

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
October 24, 2012**

The Bismarck Planning & Zoning Commission met on October 24, 2012, 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, Mark Armstrong, Mel Bullinger, Curt Juhala, Doug Lee, Mike Schwartz, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioner Vernon Laning was absent.

Staff members present were Kim Lee – Planning Manager, Jason Tomanek – Planner, Kimberley Tomanek – Office Assistant III, Jenny Wollmuth – Planner and Ray Ziegler – Building Official.

Others present were Wendy Erickson, Joan Millner, Brad & Landa Boyd, Bree Bergstrand, LeRoy Ernst, Doug Prchal, Brenda Rohrich, Matt Griffin, Randy Morsoly, Attas Boutrous, Jamie Thelen, Brennan Quintus, H.E. Bivins, Neil Fortier, Troy Feist, Matt Reichert, Dave Patience, Joshua & Jill Yri, Shawn Woodbury, Mackenzie Quintus, Merrill & Diane Varner, Wes Eiedenmeyer, Kelli Neigum, Neil Delabarre, Lisa Slaubaugh, Hope Scheinder, Daren Schneider, Barney Halldorson, Nate Halverson, Berther Wilson, Beverly & Wayne Kern, John & Myrna Hauck, Dave Carlson, Ron & Cheryl Borth, Rochelle & Aaron Schommer and Michelle & Matt Regan.

MINUTES

Chairman Yeager called for consideration of the minutes of the September 26, 2012 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the September 26, 2012 meeting as distributed. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATIONS –

- A. ZONING CHANGE AND PRELIMINARY PLAT –
WAGNER’S FIRST SUBDIVISION**
- B. ZONING CHANGE AND PRELIMINARY PLAT –
ENGLAND ACRES SUBDIVISION**
- C. PRELIMINARY PLAT –
EXPRESSWAY TERRACE ADDITION**

Chairman Yeager called for consideration of the following consent agenda items:

- A. A zoning change from the A–Agricultural zoning district to the RR5-Residential zoning district and preliminary plat for Wagner’s First Subdivision. The property is two lots in one block containing 41.6 acres and is located along the along the south side of Apple Creek Road, north of the BNSF railroad, ¼ mile east of 66th Street SE (an unplatted portion of the NW¼ of Section 8, T138-R79W/Apple Creek Township).
- B. A zoning change from the A–Agricultural and RR-Residential zoning districts to the RR-Residential zoning district and preliminary plat for England Acres Subdivision. The property is six lots in one block containing 17.5 acres and is located along the west side of England Street, approximately ¼ mile north of 48th Avenue SW (part of the NE¼ of the SE¼, Section 19, T138N-R80W/Lincoln Township).
- C. A preliminary plat for Expressway Terrace Addition. The property is one lot in one block containing 2.08 acres and is located in southeast Bismarck, along the north side of East Bismarck Expressway, approximately 1/8 mile east of South 12th Street (all of Auditor’s Lot 4 of the SW¼ of Section 3, T138N-R80W/Lincoln Township) .

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve Consent Agenda Items A, B and C, calling for public hearings and/or tentative approval on the items. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

Commissioner Juhala arrived at the meeting at 5:11 p.m.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – CALGARY COURT

Chairman Yeager called for the public hearing for the minor subdivision final plat for Calgary Court Addition. The property is 27 lots in one block containing 4.22 acres and is located along the north side of East Calgary Avenue between Dominion Street and Coleman Street (Replat of Lots 2 & 3, Block 2, Brandon Heights Second Addition).

Ms. Lee provided an overview of the request and listed the following findings for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include a storm water conveyance/detention facility and a combination of one and two-family residential to the north and west, multi-family residential to the south and two and three-family residential to the west.

4. The proposed subdivision is already annexed and utilities are in place in East Calgary Avenue; therefore, the proposed subdivision will not place an undue burden on public facilities.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the subdivision regulations.
7. The proposed subdivision 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 minor subdivision final plat of Calgary Court Addition, with the understanding that the buffer yard will need to be installed by the developer in accordance with the applicable provisions of Section 14-03-11 (Landscaping and Screening) in conjunction with site development.

Chairman Yeager called for the public hearing for the final plat of minor subdivision final plat of Calgary Court Addition.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the minor subdivision final plat of Calgary Court Addition, with the understanding that the buffer yard will need to be installed by the developer in accordance with the applicable provisions of Section 14-03-11 (Landscaping and Screening) in conjunction with site development. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
LOTS 3-4, BLOCK 5, BROOKFIELD ESTATES**

Chairman Yeager called for the public hearing for the zoning change from the CA-Commercial zoning district to the RR-Residential zoning district for Lots 3-4, Block 5, Brookfield Estates. The property is two lots in one block containing 4.14 acres and is located along the north side of Belaire Drive adjacent to County Highway 10, approximately ¼ mile west of 80th Street NE.

Mr. Tomanek stated that he had received a letter from a resident in the area; the letter is attached as Exhibit A. The letter cited concerns with drainage patterns and storm water runoff through the Brookfield Estates area. Mr. Tomanek said that he had contacted Michael Gunsch, who is the storm water engineer for the Burleigh County Water Resource District, regarding the matter. Mr. Tomanek continued by saying that he was informed by Mr. Gunsch that improvements had

been made to the area and a fund had been established to help cover potential costs incurred by the Burleigh County Highway Department for snow removal. The fund would allow the Water Resource District to reimburse the County Highway Department if services were provided for snow removal in the area affected by large amounts of snow accumulation. Mr. Tomanek concluded by saying that he had conveyed this information to the resident and she was comfortable with the information provided.

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

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 Future Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to the west, north and south and partially developed, commercially zoned property to the east.
3. 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.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Richard Sander stated that construction materials are currently placed on the vacant lot (Lot 4) and construction has begun on a single-family house. Building Official Ray Ziegler stated that during certain cases, including seasonal constraints, there are times when building permits are issued with the understanding that that owner assumes full responsibility for the work being done. He added that the owner understands that if the request to change the zoning district is not approved, he would be responsible for removing any work completed.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the zoning change for Lots 3-4, Block 5, Brookfield Estates from the CA-Commercial zoning district to the RR-Residential zoning district. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
LOTS 3-4, BLOCK 4, EDGEWOOD VILLAGE FIRST ADDITION**

Chairman Yeager called for the public hearing on the zoning change from the RM15 – Residential and P – Public zoning districts to the RM20 – Residential zoning district for Lots 3-4, Block 4, Edgewood Village First Addition. The property is located east of North 19th Street and north of East Calgary Avenue, at the intersection with Koch Drive.

