and industrial Development. Adequate fire protection must be identified prior to approval of the following:

1. building permits,
2. subdivisions,

3. Conditional Use permits,
 4. zone changes, and
 5. Comprehensive Plan land use changes.
- B.** The applicant shall coordinate with the State Fire Marshal office to determine adequate fire protection based on the type of Development.
- C.** Oil and gas storage facilities not excepted from application of this Ordinance shall space storage tanks as determined by the State Fire Marshal.

Sec. 2-20 Signs

2-20-1 Purpose

The intent of these regulations is to establish a reasonable framework for signage and to facilitate easy and agreeable communication, at the same time recognizing the need to protect the safety and welfare of the public, to maintain attractive appearance in the community and to allow adequate business identification. It is the further intent of these regulations to maintain a balance between the commercial needs of business enterprises and their visual impact on residents and visitors of the County.

Unless otherwise noted herein the County follows the regulation as outlined in NDCC Ch. 24-17.

2-20-2 Permit Requirement

- A.** No person, including any Owner, lessee, or other occupant of any premises, shall erect, construct or display, or permit the erection, construction, or display of any Sign within the County, other than in accordance with the provisions of this section. All Signs, unless exempted herein, require a Sign Permit issued by the County.
- B.** The Planning and Zoning Director or their designee shall examine all applications for the erection of Signs and, upon determining that a Sign(s) is(are) in accordance with the provisions of this Section, issue permits for new Signs and for continued use of Signs which conform to the requirements of this Section. Further, they shall collect a permit fee as established by the Board of County Commission to review all applications, any accompanying plans and documents, make routine inspections of Signs, and make such reports as the Planning and Zoning Board may require.

2-20-3 Definitions

The following definitions are added to the Ordinance:

Ancillary Sign: A Sign providing information for the purpose of achieving orderly interaction of employees and visitors within the business premises.

Billboard: A Freestanding or Wall Sign greater than two-hundred-fifty square feet (250 s.f.) which advertises a business, commodity, good, service, entertainment or attraction which is not sold, produced, manufactured, or furnished on the premises where the billboard is located. Billboards include either a Digital Sign, static displays, or three-message displays (three-message displays consist of triangular prisms placed inside a frame).

Digital Sign: Electronic image displays that present one Sign or a series of Signs on a rotating basis through LED, or similar, electronic technologies.

Freestanding Sign: A Sign that is greater than eight feet (8') in height as measured from the adjacent ground to the top of the Sign supported by a single or multiple poles, secured to a Permanent Foundation upon the ground, and not attached directly to any Building. Commonly referred to as pole or pylon sign.

Ground Sign: A Sign that is less than eight feet (8') in height as measured from the adjacent ground to the top of the Sign, set firmly in or upon the ground surface, and is not attached to any Building.

Onsite Circulation: The area of a Development that is necessary to facilitate the movement of pedestrians, bicyclists, and motorized vehicles about the premises (e.g. sidewalks; walkways; parking areas; drive-aisles).

Portable Sign: Any sign which is constructed so as to be movable, either by skids, wheels, truck or other conveyance; any sign which does not have a Permanent Foundation or is not otherwise permanently fastened to the ground. . When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors.

Road Frontage:

- A. The length of the property boundary that abuts a Right-of-Way or public access Easement.
- B. Where the length of the property boundary that abuts a Right-of-Way or public access Easement is thirty (30) feet or less and where its sole purpose is to provide direct access to the Right-of-Way or public access Easement, Road Frontage may be calculated by utilizing the entire length of the property boundary running parallel to the Right-of-Way or public access Easement.
- C. For properties with that do not have a property boundary which abuts a Right-of-Way or public access Easement, Lot Frontage shall be used.

Sign: Any emblem, name, identification, description or illustration which is used to communicate having a permanent location on the ground or attached to or painted on a building.

Sign Alteration: Any change of copy, sign face, color, size, shape, illumination, position, or location and does not require either the modification of the existing support structure (Sign Cabinet, raceway, background panel, etc.) or the erection of new support structure.

Sign Alteration, Major: Any Sign Alteration that includes:

- A. Replacement of the pole or other supporting structure of a Freestanding Sign.
- B. Replacement of a Sign Cabinet of a Wall Sign.
- C. Any other repair that constitutes a Substantial Improvement as defined in Section 1-4-2.

Sign Alteration, Minor: Any Sign Alteration that includes:

- A. Replacement of the Sign Face of any sign.
- B. Replacement of the Sign Cabinet of a Freestanding sign.

Sign Area:

- A. The sign area will be calculated by the smallest rectangle around the text/logos/etc. or clearly defined Sign Cabinet(s).
- B. The sign area shall not include any supporting framework, bracing or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
- C. Where the sign consists of individual letters, designs, or symbols attached to a building, awning, or wall, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.
 - 1. Where the average width between the individual letters, designs, or symbols is greater than the average width of the individual letters, designs, or symbols, each individual letter design, or symbol shall be treated as its own Sign for the purpose of calculating Sign Area.

Sign Cabinet: The apparatus that encompasses, contains, or holds in place the Sign Face.

Sign Clearance: The distance as measured by the smallest vertical distance between the finished grade and the lowest point of the Sign Cabinet, excluding the pole of a Freestanding Sign.

Sign Face: The area or display surface used for the message.

Sign Height: The height of a Sign shall be computed as the vertical distance as measured from finished grade to the top of the highest attached component of the Sign or sign structure.

Sign Permit: A permit to erect, construct, or display a Sign.

Temporary Sign: Any sign, banner, pendant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time for a particular event.

Wall Sign: A Sign attached to the wall of a Building. This definition includes painted signs, individual letter, and signs on a mansard roof.

Window Sign: A Sign that is painted directly on a window or affixed to the inside or outside of a window that requires no modification to an existing Structure.

2-20-4 Prohibited Signs

- A. No sign shall be erected at any location where by reason of the position, shape or color it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "STOP," "LOOK," "DRIVE- IN," "DANGER," or any other word, phase, symbol or character in such manner as to interfere with, mislead, or confuse traffic.
- B. Signs erected or located on, within or over any public Right-of-Way, unless specifically permitted herein.
- C. Portable Signs.
- D. Any abandoned Sign (not containing a Sign Face) must be removed within six months of the date of abandonment. Removal shall include removal of abandoned structural components.
- E. Signs that are not clean or in substantial good repair; or are not affixed to a sound structure.

2-20-5 Exemptions

The following shall be exempted from the requirement to obtain a Sign permit:

- A. Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, and such temporary emergency signs as may be erected by the government or public utility employees in carrying out their official work.
- B. Plaques and markers associated with a historic site or historic building, as determined by the State Historic Preservation Office (SHPO), and Historical Monuments and/or Structures as defined in this Ordinance.

- C. Signs used on property warning the public against trespassing, parking, or soliciting thereon.
- D. Signs required by any provision of law or signs deemed necessary to the public welfare by the governing body (e.g. building permit number and associated information posted onsite for construction projects; Sign required as part of a Conditional Use Permit).
- E. Building and/or site addressing.
- F. Signs not exceeding six (6) square feet.
- G. Window Signs.

2-20-6 General Sign Provisions.

- A. **Setbacks:** A Sign shall be located no closer than ten (10) feet from a property boundary or private or public access Easement. An exception to this requirement applies to a Sign less than six (6) square feet attached to a fence. When state or federal guidelines specify a minimum Setback, the greater Setback shall apply.
- B. **Sight Triangle:** No sign shall interfere with the Sight Triangle as provided in this Ordinance.
- C. **Onsite Circulation:** A Sign shall not interfere with Onsite Circulation.
- D. **Sign Lighting:** Illuminated signs may be directly or indirectly lighted, provided that they comply with the following standards:
 1. Illumination of directly illuminated signs shall be of the diffused lighting type.
 2. Indirectly illuminated signs with external spot or flood lighting must be arranged such that the light source is directed away from passersby. The light source must be directed against the sign such that it does not shine into adjacent property or cause glare for motorists and pedestrians.
 3. Floodlights or spotlights used for the illumination of signs, whether such lights are attached to or separate from the building, shall not project light beyond the sign.
- E. **Major Sign Alteration:** A Major Sign Alteration may only be performed on a Conforming Sign.
- F. **Minor Sign Alteration.** A Minor Sign Alteration may be performed on a Conforming or Non-Conforming Sign.
- G. **Building Code Compliance.** A Sign is subject to review and approval by the Planning Department for compliance with the adopted building-related codes at the time of application. Additional documentation and/or building permitting may be required. Additional fees, if any, are separate from the Sign Permit fees.

- H. Responsibility for Compliance.** The Owner of the parcel on which a Sign is placed is fully responsible for the condition and the maintenance of a Sign, including the area within five feet (5') of the Sign.
- I. Sanitation.** Within five feet (5') of any Sign, property shall be maintained in a clean and sanitary condition to include being free from weeds, rubbish, and flammable material.
- J. Digital Signs.** The following additional provisions apply:
1. Digital Signs shall be equipped with automatic dimming technology that adjusts the display's brightness based on ambient light conditions. Maximum brightness levels shall not exceed 0.3 (three tenths) footcandles over ambient light levels measured at a preset distance as described in the following table:

Table 2-6. Distance for Measuring Brightness

Size of Sign in Total Square Feet	Distance from Sign
250-350	150 feet
351-650	200 feet
Over 650	250 feet

Prior to issuance of a Sign Permit, certification must be provided to the Planning and Zoning Director or their designee demonstrating that the Sign has been preset to automatically adjust the brightness to these levels or lower. Reinspection and recalibration may be required by the Planning and Zoning Director in their reasonable discretion.

2. Digital Signs shall display a static message which message may not change or be changed for a period of at least seven (7) seconds.
 3. Digital Sign transitions from one such static message to the next shall occur instantaneously (one second or less) without the use of animation, flashing or frame effects.
- K. Material.** Except for Temporary Signs, Signs shall be constructed of high-quality materials, such as dura-wood, Dibond, vinyl, or aluminum.
- L. Additional Specific Provisions/Limitations Apply.** Additional sign provisions and/or limitations shall apply for certain uses as provided in Article 4.
- M. Window Signs.** Window Signs are limited to thirty-five percent (35%) of the window area of a Building Face.
- N. Billboards.** The following additional provisions apply:
1. Billboards are limited to those properties within two (2) miles of the Watford City Extraterritorial Jurisdiction boundary, or within one (1) mile

of the Arnegard, Alexander or Keene boundaries or their respective Extraterritorial Jurisdiction boundaries.

2. Digital Billboards shall comply with the same brightness requirements as provided in [Section 2-20-6](#).
3. Billboards along State Highways require coordination with the North Dakota Department of Transportation and may be subject to additional limitations and requirements.

2-20-7 Sign Type and Zoning District Table

Table 2-7. Sign Type and Zoning District Table

Sign Type	Dimensional Standard (Maximum)	Zoning District								
		AG	REC	R-1 ¹	R-5A ¹	R-2 ¹	R-3 ¹	C-1	I-1	I-2
Wall	Sign Area	1 s.f. per foot of Road Frontage up to 100 s.f.		4 s.f.			2 s.f. per foot of Road Frontage up to 200 s.f.	2.5 s.f. per foot of Road Frontage up to 250 s.f.	3 s.f. per foot of Road Frontage up to 300 s.f.	
	Sign Height	Top of building wall								
	Sign Clearance	8' when abutting any pedestrian walkway								
	Sign Quantity	Multiple ^{2,3}		1			Multiple ^{2,3}			
Freestanding	Sign Area	1 s.f. per foot of Road Frontage up to 75 s.f.	1 s.f. per foot of Road Frontage up to 50 s.f.	Not permitted			1 s.f. per foot of Road Frontage up to 100 s.f.	1.5 s.f. per foot of Road Frontage up to 150 s.f.	1.5 s.f. per foot of Road Frontage up to 150 s.f.	
	Sign Height	35'	25'				45'			
	Sign Clearance	8'					8'			
	Sign Quantity	1 per three-hundred (300) feet of Road Frontage					1 per three-hundred (300) feet of Road Frontage			
Ancillary	Sign Area	1 s.f. per foot of Road Frontage up to 150 s.f.	1 s.f. per foot of Road Frontage up to 100 s.f.	Not permitted			2 s.f. per foot of Road Frontage up to 200 s.f.	2.5 s.f. per foot of Road Frontage up to 250 s.f.	3 s.f. per foot of Road Frontage up to 300 s.f.	

Sign Type	Dimensional Standard (Maximum)	Zoning District								
		AG	REC	R-1 ¹	R-5A ¹	R-2 ¹	R-3 ¹	C-1	I-1	I-2
	Sign Height	Follow the respective zoning district standards for either a ground/monument sign or wall sign; freestanding signage not permitted.						Follow the respective zoning district requirements for either a ground/monument sign or wall sign; freestanding signage not permitted.		
	Sign Clearance									
	Sign Quantity	Multiple						Multiple		
Ground	Sign Area	32 s.f.		6 s.f.				64 s.f.		
	Sign Height	Up to 8'								
	Sign Clearance	N/a								
	Sign Quantity	1								
Temporary ⁴	Sign Area	32 s.f.		6 s.f.				50 s.f.		
	Sign Height	8'	6'				8'			
	Sign Clearance	N/a								
	Sign Quantity	1								
Billboard	Sign Area	Not permitted						750 s.f.		
	Sign Height							45'		
	Sign Clearance							14'		
	Sign Quantity							1 per one-thousand (1,000) feet.		

¹Signage located within residential districts for residential uses as denoted in Table 3-1. Zoning and Land Use Table is subject to the limitations set forth in this Table. An exception exists for any Conditional Use that specifies signage as a condition of approval as part of the Conditional Use permitting process to include area, quantity, height, clearance, and type, but at no time may signage exceed what is permitted within the C-1 Commercial District.

²Signage may be allocated across multiple signs, but the total may not exceed the maximum sign area.

³At a minimum, each business in a multi-tenant/multi-business Development is entitled to have one (1) forty (40) s.f. Wall Sign. This provision in no way inhibits the ability of a property Owner to further limit signage collectively for the Development or of individual tenants.

⁴Temporary signs must be removed within seven (7) days following the event for which they were erected.

2-20-8 Non-Conforming Signs

- A. Replacement:** A Non-Conforming Sign may continue if it is maintained in good condition. It shall not, however, be replaced by another Non-Conforming Sign. A Non-Conforming Sign may not undergo a Major Sign Alteration.
- B. Nuisance:** An unsafe or abandoned Sign is declared a public nuisance, which shall be abated by the Owner within thirty (30) days of receiving notice from the Planning Department.

2-20-9 Variances and Appeals**A. Variance:**

1. The Planning and Zoning Board shall have the authority to vary the requirements and standards of these sign regulations in providing a variance is consistent with the intent.
2. Any variance granted by the Planning and Zoning Board which is not exercised by obtaining a corresponding Sign Permit within one year from the effective date of the variance shall be null and void.

- B. Appeals:** Decisions of the Planning and Zoning Board may be appealed to the Board of County Commissioners. All appeals shall be filed within 30 days from the date of the decision of the Planning and Zoning Board.

ARTICLE 3. ZONING DISTRICTS

Contents

[Section 3-1: Zoning District Designation](#)

[Section 3-2: Zoning Map and District Boundaries](#)

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[Section 3-4: Table of Dimensional and Density Standards](#)

[Section 3-5: Agricultural District \(AG\)](#)

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[Section 3-7: Residential Low Density District \(R-1\)](#)

[Section 3-8: Rural Residential District \(R-5A\)](#)

[Section 3-9: Residential Medium Density District \(R-2\)](#)

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[Section 3-11: Commercial District \(C-1\)](#)

[Section 3-12: Light Industrial District \(I-1\)](#)

[Section 3-13: Heavy Industrial District \(I-2\)](#)

[Section 3-14: Planned Unit Development Overlay District \(PUD\)](#)

[Section 3-15: Floodplain Overlay District](#)

[Section 3-16: Highway Corridor Overlay District](#)

[Section 3-17: Firearms Facility Overlay District](#)

[Section 3-18: Public-Use Airport Overlay District](#)

Sec. 3-1 Zoning District Designation

McKenzie County is hereby divided into zoning districts for purposes of controlling the use of lands and structures as authorized in NDCC Ch. 11-33-02. Said districts shall be known as:

- A. Agricultural District (AG)
- B. Recreational District (REC)
- C. Residential Low Density District (R-1)
- D. Residential Medium Density District (R-2)
- E. Residential High Density District (R-3)
- F. Rural Residential District (R-5A)
- G. Commercial District (C-1)
- H. Light Industrial District (I-1)
- I. Heavy Industrial District (I-2)
- J. Planned Unit Development District (PUD)
- K. Floodplain Overlay District

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L. Highway Corridor Overlay District

M. Firearms Facility Overlay District

N. Airport Overlay District

Sec. 3-2 Zoning Map and District Boundaries

3-2-1 Zoning Map

The zoning districts as described in this Ordinance shall be mapped. Said map shall be known as the County Zoning Map and shall include all materials necessary for the interpretation of the map. The County Zoning Map shall include the date of the last Amendment to the map and shall be available for inspection in the office of the County Auditor upon request. The County Zoning Map may be maintained in digital format. The County Zoning Map shall be updated and republished on a regular basis to reflect approved amendments.

3-2-2 Boundary Definition

Zoning district boundary lines shall follow lot lines, parcel lines, subdivision lines, section lines, center lines of streets, roads, highways, Alleys, or railroad right of ways.

3-2-3 Boundary Interpretation

Where, due to map scale or lack of clarity, there is any uncertainty as to the intended location of a boundary line shown thereon, the Planning and Zoning Director shall interpret and delineate the boundary line in question. Any dispute to the Administrative Determination of the Planning and Zoning Director shall follow the Appeals procedures as provided in [Section 5-16](#).

Sec. 3-3 Table of Uses

3-3-1 Zoning and Land Use Table

A. The *Zoning and Land Use Table* (Table 3-1) on the following pages lists existing and potential future uses that are permitted in each zoning district. The table uses the following key:

P	Use permitted by right
C	Conditional use subject to Board of County Commissioners approval
C/A	Conditional use subject to administrative approval
NA	Use not subject to County oversight

(blank) Use not permitted in zoning district

- B. Special use standards:** Special use standards apply to certain uses. Special use standards typically pertain to the permitting, Development, operation, maintenance, or closure/reclamation of a use. The rightmost column of Table 3-1 includes section references to special use standards, if applicable.

Table 3-1. Zoning and Land Use Table

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.										
Agricultural Uses										
Agriculture	P									
Aquaculture	C									
Non-Traditional Livestock	C									
Agritourism	P									
Commercial Grain Elevators	C							P	P	
Commercial Feedlot	C									Section 4-2
Farm	P									
Farm-Related Business	P							P	P	
Farm Stand	P									
Farm, Limited		P								
Livestock Auction Yards	C								C	
Greenhouse	P						P			
Agricultural Product Processing	C							P	P	
Recreational Uses										
Equestrian Event	P	P								
Golf Course		P								
Hunting, Fishing, and Trapping	P	P								
Hunting Lodge	P									
Park	P	P	P	P	P	P				
Recreational Vehicle Park		P		C	C					Section 4-11
Wildlife Management Refuge	P	P								
Residential Uses										
Dwellings, Attached (Up to 4 Units)				P	P					
Dwellings, Attached (More than 4 Units)					P					
Domestic Farm Animals			P	P		P				Section 4-25
Dwelling, Duplex				P	P					
Manufactured Home	P		P	P		P				Section 5-19
Manufactured Home Park				P	P	P				Section 4-10
Home Occupation			P			P				Section 4-4

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.										
Recreational Vehicle Occupancy, Limited		P	P	P	P	P				Section 4-12
Residential Truck Parking			P							
Seasonal Residence		C								
Dwelling, Single-Family Detached	P	C	P	P	P					
Public and Institutional Uses										
Airport	C									
Terminal, Transit							P	P	P	
Cemetery	P									
Child Care Center			C	C	C	C	C			
Child Care, Family	P		P	P	P	P				
Child Care, Group	C		C	C	C	C	P			
Child Care, Preschool	C		C	C	C	C	P			
Child Care, School-Age	C		C	C	C	C	P			
Child Care, Multiple Licensed Program	C		C	C	C	C	P			
Child Care, Self-declared Provider	P		P	P	P	P				Section 4-15
Place of Religious Assembly	P	C	P	P	P	P	P			
Clubs	P	C	P	P	P	P	P			
College					P		P			
Cultural Center		C	P	P		P				
Government Administration or Maintenance Facility	C	C					C	P	P	
Group Home (up to six (6) individuals)			P	P	P	P				
Group Home (up to eight (8) individuals)				P	P					
Health Care Facility							C			
Historical Monument and/or Structure	P	P								
Nursing Home						C	C			
Post Office	P	P	P	P	P	P	P	P	P	
Public Safety Facility	P	P	P	P	P	P	P	P	P	
School	P	C	P	P	P	P				
Commercial and Service Uses										
Adult Entertainment Center								C	C	Section 4-5
Animal Hospital and Clinic	P							P		

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.										
Bar/Tavern		C					P			
Entertainment Establishment							P	P		
Hotel							P	P	P	
Kennel	P							P	P	
Office							P	P		
Restaurant		P					P			
Retail Sales							P	P		
Retail Sales, Outdoor							C	P		
Storage, Self-Service							P	P	P	
Services, Automotive Repair								P		
Services, Contractor’s Office							P	P		
Services, General Repair							P	P		
Services, Personal							P	P		
Car Wash							P	P		
Service Station							P	P		
Wholesale Activities, Excluding Outdoor Storage							P	P		
Wholesale Activities, Including Outdoor Storage							C	P		
Industrial Uses										
Batch Plant									P	
Data Center	C								C	Section 4-19
Commercial Truck Parking	C							P	P	
Electrical Transmission Facility	NA									NDPSC has lead jurisdiction
Energy Transmission Facility (Gas or Liquid)	NA									NDPSC has lead jurisdiction
Energy Conversion Facility (Electric, other than Wind or Solar)	NA									NDPSC has lead jurisdiction
Energy Conversion Facility (Gas or Liquid) 50,000 bpd and above	NA									NDPSC has lead jurisdiction
Energy Conversion Facility (Gas or Liquid) less than 50,000 bpd									C	Section 4-24
Heavy Equipment Storage	C							C	P	
Heavy Equipment Repair								C	P	
Mining, Surface (Public)	C/A							C/A		
Mining, Surface (Commercial)	C							C	C	Section 4-14
Medical Marijuana Manufacturing or Distribution Center	C							C	C	Section 4-13

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.										
Hazardous Material Storage, Sale, or Distribution	C								C	Section 4-3-5
Hazardous Material Storage (15,000 and greater bulk fuel storage)	C								C	Section 4-3-6
Bulk Dry Storage								P	P	
Terminal, Freight								C	P	
Manufacturing, Heavy									P	
Manufacturing, Light								P	P	
Oil and Gas Extraction	NA									NDIC has jurisdiction
Radio and/or Television Broadcasting Station								C	P	
Salvage Yard									C	
Stockyard/Slaughterhouse									C	
Storage Yard								P	P	
Warehouse							C	P	P	
Waste Management Facility/Landfill									C	Section 4-3
Solar Energy System	C									Section 4-18
Wind Energy Facility	C									Section 4-16
Infrastructure										
Major BESS	C								C	Section 4-22-5
Communication Facility	C/A	C/A						C/A	C/A	Section 4-8
Electrical Substation	C/A	C						C/A	C/A	
Freshwater Depot/Storage Pond	C						C	P	P	Section 4-7
Freshwater Pipeline, Non-Industrial Use	P	P	P	P	P	P	P	P	P	
Freshwater Pipeline, Industrial Use	C	C						P	P	Section 4-7
Utility	P	P	P	P	P	P	P	P	P	
Railroad Tracks and Spurs	C							C	C	
Accessory Uses										
Accessory Use or Structure	P	P	P	P	P	P	P	P	P	
Accessory Farm Labor Housing (1 unit)	P									Section 4-20
Accessory Residential Structure (1 unit)	P		P	P	P	P				Section 4-21
Accessory Live-Work Unit (1 unit)							C	C	C	
Accessory Parking	P	P	P	P	P	P	P	P	P	
Accessory Wind Energy Conversion System	P	P						P	P	

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.										
Accessory Solar Energy System (SES) – Roof/Building-mounted	P	P	P	P	P	P	P	P	P	Section 4-17
Accessory Solar Energy System – Ground-mounted	P	P				P		P	P	Section 4-17
Commercial BESS	P						P	P	P	Section 4-22-4
Residential BESS	P	P	P	P	P	P	P	P	P	Section 4-22-3
Temporary Uses										
Temporary Batch Plant	C							C	P	
Temporary Farmers Market (up to 6 months)	C/A						C/A			
Temporary Fireworks Sales (up to 3 months)	C/A							C/A		
Temporary Freshwater Facilities (up to 6 months)	C/A							C/A		
Temporary Laydown Yard (up to 1 year)	C/A							P	P	Section 4-23 No time restriction I-1; I-2
Temporary Retail Sales, Outdoor (up to 1 week)							C/A	C/A		
Temporary Christmas Tree Sales (up to 2 months)	C/A						C/A	C/A		
Temporary Public Gathering or Event (up to 1 month)	C/A	C/A								
Unlisted Temporary Use	C	C	C	C	C	C	C	C	C	
Temporary Heavy Equipment Storage (up to 1 year)	C/A							C/A	P	
Temporary Workforce Housing	C							C	C	Section 4-6 (Section 4-6-3 includes Renewals)

Sec. 3-4 Table of Dimensional and Density Standards

[Table 3-2](#) below lists density and setback requirements for lots or tracts and structures within each zoning district of McKenzie County. The standards shall be interpreted according as follows:

- A.** Application of Standards. All dimensional standards for Buildings or Structures apply to the Principal building or structure together with all Accessory Buildings or Structures on the Lot.
- B.** Calculation of Setbacks. Setbacks in [Table 3-2](#) are measured from the foundation of the building or structure to the property line of the lot or tract within which the building or structure is located.
- C.** Calculation of Height. Roof structures and mechanical appurtenances such as belfries, chimneys, domes, flag poles, radio towers, and spires shall not be taken into account when calculating the height of buildings for the purposes of determining compliance with height limitations. Furthermore, Building Height limitations do not apply to bulkheads, monuments, Communication Facilities, water towers, or similar structures.
- D.** Airport Height Restrictions. Nothing in this section shall be interpreted to permit the erection of any structure in violation of any applicable Public-Use Airport Overlay District provisions (see [Section 3-18](#)).

