

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
April 29, 2015**

The Bismarck Planning & Zoning Commission met on April 29, 2015, 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, Brian Bitner, Mel Bullinger, Mike Donahue, Doug Lee, Ken Selzler, Mike Seminary, Lisa Waldoch and Wayne Yeager.

Commissioners Vernon Laning and Mike Schwartz were absent.

MINUTES

Chairman Yeager called for consideration of the minutes of the March 25, 2015 meeting.

MOTION: Commissioner Donahue made a motion to approve the minutes of the March 25, 2015 meeting as received. Commissioner Lee seconded the motion and it was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

CONSIDERATION

- A. JMAC INDUSTRIAL PARK ADDITION – ZONING CHANGE AND PRELIMINARY PLAT**
- B. LOT 1A OF LOT 1, BLOCK 1, PEBBLE CREEK EIGHTH ADDITION – ZONING CHANGE**
- C. AUDITOR’S LOTS D, E, N AND Q OF LOT 1, BLOCK 1, NORTHERN PLAINS COMMERCE CENTRE, AUDITOR’S LOTS A, B AND C OF LOT 2, BLOCK 1, BISMARCK AIRPORT ADDITION AND BLOCKS 8 AND 9, AIRPORT INDUSTRIAL PARK 4TH ADDITION – ZONING CHANGE**
- D. MADISON LANE ADDITION – PUD AMENDMENT**
- E. ZONING ORDINANCE TEXT AMENDMENT – APPEALS PROCESS/SPECIAL USE PERMITS**
- F. ZONING ORDINANCE TEXT AMENDMENT – P-PUBLIC USE ZONING DISTRICT**

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

- A. JMAC Industrial Park Addition – Zoning Change and Preliminary Plat
- B. Lot 1A of Lot 1, Block 1, Pebble Creek Eighth Addition – Zoning Change
- C. Auditor’s Lots D, E N and Q of Lot 1, Block 1, Northern Plains Commerce Centre, Auditor’s Lots A, B and C of Lot 2, Block 1, Bismarck Airport Addition and Blocks 8 and 9, Airport Industrial Park 4th Addition – Zoning Change

- D. Madison Lane Addition – PUD Amendment
- E. Appeals Process/Special Use Permits – Zoning Ordinance Text Amendment
- F. P-Public Use Zoning District – Zoning Ordinance Text Amendment

Ms. Lee said there is a typo in item #B and it should say Block 3, not Block 1.

MOTION: Commissioner Lee made a motion to approve consent agenda items A, B, C, D, E and F as corrected, granting tentative approval or calling for public hearings on the items as recommended by staff. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION PART OF EAGLE CREST FOURTH ADDITION

Chairman Yeager called for the final consideration of the annexation of that part of Eagle Crest Fourth Addition not previously annexed. The property is located along both sides of Round Top Road, west of Valley Drive.

Ms. Lee gave an overview of the request, including the following findings:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the annexation of that portion of Eagle Crest 4th Addition not previously annexed (Lots 1-13, Block 2, Lots 2-7, Block 4, and Lots 1-4, Block 5).

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation of that portion of Eagle Crest 4th Addition not previously annexed (Lots 1-13, Block 2, Lots 2-7, Block 4, and Lots 1-4, Block 5). Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION
LOT 2, BLOCK 1 AND THE ADJACENT NORTHERN SKY DRIVE RIGHT-OF-
WAY, NORTHERN SKY ADDITION**

Chairman Yeager called for the final consideration of the annexation of Lot 2, Block 1 and all of the adjacent Northern Sky Drive right-of-way, Northern Sky Addition. The property is located in north Bismarck, along the south side of Durango Drive, west of North Washington Street.

Ms. Lee gave an overview of the request, including the following findings:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the annexation of Lot 2, Block 1 and the adjacent Northern Sky Drive right-of-way, Northern Sky Addition.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to approve the annexation of Lot 2, Block 1 and all of the adjacent Northern Sky Drive right-of-way, Northern Sky Addition. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – CITY-INITIATED ANNEXATION
VARIOUS LOTS AND TRACTS IN SECTION 19 AND 20, T139N-R80W/HAY
CREEK TOWNSHIP, INCLUDING PARTS OF HIGH MEADOWS 3RD AND 4TH
ADDITIONS**

Chairman Yeager called for the final consideration of the city-initiated annexation of various lots and tracts in Section 19 and 20, T139N-R80W/Hay Creek Township, including parts of High Meadows 3rd and 4th Additions. The property is located in northwest Bismarck, west of North Washington Street between West Century Avenue/Country West Road and Ash Coulee Drive.

