

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
March 23, 2011**

The Bismarck Planning & Zoning Commission met on March 23, 2011, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Mel Bullinger, Jack Hegedus, Vernon Laning, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioners Mark Armstrong, Jo Conmy and Curt Juhala were absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Gregg Greenquist – Planner, Jason Tomanek – Planner, Kimberley Gaffrey– Office Assistant III and Charlie Whitman – City Attorney.

Others present were Ron Lindquist – 1701 North 7th Street, Reinhold Kembel – 1020 Southport Loop, Patricia Lysengen – 1109 Southport Loop, Linda & Adam Butts – 1115 Southport Loop #4, Dave Thompson – 3003 Winnipeg Drive, Harvey Schneider – 501 1st Street Northwest, Mandan, Shelley Killen – 1125 Southport Loop #1, Kim Hoovestol – 1115 Southport Loop #2, James Aduddell – 3715 Jericho Road, Michael Vetter – 3709 Jericho Road, Eric Moritz – 2540 Marina Road Southeast and Jake Axtman and Dave Patience – 909 Basin Avenue.

MINUTES

Chairman Yeager called for consideration of the minutes of the February 23, 2011 meeting.

MOTION: Commissioner Warford made a motion to approve the minutes of the February 23, 2011 meeting as received. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM R10-RESIDENTIAL TO R10-RESIDENTIAL, RM30-RESIDENTIAL, RMH-RESIDENTIAL AND CG-COMMERCIAL AND FINAL PLAT – STONECREST SECOND ADDITION

Chairman Yeager called for the public hearing for the zoning change from the R10-Residential zoning district to the R10-Residential, RM30-Residential, RMH-Residential and CG-Commercial zoning districts and final plat for Stonecrest Second Addition. The property is 19 lots in 7 blocks on 37.61 acres and is located in northeast Bismarck, less than 1/2 mile north of Century Avenue on the west side of Centennial Avenue (part of the N1/2 of the SE1/4 of Section 23, T139N-R80W/Hay Creek Township).

Mr. Greenquist provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as general commercial west of Centennial Road with urban residential to the west of that (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change is compatible with adjacent land uses and would not adversely affect property in the vicinity. Adjacent land uses include single-family dwellings and a church to the south; the KOA campground to the north; and undeveloped land to the east and west.
3. The subdivision proposed for this property has already been annexed; therefore, the zoning change will not place an undue burden on public services and facilities.
4. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Greenquist then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed plat is compatible with adjacent land uses and would not adversely affect property in the vicinity. Adjacent land uses include single-family dwellings and a church to the south; the KOA campground to the north; and undeveloped land to the east and west.
4. The proposed subdivision complies with the Fringe Area Road Master Plan. Adequate right-of-way will be dedicated for Calgary Avenue. Adequate right-of-way already exists along Centennial Road.
5. The proposed subdivision will be an urban subdivision which has already been annexed, therefore, it will not place an undue burden on public services.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.

Mr. Greenquist then listed the following additional information:

1. Blocks 2 and 3 of the proposed plat are longer than 900-feet. Per the Zoning Ordinance Section 14-09-05(3)(b): "Pedestrian walkways not less than twelve (12) feet wide may be required in blocks longer than nine hundred (900) feet where such crosswalks are deemed

by the planning commission to be essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, or other community facilities . . .”

2. The applicant had earlier requested walkways not be required (see 1/14/11 letter). The applicant has since agreed to include a pedestrian walkway through Block 3. Block 2 has steeper grades and locating a walkway at the middle of that block might encourage pedestrians to cross Calgary Avenue halfway between street intersection crosswalks, therefore a pedestrian walkway through Block 2 is not essential and not recommended.

Mr. Greenquist said based on the above findings, staff recommends approval of the zoning change from the R10-Residential zoning district to the RMH-Residential zoning district for Lot 1, Block 1; Lot 1, Block 2; Lots 1-3, Block 3; Lot 1, Block 4; and Lot 1, Block 5; to the R10-Residential zoning district for Lots 1-2, Block 6; to the RM30-Residential zoning district for Lots 2-3, Block 2; Lots 4-6, Block 3; and Lot 3, Block 6; and to the CG-Commercial zoning district for Lots 1-4, Block 7 and final plat for Stonecrest Second Addition.