Table 3-2. Dimensional and Density Standards

Dimensional Standards	Zoning Districts								
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2
Minimum Lot/Tract Area	5 acres	1 acre	1 acre	7,000 SF	6,000 SF	5 acres	1 acre	2 acres	2 acres
Minimum Lot/Tract Width	300’	100’	100’	60’	100’	100’	100’	200’	200’
Minimum Lot/Tract Depth	300’	200’	200’	120’	200’	200’	200’	200’	200’
Maximum Density	3 DU/40 acres ^(a)	--	1 DU/acre	10 DU/acre	20 DU/acre	0.2 DU/acre	--	--	--
Maximum Building Height	35’	35’	35’	50’	50’	35’	35’	75’	75’
Minimum Setbacks									
Front Yard	25’	25’	30’	30’	30’	100’	30’	50’	50’
Side Yard	25’	10’	10’	10’	10’	25’	10’	25’	25’
Rear Yard	25’	10’	25’	25’	25’	50’	25’	50’	50’
Setback between buildings	--	--	Minimum 15’ between buildings or a 1-hour firewall						(b)
Setback from roadways	See Section 2-10								

(a) Three Dwelling Units per quarter-quarter section of a legal section.

(b) Minimum 20' setback between buildings. No building or structure in the Heavy Industrial District (I-2) shall be located within 1,250' from the boundary of a residential district or within 500' from any Dwelling Unit.

Sec. 3-5 Agricultural District (AG)**3-5-1 Intent**

It is the purpose of this district to encourage first and foremost the use of this land for agricultural activities, and to discourage any use which would be detrimental to carrying out agricultural practices. Further, the provisions of this district are intended to regulate scattered non-farm Development and to promote the orderly and economic Development of public service utilities and schools. These areas have very limited availability of infrastructure and services for residential purposes.

3-5-2 Setbacks and Dimensional Standards

Setbacks and dimensional standards listed in Table 3-2.

3-5-3 Development Standards

- A. Landscaping Plan.** Development is subject to the requirements of Section 2-12.
- B. Highway Corridor Overlay.** Development is subject to the requirements of Section 3-16.
- C. Parking:** Parking standards are listed in Section 2-11. Accessory Parking is an permitted use.
- D. Signs:** Sign standards are provided in Section 2-20.

Sec. 3-6 Recreational District (REC)**3-6-1 Intent**

The purpose of the Recreational District is to protect sensitive, unique, or vulnerable lands, vegetation, wildlife, and historic sites and monuments. Furthermore, this district is intended to promote the wise use of lands for recreational activity and residency around rivers, lakes, and other water courses to maintain the quality of the environment.

3-6-2 Setbacks and Dimensional Standards

Setbacks and dimensional standards listed in Table 3-2.

3-6-3 Development Standards

- A. Landscaping Plan.** Development is subject to the requirements of Section 2-12.
- B. Highway Corridor Overlay.** Development is subject to the requirements of Section 3-16.

C. Parking: Parking standards are listed in Section 2-11. Accessory Parking is an permitted use.

D. Signs: Sign standards are provided in Section 2-20.

Sec. 3-7 Residential Low Density District (R-1)

3-7-1 Intent

The Residential Low Density District is intended to provide for orderly single-family residential Development with a maximum density of one (1) Dwelling Unit per acre.

3-7-2 Development Standards

A. Landscaping Plan. Development is subject to the requirements of Section 2-12.

B. Highway Corridor Overlay. Development is subject to the requirements of Section 3-16.

C. Parking: Parking standards are listed in Section 2-11. Accessory Parking is an permitted use.

D. Signs: Sign standards are provided in Section 2-20.

Sec. 3-8 Rural Residential District (R-5A)

3-8-1 Intent

The purpose of the Rural Residential District is to provide for rural residential communities with a minimum lot size of 5 acres, where water is provided by a rural water district or private wells and wastewater is treated by on-site septic systems.

3-8-2 Development Standards

A. Landscaping Plan. Development is subject to the requirements of Section 2-12.

B. Highway Corridor Overlay. Development is subject to the requirements of Section 3-16.

C. Parking: Parking standards are listed in Section 2-11. Accessory Parking is an permitted use.

D. Signs: Sign standards are provided in Section 2-20.

Sec. 3-9 Residential Medium Density District (R-2)

3-9-1 Intent

The purpose of the Residential Medium Density District is to support residential neighborhoods with diversified housing stock to satisfy market demand and

consumer preferences, up to 10 dwelling units per acre. This district must be served by a state-approved water system and sewer system.

3-9-2 Development Standards

- A. Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- B. Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- C. Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is a permitted use.
- D. Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-10 Residential High Density District (R-3)

3-10-1 Intent

The purpose of the Residential High Density District is to support residential neighborhoods with diversified housing stock to satisfy market demand and consumer preferences, up to 20 dwelling units per acre. This district must be served by a state-approved water system and sewer systems.

- A. Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- B. Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- C. Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- D. Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-11 Commercial District (C-1)

3-11-1 Intent

The purpose of the Commercial District is to organize retail establishments offices, wholesale, and service activities in areas with access to paved roads, water, sewer, and utilities.

3-11-2 Development Standards

- A. Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- B. Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- C. Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.

- D. Signs:** Sign standards are provided in [Section 2-20](#).
- E. Design Review.** Site plans, architectural elevations, and proposed materials must be submitted to the Planning Department for design review for Permitted and Conditional Uses.

Sec. 3-12 Light Industrial District (I-1)

3-12-1 Intent

The intent of the Light Industrial District is to designate areas for wholesale commercial, manufacturing, trucking, limited retail sales and service, and the like. All manufacturing activity must be conducted within and shall not emit fumes, odor, dust, smoke, gas, or vibrations beyond the confines of property.

3-12-2 Development Standards

- A. Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- B. Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- C. Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- D. Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-13 Heavy Industrial District (I-2)

3-13-1 Intent

The purpose of the Heavy Industrial District is to provide for the Development of the mineral and agricultural resources of McKenzie County; to provide for the refining and processing of unfinished and partially finished resources and products; and to isolate industrial activities in locations where conflicts with other uses will be minimized.

3-13-2 Development Standards

- A. Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- B. Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- C. Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- D. Signs:** Sign standards are provided in [Section 2-20](#).

- E. Residential Buffer.** No building or structure shall be located within one thousand two hundred fifty (1,250) feet from the boundary of a residential district or five hundred (500) feet from any Dwelling Unit.

3-13-3 Performance Standards

- A.** All combustible material shall be stored in such a way to permit free access to firefighting equipment.
- B.** Dust, fumes, odors, smoke, vapor, noise, lights, and vibrations shall be confined within the industrial district.

Sec. 3-14 Planned Unit Development Overlay District (PUD)

3-14-1 Purpose

The Planned Unit Development Overlay District (PUD) provides an alternative to conventional zoning to facilitate design for unique Development proposals, including area master plans and mixed-use concepts. Uses incorporated within a PUD may deviate from base zoning district standards, pending County approval. In exchange for greater Development flexibility, the County may require the Developer to provide additional amenities or enhancements.

3-14-2 PUD Standards

- A.** The PUD shall allow only Permitted Uses as provided in the base zoning district.
- B.** The Minimum PUD area shall be five (5) acres.
- C.** Any PUD that falls within a Highway Corridor Overlay District shall be subject to the requirements of [Section 3-16](#).
- D.** Any change in use within an approved PUD shall require approval of the Board of County Commissioners.
- E.** Any expansion of a use within an approved PUD that increases the total building area by twenty (20) percent or more shall require approval of the Board of County Commissioners.
- F.** Other modifications may be approved by the Planning and Zoning Director.

3-14-3 PUD Application and Plan

- A. Development Plan.** The submittal of a PUD application requires a physical plan, images, and narrative that describe all uses within the PUD, the conventional zoning districts under which those uses are normally permitted, and the proposed dimensional standards and requirements that will apply to each use in the PUD. The application shall indicate where the Developer requests deviation from base zoning standards. The narrative shall describe the

additional amenities/enhancements of the project, which may include but are not limited to improved site design; open space preservation; and improved parks, trails, or recreation facilities.

B. Site Plan. The Site Plan and accompanying narrative shall include the following:

1. **Setting.** The physical characteristics of the site and adjacent land uses.
2. **Dimensional Standards.** Setbacks, densities, and Building Heights.
3. **Design Standards.** Architectural standards, street section design, landscaping, and signage.
4. **Development Concept.**
 - a. Location and size of each land use
 - b. Open space quantity and amenities provided.
 - c. Parks, trails, and pedestrian connections
 - d. Street concept
5. **Phasing Plan.**
 - a. A map indicating each stage of Development.
 - b. Timeframe for construction and installation of infrastructure and structures.
6. Any additional information deemed necessary by the Planning and Zoning Director or designee.

C. Reclamation Bond. A PUD or sections of the PUD may be subject to a Reclamation Bond if deemed necessary by the Board of County Commissioners.

Sec. 3-15 Floodplain Overlay District

3-15-1 Intent

The purpose of this district is to minimize private and public losses due to Flood conditions.

3-15-2 District Application

The floodplain shall use maps as delineated or defined by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota. The areas delineated as floodplain shall be an overlay for all zoning districts.

3-15-3 Remediation Plan

An applicant that has land that is in a floodplain as delineated by FEMA or land that is known to periodically Flood or contains marshes, standing water for more than thirty (30) days per year, or has the presence of cattails or other aquatic vegetation shall have a certified North Dakota licensed civil engineer provide a plan to remediate the hazard. No building permit shall be issued without a remediation plan.

Sec. 3-16 Highway Corridor Overlay District**3-16-1 Intent**

The purpose of the Highway Corridor Overlay District is to have higher standards adjacent to highways and to promote and protect the public health, safety, and welfare by providing for the aesthetic and coordinated treatment of properties bordering and within identified transportation corridors in McKenzie County. These transportation corridors are expected to carry significant volumes of traffic, making Development along these corridors highly visible to the traveling public. Therefore, it is the purpose of this district to ensure high aesthetic quality of Development along these important transportation corridors through:

- A. The establishment of enhanced standards for Buildings, landscaping, and other improvements constructed on the properties bordering and within the transportation corridors; and
- B. The establishment of Development requirements which will encourage high quality of design of Development of those properties and promote the quality, scale, and character of Development consistent with existing and planned uses bordering and within the transportation corridors.
- C. These standards and requirements shall apply to any parcels that are within five hundred (500) feet of the centerline of any federal, state, or paved County road.

3-16-2 Exemptions

Agricultural Structures are exempt from these requirements provided they meet the base zoning district requirements.

3-16-3 Standards

- A. **Design Review.** Any and all Site Plans, architectural elevations, and proposed materials must be submitted to the Planning Department for design review prior to a building permit being issued.
- B. **Building Design.** Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Metal siding systems may be used along the corridor provided that metal is limited to fifty (50) percent of

the Building Face. At a minimum, each building shall be constructed with one or more of the following material(s) consisting of at least fifty (50) percent of the exterior materials:

1. Clay or masonry brick.
2. Customized concrete masonry.
3. Architectural flat metal panels or glass.
4. Stucco or Exterior Finish Insulation.
5. Natural stone.
6. Residential grade permanent siding with brick decorative masonry.
7. Post and Beam – Log structures and/or entries.

C. Multi-building and Mixed-Use Projects.

1. Prior to issuance of a building permit on a multi-building Development, the applicant shall submit plans that demonstrate the use of consistent design elements throughout the project. Subsequent building permits shall conform to the design elements presented.
2. Multi-building Developments shall include prominent focal points, which shall include, but not be limited to architectural structures, art, historical and/or landscape features. These features shall be located at or visible from vehicular and pedestrian entrances to the site.
3. Free-standing Garage clusters of multiple family residential sites shall not be placed along the corridor overlay districts unless the overall appearance is similar to the primary building.

D. Site Design.

1. Trash enclosures and trash compactors shall be located such that they are not visible from the identified corridor.
2. Outdoor storage that does not consist of display of merchandise shall be located such that it is not visible from the identified corridor, by placing the outdoor storage on the opposite side of the building from the identified corridor, or by placing outdoor storage in an enclosure that has the appearance of being integral to the building. All outdoor storage shall be fully screened from view through the use of an opaque decorative fencing material or architectural screen walls.
3. Loading and delivery areas shall not be located along the front side of the building that fronts on the identified corridor.
4. Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing.

5. Pedestrian walkways shall be provided between building entrances/exits and parking areas. On multi-building sites and mixed-use sites, the site design shall provide functional pedestrian spaces, plazas, and seating areas between or in front of buildings. Designs shall include weather protection, such as overhangs, awnings, and canopies to increase usefulness in a variety of weather conditions.

Sec. 3-17 Firearms Facility Overlay District

3-17-1 Intent

The purpose of this district is to minimize the risk of safety hazards attendant with a facility at which firearms or other weapons are regularly discharged.

3-17-2 Definitions

The following definitions are added to the Ordinance:

Archery Range. Any building, parcel of land, or other site at which persons regularly engage in archery activities, including but not limited to training, practice, and competition in the use of bow and arrow, crossbow, or spear.

Firearm. Any firearm as defined by NDCC § 62.1-01-01(3), any rifles and shotguns expressly excluded by NDCC § 62.1-01-01(3)(a) through (c), any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO₂ gun, or any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.

Firearms Facility. An Archery Range, Munitions Range, Shooting Range, or any combination of them that is operated by a single operator upon one contiguous parcel of land that the operator owns or leases for the facility.

Munitions Range. Any building, parcel of land, or other site at which persons regularly engage in the use of munitions of any sort, including but not limited to explosives, emitters of noxious substances, and inert munitions, for the purposes of training, practice, or competition.

Shooting Range. Any building, parcel of land, or other site at which firearms of any sort are regularly discharged, whether indoors or outdoors, including but not limited to target ranges, skeet ranges, training sites, and testing sites.

3-17-3 District Application

A firearms facility overlay district consists of lands designated by McKenzie County as being affected by the safety hazards attendant with a facility at which firearms are regularly discharged. This district is an overlay for other zoning

districts. Each firearms facility overlay district is independent from all other firearms facility overlay districts.

3-17-4 Warning and Disclaimer of Liability

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on the discretion of McKenzie County. This Ordinance does not imply that lands outside of the district are not subject to safety hazards attendant with a facility at which firearms are regularly discharged, nor does it imply that lands within the district are not subject to such safety hazards when used for the permitted and Conditional Uses therein. McKenzie County and its officers and employees disclaim all liability arising from such hazards or otherwise from a facility permitted within the district.

3-17-5 Permitted Uses

Within a firearms facility overlay district, the firearms facility for which the district was created is a Permitted Use to the extent it is constructed and operated in the manner described in the application to create the district. No other use of land within the firearms facility overlay district shall be considered a Permitted Use, except for uses outside the jurisdiction of this Ordinance.

3-17-6 Conditional Uses

All uses that are, in the underlying district, either Permitted Uses or Conditional Uses shall be Conditional Uses within the firearms facility overlay district. A firearms facility other than the original firearms facility for which the overlay district was created shall also be a Conditional Use therein.

3-17-7 Application Requirements

All applications to create a firearms facility overlay district must include the following:

- A. A description of the type of firearms facility that will be operated, including whether it will be an archery range, munitions range, shooting range, or specific combination thereof
- B. The legal description of the parcel of land upon which the firearms facility will be operated
- C. A detailed, to-scale Site Plan of the parcel that shows all buildings, earthworks, and other features relating to the use and safety of the facility
- D. Detailed, to-scale plans of all buildings within which the facility will operate
- E. The legal description of each parcel of land that will be included within the district along with the name and address of the record Owner of each such parcel and proof that the record Owner of each such parcel has been notified of

the application and the date it will come up for public hearing by certified mail, which notice must clearly and expressly state that that person's land will, if the application is approved, be included within the district and will be subject to restrictions on its use

- F. The legal description of each parcel of land that is, in whole or in part, less than one mile from any parcel of land that will be included within the district along with the name and address of the record Owner of each such parcel and proof that the record Owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail
- G. All regulations for the use of the facility
- H. Evidence that the facility is capable of being operated according to its regulations
- I. Evidence that the facility, if operated according to its regulations, does not pose any direct risk to any person or property upon any parcel of land that will not be included within the district
- J. Evidence that the facility, if operated according to its regulations, does not pose an unreasonable risk to any person or property upon any parcel of land that will be included within the district
- K. An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims and liabilities arising from any safety hazards attendant with the facility for which the district was created
- L. Emergency contact information to report legitimate safety concerns that the caller has reason to believe arise from activities at the firearms facility for which the district was created

3-17-8 Conditional Use Permit Application Requirements for Other Uses

All applications for Conditional Use permits for uses other than for a firearms facility within the firearms facility overlay district must include the following:

- A. Proof that all record Owners of parcels within the district where there are existing or approved firearms facilities have been notified of the application and the date it will come up for public hearing by certified mail.
- B. Evidence that the proposed use will, if all currently existing or approved firearms facilities within the district are operated according to their regulations, result in an unreasonable risk to any person or property upon the parcel of land where the proposed use will occur.
- C. An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims

and liabilities arising from any safety hazards attendant with any firearms facility within the district.

3-17-9 Performance Standards

All firearms facilities must, at all times, be operated according to the following minimum standards:

- A.** Compliance with all applicable federal, state, and local laws.
- B.** Compliance with all specifications, standards, and procedures specified in the application to create a firearms facility overlay district or for a Conditional Use permit for a firearms facility.
- C.** Strict enforcement of all regulations that were proposed with the application to create a firearms facility overlay district or for a Conditional Use permit for a firearms facility.
- D.** Adequate security measures reasonably to ensure compliance with all federal, state, and local laws by all persons entering the facility, lawfully or unlawfully, and reasonably to ensure the apprehension of any person who violates federal, state, or local law while at the facility, lawfully or unlawfully.
- E.** Taking reasonable measures to ensure that the emergency contact information provided to McKenzie County is kept up-to-date and will reach a live person twenty-four hours per day, three hundred sixty-five days per year, to respond to legitimate safety concerns that arise from activities at the facility.
- F.** Notifying, as soon as is practicable, the McKenzie County Sheriff of each call placed to the emergency contact telephone number.
- G.** Providing a detailed incident report as requested by the McKenzie County Sheriff and each time the owner or operator of the facility has reason to believe that an injury or damage to person or property has occurred as a result of activities at the facility, as soon as practicable after the owner or operator of the facility learns of or reasonably should have learned of the injury or damage.
- H.** Ensuring that there is, at all times, a person designated to speak with law enforcement on behalf of the facility and that the McKenzie County Sheriff is, as soon as is practicable, notified of all changes in this designation.

3-17-10 Amendments

The operator of the firearms facility for which the district was created may apply to amend the district, including making changes to the firearms facility for which the district was created and adding or removing parcels of land from the district. An application to amend a firearms facility overlay district must include the following:

- A.** A description of the proposed changes in the firearms facility

- B.** A description of the proposed changes to the Site Plan
- C.** A description of the proposed changes to the buildings within which the facility will operate
- D.** Proof that the record Owner of each parcel of land currently within the district has been notified of the application and the date it will come up for public hearing for certified mail
- E.** The legal description of each parcel of land that will be added to the district along with the name and address of the record Owner of each such parcel and proof that the record Owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail, which notice must clearly and expressly state that that person's land will, if the application is approved, be included within the district and will be subject to restrictions on its use
- F.** The legal description of each parcel of land that is not within the district and will not be added to the district and that is, in whole or in part, less than one mile from any parcel of land that will be added to the district along with the name and address of the record Owner of each such parcel and proof that the record Owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail
- G.** All proposed changes to the regulations for the use of the facility and, if any such changes are proposed:
 - 1. Evidence that the facility is capable of being operated according to its regulations
 - 2. Evidence that the facility, if operated according to its regulations, does not pose any direct risk to any person or property upon any parcel of land that will not be included within the district
 - 3. Evidence that the facility, if operated according to its regulations, does not pose an unreasonable risk to any person or property upon any parcel of land that will be included within the district
- H.** An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims and liabilities arising from any safety hazards attendant with the facility for which the district was created

Sec. 3-18 Public-Use Airport Overlay District

3-18-1 Intent

The intent of this district is to restrict the Mean Sea Level Height of Vertical Structures and objects of natural growth and otherwise regulate the use of property in the vicinity of Public-Use Airports.

3-18-2 District Application

A Public-Use Airport overlay district consists of lands designated by McKenzie County for a Public-Use Airport. The specific dimensions, slopes, and measurements specified in this section may be modified for the overlay district created for a Public-Use Airport, as part of the application for the overlay district or an application to amend the overlay district.

3-18-3 Airport Zones

Each Public-Use Airport overlay district consists of certain zones, which are hereby created and established and include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Public-Use Airport for which the district is created. Land located in more than one of the following zones is considered to be only in the zone with the most restrictive Mean Sea Level Height limitation. The zones are established and defined as follows:

- A. Approach Zone:** The area covered by the Approach Surface.
- B. Transitional Zone:** The area covered by the Transitional Surface.
- C. Horizontal Zone:** The area covered by the Horizontal Surface, exclusive of the primary, approach, and transitional zones.
- D. Conical Zone:** The area covered by the Conical Surface.

3-18-4 Airport Zone Mean Sea Level Height Limitations

- A. Height Standards:** Except as otherwise provided in this section, no Vertical Structure shall be erected, altered, or maintained, and no Vertical Growth shall be allowed to grow in any zone created by this section to a Mean Sea Level Height in excess of the applicable Mean Sea Level Height limit herein established for such zone. Such applicable Mean Sea Level Height limitations are hereby established for each of the zones in question as follows:
 - 1. **Approach Zone.** The Mean Sea Level Height of the Approach Surface.
 - 2. **Transitional Zone.** The Mean Sea Level Height of the Transitional Surface.
 - 3. **Horizontal Zone.** The Mean Sea Level Height of the Horizontal Surface.
 - 4. **Conical Zone.** The Mean Sea Level Height of the Conical Surface.

- B. Exceptions.** Outside of the Approach Zone and Transitional Zone, nothing in this section shall be construed as prohibiting the construction or maintenance of any Vertical Structure, or any Vertical Growth, to a Mean Sea Level Height up to fifty (50) feet above the natural surface of the land.

3-18-5 Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communications between the Public-Use Airport and aircraft, make it difficult for pilots to distinguish between Public-Use Airport lights and others, result in glare in the eyes of pilots using the Public-Use Airport, impair visibility in the vicinity of the Public-Use Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Public-Use Airport.