Ms. Lee gave an overview of the request, including the following findings:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the city-initiated annexation of various unannexed lots and parcels in Section 19 & 20, T139N-R80W/Hay Creek Township, including Lot 9A in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19; Lot K in the SW $\frac{1}{4}$ of Section 20; Part of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20, less parts taken for Pinehurst 3rd Addition and Pinehurst 4th Addition; Auditor's Lot 6A of Lot 10, Block 2, High Meadows 3rd Addition; Auditor's Lot 7A of Lot 10, Block 2, High Meadows 3rd Addition; Lot 10 less Auditor's Lots 6A and 7A, Block 2, High Meadows 3rd Addition; and the West 130 feet of Lot 2, Block 1, High Meadows 4th Addition.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation of various unannexed lots and parcels in Section 19 & 20, T139N-R80W/Hay Creek Township, including Lot 9A in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19; Lot K in the SW $\frac{1}{4}$ of Section 20, Part of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 20, less parts taken for Pinehurst 3rd Addition and Pinehurst 4th Addition; Auditor's Lot 6A of Lot 10, Block 2, High Meadows 3rd Addition; Auditor's Lot 7A of Lot 10, Block 2, High Meadows 3rd Addition; Lot 10 less Auditor's Lots 6A and 7A, Block 2, High Meadows 3rd Addition; and the West 130 feet of Lot 2, Block 1, High Meadows 4th Addition. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION
TRACT 9 AND 10 (OF TRACT 7) OF TRACT C OF ZOLLER'S SUBDIVISION IN
THE NE $\frac{1}{4}$ OF SECTION 26, T139N-R80W/HAY CREEK TOWNSHIP**

Chairman Yeager called for the final consideration of the annexation of Tracts 9 and 10 (of Tracts 7 and 8) of Tract C of Zoller's Subdivision in the NE $\frac{1}{4}$ of Section 26, T139N-R80W/Hay Creek Township. The property is located along the north side of Interstate 94, west of Centennial Road.

Ms. Lee gave an overview of the request, including the following findings:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the annexation of Tract 9 of Tracts 7 and 8 and Tract 10 of Tract 7 of Tract C of Zoller's Subdivision in the NE ¼ of Section 26, T139N-R80W/Hay Creek Township.

MOTION: Based on the findings contained in the staff report, Commissioner Selzler made a motion to approve the annexation of Tract 9 of Tracts 7 and 8 and Tract 10 of Tract 7 of Tract C of Zoller's Subdivision in the NE¼ of Section 26, T139N-R80W/Hay Creek Township. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION/PUBLIC HEARING –ANNEXATION, ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT
ASH COULEE ESTATES ADDITION**

Chairman Yeager called for the public hearing on the final plat; the zoning change from the R5-Residential zoning district to the R5-Residential and PUD-Planned Unit Development zoning districts; and final consideration of the annexation of Ash Coulee Estates Addition. The proposed plat is 40 lots in one block on 9.59 acres and is located in northwest Bismarck, along the south side of Ash Coulee Drive west of Valley Drive (a replat of Lots 1-18, Block 1, Ash Coulee Second Addition).

Ms. Lee gave an overview of the request, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development.
2. The proposed annexation would not adversely affect property in the vicinity.

3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then gave the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies the future use of this area as low density residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a combination of rural residential to the northwest, low density urban residential to the northeast, east and south, and agricultural to the west.
3. The subdivision proposed for this property would be annexed and services would be extended in conjunction with development; therefore, it 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 and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then gave the following findings for the minor subdivision final plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has not been approved by the City Engineer.
3. The proposed minor subdivision final plat would be compatible with adjacent land uses. Adjacent land uses include a rural residential to the northwest, low density urban residential to the northeast, east, south and southwest, and agricultural to the west.
4. The property would be annexed and services would be extended in conjunction with development; therefore, the proposed minor subdivision final plat would not place an undue burden on public services and facilities.
5. The proposed minor subdivision final plat would not adversely affect property in the vicinity.
6. The proposed minor subdivision final plat is consistent with the general intent and

purpose of the zoning ordinance and subdivision regulations.

7. The proposed minor subdivision final plat is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said because the storm water management plan for the final plat has not been approved by the City Engineer, staff recommends holding the public hearing but continuing action on the request for a final plat and the zoning change from the R5 – Residential zoning district to the R5-Residential and PUD-Planned Unit Development zoning districts and final consideration of the annexation of Ash Coulee Estates Addition.

Commissioner Atkinson asked Ms. Lee to explain the density of R5-Residential compared to PUD-Planned Unit Development zoning. Ms. Lee said the overall density of Ash Coulee Estates Addition would allow a maximum of five units per acre whereas the PUD as proposed would have 5.4 units per acre.

Commissioner Lee asked if the minimum lot size in R5 zoning districts is 7,500 square feet. Ms. Lee said it is 5,500 square feet, but that less has been allowed in the past with a Planned Unit Development.

Chairman Yeager opened the public hearing.

Lew Dendy, 1201 Eagle Crest Loop, submitted and read his comments concerning the safety of the design and feels there are multiple flaws that could potentially be life threatening, including the narrow street width and lack of pedestrian sidewalks. His comments are attached as Exhibit A.

Jim Jackson, 4909 Cornice Drive, said Bismarck is looking to increase density but more of a buffer needs to be considered. He said he is opposed to these proposals but does see the possibility of adding this development elsewhere, such as northeast of Boulder Ridge. He believes adding smaller single family homes will make this area too dense and it will stick out too much.