Ms. Lee provided an overview of the request to rezone property to bring the multi-family residential structure being constructed on the property into compliance with zoning. Ms. Lee continued by saying when this property was platted in 2007, Lot 3 was zoned RM15 – Residential and the adjacent Lot 2 was zoned RM30 – Residential. The approved zoning was what was proposed by the developer; however, staff would have supported an RM30 – Residential zoning designation for Lot 3 if such had been requested. When this property was platted in 2007, Lot 4 was zoned P – Public. The original intent was to transfer this property to the Bismarck Parks and Recreation District. Since that time, the developer has offered the Park District other property in the area and this parcel is no longer needed or desired by the Bismarck Parks and Recreation District. A building permit was issued for a 128-unit apartment building on Lot 3 in March 2012. Subsequent to the permit being issued, it was determined that the proposed building exceeded the allowable RM15 – Residential density of 15 units per acre. Ms. Lee concluded by saying if Lots 3 and 4 are rezoned to RM20 – Residential and combined as one parcel, the building in the process of being constructed would be in compliance. The overall density would be 16.34 units per acre.

Ms. Lee listed the following findings for the zoning change:

1. The property is outside of the area included in the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include multi-family residential to the northwest, a manufactured home park to the north, open space to the east and a combination of one and two-family residential to the south and southwest.
3. The property is already annexed and services are in place; therefore, the zoning change would not place an undue burden on public services and facilities.
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 that based on the above findings, staff recommends approval of the zoning change from the RM15- Residential and P – Public zoning districts to the RM20 – Residential zoning

district for Lots 3 and 4, Block 4, Edgewood Village First Addition. Ms. Lee added that under the current zoning district of RM15-Residential, 102 units would be allowed on Lot 3 and 117 units would be allowed if Lots 3 and 4 were combined.

Chairman Yeager called for the public hearing for the zoning change from the RM15-Residential and P-Public zoning districts to the RM20-Residential zoning district for Lots 3-4, Block 4, Edgewood Village First Addition.

Doug Prchal stated that the building of the apartment building was a surprise to the neighborhood. He continued by saying that when he purchased property in the area, the master plan he was shown demonstrated the area developing as twin homes, not an apartment complex. Mr. Prchal stated that he has concerns with the traffic congestion that would likely be a result of the apartment; in particular, he suggested not allowing residents of the apartment building to park along Koch Drive. Mr. Prchal said he does not agree with the statement that the apartment would not negatively impact the neighborhood.

Mike Neigum said that he discovered the mistake after looking into the project once the foundation was built. Mr. Neigum questioned how adding the acreage from the Lot 4 would solve the concern; he noted the lot is an undevelopable ravine. Mr. Neigum said that he communicated with City staff through emails to determine how the error occurred. Mr. Neigum said he also has concerns with the future traffic generated by the apartment. He also stated that additional screening could be added to the site. Mr. Neigum closed by saying that he does not agree with the finding that this development would not negatively impact surrounding properties.

Chairman Yeager asked staff how long the property has been zoned as RM15-Residential. Ms. Lee responded that the property has been zoned as RM15-Residential since it was platted in 2007.

Lisa Slaubaugh said that she researched the covenants associated with the development prior to purchasing a lot in the neighborhood. She continued by saying that she and her neighbors are expected to follow the covenants and had hoped the developer would too.

Shannon Schriener appeared before the commission and stated that he has spoken with Dave Heilman with Edgewood Development on numerous occasions. He indicated that he had been told by Edgewood Development that they can do what they want on their land. He also stated that Mr. Heilman will no longer return his calls. He has also tried to contact the CEO of Edgewood Development, Phil Gisi, via email and has not had a response. He distributed a copy of the e-mail, which is attached as Exhibit B.

Chairman Yeager closed the public hearing.

Ms. Lee provided clarification regarding the request for the RM15-Residential designation. She stated it was requested by the developer when the plat was initially submitted. She added that if the developer would have asked for a RM30-Residential designation, staff would have recommended approval at that zoning. Ms. Lee also provided clarification regarding the setback

for the building; the building is set back approximately 37 feet from the Koch Drive right-of-way and 115 feet from the Calgary Avenue right-of-way.

Commissioner Warford asked Ms. Lee to clarify the number of units the building is currently over according to the RM15-Residential designation. Ms. Lee stated that it is 11 units over with the addition of the adjacent P-Public zoned lot, without the adjacent lot it is over by 26 units.

Commissioner Warford also asked if there were options staff could provide regarding the possibility of installing some sort of a buffer. Mr. Tomanek gave a brief overview of the landscape buffer yard requirements as listed in the zoning ordinance. He also stated that the site plan was submitted and the required buffer yard between the property and the mobile home park to the north was approved. Mr. Tomanek went on to say that there are currently no requirements listed in the zoning ordinance that require a buffer yard to be installed if the front yard is across a public right-of-way from lower density residential.

Ms. Lee stated that because Calgary Avenue and Koch Drive are public streets, the City could not dictate the direction of traffic from the apartment building. Any stipulation on traffic flow would have to be voluntarily done by the property owner.

Hope Schreiner then appeared before the commission to discuss the strict enforcement of the covenants. She went on to state that she obeys the covenants and asked that the developer / property owner be held to the rules they had developed.

Commissioner Atkinson asked staff when they expected the extension of Calgary Avenue to be constructed. Commissioner Bullinger stated that it may happen within the next five to ten years. Permission from the railroad would need to be granted before any construction would take place.

Commissioner Armstrong asked what authority the Planning Commission has to assist the residents. Ms. Lee said that additional landscaping could be required.

MOTION: Based on the findings contained in the staff report and the public testimony, Commissioner Lee made a motion to deny the zoning change from the RM15-Residential and P – Public zoning districts to the RM20 – Residential zoning district for Lots 3 and 4, Block 4, Edgewood Village First Addition. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – LAND USE PLAN AMENDMENT AND ZONING CHANGE –
LOT 1, BLOCK 1, GOOD SHEPHERD NORTH ADDITION
(4916 NORTH WASHINGTON STREET)**

Chairman Yeager called for the public hearing for the Land Use Plan amendment to extend the mixed-use land use classification approximately 1,635 feet to the south (to the southern edge of Good Shepherd North Addition) for Section 17, T139N-R80W/Hay Creek Township and the zoning change from Conditional RT – Residential to PUD – Planned Unit Development on Lot

1, Block 1, Good Shepherd North Addition. The property is located along the west side of North Washington Street and the north side of Medora Avenue (4916 North Washington Street).

Mr. Tomanek made note of changes to the overall site that was recently submitted by the developer. He indicated that changes were made to the buildings located at the southwest and northwest corners of the property, decreasing the number of stories from three to two. He went on to state that the density for the development has not changed and will remain at 288 units. Mr. Tomanek indicated that he asked the developer what the height of the proposed berm that separates the single family residential area from the site would be; the developer responded that a height had yet to be determined. Mr. Tomanek concluded that several emails had been received from residents in the area and the emails were provided to the commissioners prior to the meeting. The emails are attached as Exhibits C through O.