3-18-6 Nonconforming Uses

- A. Regulations Not Retroactive.** The regulations prescribed in this section shall not be construed to require the removal, lowering, or other change or Alteration of any Vertical Structure or Vertical Growth not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, Alteration, or intended use of any Vertical Structure, the construction or Alteration of which was begun prior to the effective date of this section and is diligently prosecuted.
- B. Marking and Lighting.** Notwithstanding the subdivision (A) above, the owner of any existing nonconforming Vertical Structure or Vertical Growth is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Planning and Zoning Director or designee to indicate to the operators of aircraft in the vicinity of the Public-Use Airport the presence of such Public-Use Airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the owner or operator of the Public-Use Airport.

3-18-7 Permits

- A. Future Uses.** Except as specifically provided in subdivisions (1), (2), and (3) hereunder, no material change shall be made in the use of land, no Vertical Structure shall be erected or otherwise established, and no Vertical Growth shall be planted in any zone created by this section unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, Vertical Structure, or Vertical

Growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this section shall be granted unless a variance has been approved in accordance with Section 3-18-7(D).

1. In the horizontal zone and conical zone, no permit shall be required for any Vertical Growth or Vertical Structure less than one hundred (100) feet of vertical Mean Sea Level Height above the natural ground level, except when, because of terrain, land contour, or topographic features, such Vertical Growth or Vertical Structure would extend above the Mean Sea Level Height limits prescribed for such zones.
 2. In the approach zone but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any Vertical Growth or Vertical Structure less than one hundred (100) feet of vertical Mean Sea Level Height above the natural ground level, except when such Vertical Growth or Vertical Structure would extend above the Mean Sea Level Height limit prescribed for such approach zones.
 3. In the transition zone beyond the perimeter of the horizontal zone, no permit shall be required for any Vertical Growth or Vertical Structure less than one hundred feet of vertical Mean Sea Level Height above the natural ground level, except when such Vertical Growth or Vertical Structure, because of terrain, land contour, or topographic features, would extend above the Mean Sea Level Height limit prescribed for such transition zone.
 4. Nothing prescribed in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or Alteration of any Vertical Structure or growth of any Vertical Growth in excess of any of the Mean Sea Level Height limits established by this section except as set forth in Section 3-18-7(D).
- B. Existing Uses.** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, Vertical Structure, or Vertical Growth to become a greater hazard to air navigation than it was on the effective date of this section or any Amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- C. Non-Conforming Uses Abandoned or Destroyed.** Whenever the Planning and Zoning Director determines that a nonconforming Vertical Growth or Vertical Structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such Vertical Structure or Vertical Growth to exceed the applicable Mean Sea Level Height limit or otherwise deviate from the regulations of this section (Section 3-18).

- D. Variances.** Any person desiring to erect or increase the Mean Sea Level Height of any Vertical Structure, permit any Vertical Growth, or use property, not in accordance with the regulations prescribed in this section, may apply to the Board of Adjustment for a variance from such regulations. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this section. Additionally, no application for a variance to the requirements of this section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the owner and operator of the Public-Use Airport for advice as to the aeronautical effects of the variance. If the owner or operator of the Public-Use Airport does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.
- E. Obstruction Marking and Lighting.** Any permit or variance granted, may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the Vertical Structure or Vertical Growth in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the owner or operator of the Public-Use Airport, at its own expense, to install, operate, and maintain the necessary markings and lights.

ARTICLE 4. SPECIAL PROVISIONS

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Sec. 4-1 Sewage Disposal

- A. To protect the public health, to control water pollution, and to reduce nuisance and odor, all subdivision Development within the County shall be connected to an on-site sewage system approved by North Dakota Department of Environmental Quality or the Upper Missouri Health District whichever has jurisdiction of the specific site. The construction and use of privies, outhouses, and cesspools in Developments in the County is prohibited.
- B. All soil absorption systems shall adhere to the rules and regulations of the Upper Missouri Health and North Dakota Department of Environmental Quality guidelines.

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Sec. 4-2 Commercial Feedlots

4-2-1 Intent

These regulations are designed to allow feedlots for feeding of livestock, furbearers, and poultry at the same time to protect the adjoining uses against odor, run off, and other incompatible characteristics associated with feedlots.

4-2-2 General Feedlot Requirements

- A. All feedlots as defined by this Ordinance are only permitted as Conditional Uses subject to the provisions of this Ordinance and the requirements of the North Dakota Department of Environmental Quality and Federal EPA requirements.
- B. All feedlots shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.
- C. Where appropriate, there shall be sufficient drainage to avoid standing effluents from pollution of ground and surface water.
- D. Feedlots shall not be placed in the floodplains.
- E. The applicant, as part of the site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.
- F. No feedlot shall be located nearer than one-half mile from a residence other than the owner/operator and shall follow the setbacks as shown in [Table 4-2](#).
- G. Animal Units. The requirements in Section 4-2-3 are based on animal units as shown in Table 4-1.

Table 4-1. Animal Units

One (1) Animal Unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 are allowed unless prohibited by the Homeowners Association	Animal Units
A. One mature dairy cow, milking or dry	1.33
B. One dairy cow, heifer or bull, (other than described in A)	1.0
C. One weaned beef animal, whether a calf, heifer, steer, or bull	0.75
D. One cow-calf pair	1.0
E. One swine weighing 55 lbs. or more	0.4
F. One swine weighing less than 55 lbs.	0.1
G. One horse	2.0
H. One sheep or lamb	0.1
I. One turkey	0.0182
J. One chicken, other than a laying hen	0.008

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L. One duck	0.033
M. Any livestock not listed in subdivisions A-L	1.0 (per 1,000 lbs. whether single or combined weight)

4-2-3 Setback Distances for Feedlots

Feedlot setbacks from any occupied Dwelling, residential zone, park, Cemetery, church, or school shall be as follows:

Table 4-2. Feedlot Setbacks

Number of Animal Units in Feedlot	Hog Operations	Other Operations
100-299	1 mile	0.5 mile
300-999	1.5 miles	1 mile
1,000 or more	2.5 miles	2 miles

Sec. 4-3 Solid Waste Landfills and Waste Management Facilities

Solid Waste Landfills and Waste Management Facilities as regulated by this section shall include all facilities for the incineration or disposal of solid waste or solid waste residue which are required to be permitted under statute or rule by the North Dakota Department of Environmental Quality.

4-3-1 Statutory Requirements

This Ordinance adopts by reference the solid waste provisions of NDCC Ch. 11-33-20 and N.D.A.C. Title 33-20. All Solid Waste Landfills and Waste Management Facilities must comply with all applicable state and federal regulations governing waste management facilities.

4-3-2 Conditional Use Permit Requirements

The following Section provides general standards applicable to all Solid Waste Landfills and Waste Management Facilities. Additional standards are provided for each type of waste that may be disposed of as part of the operation.

No Waste shall be stored on public or private property for more than forty-five (45) days without complying with the requirements of this Ordinance as it relates to a Solid Waste Landfill and/or Waste Management Facility.

A. General Standards:

1. The Conditional Use Permit will be valid for a period of time set by the Board of County Commissioners, if approved.

2. All Owners of property within one (1) mile of the proposed location must be notified of the time and place of the public hearing on a permit request.
3. The Solid Waste Landfill and/or Waste Management Facility shall be located at least one (1) mile from a residential zone unless written approval is obtained from all Owners of property nearer than one (1) mile within said residential zone.
4. The Solid Waste Landfill and/or Waste Management Facility shall be continuously licensed and approved by the North Dakota Department of Environmental Quality.
5. There is no substantive evidence that the Solid Waste Landfill and/or Waste Management Facility will endanger the public health or the environment.
6. Storage of solid waste shall be confined to structures and landfills designed specifically for such purpose and shall be secured by appropriate fences and gates. The openings to the buildings and structures including, but not limited to, conveyors, doors, ramps and other points of access for use by transport or moving vehicles when not in use shall be closed to minimize the impact from odor and concentration of insects or rodents.

4-3-3 General Solid Waste Standards

- A. A minimum horizontal separation of fifty (50') feet must be maintained between new or lateral expansion of solid waste management units or cells and any above ground or underground pipeline or transmission lines.
- B. No person shall dispose of waste of any type in the following areas:
 1. Aquifers, channels, ravines, or other waterways.
 2. Critical habitats for endangered or threatened species of plant, fish, or wildlife.
 3. In an area that could adversely impact an aquifer, aquifer recharge area horizontally from the ordinary high-water elevation of any surface water or wetland, any local, state or national park.
 4. Public water supply designated wellhead protection area.
 5. Where geological or man-made features may result in failure of the structural integrity of the facility.
 6. Within a one-hundred-year floodplain.
- C. No solid waste facility or lateral expansion shall be located within five thousand feet of any Public-Use Airport runway and ten thousand feet of any other Airport runway.

- D.** No solid waste facility shall be located in areas that result in impacts on human health or environmental resources or in areas unsuitable because of reasons of topography, geology, hydrology, or soils.
- E.** Sites for a new solid waste facility, or for lateral expansion of, or for municipal waste landfills, or for industrial waste landfills shall have favorable physical conditions. Sites shall have low permeability to prevent movement of contaminants.

4-3-4 Asbestos Waste

Asbestos waste shall be disposed of in accordance with the applicable rules and regulations of the North Dakota Department of Environmental Quality and the hazardous waste requirements of this Ordinance.

4-3-5 Hazardous Material Storage, Sale, or Distribution

- A.** Containers having hazardous waste shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.
- B.** No person engaged in the operation of solid waste landfills, resource recovery or solid waste processing facilities may knowingly store, treat, handle, or dispose of hazardous waste in amounts in excess of quantities normally found in household waste unless approved by the North Dakota Department of Environmental Quality.
- C.** No person shall place hazardous waste or dispose of hazardous waste within the County without approval of the County.

4-3-6 Hazardous Material Storage (15,000 and greater bulk fuel storage)

- A.** Containers having hazardous waste shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.

4-3-7 Incineration and Recovery

- A.** During operation, the operator shall comply with the following requirements:
 - 1. Any discharges to the air, or to surface or ground water shall meet all applicable state and federal regulations.
 - 2. Maintain permanent records for inspection on the quantity and type of material incinerated, the quantity of ash residue and schedule of plant operation.
- B.** No person shall install, operate, or incinerate waste materials as a commercial operation or part of a commercial operation without complying with this Ordinance.

4-3-8 Major Appliances

Disposal of major appliances will be in accordance with the North Dakota Department of Environmental Quality regulations.

4-3-9 Pesticide Waste

- A. Any person who handles surplus agricultural pesticides and pesticide containers shall comply with applicable federal rules and regulations of the North Dakota Department of Environmental Quality.
- B. Surplus pesticides may not be discarded in any manner, including land filling, which endangers humans, animals, and the environment.

4-3-10 Waste Tires

- A. Waste tire collectors and processors shall meet all requirements of the North Dakota Department of Environmental Quality.
- B. Waste tires shall be stored in a manner that will not create a health or fire hazard.
- C. Waste tires shall not be stored or disposed of in any stream, wetland, floodplain, or shore-land.

4-3-11 Infectious Waste

No person shall dispose of Infectious Waste, as regulated by the North Dakota Department of Environmental Quality, in a solid waste landfill.

4-3-12 Industrial Waste

- A. Any person who handles Industrial Waste shall comply with all applicable state and federal regulations governing Industrial Waste.
- B. Industrial Waste may not be discarded in any manner including landfilling that endangers humans, animals, or the environment.

Sec. 4-4 Home Occupations**4-4-1 Home Occupations in Residential Districts**

- A. A Home Occupation shall be limited to the Dwelling and the area devoted to the Home Occupation shall not exceed twenty-five (25%) percent of the main floor area of the Dwelling. Basements and Garages shall not be included in calculating the main floor area of a Dwelling.
- B. The Home Occupation must be operated by a resident of the Dwelling.
- C. Additional employees of the Home Occupation are limited to the following:
 - 1. Two (2) full-time; or

2. Four (4) part-time; or
3. One (1) full-time and two (2) part-time.

4-4-2 Home Occupations in the Agricultural District

- A.** A Home Occupation shall be limited to the Dwelling and the area devoted to the Home Occupation shall not exceed fifty percent (50%) of the main floor area of the Dwelling.
- B.** In addition to the allowance in Section 4-4-2 (A), a Home Occupation in the Agricultural District may be located in a separate non-residential or farm Building provided that the Home Occupation shall not exceed one thousand five hundred (1,500) square feet total in the Building(s) separate from the Dwelling.
- C.** The Home Occupation must be operated by a resident of the Dwelling.
- D.** Additional employees of the Home Occupation are limited to the following:
 1. Two (2) full-time; or
 2. Four (4) part-time; or
 3. One (1) full-time and two (2) part-time.

Sec. 4-5 Adult Entertainment Centers

- A.** An Adult Entertainment Center shall not be located within two thousand six hundred and forty (2,640') feet of any religious institution, Cemetery, school, park, recreation area or an established residence.
- B.** An Adult Entertainment Center may not be licensed to sell or dispense alcohol and may not be located within two thousand six hundred and forty (2,640') feet from any premises at which the sale or dispensing of alcohol is licensed.
- C.** An Adult Entertainment Center shall not be located within one thousand three hundred and twenty (1,320') of any other Adult Entertainment Center.
- D.** An Adult Entertainment Center must prohibit entrance by persons less than eighteen (18) years of age.
- E.** An Adult Entertainment Center may not display any signs visible from the exterior of the Adult Entertainment Center, except for signs identifying it as an Adult Entertainment Center, as an adult book store, adult entertainment facility, adult cinema, or combination thereof.
- F.** No material depicting specified sexual activities or specifying anatomical areas shall be visible from the exterior of an Adult Entertainment Center.
- G.** The business premises of an Adult Entertainment Center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency (without charge) who may wish to enter thereon provided

the entry is in the course of the discharge of the law enforcement officer's duties.

Sec. 4-6 Workforce Housing

4-6-1 Intent

Workforce Housing is sometimes necessary to support cycles of industrial growth without building excessive housing for the reasonable long-term needs of the County's population.

4-6-2 Conditional Use Permit Requirements

In addition to the standard requirements of a Conditional Use Permit, an application for Workforce Housing shall include:

- A.** A description of the units together with an emergency 911 approved numbering system.
- B.** A description of how the proposed units are set and or anchored.
- C.** A statement of road construction and maintenance within the facility and accessing the facility. The County Engineer may require the paving of roads to access the site.
- D.** The name, address, and contact information, including phone number, of the on-site manager. It is the applicant's responsibility to inform the Planning Department of any personnel change of the on-site manager and their corresponding name, address, and contact information, including phone number.
- E.** Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, screens, buffers, landscaping, site amenities, and fencing.
- F.** Unit spacing shall be a minimum of fifteen (15') feet between units.
- G.** On-site security plan.
- H.** Fire and emergency evacuation plan.
- I.** Copy of permits issued by the North Dakota Department of Environmental Quality and/or Upper Missouri District Health Unit. shall be presented with the Conditional Use permit application including water, refuse disposal plan, and septic or sewer discharge plan.
- J.** All Workforce Housing Developments shall post a Reclamation Bond per the standards set forth in [Section 2.13](#) of this Ordinance.
- K.** Parking requirements and standards shall follow [Section 2.11](#) of this Ordinance.

4-6-3 Temporary Workforce Housing Renewal

- A.** The renewal application is only available for currently approved Conditional Use Permit (CUP) that are in compliance with regulations. All requirements that are existing as part of the CUP application process are required.
- B.** The renewal application must be submitted no later than November 30, annually, to allow for required inspections to determine compliance.
- C.** A pre-application inspection shall be conducted and if found in non-compliance, the renewal application must go through the full CUP application process.
- D.** This does not include Skid/Temporary Housing annual fees.
- E.** The application must include all required documentation along with the nonrefundable application fee, as determined by resolution of the Board of County Commissioners.

4-6-4 Housing Types

There shall be no mixed housing types in a Workforce Housing facility. The housing units approved for a facility shall be of a homogeneous nature. Additional standards, if any apply, shall be followed for the type of housing proposed as part of a Workforce Housing facility (e.g. Recreational Vehicles shall follow additional provisions in this Ordinance for Recreational Vehicle Parks).

Sec. 4-7 Freshwater Depots, Pipelines, and Ponds**4-7-1 Conditional Use Permit Requirements**

The conditions of approval of a Conditional Use permit for a Freshwater Depot, Freshwater Pipeline, or Freshwater Storage Pond shall include but not be limited to:

- A. Signage:** A sign, four feet by eight feet (4' x 8'), that identifies the company name, project name, site address, and the name and phone number of the emergency contact individual. The sign shall be visible from the public road providing access to the site and shall meet the signage requirements of this Ordinance.
- B. Fencing Plan:** Fencing is required to prevent livestock and unauthorized persons from accessing the Freshwater Depots and Freshwater Ponds.
 1. Six (6) foot high Chain Link Fence shall be installed when within a quarter (1/4) mile from the following: residential subdivisions, residences, schools, daycare, paved County Roads, or State Highways.
 2. Four (4) Strand Barbwire Fence meeting USDA NRCS Barbed Wire guidelines (Conservation Practice Job Sheet RI-382(a)) shall be installed

when adjacent to Agricultural Zoning or when a six (6) foot high Chain Link Fence is not required.

3. Fencing shall be shown on the Site Plan and submitted with the application for approval or revisions. The Site Plan shall have a signature and date line for the Property Owner signature and a statement that indicates the property Owner approves of the Site Plan as presented.
- C. Storage Capacity:** If the facility will be capable of storing 50 acre-feet of water or more, the applicant must submit proof of approval by the State Water Commission with the application.
- D. Dust Control:** During construction the owner and operator of the site shall maintain dust control on all roads accessing a Freshwater Depot, Freshwater Storage Pond, or staging area of a Freshwater Pipeline. At the discretion of the Planning and Zoning Director, after construction and prior to use of facilities that will generate high traffic, dust control measures must be applied at least one-quarter (1/4) mile in each direction of all access points to the site and must be applied each year prior to May 31 and again before August 31. The Planning and Zoning Director will coordinate with the County Engineer if County roads are within the area subject to dust control. If the Planning and Zoning Director determines that dust control measures are required the owner and operator of the site shall submit to the Planning Department receipts or other appropriate proof each time dust control is applied.
- E. Stormwater Management:** The owner and operator shall limit sediment runoff from the site by use of perimeter controls on downslope portions of the site (e.g., a silt fence) and limit channelized erosion in ditches, swales, and adjacent natural water bodies. A Storm Water Pollution Prevention Plan shall be submitted if required by State or Federal regulations.
- F. Site Maintenance:**
1. The owner and operator of the site shall maintain weed control of the site.
 2. The owner and operator of the site shall maintain garbage control of the site.
- G. Reclamation Bond:** A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.
- H. Waiver Exception:** For Freshwater Storage Ponds, the requirements of subsection (G) may be waived if:
1. Along with the application, the applicant submits written consents of all persons with a record interest in the ownership of the surface of the land where the project is located. Such written consents shall include acknowledgement from the Planning Department that they understand the implications of the waiver. The Board of County Commissioners shall

consider each request for a waiver individually and determine whether a waiver is appropriate in the circumstances.

2. The applicant demonstrates that all landowners entitled to notice of the application have been specifically notified of the waiver request.
 3. The liner of the pond, if any, will have a service life of no less than 20 years.
 4. The applicant and Owners of the land sign an agreement to indemnify and hold harmless the County of McKenzie and all of its agents, departments, successors, and assigns for all claims, liabilities, costs, and attorney fees arising from or related to the pond.
- I. Survey Data:** Within one hundred twenty (120) days after completion of construction, the owner and operator shall provide the Planning Department with an electronic file containing the as-built surveys of all above- and below-ground equipment and pipelines.

Sec. 4-8 Communication Facilities

4-8-1 Conditional Use Permit Requirements

Condition of approval for Communication Facilities shall include but not be limited to:

- A.** Project identification information shall be posted on site with a four-foot by eight-foot (4x8) sign that is visible from the road providing access to the site. The sign shall identify the company name, project name, site address and emergency contact name and phone number.
- B.** The applicant shall maintain access roads and the site for emergency vehicles to be able to access and maneuver around the site in all types of weather.
- C.** The applicant shall obtain a building permit for any proposed above-ground structures as required by the Planning Department.
- D.** The site shall comply with the Stormwater Management requirements of this Ordinance ([Section 2-17](#)).
- E.** The applicant shall maintain weed control.
- F.** The applicant shall allow space on the tower for a dish, antenna (or other device) to be used by emergency services. Such space must be reserved for rent or lease by an emergency service provider.

Sec. 4-9 Electrical Substations

4-9-1 Conditional Use Permit Requirements

Condition of approval for Electrical Substations shall include but not be limited to:

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- A. A Sign four feet by eight feet (4x8) shall be visible from the road providing access to the site and shall meet the signage requirements of this Ordinance. The Sign shall identify the company name, project name, site address, emergency contact name, and phone number.
- B. The applicant shall maintain access roads and the site for emergency vehicles to be able to access and maneuver around the site in all types of weather.
- C. The applicant shall obtain a building permit for any proposed above-ground structures as required by the Planning Department.
- D. The site shall comply with the Stormwater Management requirements of this Ordinance ([Section 2-17](#)).
- E. All above ground structures shall be painted earth tones to blend into the surrounding environment, wood and galvanized poles and structures do not need to be painted.
- F. The applicant shall maintain garbage control within the site at all times.
- G. The applicant shall maintain weed control.

Sec. 4-10 Manufactured Home Parks

Manufactured Home Parks shall follow the standards herein.

4-10-1 License Required

All Manufactured Home Parks shall obtain the appropriate licenses from either the North Dakota Department of Health and Human Services or the County if the County receives authorization from the State to inspect and license Manufactured Home Parks.

4-10-2 Dimensional Standards

- A. The park shall contain a minimum of five (5) acres of land.
- B. The maximum density shall be seven (7) units per gross acre.
- C. Each manufactured home shall be placed on a lot with minimum dimensions of fifty feet by one hundred feet (50'x100') with a minimum setback of ten (10') feet from any interior street. No portion of any mobile home shall be less than twenty (20') feet from any other portion of another manufactured home.

4-10-3 Setbacks

- A. Setbacks from roads and section lines shall be as indicated in Section 2-10 of this Ordinance.
- B. There shall be at least a ten (10') foot setback from each Manufactured Home to the front lot line.

- C. Setbacks shall be a minimum of twenty (20') feet between buildings.
- D. The minimum setback from a structure to the rear lot line shall be ten (10') feet.
- E. The minimum side yard setback from a property line to a structure shall be twenty-five (25') feet.

4-10-4 Development Standards

- A. The Manufactured Home Park must be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water must be artificially drained and filled.
- B. Each unit shall be placed on a stand or piers that provide a firm foundation for anchoring purposes and must be approved by a North Dakota certified building inspector.
- C. An adequate supply of potable and safe drinking water must be provided. Water from other than a municipal supply may not be used until inspected, tested, and certified by the North Dakota Department of Health and Human Services.
- D. Sewage system must meet North Dakota Department of Health and Human Services requirements.
- E. All garbage and refuse must be stored in metal fly-proof containers, and the contents removed and disposed of on a regular basis. There shall be a trash receptacle no further than one hundred and fifty (150') feet from any trailer lot.
- F. The Manufactured Home Park operator shall have garbage pick-up weekly.
- G. All streets within the Manufactured Home Park shall be designed and constructed to County standards and shall be approved by the County engineer. Streets shall be wide enough to facilitate the movement of traffic within the Manufactured Home Park.
- H. The owner is responsible for street construction, maintenance, and snow removal.
- I. Each Manufactured Home Park shall have adequate fire protection. All parks shall provide a ten thousand (10,000) gallon tank centrally located for fire flow. Tanks shall not be more than three (300') hundred feet from the furthest trailer; additional tanks may be required to fulfill this requirement. The tank shall be insulated or buried to prevent freezing.
- J. Each Manufactured Home Park containing twenty-five (25) or more lots shall provide open space of ten (10%) percent of the total park area and shall include playground equipment. If an applicant can demonstrate a compelling reason why he/she should not comply with the requirements of this section the Board of County Commissioners may approve an alternative method.
- K. Landscape shall be required as outlined in [Section 2-12](#) of this Ordinance.

- L. Mixed-use facilities are prohibited. Only Manufactured Homes are allowed in a Manufactured Home Park. Recreational Vehicles are prohibited.
- M. Trash barrel or open pit burning shall not be allowed in Manufactured Home Parks.

4-10-5 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

Sec. 4-11 Recreational Vehicle Parks

Recreational Vehicle Parks shall follow the standards herein.

4-11-1 License Required

All recreational vehicle parks shall obtain the appropriate state licenses and permits from either the North Dakota Department of Environmental Quality or the County if the County receives authorization from the State to inspect and license Recreational Vehicle Parks.