Chairman Yeager called for the public hearing for the zoning change from the R10-Residential zoning district to the R10-Residential, RM30-Residential, RMH-Residential and CG-Commercial zoning districts and final plat for Stonecrest Second Addition.

Doug Larson submitted an email stating his support of Stonecrest Second Addition, attached as Exhibit A.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve the zoning change from the R10-Residential zoning district to the RMH-Residential zoning district for Lot 1, Block 1; Lot 1, Block 2; Lots 1-3, Block 3; Lot 1, Block 4; and Lot 1, Block 5; to the R10-Residential zoning district for Lots 1-2, Block 6; to the RM30-Residential zoning district for Lots 2-3, Block 2; Lots 4-6, Block 3; and Lot 3, Block 6; and to the CG-Commercial zoning district for Lots 1-4, Block 7 and final plat for Stonecrest Second Addition. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM R10-RESIDENTIAL, RM15-RESIDENTIAL AND P-PUBLIC TO R10-RESIDENTIAL, RM15-RESIDENTIAL AND P-PUBLIC AND FINAL PLAT – EDGEWOOD VILLAGE FOURTH ADDITION

Chairman Yeager called for the public hearing for the zoning change from the R10-Residential, RM15-Residential and P-Public zoning districts to the R10-Residential, RM15-Residential and P-Public zoning districts and final plat for Edgewood Village Fourth Addition. The property is 10 lots in 2 blocks on 15.49 acres and is located in northeast Bismarck, north of Century Avenue, between Colorado Drive and Nebraska Drive (a replat of Lots 9-26, Block 3, and Lots 1-17, Block 4, Edgewood Village Second Addition and the adjoining Montana Drive, in part of the SW1/4 of Section 23, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change is consistent with the Land Use Plan which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developed single, two and multi-family subdivisions to the south, southeast and southwest, Edgewood Village to the west, undeveloped, single, two and multi-family zoning to the north and undeveloped multi-family zoned property to the east.
3. The property is already annexed; therefore the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity if the orientation and main entrance of the proposed building recognizes Nebraska Drive as the collector roadway.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The proposed subdivision generally conforms with the Fringe Area Road Master Plan, which identifies Nebraska Drive as the north-south collector roadway for Section 23.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developed single, two and multi-family subdivisions to the south, southeast and southwest, Edgewood Village to the west, undeveloped, single, two and multi-family zoning to the north and undeveloped multi-family zoned property to the east.
5. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services.
6. The proposed subdivision would not adversely affect property in the vicinity if the orientation and main entrance of the proposed building recognizes Nebraska Drive as the collector roadway.

7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following additional information:

1. Preliminary concept plans have been submitted for the proposed Lot 1, Block 1. The conceptual plans illustrate a skilled care facility with parking and open spaces incorporated into the plans and primary access on Nebraska Drive. Formal site plans have not been submitted for staff review at this time.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change from the R10-Residential, RM15-Residential and P-Public zoning districts to the R10-Residential zoning district for Lots 1-8, Block 2, to the RM15-Residential zoning districts for Lot 1, Block 1 and to the P-Public zoning district for Lot 9, Block 2 and final plat for Edgewood Village Fourth Addition.

Chairman Yeager called for the public hearing for the zoning change from R10-Residential, RM15-Residential and P-Public zoning districts to the R10-Residential, RM15-Residential and P-Public zoning districts and final plat for Edgewood Village Fourth Addition.

Jerry and Shirley Fischer submitted an email stating their opposition to Edgewood Village Fourth Addition, attached as Exhibit B.

Commissioner Hegedus asked how many stories the proposed building will have. Mr. Tomanek responded by saying a formal site plan has not been submitted and that would be better answered by the consulting engineer.

Dave Patience, with Swenson Hagen & Co., said he does not have any information at this time as to the size of the care facility, only that a single story building is proposed.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Hegedus made a motion to approve the zoning change from the R10-Residential, RM15-Residential and P-Public zoning districts to the R10-Residential zoning district for Lots 1-8, Block 2, to the RM15-Residential zoning districts for Lot 1, Block 1 and to the P-Public zoning district for Lot 9, Block 2 and final plat for Edgewood Village Fourth Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM RM30-RESIDENTIAL TO R10-RESIDENTIAL – LOT 13, BLOCK 1 AND LOT 13, BLOCK 2, JENNINGS FIRST ADDITION

Chairman Yeager called for the public hearing for the zoning change from the RM30-Residential zoning district to the R10-Residential zoning district for Lot 13, Block 1 and Lot 13, Block 2, Jennings First Addition. The property is 2 lots in 2 blocks (3 parcels) on 16,974 square feet and is located along both sides of North 7th Street at the intersection with Divide Avenue.