Mr. Tomanek then provided an overview of the request and listed the following findings for the Land Use Plan amendment:

1. The proposed change in the Land Use Plan would be compatible with adjacent land uses; adjacent land uses include single-family dwellings to the west and undeveloped land to the north, east and south.
2. The proposed Land Use Plan amendment reflects a change to the current condition since the Land Use Plan was established; in particular, the church facility is now vacant and under private ownership. The amendment would allow an adaptive reuse of the facility and development of the surrounding vacant land.
3. The property is already annexed; therefore, the City would be able to provide necessary public services, facilities or programs to serve the development.
4. The proposed Land Use Plan amendment would not adversely affect property in the vicinity.
5. The proposed Land Use Plan amendment is consistent with other aspects of the master plan, other adopted plans, policies or planning practice.

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

1. The proposed zoning change is not completely consistent with the Land Use Plan, which identifies the area as institutional and residential (future land use component of the US Highway 83 Corridor Transportation Study). The proposed zoning change would be consistent with the Land Use Plan as amended.
2. The proposed zoning change may not be completely compatible with adjacent land uses. Adjacent land uses include single-family dwellings adjacent to a portion of the site along the west and agricultural land to the north, south and east. However, a landscape buffer yard would be required along the entire western property line of Lot 1, Block 1, Good

Shepherd North Addition. The buffer yard plant types and quantities would need to be installed in conjunction with site development and would help mitigate any incompatibility. Additionally, the applicants are proposing to provide an earthen berm planted with trees along the western property line between the proposed facilities and the buffer yard plantings required by City ordinance. The final height of the berm has not been determined by the applicants at this time.

3. The property is already annexed; therefore proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change may adversely affect property in the vicinity. In particular; multi-family land uses are not typically located directly adjacent to single-family dwellings. However, through the use of vegetative buffer yards, screening and significant separation between the apartments and the existing single-family dwellings, the impact of the proposed apartments would be mitigated.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. In particular, multi-family dwellings, commercial uses and developments that have the sizeable structures, large numbers of dwelling units and potential to generate large volumes of traffic, are generally compatible with arterial roadways such as North Washington Street.
6. The proposed zoning change is not completely consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, the Land Use Plan identifies this area for institutional and residential uses; however the zoning change would be consistent with the adoption of the proposed Land Use Plan amendment that would extend the mixed-use land use classification approximately 1,635 feet to the south in part of the E½ of the section (south to the southern edge of Good Shepherd North Addition).

Mr. Tomanek said that based on the above findings, staff recommends approval of the Land Use Plan amendment to extend the mixed-use land use classification approximately 1,635 feet to the south (to the southern edge of Good Shepherd North Addition) for Section 17, T139N-R80W/Hay Creek Township and the zoning change from the Conditional RT-Residential zoning district to the PUD-Planned Unit Development zoning district for Lot 1, Block 1, Good Shepherd North Addition, as outlined in the draft PUD ordinance attached to the staff report.

Commissioner Atkinson asked Mr. Tomanek if the developer could build a 288-unit complex under the existing zoning. Mr. Tomanek stated that due to the size and current zoning of the property, there could potentially be over 500 units on this property.

Commissioner Armstrong asked Mr. Tomanek if the claim made in the letter addressed to the commission by Jill Yri that the number of allowed units should be 254, not 288, because the developer is planning to sell roughly 3 acres of the lot, was factual. Mr. Tomanek indicated that the number of acres in this project is 18.178 (all of Lot 1).

Neil Fortier from the Sand Company explained the revisions to the site plan. Mr. Fortier reiterated that they had reduced the number of stories from three to two for those buildings that are adjacent to the existing residential development. He also stated that the density will be 288 units.

Commissioner Atkinson asked if the neighborhood asked for additional buffers. Mr. Fortier stated that the neighborhood asked for a berm, and one would be installed; however, the height has yet to be determined.

Neil Delabare appeared before the Commission to express his displeasure with the proposed development. He also stated that the neighborhood would prefer the property be developed as a YMCA.

Hulen Bivins stated that he is not in favor of the proposed development. He went on to say that zoning should provide consistency, predictability and preserve the character of the existing neighborhood. He asked if city utilities can support a development of this size. He also expressed concerns in the amount of traffic a development of this size would bring.

Cheryl Blorth stated that after careful research of the local zoning laws, she and her husband decided to retire in northwest Bismarck. They are displeased with the proposed development.

Rochelle Schommer appeared before the Commission to express her concerns regarding the proposed development. She stated that her biggest investment, her home, would be devalued.

Jill Yri appeared before the Commission and read the letter she submitted prior to the meeting, attached as Exhibit P. She also stated that she and the neighborhood has spent time and money fighting this development and hopes that after today's meeting they will no longer have to.

Attas Boutrous, the current owner of the property, stated that this is a quality development and that development of this nature is going to appear up and down North Washington Street.

Jason Thorpe stated he supports the neighbors in their efforts to thwart this development. He stated that the additional traffic is a concern and he opposes this development.

Diana Varner reiterated to the Commission that a concentrated population will only add to the traffic congestion on North Washington Street and Medora Avenue. She does not want increased traffic in her subdivision. She also stated that after speaking with a realtor the salability of her house will be decreased.

Commissioner Lee stated that he cautioned the residents at the last Planning and Zoning Commission meeting, stating that the developer is asking for a lower density that what is currently allowed.

Mr. Tomanek appeared before the Commission to offer clarification regarding the total number of acres and units associated with this request. He stated that the property on the south side of Medora Avenue is not part of this discussion. He went on to state that with the total number of

acres and the current zoning, a total of 545 units could potentially be constructed on this property.

Commissioner Yeager closed the public hearing

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the Land Use Plan amendment to extend the mixed-use land use classification approximately 1,635 feet to the south (to the southern edge of Good Shepherd North Addition) for Section 17, T139N-R80W/Hay Creek Township and the zoning change from Conditional RT-Residential to PUD-Planned Unit Development zoning district for Lot 1, Block 1, Good Shepherd North Addition, as outlined in the draft PUD ordinance and including a continuous berm, with a minimum height of five feet, along the western portion of the site. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (INCREASED AREA OF ACCESSORY BUILDINGS) - LOT 2 AND PART OF LOT 1, BLOCK 2, THREE BEARS SUBDIVISION (231 SHEEHAN ROAD)

Chairman Yeager called for the public hearing for a special use permit to allow an increased area of accessory buildings for Lot 2 and the West 15 feet of Lot 1, Block 2, Three Bears Subdivision (231 Sheehan Road). The property is located on the south side of Sheehan Road, west of South Washington Street and north of 48th Avenue SW.