4-11-2 Recreational Vehicle Park Standards

- A. Minimum lot area for a Recreational Vehicle Park shall be five (5) acres.
- B. No parking is allowed on any private streets.
- C. Two-way streets shall be a minimum of twenty-five (25') feet wide. One-way streets shall be a minimum of eighteen (18') feet wide.
- D. Maximum density shall be ten (10) recreational vehicles per gross acre.
- E. No recreational vehicle, trailer, or other attachment may be located within fifteen (15') feet of any other recreational vehicle, trailer, or part thereof. No recreational vehicle may be located so as to restrict emergency vehicles and personnel from performing necessary services.
- F. Constructing any addition to a recreational vehicle or trailer is strictly prohibited. A free-standing deck is allowed but setbacks must be maintained between the deck and the neighboring recreational vehicle.
- G. No recreational vehicle, trailer, or other attachment may be within twenty-five (25') feet of an exterior boundary and must meet the road setbacks as outlined in [Section 2-10](#) of this Ordinance.
- H. Streets in recreational vehicle parks shall be privately owned and maintained by the owner, but subject to an Easement for public access and travel and designed and constructed according to County standards.
- I. Each recreational vehicle park shall have adequate fire protection. All parks shall provide a ten thousand (10,000) gallon tank centrally located for fire flow.

Tanks shall not be more than three hundred (300') feet from the furthest trailer additional tanks may be required to fulfill this requirement. The tank shall be insulated or buried to prevent freezing.

- J.** One (1) Manufactured Home or Modular Home for the exclusive use of a live-in manager's residence is allowed in a recreational vehicle park.
- K.** Ten percent (10%) of the total area of the park shall be set aside for recreational uses such as playgrounds, horseshoes, shuffleboard, picnic tables, barbecue grills, and similar uses appropriate for recreational vehicle parks. Setbacks between lots and open space within lots shall not use to calculate open space requirement.
- L.** Every recreational park must be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water must be artificially drained and filled.
- M.** All trash collection areas are to be enclosed and screened by an opaque wall no less than six (6') feet high.
- N.** There shall be a trash receptacle no further than one hundred and fifty (150') feet from any recreational vehicle stall.
- O.** The recreational park operators shall have garbage pick-up weekly.
- P.** Trash barrel burning shall not be allowed in recreational vehicle parks.

4-11-3 Recreational Vehicle Requirements between November 1st- March 31st

All recreational vehicles that are occupied during the period from Nov. 1st thru March 31st must meet the following requirements. The Planning Department may issue notices of violations; such corrective action may include the closure of the facility.

- A.** All water lines outside of or underneath a recreational vehicle must be wrapped in insulation or with heat tape to prevent freezing.
- B.** Sewer/septic lines outside of or underneath a recreational vehicle must be wrapped in insulation or with heat tape to prevent freezing.
- C.** Insulated skirting is required around the entirety of each recreational vehicle and installed prior to occupancy.
- D.** Skirting must closely match the material or color used on the exterior of the recreational vehicle. Wooden skirting must be painted to match the recreational vehicle.
- E.** Carbon monoxide detector designed for use in recreational vehicles must be installed and in good working order inside each recreational vehicle.

F. Upon Conditional Use Permit approval, the owners and operators grant the Planning Department, County Fire Official, and their agent's license to enter the park to conduct impromptu inspections to ensure that these requirements have been met.

G. No tents or uninsulated trailers or campers are allowed.

4-11-4 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

Sec. 4-12 Recreational Vehicle Occupancy, Limited

4-12-1 Intent

The purpose of this Section is to provide an allowance for visitors to Dwellings located in select residential districts the ability to occupy a Recreational Vehicle for a limited timeframe.

4-12-2 Development Standards

- A. Up to one (1) Recreational Vehicle may be temporarily occupied on properties zoned REC, R-1, R-2, R-3, and R-5A
- B. An existing Dwelling must be located on the subject property for which the Recreational Vehicle is located.
- C. Maximum occupancy is sixty (60) days in a calendar year and not more than thirty (30) consecutive days at one time.
- D. Recreational vehicles shall comply with all setback requirements applicable to the property it is located.
- E. Recreational vehicles occupied on agricultural land associated with farm and ranch activity for the exclusive use of providing housing for workers of the farm or ranch are excluded from this section.

Sec. 4-13 Medical Marijuana

4-13-1 Intent

The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the County by prescribing the manner in which medical marijuana businesses can be conducted in the County. Further, the purpose of this chapter is to:

- A. Provide for a means of cultivating, manufacturing and distribution of usable marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes as prescribed by state law.

- B.** Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
- C.** Impose fees to cover the cost to the County of licensing medical marijuana businesses in an amount sufficient for the County to cover the costs of the licensing program.
- D.** Create regulations that address the particular needs of the facilities, patients and residents of the County and comply with laws that may be enacted by the State regarding medical marijuana.

4-13-2 Statutory Framework

- A.** The 2017 North Dakota Legislature enacted Senate Bill 2344, relating to the implementation of the North Dakota Compassionate Care Act, N.D.C.C 19-24 for the regulation of medical marijuana dispensaries and the cultivations and propagation of medical marijuana in North Dakota.
- B.** The use, cultivation, manufacturing, production, distribution, possession and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by both North Dakota and federal law;
- C.** The County Commission does not have the authority to, and nothing in this chapter is intended to, authorize, promote, condone or aid the production, distribution or possession of medical marijuana in violation of any applicable law;
- D.** The County Commission intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with the North Dakota Century Code. The regulations are intended to apply to all medical marijuana operations in the County by any medical marijuana business permitted under state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources, and this section is intended to permit state-licensed Medical Marijuana Manufacturing Center(s) or Distribution Center(s) where they will have a minimal negative impact.
- E.** To the extent that Medical Marijuana Manufacturing Center(s) or Distribution Center(s) are registered and authorized by the State of North Dakota to operate in the County, the County desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the County.

- F. This section is to be construed to protect the public over medical marijuana business interests. There is no property right for an individual or business to have medical marijuana in the County.
- G. Medical marijuana is a heavily regulated industry in the State and County, and the County has a zero-tolerance policy for violations of this chapter.

4-13-3 Definitions

Unless specified in this Ordinance in [Section 1-4](#), all terms defined in NDCC § 19-24-02 or successors to that statute shall have the definitions provided therein.

4-13-4 Conditional Use Permit Requirements

- A. All persons, entities, or organizations wishing to establish a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) within the County must apply for and be granted a Conditional Use permit for said use.
- B. In addition to the requirements applicable to all Conditional Use Permit applications, an application for a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must include the following:
 1. Proof of Insurance (see [Section 4-13-6](#) for insurance requirements).
 2. List of all persons and entities with an ownership interest in the Manufacturing Center(s) or Distribution Center(s) including all shareholders that hold any share in stock in the Manufacturing Center(s) or Distribution Center(s).
 3. A security plan depicting the location and configuration of security cameras and surveillance equipment.
 4. A complete description of the products and services to be produced or sold by the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
 5. A notarized statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of North Dakota and the laws and regulations of the County applicable thereto concerning the operation of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s). The written statement shall also acknowledge that any violation of any laws or regulations of the State of North Dakota or of the County, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such Medical Marijuana Manufacturing Center(s) or Distribution Center(s) by federal authorities, may render the license subject to immediate suspension or revocation.

6. A notarized statement that the applicant will hold harmless, indemnify, and defend the County against all claims and litigation arising from the issuance of license and/or a Conditional Use permit including any claims and litigation arising from the Manufacturing Center(s) or Distribution Center(s), operation or ownership of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
 7. A notarized acknowledgement that the applicant is seeking a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit and that the applicant understands and acknowledges that the burden of proving qualifications to receive such a Conditional Use Permit is at all times on the applicant; that the granting of a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is at the discretion of the County commission; and that the applicant agrees to abide by the decision of the County commission.
- C. The Planning and Zoning Director or designee may require additional plans, documents or other information prior to deeming the application complete.
 - D. A Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit shall be reviewed annually by the Board of County Commissioners for renewal.
 - E. If the State of North Dakota or its electorate repeals the Compassionate Care Act or the act is otherwise declared void, all Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permits issued by the Board of County Commissioners will be deemed to have immediately expired.
 - F. Once a Conditional Use permit is obtained for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s), any change in operation of the facility or in ownership shall require prior approval of the Board of County Commissioners.
 - G. Any building modifications or Alterations must be approved by the Planning and Zoning Director.

4-13-5 Annual Permit Fee

As authorized by the Board of County Commissioners, the Planning and Zoning Director shall establish an annual permit fee to offset costs associated with policing, site inspections, monitoring, storage of media, and/or regulating medical marijuana facilities involved in the cultivation, propagation, manufacturing, processing, refining, distribution, delivery, supply, sale or handling of Medical Marijuana.

4-13-6 Insurance Requirement

A. Minimum Coverage Requirements

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The minimum amount of third-person insurance coverage for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) shall be as follows:

Table 4-3. Medical Marijuana Insurance Requirements

Insurance Type	Minimum Coverage Amount
Per occurrence	\$1,000,000
General aggregate for bodily injury and property damage arising out of licensed activities	\$2,000,000
Products and completed operations aggregate	\$1,000,000
Commercial automobile coverage	\$1,000,000
Excess liability	\$3,000,000

- B. Additional Insured:** The County shall be named as an additional insured on all general liability, umbrella, and excess insurance policies required under this section. All insurance policies required under this section shall be primary over any other valid and collectible insurance.

4-13-7 Development Standards

- A.** Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located in a separate, permanent, stand-alone structure and have a minimum six (6) foot high perimeter fence encompassing the parcel boundary.
- B.** Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 0.5 mile from a public or private preschool, kindergarten, elementary, secondary or high school, public park, public community center, dependent care facility, homeless shelter, youth center, or place of worship. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s) to the property line of the protected use.
- C.** Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 500 feet from any residential district, dwelling, or recreational district. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s) to the property line or Dwelling of the protected use.
- D.** No Medical Marijuana Dispensary shall have operating hours earlier than 8:00 AM or later than 7:00 PM.

- E. The entire perimeter of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) structure must be well lit (minimum 1 candle foot) to prevent concealment in shadows around the structure for a minimum of 15 feet around each structure that is part of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s). Further, everything within the fenced area shall have 24-hour surveillance cameras depicting the entire exterior of the Manufacturing Center(s) or Distribution Center(s) as well as cameras at the property entrance depicting vehicles and license plates of each vehicle entering the parking lot.
- F. Each Medical Marijuana Distribution Center shall have at least 1 parking space per 250 sq. ft. of structure.
- G. Each Medical Marijuana Cultivation and/or Manufacturing Facility shall have at least 1 parking space for every 1000 sq. ft. of plant cultivation area and 1 parking space for each 250 sq. ft. of all other areas of the structure.
- H. With the exception of the specific Medical Marijuana Manufacturing Center(s) or Distribution Center(s) approved as part of a Conditional Use Permit, no other activity may occur within the facility or land parcel.
- I. No outdoor storage on-site shall be permitted.
- J. No drive-through, drive-up, or walk-up facilities shall be permitted.
- K. Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must ensure there is no emission of dust, fumes, vapors, or odors into the environment.
- L. Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals or window signage of any kind shall be strictly prohibited.
- M. Each permittee shall obtain an inspection of the property from the County planning department or fire marshal prior to the annual renewal of the Conditional Use Permit.
- N. All surveillance camera locations and surveillance recording equipment including specifications must be approved by the Planning and Zoning Director.
- O. All applicable state standards and requirements shall apply in the design and operations of any Manufacturing Center(s) or Distribution Center(s).

4-13-8 Serviceability, Exclusions and Exceptions

- A. The provisions of this chapter do not waive or modify any other provision of this Ordinance with which Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is required to comply. Nothing in this section is intended to authorize, legalize, or permit the Manufacturing Center(s) or Distribution Center(s), operation or maintenance of any facility, building or use which violates any County ordinance or statute of the State of North Dakota regarding

public nuisances, Medical Marijuana, or any federal regulations or statutes relating to the use of controlled substances.

- B. This chapter shall be null and void if any determination is made, after the adoption of the ordinance enacting this chapter, by any court of competent jurisdiction, that Ch. 19-24, NDCC, is invalid, or shall be null and void to the extent any portion of such section is held invalid.
- C. Should any section, subsection, clause or provision of this chapter for any reason be held to be invalid or factually unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases of this chapter be declared invalid or unconstitutional.

Sec. 4-14 Surface Mining (Commercial and Public)

4-14-1 Intent

Surface Mining of gravel, sand, and other materials is necessary for many types of projects including oil and gas projects as well as road construction and maintenance. The transportation and delivery of the material poses safety and maintenance issues that must be addressed in Conditional Use permits.

4-14-2 Conditional Use Permit Requirements

- A. Project identification information shall be posted on site with a four-foot by eight-foot (4'x8') sign that is visible from the approach onto the subject property.
- B. Maintain weed control as approved by the McKenzie County Weed Control Officer.
- C. Adhere to all State and Federal laws, regulations, and conditions for the operation of the proposed facility and the transportation of the material.
- D. Have a 100' knock-off zone on site. The knock-off zone design shall be approved by the Planning Department. A knock-off zone is an onsite roadway designed for the purpose of knocking off soil and clay before exiting a site.
- E. A Reclamation Bond as provided in [Section 2-13-3](#) of this Ordinance. Further, the engineer's estimate shall include topsoil applied to a depth of at least six (6) inches on all disturbed areas and planted with appropriate grasses as approved by the Planning and Zoning Director.

- F. Garbage Control:** The applicant shall keep the site free of garbage, junk, litter, debris, and unused construction materials. Any such materials shall be disposed of in an authorized facility.
- G. Dust Control:** Best management practices should be implemented to control the dust associated with surface mining. Dust palliatives should be implemented to reduce dust on internal road systems. If direct access to the site is off a County Road, the owner and operator of the site shall request the Road and Bridge Department to apply dust palliatives to the County Road. If direct access to the site is off a non-County Road, the owner and operator of the site shall apply dust palliatives to the road at least one-quarter (1/4) of a mile in each direction of all access points and must be applied each year prior to May 31 and again before August 31. When the owner and operator of the site is required to apply dust palliatives to non-County Roads, receipts or other appropriate proof that dust palliatives were applied shall be submitted to the Planning Department.
- H. Loads to be Covered:** The applicant shall post a sign at the knock-off zone stating "All Loads Must be Covered".
- I. Setback:** All Surface Mining grading and operations shall be Setback a minimum of one-hundred (100) feet from a ROW or road Easement line or one hundred thirty-three (133) feet from a section line whichever is greater.

Sec. 4-15 Child Care – Self-declared Provider

Self-declared providers must meet appropriate state standards as set by the North Dakota Department of Human Services and should contact and apply with the County Social Service Office.

Sec. 4-16 Wind Energy Facility

4-16-1 Intent

This section is established to enable the orderly Development of Wind Energy Facilities in McKenzie County; to protect public health, safety, and welfare; and to minimize adverse impacts to pre-existing Development, infrastructure, and economic activities.

4-16-2 Application Requirements

- A. Environmental Review.** Applicants shall fulfill all state and federal requirements for environmental review and permitting, including a wetland determination, wetland mitigation, archeological surveys, biological surveys, and storm water permitting, in coordination with the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), North Dakota Game and Fish (NDGF), the State Historic Preservation Office (SHPO), and other agencies, as needed.

- B. Visual Impact Assessment.** Applicants shall prepare a visual impact assessment for the proposed Wind Energy Facility. The visual impact assessment shall:
1. Define the visual character of the project study area. The study area must include a five (5) mile radius of the project area.
 2. Evaluate potential project visibility within the study area and assess the visual impacts of the proposed project.
 3. Identify existing visual resources within the study area, including but not limited to all public recreational areas, State Wildlife Management Areas, Federal Waterfowl Production Areas, and National Wildlife Refuges.
 4. Provide at least one visual simulation from each visual resource.
 5. Describe the appearance of the visible components of the project during daytime and nighttime.
 6. Identify mitigation measures to address any visual impacts.
- C. Electromagnetic Interference Assessment.** The applicant shall submit an assessment of background microwave signal patterns in the project area prior to commencement of construction. The purpose of this assessment is to provide data that can be used in the future to determine whether the Wind Energy Facility is the cause of any potential disruption or interference that occurs after it becomes operational.
- D. Development Plan.** Applications for a Wind Energy Facility shall include to-scale horizontal and vertical elevation drawings. Drawings must indicate the location of all turbines, access roads, occupied buildings, participating properties, utility buildings, property lines, and required setbacks.
- E. Platting Process.** Applicants shall satisfy all requirements for subdivision platting and Easement recordation, as needed.

4-16-3 Development Standards

- A. Appearance.** Wind Turbines shall be painted a non-reflective, non-obtrusive color as determined by the Visual Impact Assessment.
- B. Signage.** Wind Turbines shall display no advertising except for the required identification of the manufacturer or operator of the Wind Energy Facility.
- C. Lighting.**
1. Wind Turbines shall not be artificially lighted except to the minimum extent required by the Federal Aviation Administration (FAA) or other applicable authority.
 2. Wind Turbines must be equipped with functioning light-mitigating technology system, pursuant to NDAC 69-06-11.

- D. Setback Standards.** Setbacks shall be measured as the horizontal distance between the tower base and the building/feature as provided in Table 4-4, which lists setback requirements for utility-scale wind energy facilities.

Table 4-4. Wind Energy Facility Setback Standards

Building/Feature	Wind Energy Facility Setbacks
Occupied Buildings (Participating) ¹	1.1 x tower height
Occupied Buildings (Non-Participating) ²	1 mile
Property Lines (Non-Participating)	1.1 x tower height
Federal, State, and County Roads and Section Lines ³	2.0 x tower height
Transmission Line (150 kv or higher) ⁴	1.1 x tower height
Airport Runway (Public-Use Airport or other Airport)	1 mile

1. Denotes participating and non-participating landowner properties.

2. Setbacks from occupied buildings for non-participating properties may be reduced with written permission from the affected landowner.

3. Measured from the roadway centerline.

4. Measured from the Right-of-Way or Easement edge.

- E. Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than fifty (50) feet.

F. Construction and Maintenance Standards.

- Roads.** Roads accessing the Wind Energy Facility may be required by the County Engineer. The location and construction of access roads and other infrastructure shall, to the extent reasonably practicable, minimize disruption to the landscape, farmland, and agricultural operations. All public roads must be constructed to McKenzie County standards. The applicant shall ensure that, following completion of construction of a wind energy facility, County roads will be repaired or restored to a condition satisfactory to the County Engineer.
- Fences.** The applicant shall promptly replace or repair all fences or gates removed or damaged for the duration of wind energy facility operation, unless otherwise negotiated with the affected landowner.
- Tree Removal.** The applicant shall minimize the removal of trees and shall not remove groves of trees or shelter belts without written approval from the landowner. Trimming or removal of trees within the public Right-of-Way to allow for safe construction of power lines is permissible.
- Power and Communication Lines.** The permittee shall place electrical lines and communication cables underground to a depth of at least four (4) feet. Collectors and cables shall be placed adjacent to the Wind Energy Facility access roads unless otherwise negotiated with the affected landowner. Overhead feeder lines may be placed on private property in accordance with the Easement negotiated with the affected landowner.

Where the permittee cannot place overhead feeder lines on private property, feeder lines may be permitted within public Right-of-Way with approval from the responsible jurisdiction.

5. **Electromagnetic Interference.** The Wind Energy Facility shall not interfere with microwave, television, radio, telecommunications, or navigation systems contrary to Federal Communications Commission (FCC) regulations. In the event the Wind Energy Facility causes such interference, the applicant shall take measures necessary to correct the problem within thirty (30) calendar days.

G. Public Safety Standards.

1. **Public Safety Plan.** Prior to construction, the applicant shall prepare a public safety plan in consultation with local fire departments, law enforcement, and the McKenzie County Emergency Manager. The applicant shall provide any necessary safety measures, such as warning signs and access restrictions, as outlined in their public safety plan.
2. **Tower Identification.** Each Wind Turbine shall be marked with a visible identification number to assist with the provision of emergency services. The permittee shall file with local fire departments, law enforcement, and the McKenzie County Emergency Management Coordinator a map identifying Wind Turbine locations and numbers.
3. **Extraordinary Event.** Within twenty-four (24) hours of an occurrence, the permittee shall notify the McKenzie County Emergency Management Coordinator of any extraordinary event. Extraordinary events include, but are not limited to, fire, tower collapse, thrown blade, electrical failure, and related personal injury. Within thirty (30) days of the occurrence, the permittee shall submit a report to the McKenzie County Emergency Management Coordinator describing the cause of the occurrence and the steps taken to avoid future occurrences.

4-16-4 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

4-16-5 Site Decommissioning and Restoration

- A. **Decommissioning.** Within one (1) year of termination or abandonment of leases or Easements for a Wind Energy Facility in McKenzie County, the permittee shall, at its expense, completely remove all structures, unless the landowner requests in writing that any improvements be kept onsite. Underground cables do not require removal, but any Easements of record must be released. All reclaimed structures and components must be disposed of at a landfill legally accepting such materials.

- B. Surface Restoration.** Areas disturbed by the construction or decommissioning of a Wind Energy Facility shall be restored to their original condition and shall be graded, top-soiled, and reseeded according to Natural Resource Conservation Service (NRCS) recommendations or similar best practices, unless the landowner requests in writing to the Planning and Zoning Director that access roads or other Development be retained. Such request must be submitted within six (6) months prior to commencement of the reclamation activities.

Sec. 4-17 Accessory Solar Energy System

4-17-1 Intent

This section is established to enable the use of accessory solar energy systems (SES) while protecting the character of residential neighborhoods and prominent roadway corridors.

4-17-2 General Standards

- A. Building Permit.** A building permit is required for the installation of all Accessory Solar Energy Systems.
- B. Glare.** All Accessory Solar Energy Systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

4-17-3 Standards for Roof-Mounted SES

- A. Height.** A roof-mounted Accessory Solar Energy System shall not exceed the maximum allowed height in any zoning district.
- B. Setbacks.** A roof-mounted Accessory Solar Energy System shall not extend beyond the exterior perimeter of the building on which the system is mounted, unless the collector and mounting systems has been explicitly engineered to extend beyond the building edge and setback standards are not violated.
- C. Aesthetics.** Roof-mounted systems on pitched roofs that are visible from the Right-of-Way shall have the same finished pitch as the roof and shall not extend more than ten (10) inches above the roof. Roof-mounted systems on flat roofs that are visible from the Right-of-Way shall not extend more than three (3) feet above the roof.

4-17-4 Standards for Ground-Mounted SES

- A. Height.** A small ground-mounted Accessory Solar Energy System shall not extend more than 15 feet above grade when solar arrays are oriented at maximum tilt.

- B. Setbacks.** A small ground-mounted Accessory Solar Energy System shall not extend into the side or rear yard setback when oriented at minimum tilt, except as otherwise allowed for building mechanical systems.
- C. Accessory Structure Limitations.** A small ground-mounted Accessory Solar Energy System shall not count toward accessory structure limitations.
- D. Septic System.** A small ground-mounted Solar Energy System shall not be located over a septic system.

Sec. 4-18 Solar Energy System

4-18-1 Intent

This section is established to enable the orderly Development of a Solar Energy System (SES) in McKenzie County; to protect public health, safety, and welfare; and to minimize adverse impacts to pre-existing Development, infrastructure, and economic activities.

4-18-2 Application Requirements

- A. Environmental Review.** Applicants shall fulfill all State and Federal requirements for environmental review and permitting, including a wetland determination, wetland mitigation, archeological surveys, biological surveys, and storm water permitting, in coordination with the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), North Dakota Game and Fish (NDGF), the State Historic Preservation Office (SHPO), and other agencies, as needed.
- B. Development Plan.** Applications for a Solar Energy System shall include to-scale horizontal and vertical (elevation) drawings. Drawings must show the location of solar arrays, access roads, any required landscaping, occupied buildings within and adjacent to the site, utility buildings, and property lines.
- C. Visual Impact Assessment.** Applicants shall prepare a visual impact assessment for the proposed SES. The visual impact assessment must analyze the potential visual impacts of solar panels and fencing from non-participating properties. To mitigate visual impacts, the Board of County Commissioners may require vegetative screening or buffering in accordance with [Section 2-12](#) of this Ordinance.
- D. Platting Process.** Applicants shall satisfy all requirements for subdivision platting and Easement recordation, as needed.

4-18-3 Development Standards

- A. Solar Array Height.** A ground-mounted Solar Energy System shall not extend more than 20 feet above grade when solar arrays are oriented at maximum tilt.