Ms. Lee provided an overview of the request and listed the following findings for the zoning change:

1. This area developed in the 1950s and is outside of the area covered by the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include multi-family to the east, single-family residential to the north, two-family residential to the west and the State Capitol grounds to the south.
3. The property is already developed; therefore, the proposed zoning change will not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change from the RM30-Residential zoning district to the R10-Residential zoning district for Lot 13, Block 1 and Lot 13, Block 2, Jennings First Addition.

Chairman Yeager called for the public hearing for the zoning change from the RM30-Residential zoning district to the R10-Residential zoning district Lot 13, Block 1 and Lot 13, Block 2, Jennings First Addition.

Todd Lindquist asked what the difference is between R5-Residential and R10-Residential zoning. Ms. Lee responded by saying that R5-Residential allows only single-family dwellings and the R10-Residential allows single and two family dwellings.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the zoning change from the RM30-Residential zoning district to the R10-Residential zoning district for Lot 13, Block 1 and Lot 13, Block 2, Jennings First Addition. Commissioner Atkinson seconded the motion and it was

unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – MAJOR PUD-PLANNED UNIT DEVELOPMENT AMENDMENT – SOUTHPORT PHASE II

Chairman Yeager called for the public hearing for the Major PUD-Planned Unit Development Amendment for Southport Phase II. The PUD amendment would allow the two story portion of the convenience store/bar/restaurant building on Lot 6 to be used as office space rather than a bar/restaurant. The property is located along the west side of Riverwood Drive south of Bismarck Expressway

Ms. Lee provided an overview of the request and listed the following findings for the PUD-Planned Unit Development Amendment:

1. All technical requirements for approval of a major PUD amendment have been met.
2. The PUD as amended would not be any less compatible with the adjacent land uses than uses allowed in the approved PUD. Adjacent land uses include a variety of residential uses to the north, west and south and a public golf course, archery facility and open space to the east.
3. The property is already being developed; therefore, the PUD as amended would not place an undue burden on public services.
4. The PUD as amended is consistent with adopted plans, policies and accepted planning practice. It is also consistent with the original PUD, which includes all of the commercial uses on Lot 6 with direct access on a public right of way.

Ms. Lee then listed the following additional information:

1. Southport Phase II was part of the original Southport PUD approved in 1992. In 1996, this area was replatted as Southport Phase II and the original PUD was amended to allow for 86 residential units, a marina, a restaurant, a convenience store, an office, a recreation area, and 15 acres of common area. Development of the PUD and the various land uses were tied to an approved site plan.
2. In 1997, the Southport Phase II PUD was amended to allow “a mixed use development, including a maximum of 96 residential units, constructed in 2 and 4 unit buildings; commercial buildings, including offices, a restaurant, and a convenience store/fuel dispensing station; and a marina and its accessory uses. All buildings within the PUD shall not exceed 2 stories in height.” The proposed changes were tied to a modified site plan, which included a 25’ x 80’ (2000sf) convenience store/fuel dispensing station on Lot 6 in the northwest quadrant of the intersection of Riverwood Drive and Southport Loop. The southern portion of Lot 1 (west of channel) continued to be designated as a commercial area with offices, a marina and a restaurant.

3. There were two amendments to the PUD in 1998. The first amendment allowed the addition of a new building plan for the residential portion of the development. The second amendment allowed on-sale beer sales within the convenience store and the construction of a 42' x 48' deck on the northern end of the building.
4. In 2000, the PUD was amended to allow the southern portion of Lot 1 (west of channel) to be developed as residential rather than the commercial uses originally approved (office, restaurant, marina). The amendment also allowed the designated restaurant area to be moved to the north end of Lot 2 (west of the channel), increased the total number of residential units allowed to 123, continued to include parking for marina use on Lot 1, and eliminated proposed office uses on Lot 1.
5. A proposed amendment in 2002 to expand the convenience store was withdrawn by the applicant.
6. In 2002, the PUD was amended to allow to allow the replacement of the restaurant use on Lot 2 with six dwelling units (three twinhomes) and consolidate the commercial aspects of the original PUD in one location on Lot 6 (referred to as the convenience store/bar/restaurant building).
7. The PUD amendment as proposed would convert the two-story portion of the existing convenience store/bar/restaurant to an office use, eliminate the convenience store and expand the bar/restaurant operation into the portion of the building now occupied by the convenience store, add 960 square feet of deck space to the deck adjacent to the one-story portion of the building for and construct a 100 square foot kiosk near the end of the southernmost deck for sale of gas and minor convenience items in the marina.