Ms. Wollmuth provided an overview of the request and listed the following findings for the special use permit:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed special use would not be detrimental to the use or development of adjacent properties.
4. The proposed special use would be compatible with the surrounding rural residential neighborhood.
5. The request is compatible with adopted plans, policies and accepted planning practice.

Ms. Wollmuth then listed the following additional information:

1. Section 14-03-01(10) of the City Code of Ordinances permits the area of allowable accessory buildings for a single-family residence on a lot of this size in an RR –

Residential to be increased to a maximum of thirty-two hundred (3,200) square feet, provided a special use permit is approved by the Planning Commission in accordance with provisions of Section 14-03-08.

2. There are two accessory buildings located on the property; a 240 square foot building and a 1,140 square foot building. The proposed 1,380 square foot addition would be to the 1,140 square foot building, which was constructed in 1998. At the time of construction the building met all the requirements of the Zoning Ordinance.
3. Section 14-04-19(6)(b) of the Code of City Ordinances states, “accessory buildings over 120 square feet in area shall be subject to the same construction requirements as the residential structure to which it is accessory. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation.” As this building is an addition to the existing building this would be classified as a substantial improvement. On September 20, 2012, the Board of Adjustment granted a variance to eliminate the requirement to construct the proposed addition to the existing 1,140 square foot accessory building on fill two (2) feet above the base flood elevation (BFE) and allow the accessory building addition to be constructed at the same elevation as the existing structure.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit to increase the total allowable square feet of accessory buildings to 3,200 square feet for the purpose of constructing an addition to an existing accessory building on Lot 2 and the West 15 feet of Lot 1, Block 2, Three Bears Subdivision.

Chair Yeager called for the public hearing for a special use permit to allow an increased area of accessory buildings for Lot 2 and the West 15 feet of Lot 1, Block 2, Three Bears Subdivision (231 Sheehan Road).

Mathew Reichert, the applicant appeared before the commission and stated that letter with all of his neighbors’ approvals was submitted.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Selzler made a motion to approve the special use permit to increase the total allowable area of accessory buildings to 3,200 square feet on Lot 2 and the West 15 feet of Lot 1, Block 2, Three Bears Subdivision (231 Sheehan Road). Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Juhala, Laning, Lee, Schwartz, 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 7:06 p.m. to meet again on November 28, 2012.

Respectfully submitted,

Kimberley Tomanek
Recording Secretary

Wayne Lee Yeager
Chairman

Fax Cover Sheet

COPY

Fax to: Bismarck Community Development Department, Jason Tomanek
Fax #: (701-222-6450)

Fax from: Joanne Swonger
Fax #: (██████████)

RE:
Letter communicating concerns with development on Block 5, Lot 7 & 8, Brookfield Estates. If you have questions, please contact Joanne at cell # ██████████ Thank you!

EXHIBIT A

COPY

601 East Bristol Drive
Bismarck, ND 58501
October 24, 2012

Jason Tomanek, Bismarck Community Development
221 North 5th Street
Bismarck, ND 58506

Dear Jason,

My husband and I live at 601 East Bristol Drive in Brookfield Estates. Our home is located on Lot 4 of Block 4. Due to work schedules, we are unable to attend the meeting scheduled this afternoon at 5 p.m. regarding the zoning change for Lots 7 & 8, Block 5, of Brookfield Estates.

We are writing this letter to express our alarm that development is proceeding on Lots 7 & 8 without addressing the drainage problems that occur on the southeastern side of our development. We have lived in our home since 1994 and over the years, have struggled with drainage issues on our property. These issues stem from the fact that when the development's drainage system is overwhelmed by a large run off, water backs through the development's ditches and floods our yard until it has time to drain through the two culverts located just east of us under Bristol Drive. These culverts empty onto the pasture on Block 5, Lot 2. The water continues on its way westward via the southwest corner of Lot 2 emptying onto Lots 7 & 8, which are the topic of discussion at tonight's meeting.

Many spring seasons in our 18 years of residence, our front and side yards have been flooded due to the flawed nature of drainage within the development. In 2009, excess runoff completely surrounded our home during a rapid spring thaw in April, and again, during a heavy rainfall in June. The large drainage ditch on the west edge of Brookfield could not adequately handle the runoff, causing water to back east through ditches and culverts until it reached our property.

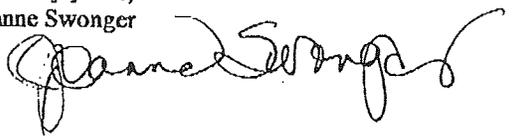
In both of these flooding events, we took on water in our sub-basement, as well as in our 1/2 basement family room. The property on Block 4, Lot 3, as well as the property on Block 5, Lot 1, also experienced some flooding but their homes were not at risk. The horse pasture in Block 5, Lot 2 essentially served as a floodway and was almost completely covered with water for an extended period of time.

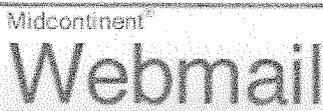
In the fall of 2009, we took our observations and concerns to the Burleigh County Water Resource District, but no action was taken to resolve the drainage problem. Now with Lots 7 & 8 being under development, the floodway for excess run off within the development is further impeded and we are concerned for the welfare of not only our property, but also for the future home being built on Lot 8.

We realize that the zoning change, and not drainage concerns, are the topic of tonight's meeting. However, it is our view that the county/and or city needs to address the short comings of Brookfield's drainage before authorizing further construction that will greatly inhibit our development's already flawed drainage.

Although our work schedule does not allow our presence at tonight's meeting, we hope that this communication can shed light on a problem that will continue to plague the southeastern edge of Brookfield Estates until it can be addressed in an effective manner for all parties involved. Thank you for your time. If you have further questions, you may reach us at our cell #'s [redacted] for Joanne and [redacted] for Dave.

Sincerely yours,
Joanne Swonger





[Inbox](#)
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sent-mail: Concerned Home Owner (1 of 390)

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Date: Mon, 22 Oct 2012 22:34:33 -0500 [10/22/2012 10:34:33 PM CDT]

From: ~~Shannon L Schreiner~~ <shannon@midco.net>

To: ~~Phil~~ <phil@midco.net>

Subject: Concerned Home Owner

Phil,

I am sending you this e-mal to let you know how I feel about the Pebble Ridge Development.

I was looking for a place to call home. We [my wife and 2 kids] absolutely loved the area. We contacted Century 21, who we were told was selling the lots for the development and they helped us purchase the lot. We did ask about the space across the street from our lot and was told multiple times and seen it in the plans for twin homes and a large green area. I even asked if we could do something with a play area, they replied with you should ask the developer, they are pretty easy to get along with.