- B. Ground Clearance.** Panels shall be placed at least two (2) feet off the ground when oriented at maximum tilt, as measured from the panel edge, and allow at least four (4) feet of clearance for mowing and other maintenance.
- C. Setback Standards.** Setbacks shall be measured as the horizontal distance between the nearest solar array or other structural component integral to Solar Energy System operation and the roadway centerline. All Setbacks may be reduced by up to 50 percent if solar arrays are fully screened from the Setback point of measurement, so long as Development satisfies the Agricultural District (AG) Setback requirements ([Table 3-2](#)) and McKenzie County's general roadway Setback standards ([Section 2-10](#)).

Table 4-5. Solar Facility Setback Standards

Building/Feature	Setback Distance
Occupied Buildings (Participating) ¹	50 feet
Occupied Buildings (Non-Participating) ²	1,000 feet
Property Lines (Non-Participating) ²	500 feet
Federal, State, and County Roads ³	250 feet
Township Roads	150 feet
Section Lines	133 feet
1. Denotes participating and non-participating landowner properties. 2. Setbacks from property lines and occupied buildings for non-participating properties may be reduced with written permission from the affected landowner. 3. Measured from the roadway centerline.	

- D. Septic System.** A ground-mounted Solar Energy System shall not be located over a septic system.

E. Construction and Maintenance Standards.

- Roads.** Roads accessing the Solar Energy System may be required by the County Engineer. The location and construction of access roads and other infrastructure shall, to the extent reasonably practicable, minimize disruption to the landscape, farmland, and agricultural operations. All public roads must be constructed to McKenzie County standards. The applicant shall ensure that, following completion of construction of a Solar Energy System, County roads will be repaired or restored to a condition satisfactory to the County Engineer.
- Power and Communication Lines.** Power and communication lines running between the banks of solar arrays may be placed above ground, provided they do not extend above the solar modules. Power and communication lines to Electrical Substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Planning and Zoning Director in the following cases:

- a. Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
 - b. When required by the utility company.
3. **Ground Cover.** Grassland/grazing vegetation shall be installed and maintained for the duration of use. Panels shall be placed to allow vegetation to establish and become self-sustaining, and to facilitate mowing and maintenance of the site. A seeding plan and maintenance plan shall be submitted prior to issuance of the building permit.
4. **Inspection.** The owner/operator of the Solar Energy System shall allow the McKenzie County Soil Conservation District to conduct site visits to verify that ground cover is properly maintained. McKenzie County may require submittal of an inspection fee prior to construction to support ongoing inspection of ground cover.
5. **Agrivoltaics.** Applicants are encouraged to co-locate the Solar Energy System with compatible agricultural uses, including crop production and grazing, to mitigate the loss of farmland. In facilities that incorporate agrivoltaics, panels should be arranged to enable such activities to occur in a safe and effective manner.
6. **Tree Removal.** Large-scale tree removal is discouraged. Permittees shall minimize removal of trees and shall not remove tree groves or shelterbelts without written approval of the landowner. Any trees removed shall be replaced on a 1:1 ratio within one-year of removal and relocated to the perimeter of the Solar Energy System.

F. Public Safety Standards

1. **Public Safety Plan.** Prior to construction, the applicant shall prepare a public safety plan in consultation with local fire departments, law enforcement, and the McKenzie County Emergency Management Coordinator.
2. **Security.** A minimum 6-foot security fence shall enclose all electrical and mechanical components of the Solar Energy System. Fences shall be maintained by the owner/operator of the facility. Lock boxes and keys shall be stored at locked entrances for emergency personnel access.
3. **Firebreak.** To mitigate fire risk, vegetation clearance shall be maintained around the site perimeter. A clear area with a minimum width of 10 feet of defensible space shall be maintained within the fence line with additional defensible space outside the fence line. The Developer/operator of the Solar Energy System shall be responsible for maintaining this area free of potential fire hazards in accordance with the approved public safety plan.

4. **Signage.** Signs identifying the Solar Energy System owner, operator, and emergency contact information shall be affixed at all entrances to the facility. Warning signs, including contact information, shall be displayed at intervals of 500 feet along the perimeter of the facility.

4-18-4 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

4-18-5 Site Decommissioning and Restoration

- A. Decommissioning.** Within one (1) year of termination or abandonment of leases or Easements for a Solar Energy System in McKenzie County, the permittee shall, at its expense, fully remove all Solar Energy System structures and components from the site. This includes all associated above ground and below ground infrastructure, which must be placed in a landfill approved for disposal of such materials. Any Easements of record must be released.
- B. Surface Restoration.** Areas disturbed by the construction or decommissioning of a Solar Energy System shall be restored to their original condition and shall be graded, top-soiled, and reseeded according to Natural Resource Conservation (NRCS) recommendations or similar best practices, unless the landowner requests in writing that access roads or other Development be retained.

Sec. 4-19 Data Centers

4-19-1 Intent

Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sound that can spread across property lines. 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. Long-term exposure to noise impacts the health of McKenzie County residents. This Section is provided to minimize the potential off-site impacts of Development to protect public health, safety, and the general welfare of McKenzie County residents.

4-19-2 Exemption

Data centers which are solely located on an oil and gas well site or underground gathering pipeline line facility and which are subject to the exclusive jurisdiction of the North Dakota Industrial Commission pursuant to NDCC Chapter 38-08, or any successor statute, are exempt from the provisions of this Section.

4-19-3 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 Conditional Use Permits ([Section 5-13](#)) 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 and Contact Information.** The applicant must also identify on the application, if different than the applicant, the record Owner of the property, the occupant or lessee of the property, and the operator of the Data Center.
- B. Narrative.** A narrative describing 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. Acoustic Study.** 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. Site Plan.** 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. Project Area Map.** A map of the project area showing all single-family and multi-family Dwellings, schools, churches, synagogues, and other similar religious institutions 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. Copies of Permits and Documentation.** 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 and the North Dakota State Electrical Code, and any Amendments thereto.
- G. Power Purchase Agreement.** Copy of the signed electrical power purchase agreement. If one is not available at the time of application, the application may be accepted. However, no Conditional Use Permit may be approved by the Board of County Commissioners prior to a signed electrical power purchase agreement being provided to the Planning Department.
- H. Other Documentation.** Other relevant studies, reports, certifications, or approvals as may be required by the Planning and Zoning Director to ensure compliance with this Section and this Ordinance. Any rejection of an application for failure to provide the aforementioned other documentation may

be appealed to the Board of County Commissioners following the provisions of this Ordinance.

4-19-4 Development Standards

- A. Separation from Sensitive Properties.** Data Centers shall be set back at least one (1) mile from all Dwellings, Schools, Places of Religious Assembly, and Parks as measured from the nearest property line of any of these sensitive properties to the Data Center's exterior property lines.
- B. Separation from Other Data Centers.** New Data Centers shall be set back at least three (3) miles from any lawfully existing Data Center.
- C. Height.** All Buildings, Structures, and appurtenances on the property where the Data Center will be located shall meet the height requirements of the respective zoning district for which they reside.
- D. 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.
- E. 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 [Section 2-12](#) of this Ordinance.
- F. 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 the Landscaping Standards in this Ordinance.
- G. Exterior Lighting Standards.** Exterior lighting for the Data Center shall be hooded and directed downward.
- H. 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.
- I. Roads.** All adjacent exterior access roads serving a Data Center shall conform to [Section 2-9](#) of this Ordinance. Exterior road construction or improvements shall be subject to approval by the McKenzie County 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 McKenzie County Fire Official to ensure safe and adequate access by emergency services personnel.

J. Storm Drainage, Erosion Control, Grading, and Drainage. The Data Center shall comply with the storm drainage, erosion control, grading, and drainage requirements of this Ordinance.

K. Development Agreement. The applicant and, if different than the applicant, the record Owner 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 the County, must sign a Development agreement which shall include, at a minimum, provisions surrounding 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 Section, 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.

4-19-5 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

Sec. 4-20 Accessory Farm Labor Housing

If contained in a separate structure, the Accessory Farm Labor Housing unit must be no larger than the primary dwelling on the subject lot.

Sec. 4-21 Accessory Residential Structure

If contained in a separate structure, the Accessory Residential Structure must be no larger than the primary dwelling on the subject lot.

Sec. 4-22 Battery Energy Storage Systems (BESS)

4-22-1 Intent

This Code provides framework for siting, construction, and operation of Battery Energy Storage Systems in the County that will preserve the safety and wellbeing of residents and facilitate equitable and orderly development.

4-22-2 Use Permissions

The use of a building, structure or land is permitted only within the zoning districts listed and solely for the purposes specified in the [Table 3-1. Zoning and Land Use Table](#).

All Battery Energy Storage Systems, along with dedicated use buildings and any other structures housing or associated with these facilities, must be designed,

constructed, and installed in compliance with all other applicable codes, regulations, and industry standards referenced therein.

4-22-3 Regulations for Residential BESS

A. General Permitting Requirements

1. Permitted Use. Residential BESS are permitted as accessory uses in all districts.

B. General Technical Requirements

1. Setback Requirements. No additional setback requirements are required beyond those applicable to primary structures.
2. Building and Electrical Code Compliance. Minor BESS must meet all applicable building, electrical, and fire codes.

4-22-4 Regulations for Commercial BESS

A. General Permitting Requirements

1. Permitted Use. Commercial BESS are permitted as accessory uses in Agricultural, Commercial, and Industrial districts.

B. Application Requirements

1. Building permit is required, with the following information:
 - a. Site information, including:
 - i. Name and address of the owner and applicant.
 - ii. Date, scale and north arrow.
 - iii. Total acreage of the site.
 - iv. Documentation verifying ownership.
 - b. Location and dimensions of all existing and proposed buildings and structures.
 - c. Identification of floodplains, floodways, wetlands, and existing vegetation.
 - d. Spacing and layout of yards and open areas between structures.
 - e. Location and measurements of all fences and walls.

C. General Technical Requirements

1. **Setback Requirements.** 100' setback from perennial streams and lakes/ponds as identified by the ND Department of Water Resources.
2. **Fire Safety Standards.** Systems must adhere to the National Fire protection Association (NFPA) 855 standards.

3. **Building and Electrical Code Compliance.** Must meet all applicable building, electrical, and fire codes.
4. **Screening and Aesthetic Considerations.** Must be screened where possible to minimize visual impact.

4-22-5 Regulations for Major BESS

A. Application Requirements

1. **Acoustic Study.** A study prepared by an acoustical engineer that describes the anticipated noise level of the system and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.
2. **Site Plan.** The installation of a major BESS shall require an approved site plan. The site plan shall be reviewed and approved by the McKenzie County Planning and Zoning Director.

B. Development Standards - General

1. **Compliance.** Major BESS shall comply with the latest national industry standards, including the National Electrical Code, International Fire Code, and NFPA Fire Code. In case of conflict, national standards take precedence to allow for technological updates.
2. **Monitoring.** Battery cells must be housed within a BESS featuring a Battery Management System (BMS). The BESS must include physical containment, cooling, ventilation, fire suppression, and 24/7 automated fire detection and extinguishing systems to prevent thermal runaway.
3. **Separation from Sensitive Properties.** Major BESS 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 exterior property line of the BESS.
4. **Access.** Access to all batteries and electrical switchgear shall be from the exterior for normal operation and maintenance. Access to the container interior shall not be permitted while the system is in operation except for safety personnel and first responders.
5. **Safety.** Must be in compliance with Section 70 of the NFPA.
6. **Additional Requirements.**
 - a. Construction plan.
 - b. Erosion and sediment control plan.
 - c. Landscaping plan.
 - d. Decommissioning and reclamation plan.

- e. Stormwater management plan.
- f. Water supply plan.
- g. Site security plan.

7. **Visual Impacts.**

- a. A Major BESS shall be designed using a containerized, modular approach. The height of such systems shall not exceed twelve (12) feet from the ground.
- b. To enhance screening and aesthetics, trees shall be planted along the system's perimeter at least every fifty (50) feet.

8. **Inspection and Maintenance.** Third-party inspectors approved by the Planning and Zoning Director and paid by the owner of the BESS must conduct annual inspections to verify that fire suppression capabilities are fully operational and maintained according to relevant safety standards. These inspections must ensure that all systems are functioning correctly and that any required maintenance or upgrades are identified and addressed in a timely manner.

C. Development Standards – Emergency Response

- 1. **Disclosure.** Qualifications and experience from the applicant and manufacturers shall be provided including disclosure of fires or other hazards at facilities. Safety testing and failure modes analysis data from the applicant and manufacturers shall be provided with the application.
- 2. **Fire Emergency Response Standards.**
 - a. All Major BESS must comply with NFPA 855, which provides safety requirements for stationary energy storage systems.
 - b. UL 9540A thermal runaway testing must be conducted to assess fire hazards and develop mitigation strategies.
 - c. Fire suppression systems must be installed, including automated extinguishing systems, fire-resistant enclosures, and emergency ventilation. They must include gas-based suppression (e.g., FM-200 or Novec 1230) or water mist systems where appropriate. Such systems must not rely on halon or other toxic fire suppression agents unless deemed necessary by the State Fire Marshal and are replaced with more environmentally friendly alternatives where possible.
 - d. Emergency lighting and signage must be installed for visibility during power failures.

- e. Firefighter access and intervention points should be clearly marked and accessible.
 - f. System-specific emergency response plans must be developed and shared with local fire departments.
 - g. Within one (1) year of BESS application approval, first responders must receive training on BESS-specific fire risks and suppression methods.
 - h. Adequate fire-resistant barriers must be installed to prevent fire spread to adjacent structures.
 - i. A minimum clearance of ten (10) feet must be maintained between Major BESS and property lines, public ways, buildings, and combustible materials.
 - ii. The separation distance may be reduced to three (3) feet if a 1-hour fire-resistant barrier is installed. The barrier must be suitable for exterior use and extend at least five (5) feet above and beyond the BESS.
 - i. Major BESS shall be designed and operated to minimize the risk of off-gassing. Facilities must include provisions for emergency response, including the ability to evacuate or shelter in place in the event of a fire, to prevent exposure to hazardous gases.
 - j. Manual and remote shutdown mechanisms must be available for rapid system deactivation.
 - k. A formal response from the local fire department must be obtained, confirming their awareness of the Major BESS, including associated fire risks, emergency access points, and specific response strategies. This confirmation must be renewed annually.
 - l. The BESS Operator must be onsite for all emergency response operations.
3. **Liquid Containment and Spill Control Standards.**
- a. A Spill Prevention, Control, and Countermeasure (SPCC) plan must be implemented to prevent environmental contamination in the event of accidental spills or leaks.
 - b. Secondary containment systems must be installed to prevent leaks or spills from contaminating the environment.
 - c. The containment system must have a minimum spill capacity of one hundred and ten (110) percent of the largest BESS Battery Module. Spill capacity must be identified in the BESS application.

- d. Non-porous, chemical-resistant materials must be used for containment structures.
- e. A Hazard Mitigation Analysis (HMA) must be conducted to identify potential liquid hazards.
- f. Leak detection systems must be installed to monitor electrolyte spills or coolant leaks.
- g. Spill kits containing absorbents, neutralizers, and personal protective equipment (PPE) must be readily available on-site.
- h. Proper drainage systems must be in place to prevent contaminated water runoff.
- i. Regulated disposal procedures must be followed for spilled hazardous liquids, in compliance with EPA guidelines.
- j. An emergency spill response plan must be integrated into the overall site safety plan.

4. Battery Storage and Disposal.

- a. BESS using or storing hazardous chemicals, including fuel, coolants, refrigerants, and fire suppression agents, must store chemicals in compliance with Occupational Safety and Health Administration (OSHA) guidelines.
- b. Backup batteries (e.g., lithium-ion, lead-acid) must be stored in safe, properly ventilated areas.
- c. All batteries used on the premises must be regularly inspected for damage and replaced or recycled per Environmental Protection Agency (EPA) standards.
- d. Disposal of batteries must be done through e-waste recyclers, who are compliant with the Resource Conservation and Recovery Act (RCRA) guidelines and other state and federal regulations.

D. Development Standards - Environmental Protection

1. Water and Soil Protection.

- a. During normal operations, battery systems must be designed to prevent chemical leakage. For lithium-ion batteries, BESS Operators must implement fail-safe monitoring to detect early indicators of failure to avoid leaks.
- b. For flow battery systems or other technologies that involve liquids, strict containment measures should be designed to ensure that no harmful chemicals can leak into the surrounding environment.

2. **Setbacks from perennial waterbodies.** 100' setback from perennial streams and lakes/ponds as identified by the ND Department of Water Resources.
3. **Exclusion from public water source areas defined by the State Department of Environmental Quality.** All structures shall be set back a minimum of 1,200 feet from the wellhead for non-community water systems as defined by the State Department of Environmental Quality. No BESS shall be located within source water protection areas for community water systems as defined by the State Department of Environmental Quality.
4. **Utility Lines and Electrical Circuitry.**
 - a. All on-site utility lines must be installed underground whenever feasible, minimizing environmental impact and reducing disturbances to the surrounding area.
5. **Vegetation and Tree Cutting.**
 - a. Areas within twenty (20) feet on each side of the BESS must be cleared of combustible vegetation and other combustible growth.
6. **Construction and Maintenance Standards**
 - a. **Access Roads.** Access roads shall be constructed, to the extent feasible, parallel or perpendicular to existing roads to minimize disruption to surrounding land use. Roads shall be designed to accommodate the weight and frequency of equipment transport while ensuring proper drainage and dust control.
 - b. **Security Fencing.** The permittee shall install and maintain secure perimeter fencing around the BESS to protect infrastructure and prevent unauthorized access.
 - c. **Load Permitting.** The permittee is responsible for complying with all state and local overweight load permitting requirements in accordance with applicable transportation laws. A conditional use permit for the Major BESS does not exempt haulers from obtaining necessary permits for transporting heavy equipment or materials.
 - d. **Road Restoration.** After construction, repair, maintenance, and site restoration the permittee shall ensure that any roads, sidewalks, or other public infrastructure damaged by construction activities are promptly repaired or restored to at least their pre-construction condition at the permittee's expense.

4-22-6 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance for any BESS.

Sec. 4-23 Temporary Laydown Yard

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance for any Temporary Laydown Yard in the Agriculture District.

Sec. 4-24 Energy Conversion Facility (Gas or Liquid) less than 50,000 barrels per day**4-24-1 Application Requirements**

Any application for the installation or construction of an Energy Conversion Facility (Gas or Liquid) that produces less than 50,000 bpd shall meet the following requirements:

- A.** The applicant shall obtain comments from the North Dakota Industrial Commission (NDIC).
- B.** The completed application shall be provided to the Fire Marshal for review and comments.

Sec. 4-25 Domestic Farm Animals

Farm animals are permitted in the Rural Residential District (R-5A), the Residential Low Density District (R-1), and the Residential Medium Density District (R-2), subject to the requirements of this section.

A. General Requirements

- 1. The keeping of livestock and other animals for commercial production, including but not limited to beef cattle, dairying, poultry raising, apiaries, and fur farming, shall be prohibited. Such activities shall be limited to the Agriculture District.
- 2. All permitted animals shall be kept in such a manner as to not constitute a nuisance with respect to neighboring property.
- 3. There shall be no killing or dressing of any animals or poultry for commercial purposes on the premises.
- 4. All livestock and other animals shall be kept in an enclosed area appropriate to the size and type of animal.

B. Poultry

1. The hatching, raising, and fattening of poultry is permitted.
2. Poultry shall not be permitted free-range on the property but must be kept in an enclosed area.
3. A minimum of one (1) acre is required for the keeping of poultry.

C. Horses, Cattle, Llamas, and Alpacas

1. One head is permitted for each two (2) acres, not including unweaned colts and calves. A minimum of two (2) acres is required for the keeping of horses, cattle, llamas, and alpacas.

D. Sheep, Goats, and Swine

1. No more than four (4) head are permitted for each two (acres), not including unweaned lambs or piglets. A minimum of two (2) acres is required for the keeping of sheep, goats, and swine.

ARTICLE 5. ADMINISTRATION

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Sec. 5-1 Roles and Responsibilities

Roles and responsibilities for reviewing certain applications and rendering a decision are distributed as follows:

Application Type	Section	Planning and Zoning Director	Planning and Zoning Board	Board of County Commissioners
Land Development Ordinance Text Amendment	5-7	Recommend Action	Recommend Action	Decide
Zoning Map Amendment	5-8	Recommend Action	Recommend Action	Decide
Variances	5-9	Recommend Action	Recommend Action	Decide
Major Subdivision	5-10	Recommend Action	Recommend Action	Decide
Minor Subdivision	5-11	Recommend Action	Recommend Action	Decide

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Application Type	Section	Planning and Zoning Director	Planning and Zoning Board	Board of County Commissioners
Lot Line Adjustments, Lot Splits, and Lot Mergers	5-12	Decide*	Report Issuance	Appeal
Conditional Use Permit	5-13	Recommend Action	Recommend Action	Decide
Administrative Permit	5-15	Decide*	Report Issuance	Appeal
Building Permit & Building Permit/Inspection Waivers	5-19	Decide	--	Appeal

*Planning and Zoning Director may refer application to Planning and Zoning Board

Sec. 5-2 Board of County Commissioners

5-2-1 Authority

The Board of County Commissioners is authorized to regulate the use of property through zoning and has final responsibility for the preparation of this Ordinance, the County Zoning Map, and the administration thereof, under North Dakota Century Code.

5-2-2 Duties

- A. The Board of County Commissioners shall review and take action on all proposed Amendments to this Ordinance (Zoning Map Amendments and Ordinance Text Amendments).
- B. The Board of County Commissioners shall review all applications for Conditional Use Permits.
- C. The Board of County Commissioners shall hear and decide all appeals of decisions of the Planning and Zoning Director.
- D. The Board of County Commissioners shall, when required by state law, appoint members of the Planning and Zoning Board.
- E. The Board of County Commissioners shall appoint the Planning and Zoning Director.

Sec. 5-3 Planning and Zoning Board**5-3-1 Authority**

The Planning and Zoning Board is created by the Board of County Commissioners in accordance with the North Dakota Century Code.

5-3-2 Duties

- A.** The Planning and Zoning Board shall hold public hearings on all proposed Amendments to this Ordinance and make written recommendations to the Board of County Commissioners with respect to such proposals.
- B.** The Planning and Zoning Board shall hold public hearings on applications for Zoning Map Amendments and make written recommendations to the Board of County Commissioners for the approval or denial of such applications.
- C.** The Planning and Zoning Board shall hold public hearings on applications for Conditional Use Permits and make written recommendations to the Board of County Commissioners for the approval, denial, modification, and/or the imposition of conditions upon such applications.
- D.** The Planning and Zoning Board shall hold public hearings on applications for variances from the provisions of this Ordinance and make written recommendations to the Board of Adjustment for the approval, denial, and/or modification.
- E.** The Planning and Zoning Board shall investigate all violations of these regulations and shall determine and take appropriate remedial action.
- F.** The Planning and Zoning Board or its designee shall, as required by law, publish notice of public hearings.

Sec. 5-4 Planning and Zoning Director**5-4-1 Authority**

The Board of County Commissioners shall appoint a Planning and Zoning Director to administer the Ordinance. The Planning and Zoning Director shall report directly to the Board of County Commissioners.

5-4-2 Duties

- A.** Maintain updated copies of the Ordinance and Zoning Map.
- B.** Keep copies of all records of the Planning Department.
- C.** Post notice of zoning hearings as prescribed by NDCC.

- D.** Make inspection of land and/or structures to determine compliance with the provisions of this Ordinance and investigate reports of noncompliance received from the public.
- E.** Grant building permits upon receipt of a complete application and application fee.
- F.** Grant Administrative Permits as provided by this Ordinance.
- G.** Prepare materials and make recommendations on all applications submitted to the Planning and Zoning Board.