Ms. Lee said based on the above findings, staff recommends approval of the major PUD amendment for Southport Phase II.

Chairman Yeager called for the public hearing for the major PUD amendment for Southport Phase II.

Dave Patience, with Swenson Hagen & Co., said that the Moritz family is more interested in the marina portion of the business. Mr. Patience went on to say that the two-story portion of the building is being sold as an office use and the two decks will be portioned off and will not have public access. He added that more deck space will be added on the main level.

Linda Butts said she is concerned with the PUD-Planned Unit Development amendment because the City keeps allowing amendments to the PUD-Planned Unit Development, adding that the extension of the deck to the west will bring the noise that much closer to her house. Ms. Butts stated that she would like to see the noise ordinance continue to be enforced.

Patti Lysengen said she and her husband are concerned with the space where the boats refuel because there have been several near misses already. She added that after reviewing the drawing, it appears the dock where the kiosk is going to be located will be extended and that will make the water area decreased, creating an even greater unsafe condition. Ms. Lysengen stated that she is also concerned about the noise. Larry and Patti Lysengen also submitted an email

stating their opposition of the Southport Phase II – Major PUD-Planned Unit Development Amendment, attached as Exhibit C.

Dave Patience explained that the kiosk for fuel will be added to the existing dock and there will not be an extension at this time. He went on to say that the business purchasing the two story portion of the building has normal operating hours of 8:00 am to 5:00 pm and if there is a disturbance the Bismarck Police Department would have to be called.

Alan Butts stated that the residents of Southport do not want to have to call the police on their neighbors and hopes the noise ordinance will continue to be honored and enforced.

Commissioner Warford inquired if the office decks will have the same noise ordinance requirement of 10:00 pm on the weekdays and 11:00 pm on the weekends. Charlie Whitman responded by saying the office decks will not have the same requirement of clearing the decks like the requirements included in the liquor license and will be treated just like any of the neighbors that have decks.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Selzler made a motion to approve the major PUD amendment for Southport Phase II, with the understanding that in accordance with the liquor license, the Pier decks will be cleared at 10:00 pm on the weekdays and 11:00 on the weekends. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – SPECIAL USE PERMITS (ROADWAY MAINTENANCE FACILITIES)

Chairman Yeager called for the public hearing for the zoning ordinance text amendment relative to special uses (roadway maintenance facilities).

Ms. Lee provided an overview of the zoning ordinance text amendment for special uses (roadway maintenance facilities). The proposed amendment would create provisions to allow roadway maintenance facilities necessary for the provision of services by a governmental entity as a special use in the A-Agricultural zoning district.

Ms. Lee said staff recommends approval of the zoning ordinance text amendment for special uses (roadway maintenance facilities), as presented.

Chairman Yeager opened the public hearing for the zoning ordinance text amendment relative to special uses (roadway maintenance facilities).

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Commissioner Hegedus made a motion to approve the zoning ordinance text amendment relative to special uses (roadway maintenance facilities). Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – SUBDIVISION REGULATIONS (LOT MODIFICATIONS)

Chairman Yeager called for the public hearing for the zoning ordinance text amendment relative to subdivision regulations (lot modifications).

Ms. Lee provided an overview of the zoning ordinance text amendment for subdivision regulations (lot modifications). The proposed amendments would clarify the provisions for administratively splitting platted lots.

Ms. Lee said staff recommends approval of the zoning ordinance text amendment for subdivision regulations (lot modifications), as presented.

Chairman Yeager opened the public hearing for the zoning ordinance text amendment relative to subdivision regulations (lot modifications).