Now the twin home idea is long gone with a 128 room apartment building. In the early stages of building I had contacted Dave Heilmann several times, which now he will not talk to me at all after he told me if I had any questions feel free to call anytime. He said the apartment complex is going to be very small and hardly even noticeable. He said it will be pushed back and with all the trees and green space we will never notice it. He also said Calgary street won't even be utilized. All LIES. I invite you to my front porch to take a look. My new lawn has taken a beating, the sewer drain is caving in, a piece of concrete is missing from my curb, and the streets are getting beaten up.

I purchased this lot with trust in the development and have been proven wrong. My family has been woken up 7 days a week in the morning and kept up at night. I have a 8 year old and 12 year old that are loosing sleep because of pounding, backup alarms and equipment loading and unloading. How would you feel about trucks out of the front of your house at 5 oclock in the morning unloading machinery on a school morning and at 9:45 hearing backup alarms on a school night when your kids have state school testing in the morning?

I have followed the rules of the development. I just wish the development would do the same for us.

I hope you understand the frustration that we are going through. I wanted a place to call home and feel safe with my famil with what I see out my front window, it is hard to do that.

Feel free to contact me anytime at 701-226-7404

Thank you

Shannon L Schreiner
 3734 Pebbleview Loop
 Bismarck ND

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EXHIBIT B

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Tuesday, October 23, 2012 5:18 PM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Horizon Heights Apartment Complex

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

From: John & Stephanie Kuhn [mailto:kuhn@bis.midco.net]
Sent: Tuesday, October 23, 2012 5:10 PM
To: cobplan@nd.gov
Subject: Horizon Heights Apartment Complex

To whom it may concern:

I don't approve of this complex or any other apartment complex in the area.

Thanks,

Stephanie Kuhn

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Wednesday, October 24, 2012 11:00 AM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Lot 1, Block 1, Good Sheperd North Addition

From: Greg Oase [mailto:]
Sent: Wednesday, October 24, 2012 8:03 AM
To: cobplan@nd.gov
Subject: Lot 1, Block 1, Good Sheperd North Addition

Commissioners:

My name is Greg Oase; I live at 4908 Amberglow Dr., Bismarck, ND.

My comments on this proposal are:

1. The south access of the development point onto Medora Avenue is located in a very poor location. It is too close to North Washington for turning movements to operate properly and is a difficult approach to use in the winter. It will only serve to increase the potential for driver confusion and accidents on an already busy intersection. Roadway geometry can be improved, but at whose cost?
2. It appears the zoning change will increase density in an area originally not proposed to be developed with that density in mind. Many home owners bought property with a general idea of what the property around them would be zoned to. This proposal changes that significantly.
3. This higher density development is being proposed near where a school is also proposed, I believe. Does the proximity to each make sense from a perspective of safety and operational capability?

Thank you for considering these comments.

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Wednesday, October 24, 2012 11:01 AM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments

From: Brennan Quintus [mailto:████████████████████]
Sent: Tuesday, October 23, 2012 7:51 PM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

Please forward the following message onto the Planning and Zoning Commissioners:

Commissioners,

My wife and I live on Driftwood Lane and strongly oppose the zoning change and Land Use Plan amendment proposed for the former location of the Good Shepherd Lutheran Church. The proposed Land Use Plan amendment and zoning change would allow Sand Companies to construct a 288 unit multi-family housing compound with some buildings 3 stories high. While we understand the need for dense, multi-family housing in the Bismarck area, the former location of the Good Shepherd Lutheran Church is **not** an ideal location for dense, multi-family housing. My wife and I agree with the horizon heights neighborhood when the following reasons are given in opposition of the zoning change, Land Use Plan amendment and subsequent apartment construction:

- The apartment compound will stress an already busy and dangerous traffic bottleneck on the corner of Medora Avenue and Washington Street.
- The apartment compound will become an eyesore in a beautiful neighborhood while polluting its surroundings with parking lot light and vehicle headlight pollution.
- The tree barrier will not protect directly adjacent houses from the "fish bowl" effect.
- The dense multi-family compound will decrease neighboring property values.

Here is the bottom line, who will benefit from the zoning change and Land Use Plan amendment? The residents of your hometown or a Minnesota based company looking to take advantage of a quiet, peaceful Bismarck neighborhood?

We hope you consider all facts involved and do what is best for the citizens of Bismarck, not the employees of a Minnesota based company.

Sincerely,

Brennan and Makenzie Quintus

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Wednesday, October 24, 2012 11:02 AM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments - Oct 24 meeting
Attachments: image001.png

From: Corrine M. Vatnsdal [mailto:
Sent: Tuesday, October 23, 2012 5:29 PM
To: cobplan@nd.gov
Cc: Vatnsdal, Cory
Subject: Good Shepherd Apartments - Oct 24 meeting

Planning and Zoning Commissioners:

I am writing in regards to the rezoning request for "Good Shepherd Apartments" off of N Washington and Medora Ave. I am strongly opposed to the re-zoning allowing 3-story apartments to be built there, even with the slightly modified version of this. This area was zoned by our city of Bismarck for certain buildings (not including multiple 3-story apartments). A promise I assume the city will (hopefully) keep. I built my house with this in mind. NEVER, would I have ever built in this location if 3-story apartment buildings were going to be in my backyard.

I want a community with roots, not 500 plus individuals coming and going at all times in my backyard, who have no foundation in our community. Between the light and auditory noise my household will be constantly on parade for whoever comes and goes in that parking lot. I know they have added shrubs, trees..... but this happened to me in Minot ND and this doesn't even come close to any privacy for the individuals home that is built there. I know for certain there is no one on this commission who would want this in their backyard.

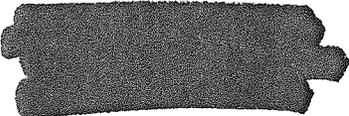
The safety of my kids, and the kids in our neighborhood is also a factor. The number of cars that would be coming and going at all times of day and night from this complex, coupled with a new school being built across the street is a recipe for an accident. This area is already a highly congested area with Horizon Middle School a block away, with multiple accidents every year from new teen drivers or families trying to enter and exit off of Ash Coulee. Now, add in these huge apartments and the elementary school only 1 ½ block away. Who wants to explain this to a family, when the first child fatality occurs? That this could have been prevented by not re-zoning?

There are plenty of areas around Bismarck that are already zoned for these apartments, that are much more appropriate. Where we, the tax payer, do not have to redo our streets/sidewalks/signage to accommodate their 3 story apartments. This company is an out of state company and has no footprint in our city. Ultimately they do not care what happens to this community once something is built. The individual who bought this property knew what it was zoned. Don't make us pay the price so he can make a buck.