Sec. 5-5 Board of Adjustment

5-5-1 Authority

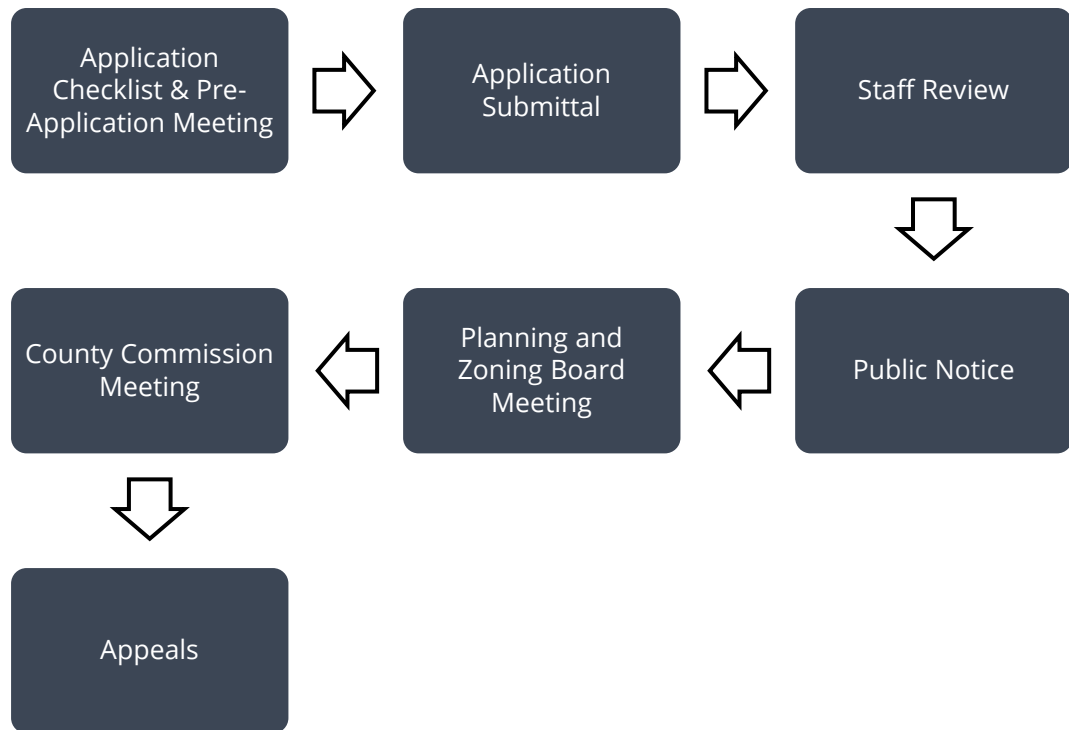
The Board of County Commissioners shall act as a Board of Adjustment.

5-5-2 Duty

The Board of Adjustment shall upon recommendation from the County Planning and Zoning Board authorize a variance from the terms of this Ordinance when the literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and said variance will not be contrary to the public interest.

Sec. 5-6 Permits, Procedures, and Fees

Procedural steps, requirements, and review criteria that are common to most land Development applications are outlined below:



- A. Application Checklist & Pre-Application Meeting.** The purpose is to provide an applicant and the County an opportunity to discuss the Development proposal to discuss the application checklist, estimated time frame, and appropriate application materials.
- B. Application Submission, Related Contents, and Fees.** Application may be made by the landowner or their approved representative. In addition, the County Commission, Planning and Zoning Board, or Planning and Zoning Director may also file an application. The fees are non-refundable.
- C. Staff Review and Recommendations.** The Planning and Zoning Director or designee will review the proposed application for completeness, legal sufficiency, consistency with the Comprehensive Plan, and compliance with stated requirements in the Ordinance. The Planning and Zoning Director shall schedule the application for consideration on the next regular meeting agenda, or as soon as meeting agendas allow. A written staff report and recommendation shall be prepared.
- D. Public Notice.** Pursuant to ND Century Code Section 11-33-08, the Planning and Zoning Board shall hold a public hearing and the interested parties and citizens shall have an opportunity to be heard. Notice of the time, place, and

purpose of the hearing shall be published once each week for two consecutive weeks in the official newspaper of the County, before the proposed hearing date.

- E. Action by Planning and Zoning Board.** The Planning and Zoning Board may act on an application by approving, approving with conditions, tabling, remanding for further information or study, or denying the application. The applicant shall have the right to withdraw an application at any time prior to action at a public hearing. The applicant shall request the withdrawal in writing to the Planning and Zoning Director. The applicant is responsible for being present at the public hearing.
- F. Decision by Board of County Commissioners.** The action taken by the Planning and Zoning Board is forwarded as a recommendation to the Board of County Commissioners at their next meeting, or as soon as practicable. The Board of County Commissioners decision is subject to appeal in the District Court.
- G. Appeals.** Pursuant to North Dakota Century Code: Any person aggrieved by any provision of a resolution adopted hereunder, or any Amendment thereto may, within thirty (30) days after the first publication of such resolution or Amendment, petition for a separate hearing thereon before the Board of County Commissioners. The petition shall be in writing and shall specify in detail the grounds of the objections. The petition shall be filed with the County auditor.

Sec. 5-7 Land Development Ordinance Text Amendments

5-7-1 Authority

- A.** The Board of County Commissioners may amend this Ordinance by supplementing, modifying, or repealing any of the regulations, restrictions, or provisions herein.
- B.** A proposed Amendment may be initiated by the Board of County Commissioners upon its own motion, upon request by the Planning and Zoning Board, or upon petition from any interested person(s) or their agent(s).

5-7-2 Report

All proposed Amendments to the Ordinance shall be documented in a report, to be submitted by the Planning and Zoning Board to the Board of County Commissioners before acting thereon.

5-7-3 Public Hearing

- A.** The Planning and Zoning Board shall hold a public hearing on the proposed Amendment(s), at which any person or party in interest shall have an opportunity to be heard.

- B.** Notice of the public hearing with the Planning and Zoning Board shall be given in accordance with provisions of the North Dakota Century Code.
- C.** The Planning and Zoning Board shall determine whether the proposed Amendment is consistent with the goals and objectives of the Comprehensive Plan, or otherwise promotes the general health, safety, or welfare of McKenzie County residents.
- D.** The final report of the Planning and Zoning Board shall be submitted to the Board of County Commissioners within ninety (90) days after the proposal is referred to the Planning and Zoning Board unless the Board of County Commissioners agrees to an extension.

5-7-4 Board of County Commissioners

- A.** After receipt of the final report on any proposed Amendment to the Ordinance, the Board of County Commissioners may adopt the proposed Amendment, with such changes as it may deem advisable.
- B.** The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners and published in accordance with laws established by the North Dakota Century Code.
- C.** Any adopted Amendment may be modified or repealed by the Board of County Commissioners following the procedures described in Section 5-7 of this Ordinance.

Sec. 5-8 Zoning Map Amendments

5-8-1 Authority

Amendments to the McKenzie County Zoning Map are legally equivalent to Ordinance Amendments because the Zoning Map is incorporated into this Ordinance under Section 3-2. A Zoning Map Amendment may be initiated by the Planning and Zoning Board or the Board of County Commissioners, or by another applicant following the procedures of Section 5-8.

5-8-2 Approval Criteria

Zoning Map Amendments shall be consistent with the goals and objectives of the Comprehensive Plan.

5-8-3 Zoning Map Amendment with Subdivision

An applicant may seek approval for a Zoning Map Amendment and a subdivision during the same public hearing(s). A fee must be paid for each request.

5-8-4 Application

- A.** The applicant shall submit a completed application for Zoning Map Amendment to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the Planning and Zoning Board meeting at which the item will be considered.
- B.** The application shall be submitted with:
 - 1. Payment of a nonrefundable fee in the amount established by resolution of the Board of County Commissioners.
 - 2. A map or legal description of the area proposed for a zone change, unless the application is accompanied by a plat that shows the area.

5-8-5 Public Hearing

- A.** All requests for a Zoning Map Amendment shall require one (1) public hearing before the Planning and Zoning Board.
- B.** Notice of the public hearing with the Planning and Zoning Board shall be given in accordance with North Dakota Century Code. The Planning Department shall notify by mail all Owners of property within one-half (1/2) mile of the area for which the Zoning Map Amendment is requested. The notice shall state the name of the applicant, the location of the proposed zone change, and the date, time, and location of the scheduled public hearing. This requirement is considered met if reasonable effort is made to contact applicable property Owners, even if some are inadvertently omitted from notification.
- C.** At the public hearing, the Planning and Zoning Board shall hear comments and comments regarding the request for Zoning Map Amendment.
- D.** After the public hearing is closed, the Planning and Zoning Board shall make one of the following decisions, to be recorded in its official records with any supporting statements:
 - 1. Recommend approval of the Zoning Map Amendment to the Board of County Commissioners.
 - 2. Recommend disapproval of the Zoning Map Amendment to the Board of County Commissioners, stating findings of fact to justify the rationale for disapproval.
 - 3. Conduct a second public hearing to review the Zoning Map Amendment, requesting from the applicant any additional information necessary to reach a decision.

5-8-6 Board of County Commissioners

- A.** After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the Zoning Map Amendment at its next

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regularly scheduled meeting, unless the applicant and the Planning and Zoning Director or designee agree to defer to a later meeting, and make one of the following decisions:

1. Approve the Zoning Map Amendment.
 2. Disapprove the Zoning Map Amendment, stating the reason(s) for disapproval.
 3. Refer the request back to the Planning and Zoning Board. The Board of County Commissioners shall only exercise this option if it finds that there is substantial additional information relating to the request for Zoning Map Amendment that was not presented to the Planning and Zoning Board.
- B.** The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the request is not approved, the decision shall also be communicated in writing to the applicant.

Sec. 5-9 Variances

5-9-1 Authority

The Board of Adjustment may adjust any regulation in this Ordinance for a specific application of the regulation if unique circumstances meet the criteria of this section. Any adjustments of enforcement, pursuant provisions established by the North Dakota Century Code, will be made through the variance process.

5-9-2 Approval Criteria

During the review of a request for a variance, the Planning and Zoning Board and the Board of Adjustment shall consider the following criteria:

- A.** Strict compliance with the regulations of this Ordinance would result in extraordinary hardship to the landowner, adversely affect the public welfare, or obstruct the goals and objectives of the Comprehensive Plan.
- B.** The hardship motivating the request for variance is related to the size, shape, or topography of the lot or tract or some other physical feature. The hardship is not a result of the actions of the applicant.
- C.** The special conditions and circumstances motivating the request for variance are special to the property in question and are not a common condition experienced by other landowners in the same district.
- D.** The literal interpretation of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the district.
- E.** Granting the variance would not confer any special privilege on the applicant that is denied by the Ordinance to others in the same district.

- F. Any variance granted shall be no more than the minimum easing of the regulation necessary to alleviate the hardship.
- G. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

5-9-3 Application

- A. The applicant shall submit a completed application for variance to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the variance is to be considered.
- B. The application shall be submitted with:
 - 1. Payment of a nonrefundable fee in the amount established by resolution of the Board of County Commissioners.
 - 2. A written letter describing the nature of the hardship and the reason for the variance request.
 - 3. A copy of a Site Plan in a format requested by the Planning and Zoning Director or designee.

5-9-4 Public Hearing

- A. All variance requests shall require one (1) public hearing before the Planning and Zoning Board.
- B. Notice of the public hearing shall be given in accordance with regulations established by the North Dakota Century Code.
- C. The Planning Department shall notify by mail all Owners of property within one-half (1/2) mile of the Lot for which the application is requested. The notice shall state the name of the applicant, the regulation from which the variance is sought, the location of the property for which the variance is sought, and the date, time, and location of the scheduled public hearing. This requirement is considered met if reasonable effort is made to contact applicable property Owners, even if some are inadvertently omitted from notification.
- D. At the public hearing, the Planning and Zoning Board shall hear comments and comments regarding the variance request. The applicant or a designated representative is encouraged to attend the public hearing to provide additional information on the request.
- E. After the public hearing is closed, the Planning and Zoning Board shall make one of the following decisions, to be recorded in its official records with any supporting statements:

1. Recommend approval of the variance to the Board of County Commissioners, with findings of fact to justify the rationale for approval including how each of the criteria specified in Section 5-9-2 applies to the variance.
2. Recommend disapproval of the variance to the Board of County Commissioners, with findings of fact to justify the rationale for disapproval.
3. Consider the variance request during the next regularly scheduled meeting of the Planning and Zoning Board, requesting from the applicant any additional information necessary to reach a decision. The Planning and Zoning Board shall not consider the same variance request at more than two Planning and Zoning Board meetings.

5-9-5 Board of County Commissioners

- A. After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the variance at its next regularly scheduled meeting, unless the applicant and the Planning and Zoning Director or designee agree to defer to a later date.
- B. The Board of County Commissioners shall make one of the following decisions:
 1. Approve the variance.
 2. Disapprove the variance, stating the reason(s) for disapproval.
 3. Refer the request back to the Planning and Zoning Board. The Board of County Commissioners shall only exercise this option if it finds that there is substantial additional information relating to the request for variance that was not presented to the Planning and Zoning Board.
- C. The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the variance request is approved, the variance shall be filed at the office of the Planning and Zoning Director, and a copy shall be mailed to the applicant. If the variance request is denied or referred back to the Planning and Zoning Board, the decision shall be communicated in writing to the applicant.

Sec. 5-10 Major Subdivisions

Major subdivisions require a public hearing for both the preliminary plat and the final plat. Any subdivision that does not meet the criteria of a minor subdivision (see [Section 6-5](#)) or exemption from platting requirements (see [Section 6-2](#)) shall be classified as a major subdivision.

5-10-1 Approval Criteria

During review of a major subdivision, the Planning and Zoning Board and Board of County Commissioners will consider the following:

- A. The proposed subdivision satisfies all applicable provisions of this article.
- B. The proposed Development is consistent with the Comprehensive Plan.
- C. The proposed Development is consistent with the Zoning Map or the applicant has applied for a Zoning Map Amendment.
- D. The proposed Subdivision satisfies all requirements of the corresponding zoning district(s). All land can be safely and reasonably developed for its intended Use under the requirements of this Ordinance.
- E. All necessary utilities, facilities, and services have been or will be provided to the subdivision (see [Subsection 6-4-4](#), Improvement Plans).

5-10-2 Consultation and Application

- A. Prior to preparing a preliminary subdivision plat, a prospective applicant is encouraged to consult with the Planning and Zoning Director to review the proposal in relation to existing conditions, planned Development, and public facilities, utilities, and services. The purpose of this consultation is to ensure an efficient platting process and avoid unnecessary costs to the applicant. There is no fee for the pre-application meeting.
- B. The applicant is encouraged to provide a sketch plan that shows existing and proposed Development, the general arrangement of streets and lots, tentative lot sizes, and any additional information which may be requested of the applicant by the Planning and Zoning Director.
- C. The applicant shall submit a completed application for Major Subdivision to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the application is to be considered. The application must include the application form, the required nonrefundable fee, as determined by resolution of the Board of County Commissioners, a digital copy of the preliminary plat in portable document format (pdf), and any supporting documents as may be required by this Ordinance.
- D. Prior to the public hearing, the Planning and Zoning Director or designee shall distribute the preliminary plat for comment from the County Engineer, the McKenzie County Emergency Management Coordinator, the rural fire district, impacted utilities, and other agencies/departments as applicable as determined by the Planning and Zoning Director.

- E. An application is not considered complete until the application is signed by all Owners of property and representatives, all fees are paid, and all required attachments are included.

5-10-3 Preliminary Plat

- A. The preliminary plat shall be prepared by a registered land surveyor and shall meet all specifications listed in [Section 6-4-2](#).
- B. One (1) public hearing before the Planning and Zoning Board is required for preliminary plat review.
 - 1. Notice of the public hearing shall be given in accordance with North Dakota Century Code.
 - 2. The Planning Department shall notify by mail all Owners of property within one-half mile (½ mile) of the proposed subdivision. The notice shall state the name of the applicant, the proposed name of the subdivision, the number of lots proposed, the location of the proposed subdivision, and the date, time, and location of the scheduled public hearing.
 - 3. At the public hearing, the Planning and Zoning Board shall hear testimony and comments regarding the preliminary plat. The applicant or a designated representative is encouraged to attend the public hearing to provide additional information on the proposed subdivision, as requested by the Planning and Zoning Board.
 - 4. After the public hearing is closed, the Planning and Zoning Board shall make one of the following recommendations:
 - a. Tentatively approve the preliminary plat.
 - b. Tentatively approve the preliminary plat with conditions. The Planning and Zoning Board shall clearly state the nature and extent of any such conditions or modifications that must be met before a final plat is submitted for review and approval.
 - c. Disapprove the preliminary plat, stating the reason for disapproval.
 - d. Conduct a second public hearing to review the preliminary plat during the next regularly scheduled meeting of the Planning and Zoning Board, requesting from the applicant any additional information necessary to reach a decision.
 - 5. Tentative approval of a preliminary plat by the Planning and Zoning Board is not an acceptance of the subdivision plat for record but is rather a general expression of approval of the preliminary plat as a representation of the forthcoming final plat. Once the preliminary plat has been tentatively approved, the applicant may proceed with preparing improvement plans (see [Section 6-4-4](#)).

5-10-4 Improvement Plans

- A. Technical Review.** All improvement plans shall be reviewed by the Planning and Zoning Director and the County Engineer or their designees. The County Engineer shall perform a technical review of the improvement plans and provide comments and required revisions as necessary. The County Engineer may require changes to the preliminary plat design to achieve acceptable engineering practices. Upon acknowledgement from the County Engineer that the plans meet County Road Improvement Standards, the applicant may prepare the final plat.
- B. Submittal Period.** The applicant shall have six (6) months from the date the preliminary plat is approved to complete the improvement plans. If the improvement plans have not been submitted for review within six (6) months or the agreed-upon extension period, the preliminary plat is deemed to be withdrawn and the application fee forfeited.
- C. Improvement Plan Requirements.** All Improvement Plans shall be prepared and signed by a professional engineer licensed in the State of North Dakota, shall follow County design standards as described in [Section 6-9](#) of the Ordinance, and shall consist of the following:
1. **Grading Plan.** A grading plan shall be provided to the County Engineer if more than one (1) acre is to be disturbed. The grading plan shall follow County standards for erosion control (see [Section 2-18](#)) and include the following:
 - a. Existing and proposed contours for all graded areas, with a minimum interval of two (2) feet.
 - b. Location of site water retention.
 - c. All proposed surface features necessary to complete the project design, including catch basins, culverts, grated inlets, inverts, railroad tracks, sidewalks, driveways, trees, utility structures, manholes, curb and gutter, water valves, monuments, centerline ties, and other features as necessary.
 - d. Dust control plan.
 - e. Site restoration plan.
 2. **Road Plan.** The paving plan shall include the following:
 - a. Title Sheet including certification language and signature block for the County Engineer.
 - b. List of Standard Drawings
 - c. Plan Notes

- d. Construction Details
 - e. Typical Sections
 - f. Plan and Profile Sheets
 - g. Grading Plans
 - h. Striping and Signage Plans
 - i. Cross Sections
 - i. Temporary Traffic Control
 - ii. Erosion Control Plans
3. **Utility Plan.** The utility plan shall include the following:
- a. The location of existing utilities within or adjacent to the plat.
 - b. The location of proposed utilities (water, sewer, electric, gas, and other) within the subdivision, and interconnections to existing systems.
 - c. Easements required to accommodate utilities or utility maintenance.
 - d. A letter from the water provider stating that adequate water supply is available if water is to be provided to the Subdivision.
 - e. Proposed water well locations, if necessary.
 - f. Proposed sewer or septic system information.
4. **Fire Prevention Plan.** The fire prevention plan shall include the following:
- a. Location of proposed fire hydrants or water tanks for firefighting.
 - b. Location, size, and operating capacity of all pipes, pumps, and equipment to achieve fire flow for a minimum of two (2) hours.
5. **Traffic Impact Study.** A Traffic Impact Study may be required. Refer to [Section 2-9-3](#) for requirements.
6. **Stormwater Management Plan:** See [Section 2-17](#) for stormwater management requirements.
- D. Developer Agreement.** McKenzie County may require the Developer to enter into an agreement or provide a Performance Bond to ensure the completion of any public improvements.

5-10-5 Final Plat

- A. Application.** The applicant shall submit a completed application to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the application is to be considered. The application must include the application form, the required nonrefundable fee, as determined by resolution of the Board of County

Commissioners, a digital copy of the final plat in portable document format (pdf), and any supporting documents as may be required by this Ordinance or requested by the Planning and Zoning Director or designee.

- B. Plat Requirements.** The final plat shall be prepared by a professional engineer or land surveyor registered in the State of North Dakota shall meet all specifications listed in [Section 6-4-3](#).
- C. Township Review.** If located within an organized township, township notification is required. In accordance with North Dakota Century Code the Board of Township Supervisors shall be notified by certified mail that an application for final plat has been filed, and that the Board of Township Supervisors is requested to make a recommendation on the application. The recommendations by the Board of Township Supervisors shall not be binding on the Board of County Commissioners. If the Board of County Commissioners does not receive, by certified mail, a recommendation by the Board of Township Supervisors within forty-five (45) days after notification, it may take final action on the application for plat approval.
- D. Public Hearing.** One (1) public hearing before the Planning and Zoning Board is required for final plat review.
1. Notice of the public hearing shall be given in accordance with regulations established by the North Dakota Century Code.
 2. The Planning Department shall notify by mail all Owners of property within one-half mile (½ mile) of the proposed subdivision. The notice shall state the name of the applicant, the proposed name of the subdivision, the number of lots proposed, the location of the proposed subdivision, and the date, time, and location of the scheduled public hearing.
 3. At the public hearing, the Planning and Zoning Board shall hear testimony and comments regarding the final plat. The applicant or a designated representative is encouraged to attend the public hearing to provide additional information on the proposed subdivision, as requested by the Planning and Zoning Board.
 4. The Planning and Zoning Board shall determine whether the final plat conforms substantially to the preliminary plat and may review any improvement plans required as a condition of subdivision approval. This requirement does not apply to a Minor Subdivision.
 5. After the public hearing is closed, the Planning and Zoning Board shall decide to recommend approval or disapproval of the final plat. If the plat is not approved, the reason for disapproval shall be stated. The decision shall be recorded in the official records of the Planning and Zoning Board.

- E. Board of County Commissioners Meeting.** After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the final plat at its next regularly scheduled meeting and shall approve or disapprove the final plat, stating any reason for disapproval. The decision and supporting statements shall be recorded in the official records of the Board of County Commissioners.
- F. Signatures.** If the plat is approved by the Board of County Commissioners the applicant shall provide the plat on Mylar with all covenants, signature blocks, acknowledgments, and certifications required for recording. The County Auditor shall have the plat signed as required by State law.
- G. Plat Recording.**
 - 1. After the plat has been signed and certified, the applicant shall file the plat for recording with the County Recorder within ninety (90) days. One (1) copy shall also be filed with the Planning and Zoning Director or designee.
 - 2. If the plat is not recorded within ninety (90) days of approval the plat shall be null and void without further action.

Sec. 5-11 Minor Subdivisions

5-11-1 Purpose

The purpose of the minor subdivision procedure is to simplify the requirements and review process for qualifying minor subdivisions. Minor subdivisions are exempt from the preliminary plat process but require one (1) public hearing with the Planning and Zoning Board to review the final plat.

5-11-2 Minor Subdivision Criteria

- A.** Any subdivision that meets the following criteria may be platted as a minor subdivision:
 - 1. The subdivision does not require the dedication of public rights-of-way or the construction of new streets;
 - 2. The subdivision does not require new utility Easements or public improvements;
 - 3. The subdivision contains four (4) lots or fewer and the lots will be used for agricultural or residential purposes only;
 - 4. The subdivision does not Landlock any property;
 - 5. Any portion of the land proposed for subdivision has not been previously subdivided within two (2) years of the date of application submittal.

5-11-3 Requirements

- A. Minor subdivisions shall be subject to the requirements and procedures for final plats, except where stated otherwise (see [Section 5-10-5](#)) .

Sec. 5-12 Lot Line Adjustments, Lot Splits, and Lot Mergers

- A. **Purpose.** The purpose of this section is to provide for the administrative approval of lot modifications.
- B. **Application Submittal.** All applications for Lot Line Adjustments, Lot Splits, and Lot Mergers shall be submitted to the Planning and Zoning Director or designee, along with the nonrefundable application fee, as determined by resolution of the Board of County Commissioners; a certificate of survey prepared by a land surveyor registered in the State of North Dakota showing all subject parcels, the proposed modification, and all existing structures; the legal description of the original parcel(s); and the legal description of the resulting parcel(s).
- C. **Technical Review.** All applications for lot splits, lot line adjustments, and lot mergers shall be reviewed by the Planning and Zoning Director or designee in consultation with the County Engineer or designee. Review shall be performed for compliance with [Section 6-6](#) of this Ordinance. No public hearing or review by either the Planning and Zoning Board or the Board of County Commissioners is necessary.

Sec. 5-13 Conditional Use Permits**5-13-1 Authority**

- A. To promote and protect public health, safety, and the general welfare of the community, the Board of County Commissioners may stipulate conditions and restrictions upon the establishment, location, construction, and operation of any proposed Conditional Use.
- B. In all cases in which Conditional Uses are granted, the Planning and Zoning Director or designee may require evidence of compliance with these provisions and with the conditions set forth.