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Commissioner Hegedus made a motion to approve the zoning ordinance text amendment relative to subdivision regulations (lot modifications). Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

2010 ANNUAL REPORT

Ms. Lee distributed the 2010 Community Development Annual Report to each of the Bismarck Planning & Zoning Commissioners.

ELECTION OF OFFICERS

MOTION: Commissioner Warford made a motion to elect Wayne Yeager as Chairman and Mark Armstrong as Vice Chairman of the Bismarck Planning & Zoning Commission. Commissioner Waldoch seconded the motion and it was unanimously approved with Atkinson, Bullinger, Hegedus, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:53 p.m. to meet again on April 27, 2011.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman

Gregg Greenquist

Subject: FW: City Zoning and Planning Commission meeting

From: doug and jane

Sent: Wednesday, March 23, 2011 7:19 AM

To: cobplan@nd.gov

Subject: City Zoning and Planning Commission meeting

Greg Greenquist

In case I can't make it to the Wed night meeting, Mar 23, 2011, as a resident near Liechty Homes, Inc proposed development named Stonecrest Second Addition, based on my conversation with Kent French, I would support the zoning changes he is requesting.

Thank you
Doug Larson
3288 Bethany Loop
58503

Jason Tomanek

From: Cobplan [cobplan@nd.gov]
Sent: Monday, March 21, 2011 4:48 PM
To: jtomane@nd.gov
Subject: FW: Edgewood Village 2nd addition plat approval

-----Original Message-----

From: jsfischer [mailto:jsfischer@nd.gov]
Sent: Sunday, March 20, 2011 10:24 PM
To: cobplan@nd.gov
Cc: dave@edgewooddevelopment.com
Subject: Edgewood Village 2nd addition plat approval

This letter is in response to the notification of a meeting being held on Wednesday, March 23, 2011 at which time Edgewood Village 2nd Addition LLLP is requesting a final plat approval. We understand that this request is related to the proposed construction of a nursing home and possible other enterprises.

We purchased a lot on the cul-de-sac called Edgewood Place. We carefully selected this lot in October 2009 for our retirement home. Our selection was based upon a development map shown to us at that time by Edgewood Development. This map indicated that the view from our living area would look to the east and it showed twin homes and single family homes that were to be developed in that area. At that time, there was no mention of any other type of construction being considered..

If the proposed changes do result in a multi-story commercial enterprise (a nursing home, etc) being constructed, instead of the individual dwellings we were originally shown on the map, it certainly changes how we feel about Edgewood Development LLLP and our choice of a lot for retirement living. The proposed changes are likely to result in increased traffic and noise in what was supposed to be a quiet retirement community.

We finished construction on our new home in September, 2010, only to find out that our surroundings will not be as originally presented to us. This is very disconcerting to us and it would be our wish that it would not happen..

Jerry and Shirley Fischer
3406 Edgewood Place
Bismarck, ND 58503

Kim Lee

From: Cobplan [cobplan@nd.gov]
Sent: Wednesday, March 23, 2011 8:16 AM
To: klee@nd.gov
Subject: FW: Southport Marina LLP request for PUD-Planned Unit Development for Southport Phase II

From: PLysengen@[REDACTED] [mailto:[REDACTED]]
Sent: Tuesday, March 22, 2011 9:25 PM
To: cobplan@nd.gov; Patricia Lysengen
Cc: Larry Lysengen
Subject: Southport Marina LLP request for PUD-Planned Unit Development for Southport Phase II

My husband I received the March 11, 2011, letter from the Bismarck Community Development Department regarding the above topic. After reading the description of the modifications we have the following concerns.

1. Concern of creating an unsafe condition. Extending the dock an additional 480 square feet on the west side of the existing dock will create unsafe conditions during the time water craft are refueling. With the present conditions there have been near misses when two boats coming from opposite directions pass this location while refueling is in progress. Decreasing the size of this area with this modification will magnify this unsafe condition. A possible option may be to extend the deck as it is to the end of the building going south.
2. Concern of increasing unwanted noise. Sound carries over water. The noise level with the present deck area is acutely heard throughout the Southport neighborhood marina side. The concern is that all past noise requirements will not remain in effect; 11:00 p.m. curfew on noise volume and all occupants of the deck are moved inside the restaurant.

Sincerely,

Larry and Patti Lysengen
1109 Southport Loop
phone: [REDACTED]

Exhibit C