I plead with you to please redirect this out of state company to build elsewhere. Please not in the middle of our neighborhood. Keep your promise to this city, this community, this neighborhood. Vote NO to rezoning.

Sincerely,

Corrine Vatnsdal-Geck (4901 Driftwood Lane)

Cory Vatnsdal-Geck OTR/L
Outpatient Occupational Therapy
Bismarck, ND
Sanford Health


Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Wednesday, October 24, 2012 11:00 AM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments

From: Dianna Varner [mailto: [REDACTED]]
Sent: Wednesday, October 24, 2012 9:40 AM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

PLEASE FORWARD THE FOLLOWING COMMENTS TO THE PLANNING & ZONING COMMISSIONERS:

Dear Commissioners:

We have been taxpayers in the city of Bismarck for 45 years. In 2007 we carefully made the decision to build our retirement home at 4811 Driftwood Lane. This decision was based on careful consideration of all factors surrounding this piece of property. Now we are faced with the City rezoning an adjoining piece of property at the "could care less" request of an outside interest....a rezoning that would severely impact not only the value and desirability of our investment but also the quality of life in the adjoining RESIDENTIAL areas.

There will be two large schools in very close proximity of each other in our area. You cannot argue the traffic impact created by these two schools. Have you seen the traffic chaos that is already occurring at Washington and 43rd with the existence of only Horizon Middle School? We know of many people in dealing with this traffic jam who "detour" by cutting across Boulder Ridge and Horizon Heights areas to enable them to get to the school from the opposite direction. THIS TRAFFIC CHAOS WILL BE DOUBLED to say the least when an additional school is built a half mile away.

Now we have a ludicrous proposal to rezone for a multi-unit right between these large schools. The impact of rezoning to allow a condensed population zone RIGHT BETWEEN TWO ALREADY HIGH TRAFFIC FACILITIES makes no sense, especially when there are so many other parcels of land available.

When we built our home we were not allowed to place a cover over our deck or even have a cover over our front door because doing so would exceed the "allowable square footage under cover" versus the square footage of the lot. These are restrictions put in place for the WELL BEING, FUNCTIONALITY AND BEAUTY of the area.....and we concurred. Now....as taxpayers...we ask the City to enforce these same standards to entities who are here for nothing more than to take a profit with no concern of the WELL BEING, FUNCTIONALITY AND BEAUTY of our area!

We sincerely request the Commission to give this matter careful consideration. Thank you.

Merrill & Dianna Varner
4811 Driftwood Lane
Bismarck, ND

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Tuesday, October 23, 2012 4:54 PM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Proposed zoning amendment for Good Shepherd Apartments

From: Cheryl Borth [mailto:cborth@midco.net]
Sent: Tuesday, October 23, 2012 4:54 PM
To: cobplan@nd.gov
Subject: Proposed zoning amendment for Good Shepherd Apartments

Dear Honorable Planning & Zoning Commissioners:

We are totally against the proposed zoning amendment concerning the Good Shepherd Apartments.

We are from the western part of ND and had the option in 2010 of retiring in Dickinson, but chose Bismarck because we were more impressed with its zoning. If you approve this amendment, you'll have the same problems as Dickinson, where a rural neighbor of ours retired. They have numerous single-family residences now in close proximity to new apartments. We believe there are much better sites for these proposed apartments in Bismarck.

Please do not negatively impact the values and aesthetics of all our single-family residences in this part of Bismarck. Thank you for your part in keeping Bismarck a desirable place to live.

Ron & Cheryl Borth
4908 Fountainblue Dr
Bismarck ND 58503

cborth@midco.net

701-751-4235

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Monday, October 22, 2012 12:37 PM
To: Jason Tomanek; Kim Lee; Carl Hokenstad
Cc: [REDACTED]
Subject: FW: Good Shepherd Apartments

RECEIVED

OCT 22 2012

From: Sarah Lee [mailto:[REDACTED]]
Sent: Sunday, October 21, 2012 7:20 PM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

To Whom It May Concern:

Please forward our comments to the Planning and Zoning Commissioners. Thank you.

Dear Planning and Zoning Commissioners,

We believe one of the purposes of this Commission is to provide for Bismarck's growth, but not at a cost to the existing citizens. Therefore, we ask that you do not support the re-zoning of the Good Shepherd land for a 288-unit apartment complex.

The citizens of the Horizon Heights neighborhood depended upon the promises and decisions made for the zoning of this area when we bought our homes. We feel like we are getting the rug pulled out from under us because of your consideration of this re-zoning proposal. Since the neighborhood is already established, our feeling is that the developer should have been willing to work within the current regulations when he purchased the property.

When we moved back to Bismarck, we chose to buy our home in the Horizon Heights neighborhood because of the surrounding zoning. We wanted a neighborhood of single family homes without threat of apartment complexes, and we are upset about a large complex getting consideration in an area that was not supposed to have any such development.

Our first concern is the amount of traffic this will cause. Assuming there will multiple people living in each unit, this will add possibly 500-600 additional cars to a highly concentrated area – an area that is already strained with traffic concerns. North Washington Avenue is to be the site of a new elementary school, as you know, and the thought of our children crossing a very busy Washington Avenue to go to school is already concerning, without adding the burden of an additional high-traffic intersection.

Our second concern has to do with our neighbors who will most likely be suffering lower home values due to the addition of this complex. We know that having such a complex in the area would have affected our decision to live here. According to our realtor, this is a desirable part of town, and the cost of housing reflects that. Changing the design of the buildings does not change the fact that it is still a 288-unit rental complex.

Along with the traffic and neighborhood value concerns, we also have concerns for our children's safety. With the boom of oil workers living in the area, a complex such as this one will very likely attract large numbers of those individuals. Instead of asking for these oil workers to settle in the community and establish ownership and roots in Bismarck, we are encouraging a transient population who does not feel responsibility for the

OCT 22 2012

Dear Commissioners,

I wanted to first take a moment to thank you for the work you do on behalf of the citizens of Bismarck. I can understand that the decisions you have to make are sometimes met with opposition but I believe you have the best intentions for us at heart. As a homeowner in Horizon Heights, I am unfortunately writing you today as one of those opposition voices. I attended the previous public comment meeting regarding the proposed apartments on the Good Shepherd property and was pleased that the proposal was not passed. I understand that they have resubmitted with some changes so I am letting you know that I *am not* in favor of having an apartment complex on that property regardless of its size or scope. My main concern is due to my property values and traffic in the neighborhood. When my family and I moved here in 2010, we immediately knew that this was one of the best areas in Bismarck to buy not to mention the convenience of having the junior high so close since we have a fourteen year old. Now that we have learned of the new elementary coming in, we are even more excited since we have an eleven year old as well. That said, it is already a very busy neighborhood and I do not feel very welcome to having that amount of traffic there. We already have construction trucks and equipment along with our fellow neighbors, and this would make things much more difficult. Also, I like many citizens in Bismarck, have a lot of my wealth tied up in my home. I am fearful that this might adversely affect home values as I am seeing a small "flight" situation on the street adjacent to this property with homes already going up for sale. Bismarck is definitely growing and as a citizen I realize that this may cause me some personal discomfort from time to time. I am certainly willing to do my part in that regard but having this complex on that property would be unfortunate for me and many of my fellow neighbors. Thank you for your consideration of my thoughts,