5-13-2 General Provisions

- A. A Conditional Use Permit (CUP) shall be required for uses identified within each zoning district as a Conditional Use according to [Table 3-1](#).
- B. No building permit or certificate of occupancy shall be issued until the application for a required Conditional Use Permit has been approved by the Board of County Commissioners.

- C. Conditional uses are considered to be permanent unless otherwise indicated in this Ordinance or as a condition of approval.
- D. Applicants shall be in Good Standing. Any existing violation on the subject property must be remedied or a Violation Bond must be posted prior to application submittal.
- E. When the application is required to include comments from an outside agency or source, written documentation of coordination must be included. Agencies contacted must be requested to respond within 14 days.

5-13-3 Approval Criteria

- A. During review of a request for a Conditional Use permit, the Planning and Zoning Board and Board of County Commissioners shall consider the following criteria:
 - 1. The proposed Conditional Use shall not adversely affect public health and safety.
 - 2. The proposed Conditional Use shall not impede the normal use or Development of adjacent properties.
 - 3. The proposed Conditional Use will comply with all applicable regulations of the zoning district in which it is located.
 - 4. The proposed Conditional Use will comply with any regulations established by *Article 4, Special Use Standards*.

5-13-4 Conditional Use Permit with Zoning Map Amendment

The applicant may seek approval for a Conditional Use Permit and a Zoning Map Amendment and/or subdivision at the Preliminary Plat Public Hearing. A fee must be paid for each request.

5-13-5 Application

- A. The applicant shall submit a complete application for Conditional Use permit at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the permit will be considered.
- B. The application shall be submitted with:
 - 1. Payment of a nonrefundable fee in the amount established by resolution of the Board of County Commissioners.
 - 2. A copy of the Site Plan in the format and scale requested by the Planning and Zoning Director or designee.
 - 3. Any additional application requirements for the proposed use stipulated by Article 4, Special Use Standards.

4. Any other information relevant to the need for the proposed use, siting constraints, or the expected effects of the proposed use on surrounding areas and McKenzie County in general, as requested by the Planning and Zoning Director or his/her designee.

5-13-6 Public Hearing

- A. The Planning and Zoning Board shall hold a public hearing on the Conditional Use permit application, at which any person or party of interest shall have an opportunity to be heard.
- B. Notice of the public hearing with the Planning and Zoning Board shall be given in accordance with provisions established by the North Dakota Century Code.
- C. The Planning Department shall notify by mail all Owners of property within one-half (1/2) mile of the property in question. The notice shall state the name of the applicant, the proposed use for which the Conditional Use is required, the location of the proposed use, and the date, time, and location of the scheduled public hearing. This requirement is considered met if reasonable effort is made to contact applicable property Owners, even if some are inadvertently omitted from notification.
- D. At the public hearing, the Planning and Zoning Board shall hear comments regarding the request for Conditional Use Permit.
- E. After the public hearing is closed, the Planning and Zoning Board shall make one of the following decisions, to be recorded in its official records with any supporting statements:
 1. Recommend approval of the Conditional Use permit to the Board of County Commissioners.
 2. Recommend conditional approval of the Conditional Use permit to the Board of County Commissioners, stating the recommended terms and conditions to be attached to the permit.
 3. Recommend disapproval of the Conditional Use permit to the Board of County Commissioners, stating the rationale to justify disapproval.
 4. Conduct a second public hearing to review the Conditional Use permit during the next regularly scheduled meeting of the Planning and Zoning Board, requesting from the applicant any additional information necessary to facilitate the body's decision. No more than two (2) public hearings may be conducted for any proposed Conditional Use.

5-13-7 Board of County Commissioners

- A. After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the Conditional Use Permit at its next

regularly scheduled meeting, unless the applicant and the Planning and Zoning Director or designee agree to defer to a meeting not later than six (6) months from the Public hearing.

- B.** The Board of County Commissioners shall make one of the following decisions:
1. Approve the Conditional Use permit.
 2. Approve the Conditional Use permit with any terms and conditions deemed necessary to protect surrounding areas or McKenzie County in general.
 3. Disapprove the Conditional Use permit, stating the reason(s) for disapproval.
 4. Refer the request back to the Planning and Zoning Board. The Board of County Commissioners shall only exercise this option if it finds that there is substantial additional information relating to the request for Conditional Use permit that was not presented to the Planning and Zoning Board.
- C.** The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the request is not approved, the decision shall also be communicated in writing to the applicant.
- D.** If the Conditional Use permit is approved, the permit shall be filed at the office of the Planning and Zoning Director, and a copy shall be mailed to the applicant.

5-13-8 Cessation of Conditional Use

Upon the cessation or abandonment for a period of one (1) year of any use for which a Conditional Use Permit has been issued, the Conditional Use Permit will be terminated through revocation (Section 5-13-12) and any future use of the land, structure(s) or premises shall require a new Conditional Use Permit.

5-13-9 Renewal of Permit

Conditional Uses do not have a specified time period for operation unless so indicated in this ordinance or as a condition of approval. If a Conditional Use Permit expires, then a new Conditional Use Permit application shall be filed with the Planning Department.

5-13-10 Monitoring

Where practical, approved Conditional Use Permits shall be monitored by the Planning Department. The frequency of permit review shall be identified within the conditions of approval. Conditional Use Permits that do not specify a frequency of review in the conditions of approval may be reviewed once a year at the discretion of the Planning and Zoning Director.

5-13-11 Amendment to Permit

- A.** Any modification to an approved Conditional Use Permit shall be considered an Amendment to the original Conditional Use Permit. An Amendment to a Conditional Use Permit can only be approved if, at a minimum, the Permit is in compliance with its original conditions and there are no current violations.
- B.** The Planning and Zoning Director or designee shall review the Conditional Use Permit application filed for the Amendment and determine if the Amendment can be processed administratively or if it needs go through the public hearing process. Activities that require the public hearing process include the following:
 - 1. A change in use.
 - 2. Enlargement of gas and oil storage.
 - 3. Increased traffic.
 - 4. Any permit that has been cited with a violation since the last review.
 - 5. Any application where the original conditions are inadequate with the proposed Amendment.

5-13-12 Revocation of Permit

- A.** The Board of County Commissioners may review the status of any Conditional Use Permit issued pursuant to this Ordinance and take appropriate action to suspend or revoke the same if there is any violation of the conditions of the permit or the requirements of this Ordinance, the Building Code, the Fire Code, or other law.
- B.** Where the construction for a granted Conditional Use has not been commenced, or the construction has not been Substantially Completed within one (1) year of approval, the permit shall be null and void without further action of the Planning and Zoning Board or the Board of County Commissioners.
- C.** When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

5-13-13 Application Requirements when Violations Exist

- A.** When an application is received for a property or land use that is in violation of this Ordinance, the application shall not be approved until the following conditions are fulfilled:
 - 1. The applicant posts a Violation Bond as outlined in [Section 2-13](#) of this Ordinance.
 - 2. The applicant executes an Easement entitling the County, a party contracted by the County, and the agents of either of them to enter the land and remedy

the violation by direct action if the application is denied. Once the violation is remedied the Easement becomes null and void.

3. If the violation relates to a facility subject to state or federal regulations under which the County or other third parties are prohibited from taking corrective action, then the applicant shall provide a binding consent to immediate and unconditional injunctive relief being entered to require corrective action in lieu of the required Easement.
 4. The applicant shall release the County and its agents, successors, and assigns from all claims, liability, and damages that are caused by the County's entrance to the land and activities thereon as well as for any liability for damages caused to the applicant or any others as a result of the County's termination of the violation and indemnifying the County and its agents for any liability to others for such damages.
 5. The applicant shall show proof of insurance naming the County as an additional insured to cover such damages with coverage of no less than one million dollars per incident and no less than one million dollars per person for any liability and damages caused to the applicant or any others due to the County's termination of the violation.
- B.** Once the violation is remedied and conditions have been met the Planning and Zoning Director may release the applicant of the Violation Bond and the additional insured requirements.

5-13-14 Reclamation Upon Expiration, Termination, or Revocation

If the Conditional Use Permit has expired, has been terminated, or has been revoked, the landowner shall reclaim the land within one (1) year of notice of such. The Planning Department shall provide notice to the landowner of expiration, termination, or revocation. If the landowner fails to reclaim the land within such time, the County and its agents may use the reclamation bond to reclaim the land and gain access to conduct reclamation.

Sec. 5-14 Administrative Permit

5-14-1 Authority

The Planning and Zoning Director is authorized to administratively approve those uses denoted as "C/A" in Table 3-1. Zoning and Land Use Table.

5-14-2 Approval Criteria

During review of a request for an Administrative Permit, the Planning and Zoning Director or designee shall consider the following criteria:

- A. The proposed timeline of the Use, if any, complies with the maximum allowable duration provided in [Table 3-1](#).
- B. The Use will not create a burden on public facilities which serve or are proposed to serve the area.
- C. The Use will not impede the normal use or Development of adjacent properties. The Planning and Zoning Director or designee may define restrictions on the hours of operation, lighting, and noise levels, as necessary.
- D. Adequate measures have been taken to minimize traffic congestion, provide adequate ingress and egress to the site, and provide on-site parking, as necessary.
- E. Adequate water supply, individual sewage treatment facilities, erosion control, and stormwater management are provided, as necessary.
- F. All applicable permits, licenses, and/or certifications required for the operation of the Use have been acquired.
- G. There is a plan to return the site to its original condition. Remediation, if necessary, shall be completed by the date specified on the Administrative Permit.
- H. Each Administrative Permit shall include the following, at a minimum:
 - 1. A description of the nature of the Use.
 - 2. A reference to a Site Plan, if required, to illustrate the area of a Property where the Use may be conducted.
 - 3. Conditions of approval, if any.
 - 4. The date on which the Use may be initiated.
 - 5. The date on which the Use must be terminated.
 - 6. The date for which a Reclamation Bond must be submitted to the Planning and Zoning Director, if one is required.
 - 7. The date on which remediation of the site must be completed, if necessary.

5-14-3 Application

- A. A complete application for an Administrative Permit shall be submitted to the Planning Department at least twenty-one (21) days prior to the initiation of the proposed use with a nonrefundable fee as established by the Board of County Commissioners. No application will be processed until the application is complete and the required fee has been paid.
- B. The application for an Administrative Permit shall contain the same information required for a Conditional Use Permit.

- C. A Reclamation Bond may be required as outlined in this Ordinance based on the nature of the activity(ies) proposed. The Planning and Zoning Director shall have the authority to determine whether a Reclamation Bond is necessary and the Planning and Zoning Director's decision regarding the need for a Reclamation Bond may be appealed following the provisions of this Ordinance.
- D. The Planning Department shall notify by mail all Owners of property within one-half mile ($\frac{1}{2}$ mile) of the proposal. The Planning Department shall notify by mail all Owners of property within one-half mile ($\frac{1}{2}$ mile) of the proposed use. The notice shall state the name of the applicant, the proposed use for which the Administrative Permit is required, the location of the proposed use, Planning Department contact information, and the date by which comments must be received.
- E. The application may not be approved unless the Planning and Zoning Director finds that the proposed project complies with all applicable provisions of this Ordinance and with all adopted plans and policy documents of the County. The Planning and Zoning Director may grant approval with conditions necessary to mitigate negative externalities and ensure harmony with adjacent landowners.
- F. The Planning and Zoning Director or designee shall report the issuance of a permit at the next regularly scheduled meeting of the Planning and Zoning Board.
- G. The Planning and Zoning Director may refer any application for an Administrative Permit to the Planning and Zoning Board for approval, approval with conditions, or denial of the permit.
- H. If an application for an Administrative Permit is denied or if the applicant disputes any condition of approval the applicant may appeal the decision following the provisions of this Ordinance.

5-14-4 Extensions for Applications with Limited Timeframes

Up to one (1) extension may be requested for those applications which specify a termination date. A request for extension shall be submitted to the Planning and Zoning Director or designee in writing at least thirty (30) days prior to the expiration of approval and follow the same application and approval requirements as a new Administrative Permit application.

5-14-5 Revocation of Permit

An Administrative Permit may be revoked should the landowner or permittee holder, if different from the landowner, conduct activity in violation of this Ordinance on the subject Property for which an Administrative Permit is issued.

The Planning and Zoning Director shall provide thirty (30) days' notice to the landowner or permittee holder, if different from the landowner, of the intent to

revoke the Administrative Permit unless there is an imminent threat to public health or safety, in which case the permit may be immediately revoked.

Any decision of the Planning and Zoning Director to revoke an Administrative Permit may be appealed following the provisions of this Ordinance.

Sec. 5-15 Appeals

5-15-1 Request for an Appeal Hearing

- A.** Any person may file a petition for a separate hearing before the Board of County Commissioners if aggrieved by any of the following:
 - 1. Any Amendment to this Ordinance, within thirty (30) days after the first publication of the enactment of such Amendment.
 - 2. Any decision made by the Board of County Commissioners regarding a previous application or petition, within thirty (30) days after the public meeting in which the decision was made.
 - 3. Any administrative decision, as provided in this Ordinance, made by any officer, board, or agent of McKenzie County, within thirty (30) days after the decision was communicated either verbally or in writing.
- B.** All petitions for appeal shall be filed with the McKenzie County Auditor.

5-15-2 Procedures for an Appeal Hearing

- A.** The Board of County Commissioners shall conduct a public hearing on the matter no sooner than the next available Board of County Commissioner meeting after the filing of petition with the McKenzie County Auditor, who shall notify the appellant of the time and place of the hearing.
- B.** Notice of the public hearing shall be given in accordance with provisions established by the North Dakota Century Code.
- C.** At the public hearing, the Board of County Commissioners shall consider any relevant provisions from this Ordinance or from the Comprehensive Plan and shall render a decision on the matter. The Board of County Commissioners shall notify the petitioner of its action by certified mail.

5-15-3 Appeal to District Court

Any person or persons aggrieved by a decision of the Board of County Commissioners under this Ordinance may appeal to District Court in the manner provided for in the North Dakota Century Code.

Sec. 5-16 Violations and Penalties

Each violation of any regulation or restriction of this Ordinance, the Building Code or the Fire Code, by any person shall constitute the maintenance of a public nuisance and shall, pursuant to the provisions set forth by the North Dakota Century Code, be a Class B misdemeanor. Each day that a violation occurs shall be considered a separate punishable offense.

5-16-1 Violation Procedures

- A.** If any land use, structure, or Development violates this Ordinance, or if an alleged violation has occurred, any person may file a complaint with the Planning and Zoning Director. Such complaints must state with specificity the causes and basis thereof.
- B.** The Planning and Zoning Director or designee shall follow these procedures:
 - 1. Inspect the affected site or structure to confirm that a violation may exist.
 - 2. Notify the person causing the violation and Owner of the property. Such notification shall be sent by certified mail.
 - 3. Outline the findings and explain what actions the violating party must take to correct the violation and the timing of any correction.
 - 4. The Planning and Zoning Director is authorized to issue a cease-and-desist notice, stop work order, or seek a permanent injunction against the violation.
 - 5. If the violation immediately jeopardizes public health or safety, the Planning and Zoning Director may request that the court enter an injunctive relief. If injunctive relief is requested the Planning and Zoning Director or designee shall present the matter to the Planning and Zoning Board.
- C.** The violation must be corrected, or a Violation Bond must be in place prior to the Planning Department processing any further application(s) for the site.

5-16-2 Reimbursement of Legal Expenses

- A.** No person may be issued any Conditional Use Permit, building permit, or certificate of occupancy if a civil action has been commenced against that person or his predecessors in interest relating to a violation of this Ordinance and the County has not yet been reimbursed for its actual legal expenses, including such costs and disbursements and reasonable attorney fees as were incurred in preparing, commencing, and prosecuting the action.
- B.** Upon completion of all other requirements for issuance of the Conditional Use permit, building permit, or certificate of occupancy such that the alleged violation has been abated, the applicant for the same shall be given notice of the legal expenses incurred and shall reimburse McKenzie County for the same

within thirty (30) days of such notice. If the reimbursement in full has not been made within thirty (30) days of notice, the Conditional Use permit, building permit, or certificate of occupancy shall be denied, and all application fees forfeited. In the event of a dispute as to the actual legal expenses incurred by McKenzie County, the matter shall be resolved by submitting the issue to the North Dakota District Court in and for McKenzie County.

- C. McKenzie County shall be entitled to reimbursement of its actual legal expenses pursuant to this section and may claim the same in addition to its damages in civil action brought to enforce this Ordinance.

Sec. 5-17 County Fire Official

5-17-1 Authority

The Board of County Commissioners may appoint a Fire Official to carry out the directives and duties as assigned by the Board of County Commissioners. The Fire Official shall be independent in his or her authority to interpret and enforce the Fire Code. Decisions may be appealed to the Board of Adjustment. If a Fire Official is not appointed, the Planning and Zoning Director shall carry out the duties described in this Section.

5-17-2 Duties

The duties of the County Fire Official shall include but not be limited to the following:

A. As directed by the State Fire Marshal:

1. Conduct investigations, surveys, or inspections.
2. Enforce compliance where violations are discovered.
3. Review building plans, prepare materials and make recommendations on all building applications.
4. Attend hearings as needed.
5. Keep copies of all records for building plan review, fire inspections, fire investigations and fire permits.
6. Make inspections of land and/or structures to determine compliance with the provisions of this Ordinance and investigate reports of noncompliance received from the public.
7. Carry out duties of the Fire Code Official as outlined in the International Fire Code or other duties assigned by the Planning and Zoning Director.

5-17-3 Fire Code

McKenzie County has the right to enforce the International Fire Code and adopt and revise the deleted exceptions. The County may further rely upon the State Fire Marshals office to assist with Fire Code compliance. The following sections to the State Fire Code are hereby modified:

- A. Section 103 Division of Fire Prevention:** The Division of Fire Prevention is established as a division under the Department of Planning and Zoning.
- B. Section 105 Permits:** Section 105 with all subsections as in the current International Fire Code.
- C. Section 108 Board of Appeals:** The Board of County Commissioners shall serve as the Board of Adjustment for the Fire Code or until such time as they appoint a Board of Adjustment.
- D. Section 109 Violations:** The provisions provided in Section 5-16 shall be followed.
- E. Section 113 Fees:** A schedule of fees shall be approved and amended from time to time by the Board of County Commissioners.

Sec. 5-18 Building Permit**5-18-1 Purpose**

No land within the jurisdiction of this Ordinance shall be built upon and no structure shall be structurally altered or moved until a building permit has been obtained from the Planning Department.

- A.** Any building permit issued must be in accordance with this Ordinance.
- B.** No permit is required for maintenance of any Structure which does not structurally alter the building.
- C.** If no construction takes place within a year of the issuance of a building permit, the permit shall expire.
- D.** The building permit process is outlined below:
 - 1. All applicants who wish to build or alter any Structure as defined in this Ordinance must apply to the Planning Department for a permit.
 - 2. If the applicant's plans meet the requirements of this Ordinance, the Planning Department shall collect the fees and issue the building permit, if applicable.

5-18-2 Adoption of State Building Code

The erection, construction, enlargement, Alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area, and maintenance

of buildings or structures in McKenzie County shall meet with the provisions of the rules and regulations of the North Dakota State Building Code, which includes the International Building Code (IBC), the International Residential Code (IRC), the International Mechanical Code (IMC), and the International Fuel Gas Code (IFGC) as adopted by the State of North Dakota. Any future updates and Amendments to the North Dakota State Building Code and its adopted incorporated codes will be held on file with the Planning Department.

5-18-3 Amendments to State Building Code

Pursuant to the North Dakota Century Code, McKenzie County amends the State Building Code as follows:

- A.** Building permits and/or inspections may be waived for structures that are built on-site for gas and oil processing and storage.
- B.** Waivers of building permits and/or inspections may only be given in writing.
- C.** Each request for a waiver of building permits and/or inspections must include the legal description of the location of the structure and a description of the structure for which a waiver is requested. Each waiver is specific to the structure described therein and does not apply to replacements, expansions, changes in use, or major Alterations to the structure.
- D.** Waivers of building permits and/or inspections shall be granted by the Planning and Zoning Director when the Planning and Zoning Director determines that the structure's safety is adequately regulated by other government agencies, whose enforcement authority and execution the Planning and Zoning Director deems sufficient, and that the structure is not designed to be occupied regularly by persons (e.g. as an office or housing facility, whether on a temporary or permanent basis).
- E.** Waivers of building permits and/or inspections do not exempt the structure from fire and safety inspections. A fire and safety inspection is required prior to commencement of operations within the structure and thereafter on an annual basis or as requested by the County Fire Inspector or Planning and Zoning Director.
- F.** Prior to commencement of operations the facility operator shall certify in writing that American Petroleum Institute construction, safety and operational standards and procedures have and shall be maintained.
- G.** The Planning and Zoning Director's decision to deny a waiver of building permits and/or inspections may be appealed to the Board of County Commissioners.
- H.** This Amendment in no way alters or amends any zoning requirement. Prior to any construction, Alteration, or Development of a facility the applicant must

meet with the Planning and Zoning Director or designee to determine the extent of the exception.

5-18-4 Authority

The Planning and Zoning Director or designee must carry out the directives and duties as assigned. The Planning and Zoning Director or designee is granted the authority to interpret and enforce the Building Code. Decisions may be appealed to the Board of County Commissioners.

5-18-5 Exemptions

- A.** Pursuant to the North Dakota Century Code the following buildings are exempt from the Building Code:
 - 1. Buildings which are neither heated nor cooled.
 - 2. Buildings used whose peak design rate of energy usage is less than one watt per square foot or three and four-tenths British thermal units an hour per square foot of floor area.
 - 3. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural interests, or public or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.
 - 4. Any building which is not a place of human habitation and is used solely for agricultural purposes is exempt from this chapter.
- B.** However, an application must still be submitted prior to construction to the Planning Department so that the intended building use can be reviewed and verified that it is a Permitted use in the zoning district. The applicant shall provide a notarized affidavit that the structure is included in one of the above exemptions.

Sec. 5-19 Manufactured Homes Installation Program

- A.** All first-time installations of manufactured homes must comply with the North Dakota Administrative Code.
- B.** Manufactured homes within McKenzie County's jurisdiction must be installed by a State-approved, licensed installer, and inspected by a State-certified inspector. However, a person who owns the manufactured home and the real property upon which the manufactured home is installed may install the manufactured home without registering as an installer, provided that the person complies with all provisions of the North Dakota Administrative Code.

- C.** An Owner or licensed installer applying to install a used manufactured home must submit a Manufactured Home Permit application to the Planning Department.
- D.** No work shall begin prior to the issuance of the Manufactured Home Permit by the Planning Department or State of North Dakota.

ARTICLE 6. SUBDIVISION REGULATION

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Sec. 6-1 General Provisions

6-1-1 Authority

This Subdivision Regulation is authorized by NDCC Ch. 11-33.2. In the event of any conflict between this Regulation and the North Dakota Century Code, the provisions of the Century Code shall prevail.

6-1-2 Jurisdiction

This Subdivision Regulation shall govern the division, consolidation, or rearrangement of all land within McKenzie County that are subject to the County's zoning jurisdiction. It shall in no way affect land within federally recognized boundaries of tribal land, within the corporate limits of any city, or within any city's Extraterritorial Jurisdiction adopted pursuant to NDCC Ch. 40- 47-01.1.

6-1-3 Purpose

A. This Subdivision Regulation is adopted for the following purposes:

1. To ensure the orderly Development of areas subject to McKenzie County's zoning and subdivision authority.
2. To provide for the proper arrangement of streets in relation to other existing and planned streets.
3. To provide adequate ingress and egress for traffic, firefighting, and emergency service vehicles.
4. To provide access to adequate utilities, infrastructure, schools, and services.

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5. To provide adequate and convenient open spaces for recreation, light, and air.
 6. To establish reasonable standards of design and procedures for platting, in order to further the orderly Development of land and ensure proper recording and monumenting of subdivided land.
 7. To avoid Development or mitigate the impacts of Development in areas with soil, slope, drainage, or other physical limitations.
- B.** This Subdivision Regulation shall not prohibit or prevent the Use of land or Buildings for farming or any of the normal incidents of farming (see NDCC Ch. 11-33.2-03).

6-1-4 Platting Required

No subdivision shall take effect, nor shall any improvements be constructed except in accordance with a plat that is approved and signed by the Board of County Commissioners and recorded with the Office of the County Recorder, pursuant to NDCC Section 11-33.2-12. This requirement includes irregular tracts of land described by metes and bounds. The McKenzie County Auditor is also authorized to require platting or re-platting of irregular tracts to clarify the description of property for assessment and taxation purposes, pursuant to NDCC Section 57-02-39.

6-1-5 Plat Validity

No Plat shall be entitled to be recorded in the Office of the County Recorder, nor shall it have any validity, unless approved under the provisions of this article.

6-1-6 Building Permits and Sale of Land

No lot shall be eligible for the issuance of a building permit or transfer of title until the subdivision has been recorded with the Office of the County Recorder. The sale of lots or construction of buildings prior to final plat recording is a Class B misdemeanor as established by NDCC Ch. 11-33.2-15.

Sec. 6-2 Exemptions

The following land division processes shall qualify as exempt divisions of land and shall not be considered subdivisions as defined by NDCC Section 11-33.2-01 and this article.

- A. Court-Ordered Division.** Any division of land qualifies as exempt if the division is ordered by a court of record in North Dakota. Before a court orders any division of land, the court shall notify the McKenzie County Planning and Zoning Director and allow the County to provide written comments on the pending division.

- B. Mineral Interest.** Any division of land qualifies as exempt if it creates an interest in oil, gas, minerals, or water that will be severed from the surface ownership of real property.
- C. Correction of Error.** Any division of land qualifies as exempt if made to correct surveying errors in prior plats.

Sec. 6-3 Adequate Public Facilities

6-3-1 Intent

Development increases demand on critical services and facilities, which are necessary to maintain a high quality of life for McKenzie County residents. Therefore, Developers are obligated to assist in improving or expanding public facilities to adequately address the anticipated impacts of Development. This section is intended to ensure that adequate facilities and services are provided and maintained as Development occurs.

6-3-2 Policy

The County shall discourage the subdividing of lands that are far in advance of Development needs; that by their location cannot be efficiently served by public utilities, fire protection, or other County services; that are located in areas subject to a flood or that are topographically unsuitable for Development; or that for any other reason are unwisely or prematurely divided.

6-3-3 Roads

- A.** All roads shall be built to the [design standards for new construction or reconstruction of roads](#) approved by the Board of County Commissioners.
- B.** Prior to installation of any required road improvements, the Developer shall enter a written agreement with the County requiring the Developer to construct said improvements. The Development Agreement may include issuance of a Performance Bond to guarantee completion of all necessary improvements. The Development agreement may specify a phasing plan for the construction of improvements. Refer to Section 6-3-7 for more information pertaining to the Development agreement.
- C.** Road construction shall begin before building permits are issued. A certificate of occupancy for structures within the subdivision shall not be issued until roads are constructed and approved by the County Engineer.
- D.** New residential, commercial, and industrial subdivisions that are within five hundred (500) feet of an existing paved road shall extend the pavement to the entrance of the subdivision, at a minimum. An exception to this requirement may be granted by the County Engineer where the roadway does not fall under

the jurisdiction of the County and the jurisdiction having authority provides a waiver in writing to the paving requirement.

6-3-4 Water

- A. All residential subdivisions, except for those within the R-5A District, and which are located within one-half (1/2) mile of existing public water service, shall extend water lines to the subdivision.
- B. All unsafe or abandoned wells within the subdivision shall be closed and capped.
- C. All water systems shall conform to the provisions of this Ordinance, the State Department of Environmental Quality, and the Upper Missouri District Health Unit.

6-3-5 Sewer

All sewage systems shall be designed, constructed, and maintained in accordance with standards of the North Dakota Department of Environmental Quality, and the Upper Missouri District Health Unit.

6-3-6 Parks and Open Space

- A. Where deemed essential by the Planning and Zoning Board upon consideration of the type of Development proposed in a subdivision, but especially in large-scale neighborhood subdivisions, the Planning and Zoning Board may request the dedication, reservation, or enhancement of parks or open space.
- B. Land which is subject to extraordinary hazards, including Flood conditions and subsidence, either shall be made safe for the purpose for which such land is proposed to be used, or shall be set aside for uses which shall not endanger life or property or increase the risk of hazard. Any property located within a Special Flood Hazard Area shall be subject to the requirements of Floodplain Overlay District (see Section 3-15).

6-3-7 Development Agreement.

- A. Prior to installation of any required public improvements, the Developer shall enter a written agreement with the County requiring the Developer to construct said improvements and pay for any other Development costs associated with the plat. The agreement shall provide for the Development of any restrictions, covenants, Easements, signage, open space, or other conditions of the approved plat and provide for the proper execution, recording, or other action as required. Approval of the Developer's agreement shall be part of final plat approval by the Board of County Commissioners.
- B. The Development agreement shall describe the roles and responsibilities regarding the construction of the road improvements, including provisions for

the supervision of the details of construction by the County Engineer or their agent.

- C. The Developer shall provide a financial guarantee acceptable to the County to ensure completion of all improvements as provided in this Subdivision Regulation. A Performance Bond shall be required for improvements that are not constructed prior to the recording of a final plat.
- D. The time for completion of all work phases shall be agreed upon by the County Engineer after consultation with the Developer and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.
- E. One (1) signed copy of the Development agreement shall be submitted to and reviewed by the Planning Department and Engineering Department. The agreement must be fully executed and recoded prior to, or at the same time as when the plat is recorded.
- F. Financial Guarantee
 - 1. The Board of County Commissioners may require the Developer to execute a surety Bond or other security to ensure that improvements are completed within a timeframe prescribed by the Board.
 - 2. The agreement shall include written provision to release the surety Bond upon completion of the public improvements, to be approved by all parties.
 - 3. If the Developer fails to install public improvements as required by this Ordinance or any Development agreement, the Board of County Commissioners may enforce any surety Bond by appropriate legal and equitable remedies.
 - 4. If the proceeds of the Bond are insufficient to pay the full cost of installing or repairing all improvements covered by the security, the Board of County Commissioners may elect to install a portion of such improvements in all or part of the subdivision and may institute appropriate legal or equitable action to recover the money necessary to complete the remainder of the improvements. All proceeds, whether resulting from the security or from any legal or equitable action brought against the Developer, shall be used solely for the installation of the improvements covered by such security.

G. Completion of Improvements.

- 1. **Governmental Units.** Governmental units affected by the provisions of this section may file, in lieu of said agreement or financial guarantee, a certified resolution from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.
- 2. **Improvement Installation without Financial Guarantee.** For a subdivision for which no financial guarantee has been posted, the

improvements must be completed prior to approval of the final plat. Note that improvements can only be installed after construction/improvement plans have been reviewed and approved by the County Engineer, following Preliminary Plat approval.

3. **Failure to Complete Improvements.** In those cases where a financial guarantee has been posted and required improvements have not been installed within the terms of such financial guarantee, the County may declare the financial guarantee to be in default and require that all the improvements be installed regardless of the extent of the building Development at the time the financial guarantee is declared to be in default.
4. **Release of Financial Guarantee.** The County shall not release a financial guarantee for those improvements required until the County Engineer has agreed that all required improvements have been satisfactorily completed.

H. Deferral or Waiver of Required Improvements.

1. The County may defer or waive at the time of plat approval, subject to appropriate conditions, the provision of any or all such improvements that, in its judgment, are not requisite to the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
2. Whenever it is deemed necessary by the County to defer the construction of any required improvement for any reason, the Developer shall post a financial guarantee ensuring completion of said improvement upon demand of the County.

Sec. 6-4 Major Subdivisions

Major subdivisions require a public hearing for both the preliminary plat and the final plat. A major subdivision is any subdivision that does not meet the criteria of a minor subdivision (see *Section 6-5*) or exemption from platting requirements (see *Section 6-2*) shall be classified as a major subdivision.

6-4-1 Application Process

Refer to [Section 5-10](#) regarding the application process for both steps of the major subdivision process, preliminary plat and final plat.

6-4-2 Preliminary Plat Requirements

The preliminary plat shall be prepared by a registered land surveyor and shall meet all technical specifications listed below.

- A. Proposed name of subdivision, date of plat preparation, and indication of north point.

- B.** Scale of subdivision plat, which shall not be smaller than one (1) inch equals one hundred (100) feet. The Planning and Zoning Board may waive this requirement for large-tract subdivisions.
- C.** Location of subdivision by section, township, and range to the nearest quarter section or by other legal description.
- D.** Name(s) and address(es) of all property Owner(s) within the plat.
- E.** Name and address of licensed land surveyor who prepared the plat.
- F.** Date of field survey and date of plat preparation (if different).
- G.** Boundary lines of proposed subdivision indicated by a solid heavy line.
- H.** Total acreage within the subdivision and within each individual lot.
- I.** Name, location, and dimensions of all existing or previously platted roadways within or adjacent to the subdivision.
- J.** Name, location, and dimensions of any railroad Right-of-Way within or adjacent to the subdivision.
- K.** Name, location, and dimensions of any existing utility Easements within or adjacent to the subdivision.
- L.** Name and location of adjacent subdivisions or Owners of property, to be displayed in a print of lighter intensity than the print used to identify lots the subdivision.
- M.** Location of any corporate boundaries within or adjacent to the subdivision.
- N.** Location of section lines within or adjacent to the subdivision.
- O.** Section corners shall have surveyed coordinates recorded on the plat.
- P.** Layout, numbers, and dimensions of all lots and blocks.
- Q.** Location and width of all proposed streets, Alleys, and Easements.
- R.** Purpose of any proposed Easement shown on the plat.
- S.** 100-year floodplain and floodway elevations, as determined by FEMA, if any portion of the subdivision is within the floodplain, with indication of datum used. Reference North Dakota Century Code for additional detail regarding subdivision within the floodplain or floodway.
- T.** Location and elevation of lakes, rivers, or streams shall be indicated with a contour line denoting the present shoreline, and water elevation, and the date of the survey of water elevation.
- U.** Existing and proposed topographic contours with a minimum contour interval of two (2) feet, with indication of datum used.

- V. Identification of any parcels of land intended to be dedicated or reserved for public use or set aside for use of Owners of property within the subdivision.
- W. Proposed names for new streets and public areas.
- X. A copy of the plat with current aerial imagery to indicate the location of existing buildings, wetlands, water courses, and vegetation.
- Y. Any plans for intended Development within the proposed subdivision, such as preliminary public road plans, preliminary stormwater management plan, Site Plans, landscaping plans, and/or building plans.

6-4-3 Final Plat

The final plat shall be prepared by a registered land surveyor and shall meet all technical specifications listed below.

- A. Lot lines, with accurate bearings and distances and lot areas for all lots. Curve segments shall be comprised of central angle, radii, and arc distances and also include arc, chord, bearing and distance for non-tangent curves. Along existing street rights-of-way, the description may utilize the existing deed lines or road centerlines; along all proposed street rights-of-way, the description shall be prepared to the right-of- way lines.
- B. Complete description of the Right-of-Way lines for all new streets. This description shall include distances and bearings with curve segments comprised of central angle, radii, and arc distances and also include arc, chord, bearing and distance for non-tangent curves.
- C. Easements and the purpose of each must be clearly stated. Easement dimensions must be sufficient to accurately describe their extent and boundaries.
- D. Lot numbers and Block designations.
- E. Final street names.
- F. Identification of any lands to be dedicated, reserved, donated, or granted for public use or for donation to any individual, religious society, corporation, or limited liability company.
- G. Any plat which includes lands abutting upon any lake, river, creek, or stream must show a contour line denoting the present shoreline, water elevation, and the date of survey. If any part of a plat lies within the one hundred year floodplain of a lake, river, or stream as designated by the department of water resources or a federal agency, the mean sea level elevation of that one hundred year Flood must be denoted on the plat by numerals.
- H. Topographic contours at a two-foot contour interval referenced to mean sea level must be shown for the portion of the plat lying within the floodplain. All elevations must be referenced to a durable benchmark described on the plat with

its location and elevation to the nearest hundredth of a foot, which must be given in mean sea level datum.

- I. The names and adjacent boundary lines of any adjoining platted lands must be dotted on the plat. The designations and adjacent boundary lines of any unplatted parcels must be dotted on the plat.
- J. Section corners should have surveyed coordinates recorded on the plat.
- K. The location and material of all permanent monuments and lot line markers, including a note that all monuments and lot line markers are set or indicating when they will be set.
- L. Certificate, signature, and seal of the surveyor, to the effect that the survey is correct and certificate, signature and seal of the surveyor that prepared the plat indicating that all other information shown on the plat is accurate.
- M. A statement, duly acknowledged before an officer authorized to take acknowledgement of deeds and signed by the landowner, to the effect that the subdivision shown on the plat is the act and the deed of the Owner, that all those signing are all the Owners of the property shown on the survey and plat and that they desire the same to be recorded as such. This statement must be dated following the last change or revision to said plat.
- N. Street names shall not be recorded on the plat.
- O. 911 addresses shall not be recorded on the plat.

6-4-4 Improvement Plans

Prior to the installation of any improvements associated with the subdivision, improvement plans must be submitted to and approved by the Planning and Zoning Director and the County Engineer. Review of the improvements plans must follow the process provided in the [Section 5-10](#) regarding improvement plans.

Sec. 6-5 Minor Subdivisions

6-5-1 Purpose

The purpose of the minor subdivision procedure is to simplify the requirements and review process for qualifying minor subdivisions. Minor subdivisions are exempt from the preliminary plat process but require one (1) public hearing with the Planning and Zoning Board to review the final plat.

6-5-2 Application Process

Refer to [Section 5-11](#) regarding the application process for the minor subdivisions.

6-5-3 Application Submittal Requirements

Refer to [Section 5-11](#) regarding the application process and associated requirements.

Sec. 6-6 Lot Line Adjustments, Lot Splits, and Lot Mergers

A. Purpose. The purpose of this section is to provide for the administrative approval of common lot modifications.

B. Application Process

Refer to [Section 5-12](#) for application process information.

C. Lot Line Adjustments.

1. Lot line adjustment means the adjustment of an existing platted lot line between two adjoining lots by relocation of a common boundary.
2. Lot line adjustments shall meet the following criteria:
 - a. Shall not involve lots within more than one zoning district.
 - b. Shall not be one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the platting process.
 - c. All resulting parcels conform to the minimum lot dimensional standards for the zoning district in which the property is located (see [Section 3-4](#)).
 - d. All resulting parcels can be legally described with no more than two (2) directional descriptors (i.e., the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). The Planning and Zoning Director may waive this requirement for lot line adjustments between irregularly-shaped parcels or to transfer an irregularly-shaped portion of a lot to an adjacent land Owner, provided the resulting parcels can be legally described as the original lot number combined with a letter (i.e. Lot 1 would become Lots 1A, 1B, and 1C).

D. Lot Mergers.

1. Lot merger means the merger of two (2) or more contiguous, platted lots into a single lot, the boundaries of which coincide with the lot lines shown on the recorded plat of the subdivision.
2. Lot mergers shall meet the following criteria:
 - a. Shall not involve lots within more than one zoning district.
 - b. Shall not involve the vacation or modification of any existing Easement or Right-of-Way.

E. Lot Splits.

1. Lot split means the division of a previously platted lot into no more than two (2) new lots.
2. Lot splits shall meet the following criteria:
 - a. The lot split does not involve the creation of new utility Easements.
 - b. The lot split does not require the dedication of public rights-of-way for the purpose of gaining access to the property.
 - c. All parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located.
 - d. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g., the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For an irregularly-shaped lot, The Planning and Zoning Director may waive this requirement for irregularly shaped lots, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g., Lot 1 would become Lots 1A, 1B and 1C), and provided that any line dividing the parcel along a common wall is a straight line from the front property line to the back property line along the common wall.
 - e. The property has not previously been divided through the lot split provisions of this Code.

Sec. 6-7 Blocks

- A. Block lengths should not exceed thirteen hundred and twenty (1,320) feet nor be less than three hundred (300) feet, except where topography or other conditions justify departure from these standards.
- B. Block widths shall generally be sufficient to allow two (2) tiers of lots.
- C. The design of blocks longer than eight hundred (800) feet shall give special consideration to the requirements of fire protection, pedestrian access, and utility service. The Planning and Zoning Board may require Easements as necessary for these purposes.

Sec. 6-8 Lots

- A. All lots shall front on a public street, unless a private street is approved for access. Principal vehicular access to lots shall be provided from the frontage along the approved street.
- B. The area, width, and depth of lots shall not be less than that required by this Code at the time the plat is approved.

- C. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines. Exceptions may include cases where proposed lot lines follow existing lot lines, improvements, or natural features.
- D. Double frontage lots, or lots with frontage on two (2) parallel streets, shall not be permitted except where residential lots back onto major collector or arterial highways. In such cases, reverse frontage lots may be utilized to maintain proper access spacing along the highway. A landscaped buffer shall be required to shield such lots from the highway, consistent with [Section 2-12](#) of this Ordinance.
- E. For lots of irregular shape (e.g., triangular lots), the Developer shall demonstrate to the Planning and Zoning Director an ability to develop said lots under the requirements of this Ordinance.

Sec. 6-9 Street Design Standards

All major subdivisions shall meet the following standards for any streets included on the subdivision plat.

6-9-1 General Standards

- A. The arrangement, character, extent, width, grade, and location of all streets shall be considered in relation to existing and planned streets, to topographical conditions, and to the proposed uses of lands to be served. All streets within and bordering a subdivision shall be coordinated with the County Engineer and shall meet County design standards.
- B. The arrangement of streets in a subdivision shall either:
 - 1. Provide for the continuation of existing principal streets in surrounding areas; or
 - 2. Conform to a plan for the neighborhood approved or adopted by the Planning and Zoning Board to meet a particular situation where topographical or other conditions make continuance of existing streets impractical.
- C. Local streets shall be arranged to minimize through traffic and discourage excessive speeds.
- D. Half streets are prohibited.

6-9-2 Right-of-Way and Section Design

Street Right-of-Way and section design shall meet the [Design Standards and Typical Section](#) as adopted by the Board of County Commissioners except in cases where the County Engineer determines that special conditions exist to warrant adjustments from these standards. Any determination by the County Engineer that special

conditions exist to warrant adjustments from these standards shall be brought before the Board of County Commissioners for approval prior to commencement of construction in the Right-of-Way.

6-9-3 Tangents and Curves

Roadway design tangents and curves shall follow North Dakota Department of Transportation and Association of State Highway and Transportation Officials (AASHTO) guidance.

6-9-4 Intersections and Sight Distance

- A. Intersections involving the junction of more than two streets are prohibited.
- B. Street intersection jogs with an offset of less than three hundred (300) feet shall be avoided.
- C. Unless approved by the County Engineer, streets shall be arranged to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of an intersection shall be eighty (80) degrees.
- D. Proper sight distance shall be provided at all new street and access drive intersections in accordance with the latest edition of the AASHTO *A Policy on Geometric Design of Highways and Streets*.
- E. Sight Triangle requirements shall be followed as provided in [Section 2-9-2](#).

6-9-5 Maintenance of Public Streets

Dedication of streets for public use shall not constitute a requirement that the County accept and maintain the dedicated street.

6-9-6 Private Streets

- A. Private streets may be permitted at the discretion of the Planning and Zoning Board.
- B. Private streets must meet County road standards.
- C. Private streets shall be constructed by the Developer.
- D. Responsibility to maintain private streets shall be stipulated in a Development agreement between the subdivision lot Owner(s) and the County and township (if applicable). The County shall not maintain private streets.

6-9-7 Dead-End Streets

- A. All dead-end streets, whether temporary or permanent, shall require space for turnarounds.

- B.** Dead-end roads shall not exceed 600 feet in length and must connect to a through road. A through road is a:
 - 1. State highway,
 - 2. County road, or
 - 3. Other improved paved or gravel road that connects either directly or indirectly to a state highway or County road at each end. This does not include oil/gas lease access roads.
- C.** A dead-end street will not be permitted when a through street is feasible. The feasibility of a through street will be based on the physical features of the tract proposed for Development, the potential for extension of the street to adjoining lands, restrictions imposed by other government agencies, and the ability of the design to meet all other requirements of this Subdivision Regulation.
- D.** The terminus of dead-end streets shall meet International Fire Code requirements for adequate space and design for vehicle turn-around.
- E.** A temporary cul-de-sac may be permitted if the street is terminated pending future extension in conjunction with a planned future subdivision. Temporary cul-de-sacs shall be constructed completely within the Right-of-Way. Conversion of the cul-de-sac to a straight section of street shall be the responsibility of the Developer making the future roadway connection.

6-9-8 Street Grade and Intersection Standards

All street grades for local and collector roads shall meet standards established by the AASHTO.

6-9-9 Approaches and Access Points

- A.** Each lot shall have access to a public road.
- B.** The County Engineer may require the applicant to provide ingress and egress to a particular lot or tract through the remainder of their property or other properties over which the applicant has control.

6-9-10 Street Names and Signs

Roads, in the context of subdivisions, provide access to multiple properties. When property is developed, the name of that access road is used in assigning a 911 address to a structure. Following state and national 911 addressing standards, the access leading to three (3) or more primary addressable sites should be named. The purpose is for emergency response.

- A.** Any details for street names and signs not stipulated herein shall follow the guidance of the County Engineer or designee.

- B.** All streets shall be marked with permanent street name signs, installed at the Developer's expense, to be located at each end of the street and every intersection with another street and shall be in a 14-point, Arial font all capital letters.
- C.** New roads outside city limits should be numbered streets or avenues following the North Dakota state-wide Burkle addressing grid system. Examples include 40th ST NW, 122M AVE NW.
- D.** New roads within a city or community should be numbered streets or avenues following the local addressing grid system. Examples include 1st ST NE, 5th AVE SE.
- E.** In most cases, roads that are now or will eventually be a continuation of an existing road shall be called by the name of the existing street.
- F.** In most cases, where a street maintains the same general direction, the same name shall continue for the entire length of the street.
- G.** It is common addressing practice for subdivision road names to deviate from numbered street or avenue names. This may occur under certain circumstances such as when:
 - 1. The road is not approximately along the section line in which case the name should follow the Burkle grid system naming being a numbered street or avenue.
 - 2. The suggested name should not duplicate or be confused with the name of any existing road name within McKenzie County.
 - 3. The suggested name should be easy to pronounce and spell correctly in emergency situations. Unconventional spelling of words should not be allowed.
 - 4. The suggested name is not generally found to be offensive to others.
 - 5. The suggested name should avoid family or individual names.
 - 6. The suggested name shall not include dashes, apostrophes, or other special characters as these are not recognized in the US Postal Service or 911 databases.
 - 7. The road designation type (examples include drive, lane, parkway, road, loop, trail, way, etc.) must follow the required standards of the US Postal Service as described in Publication 28 Appendix C.
 - 8. The suggested name should not be a directional or road type. For example, South ST SE, Milky Way Ave.
 - 9. The suggested name should have a post directional that follows the local or state-wide addressing grid.

10. Street names shall be limited to a maximum of 15 letters and spaces.
11. The full suggested name (road name plus road type and post directional) has the approval of the County or city Planning and Zoning Board based on jurisdiction and the McKenzie County Sheriff's Office 911 Coordinator.

Sec. 6-10 Easements

- A. Easements shall be included with a subdivision where they are necessary to provide for adequate and orderly future infrastructure to serve the Development or the general public, including but not limited to sanitary sewer facilities, drainage facilities, water facilities, public or private utilities, and pedestrian access.
- B. All Easements dedicated with a subdivision shall be indicated on the plat with the proper designation.
- C. Once approved, Easements and Right-of-Way may only be changed by approval of the Board of County Commissioners upon the recommendation of the Planning and Zoning Board.
- D. To the fullest extent possible, Easements shall be adjacent to property lines.
- E. Nothing shall be placed within an Easement that would adversely affect the function of the Easement or conflict with the Easement agreement. However, Easements of different types may overlap, provided their functions do not conflict. Utility companies are encouraged to use common Easements when possible.
- F. Utility Easements shall be required along lot frontage and may be required along the back of lots. Public utility Easements shall have a minimum width of twenty (20) feet and private utility Easements shall have a minimum width of ten (10) feet.
- G. The Developer shall reserve Easements where storm water or surface water drainage facilities exist or are proposed. Easements shall be required for all conveyance systems crossing private property. Storm water drainage Easements shall have a minimum width of twenty (20') feet and shall be adequately designed to provide area for the collection and discharge of water, the maintenance, repair, and reconstruction of the drainage facilities, and the passage of machinery for such work.
- H. All Easements shall identify who has the right-of-access and responsibility for maintenance.

Sec. 6-11 Supremacy**6-11-1 Supremacy**

This Subdivision Regulation is not intended to abrogate any Easements, restrictions, or covenants relating to the use of land within the County by private declaration or agreement, but where the provisions of this Subdivision Regulation are more restrictive than any such Easement, restriction, or covenant or the provision of any private agreement, the provisions of this Subdivision Regulation shall prevail.