Jason Tharpe

5010 Fountainblue

Bismarck, ND 58503

EXHIBIT J

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Tuesday, October 23, 2012 1:51 PM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments

From: Randy Marzolf [mailto:~~randy.marzolf@nd.gov~~]
Sent: Tuesday, October 23, 2012 12:56 PM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

Please forward to Planning & Zoning Commissioners.

I live next to Good Shepherd and am concerned about the rezoning efforts of the Sand Co to convert the property into a 288 apartment complex.

When me and others bought our property the land in question it was not zoned for apartments. It was already zoned for a church or similar buildings.

If there had been a chance that this was going to change I am sure you would not have the existing homes that are there today. We bought knowing what the zoning was and to change it now so drastically to someone out of state that will not even be living there isn't right.

This was already debated and voted on, and for the Sand Co to make so minor of changes to something that was already defeated shouldn't be allowed.

Please take this into consideration when you vote on Wednesday.

Thank You
Randy Marzolf
4907 Driftwood Lane
Bismarck ND

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Tuesday, October 23, 2012 1:51 PM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments

From: Brandon Heidt [mailto:~~XXXXXXXXXXXXXXXXXXXX~~]
Sent: Tuesday, October 23, 2012 10:10 AM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

Please forward this to Planning and Zoning Commissioners

Dear Commissioner's

As a Horizon Heights homeowner, I am very concerned about the proposed zoning change and planned apartment complex on the Good Shepherd property. My biggest concern is traffic. North Washington and the intersections of 43rd Ave. and Medora Ave. are already very congested and have frequent accidents. Most residents already avoid Ash Coulee because of the traffic associated with Horizon. This leaves Medora as the only outlet to Washington for the residents. Medora has become increasingly congested in the mornings because of the rapid expansion of Horizon Heights and I don't see how it can handle being the main outlet for a 288 unit building. This intersection is already dangerous because of how it sits in a dip and is almost blind looking to the north. With the planned new elementary school, there is already going to be a large increase in traffic in the immediate area, and I feel that there are some serious issues that need to be resolved before a large apartment complex can be even remotely considered.

There are many places a complex like this can be built, but right in the middle of two of the nicer housing developments in Bismarck is NOT the right location. This will without question lower the property values in both Horizon Heights and Boulder Ridge. Please Vote down this proposal by out of state developers looking to make a buck at our expense.

Sincerely,

Brandon Heidt

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Wednesday, October 24, 2012 1:02 PM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments

From: Beth J Landenberger [mailto:
Sent: Wednesday, October 24, 2012 1:00 PM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

To Whom It May Concern:

Please forward these comments to the Planning & Zoning Commissioners. Thank you!!

I am writing to you to express my concerns regarding the proposals for apartments on the property of the northwest corner of Medora Ave & Washington St. As a homeowner in the Horizon Heights development, this is very frustrating to have to expend so much time and energy fighting this company that is trying to get this property re-zoned to allow for 2 & 3 story apartment buildings. This seems to be a waste of time on everyone's part as they had to have know the zoning requirements of this property prior to purchasing it. They should not have purchased this property if their intentions were 3 story apartments in anyway....including trying to change the proposal to have some 2 story apartments as a "buffer" and the rest still being 3 story. I feel very strongly that we should not make ANY exeptions for them to have ANY 3 story buildings. LIKE I SAID, THEY SHOULD NOT HAVE BOUGHT THE PROPERTY THAT WAS CLEARLY ZONED FOR 2 STORY PROPERTY IF THEIR INTENTION WAS TO BUILD 3 STORY BUILDINGS. When a person builds a \$300,000-400,000 home and the property behind them is zoned for 2 story housing, THEY SHOULD FEEL SAFE THAT THEIR CITY WILL NOT RE-ZONE THAT PROPERTY THAT WILL DECREASE THE VALUE OF THEIR PROPERTY SIGNIFICANTLY. I ask you to please support the individuals that live in your community that have spent a lot of money to make a nice home & neighborhood and contribute a lot to the economy of Bismarck.

I understand that because of the oil boom & lack of housing, apartments may be necessary in Bismarck, but from what I have heard, there are plenty of properties in town that are actually zoned for 3 story buildings. I hope that this decision is not made strictly because of the oil boom. There are a lot of out of state people that may occupy these apartments that don't really care about our community – and yes, a lot of the people that are coming to work here are less than impressive. There has been an increase in crime with this oil boom and I really feel strongly that an option for housing for these people should not be across the street from an elementary school. It's just too many people in a small area. I worry about the safety of my children with this building. With so many people in this small area, crime will increase, including the possibility of drugs, sex offenders, & even abductions. My other concern is the increased amount of traffic in that area. With the turn off to Horizon just a block away, Washington Street will already have traffic issues without adding 200+ apartments right on the corner. THIS NEEDS TO BE A SAFE AREA FOR OUR CHILDREN!!! With the number of vehicles added by this apartment complex, I do not feel my children will be safe. There are MANY reasons why this apartment complex is not a good idea for this area and the company should consider another location. Again, I ask that you vote to NOT RE-ZONE THIS PROPERTY....THE COMPANY KNEW HOW THIS WAS ZONED WHEN THEY TOOK THE CHANCE IN PURCHASING THIS PROPERTY. Maybe their best option is to sell this property & purchase one of the other areas available for 3 story building. Thank you for your time and I would appreciate you supporting your community members.

P.S. If you happen to be one of the commissioners that just sits back & doesn't show any interest in this situation, IT IS NOTICED and not appreciated by many. As an official elected by the public, it is expected that you help take care of us & actually care.

Sincerely,

Beth , James, Ryan, & Rachel Landenberger

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Wednesday, October 24, 2012 2:27 PM
To: Jason Tomanek
Cc: Kim Lee; Carl Hokenstad
Subject: FW: Good Shepherd Apartments

From: Lisa Livesay [mailto:]
Sent: Wednesday, October 24, 2012 2:24 PM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

To Whom It May Concern:

Please forward these comments to the Planning & Zoning Commissioners. Thank you.

I am writing you to discuss my concerns regarding the proposed apartments on the Good Shepherd Lutheran Church property. My husband I chose the Horizon Heights neighborhood because it is a safe, clean area of town to raise our family. We have lived in the neighborhood for the past 4 years and as more single family homes are being developed the number of children continues to grow. One of my major concerns with the proposed property is the increased numbers of vehicles that will automatically accompany such a large number of apartments, and along with that the impact this will have on the safety of all of the children in the neighborhood. North Washington and the 43rd Ave. corridor are already congested, especially during school drop off and pick up times. I worry that in an effort to bypass some of the congestion on these two main roads people will start cutting through Horizon Heights interior streets, creating hazardous conditions in what are normally peaceful neighborhoods.

An important aspect of zoning laws is the protection of property value, and the families who invested in this community by building their homes in Horizon Heights should not be punished financially by the guaranteed drastic reduction in home value that will be brought on by the development of the proposed apartment complex.

To be quite honest I do not understand why this proposal is even being entertained as it is my understanding that the property is not zoned for a 3 level property. The company who purchased the property should be held accountable for having done such poor research into our states zoning laws prior to completing the purchase and should not be allowed to have the property rezoned at their convenience, especially considering that there are alternative property locations currently available that will lawfully accomodate a complex of this size.

As elected officials of our city it is your moral, ethical and legal obligation to consider the voices of those you serve. Please do not allow the property on the NW corner of Washington Ave. and Medora Ave. to be re-zoned.

Sincerely,

Travis and Lisa Livesay
1105 Medora Ave.
Bismarck ND 58503

Jason Tomanek

From: Community Development <cobplan@nd.gov>
Sent: Tuesday, October 23, 2012 8:32 AM
To: Jason Tomanek
Cc: Carl Hokenstad; Kim Lee
Subject: FW: Good Shepherd Apartments

From: Carlson, Dave [mailto:████████████████████]
Sent: Monday, October 22, 2012 10:29 PM
To: cobplan@nd.gov
Subject: Good Shepherd Apartments

Please forward to the Planning and Zoning commissioners-

Commissioners,

I would ask that you seriously consider the ramifications of this rezoning for many reasons~

Traffic

Currently the traffic count is in excess of 10,350 cars between 6:00 AM and 10:00 PM; yes there is supposed to be a traffic light installed this fall, but nothing has happened yet...the two lane road cannot handle the current traffic plus what the new school will bring. Per Mark Berg, City Traffic Engineer, a 288 unit apartment will bring another 2,592 "trips" for a total of 12,963 vehicles between 6:00 AM and 10:00 PM.

Safety/Crime

The traffic alone is a huge safety concern, but the safety in the neighborhood when you have 288 new "families" in temporary housing does cause a concern.

Proper Buffer Zone

The city code states that proper zoning must be in place to transition from single family homes to multifamily homes...why is that not happening for this project?

Light Pollution

Due to the improper buffer zone, the light pollution will be terrible for all residents in the area.

Lack of Privacy

With the 288 units being so close to our homes, there will be no privacy for our neighborhood.



Noise Pollution

With the addition of 288 units the noise pollution will be 24 hours a day.

Home Values

Our home values will DROP due to having lower value multifamily homes in our back yard, once again, no buffer zone.

Thanks for your attention to this issue.

Dave Carlson

4913 Driftwood Lane


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Chairman Yeager and Commissioners,

I am writing today to oppose the proposed rezoning of the Good Shepherd North location.

When I made one of the largest investments of my life, purchasing a home, I specifically sought out a quiet location that I felt would be a great place to raise a family. I found this in the Horizon Heights 2nd Addition development. When I bought my house, I purchased it knowing the adjacent land was zoned Conditional RT. I accepted that, even though I knew the church could possibly someday become, at worst, 2-story apartment buildings. What I did not purchase when buying my house was a 3-story apartment complex in my backyard.

I feel that the new owners of the Good Shepherd land would not appreciate it being rezoned as R5, as that could, and likely would, lower the property value of their land. They did not buy R5, so I feel they would be justifiably upset if their land were to be rezoned to anything lowering their property value. This is how I (and many of my neighbors) feel, knowing that we did not purchase land adjacent to (allowable) 3-story apartments. By allowing the Good Shepherd Campus to be rezoned, I firmly believe my property value would be lowered, causing me and my family to take a financial hit on the largest investment we've ever made.

I would like to thank those of you who voted with the citizens of Bismarck and my neighborhood last time against the rezoning of this property and ask you to do the same again.

In addition, and I know this is probably a big request, but if it's possible, I'd like you to consider not allowing any more proposals involving 3(or more)-story apartments in the future. I, and several of my neighbors, have spent many, many hours researching this proposal, going door-to-door talking to neighbors, attending meetings, voicing concerns, and pitching in money for flyers, postcards, and stamps to inform the neighborhood of this proposal. Unlike Sand Companies, we are not paid to fight for our stance on this proposal. We have to take time from our schedules (family, work, hobbies, etc.) to let you know how we feel. I think by now you are well aware how we feel, and I know I would appreciate not having to spend any more time fighting this issue.

If you still aren't sure whether to support the residents of Bismarck or a development company from Minnesota, here are a few more of my thoughts:

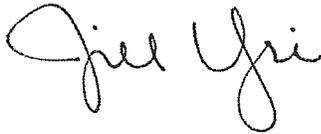
1. Sand Companies would like to rezone this as a PUD. According to the definition in the Century Code, part of the intent of a PUD is "to preserve the natural and scenic features of open space". There are many concerns about the scenic views from both adjacent properties in Horizon Heights and those in Boulder Ridge (across Washington). While current zoning allows up to 50' of building height, it is VERY unlikely that a 2-story apartment building would come close to that height. The 3 story apartments being proposed are nearly 50', which would impede the view we have, and the views we thought and hoped we would always have.
2. I know that when my husband and I bought our house, we naturally thought that the church would be there much longer than we would be, but also looked at what the current zoning allowed (just in case). It did not and does not allow a 3-story building. Also, the Land Use Plan

EXHIBIT D

was brought to their attention, they haven't changed it and still submitted the incorrect drawing to the City.

- d. They claim the density will be 16 units per acre, but in the letter sent to the City on August 22nd, Mr. Bork says (in item number 6) that it is a 15.9 acre site. That works out to 254 units maximum, and they are proposing 288. Their calculations appear to include the full 18 acres, which I believe includes the section south of Medora, which they're planning on selling.

Thank you for your time, and I hope you will, once again, stand with your residents and oppose this rezoning.

A handwritten signature in cursive script that reads "Jill Yri". The letters are fluid and connected, with a prominent loop at the end of the "i" in "Yri".

Jill Yri