Darin Lee, 1269 Eagle Crest Loop, said these concepts do not fit in with the characteristics and personality of the neighborhood. He said it will be too dense compared to the existing R5 zoning. He submitted comments from Durwood Geier, Geier Homes, pertaining to the research that needs to be done prior to development on surrounding covenants and plans in order to avoid a negative impact on the investments of the neighborhood. His comments are attached as Exhibit B. Mr. Lee added that the intent of a PUD as stated in the zoning ordinance is to encourage flexibility in quality and design in order to achieve the most optimal land use and this project does not do that. He added that, in his opinion, it also does not follow the principals of the 2014 Growth Management Plan as it is not orderly and qualifies more as spot zoning.

TJ Stewart, 1276 Eagle Crest Loop, said he is opposed to the proposals as he wants to keep a place where his family can grow and stay for many years, but the proposed increase in density does not fit this area.

Cade Jorgenson, 5067 Butte Drive, said he is opposed to the proposals and feels it is synonymous with Madison Lane Addition and is not a good fit. He said this area has gone from RR zoning to R5 and now even higher density is being requested that would create landlocked lots and traffic congestion.

Joanna Brekhus, 1300 Golden Eagle Lane, said their house will be right behind the new development. They tried to be forward thinking when they purchased their home, choosing the location they did because at the time there would have only been one yard facing theirs and now there will be two. She said the styles and sizes of the proposed homes are not consistent with what is there now.

Clay Jenkinson, 1324 Golden Eagle Lane, said he performed an act of trust when he purchased his home several years ago, but never would have purchased his property had he known this development was coming. He said these proposals are ill advised and would like to see them redrawn or denied altogether.

Landon Niemiller, Swenson, Hagen & Co., said the setbacks in the proposed development would be 25 feet as they are in all R5 zoning districts, the driveways would be standard width and depth and the street is a 32-foot wide private drive, not a public street. He said fire codes only require 20 feet in width and it has passed all of the fire and emergency access requirements and the total density comes in at 5.4 units per acre. He said the lots are deep but do meet the minimum square footage requirement, but the widths are less.

Commissioner Atkinson asked if it would be possible to rework the design concepts for a month and take input from the surrounding property owners. Mr. Niemiller said new designs are already being drawn on so that request is a possibility.

Heidi Smith, 1412 Talon Road, said she was only expecting to have one neighbor when she purchased her home and with this proposal she would have three. She said she wanted to live there because of the neighborhood and she is opposed to the proposal.

Art Goldammer, Verity Homes of Bismarck, said he feels most of the misconceptions of this development have been addressed and that he is going for a very upscale mountain bungalow concept, which he feels would be desirable throughout the subdivision and would bring unique but desperately needed affordable housing. He said the streets will be generously wider than what is required and he encourages the surrounding owners to please be welcoming to any new neighbors and not turn their backs on new development.

Commissioner Waldoch asked if a five foot side yard setback is adequate for emergency access. Mr. Goldammer said it is adequate and comparable to other developments, and has passed the necessary fire requirements.

Commissioner Seminary asked if there is any future plans to have sidewalks installed. Mr. Goldammer said that is not currently in the proposal, but he would entertain the notion of adding them as the setback is adequate enough to have them put in.

Commissioner Seminary said he is one of the voices for density and affordable homes and with property taxes and specials being based on assessed values and lot size, is struggling to be supportive of these concepts. He said he likes the work that Verity Homes has done in the past, but he would not prefer the initial design if he lived here. He said narrower streets are coming back for multiple reasons, with the main one being financing as that expense ultimately comes back on those purchasing the property. He said he prefers sidewalks or shared use paths but something that would create intolerable unfriendliness among neighbors would not be acceptable.

Commissioner Lee said he feels part of the planning and zoning process should be to have established zoning with reliability and not immediately changing or constantly increasing density.

Commissioner Seminary said there is a world of developments elsewhere that are trying to insert density anywhere they are able to, but if this concept will not fit or work at this time, then he would like to see it redesigned and brought back.

Commissioner Lee said this should only be moved forward if the density is lowered and the neighborhood is comfortable with it.

Commissioner Waldoch said she generally favors the possibilities that come with PUD zoning but she is uncomfortable changing from R5 zoning when that is what the neighborhood was expecting. She said the existing owners researched the area before moving there and they expected R5 zoning. She said blending zoning districts together is also important but these proposals need to be revised.

Commissioner Bitner said he would favor denying the proposals altogether, as affordable housing is needed but the concepts shown now are not what the existing owners bought into.

Additional written comments received are attached as Exhibits C-J.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to continue the public hearing and final consideration of the annexation, the zoning change from the R5-Residential zoning district to the R5-Residential and PUD-Planned Unit Development zoning districts and minor subdivision final plat of Ash Coulee Estates Addition, to allow time for the developer to draft new design concepts and hold discussions with the surrounding property owners. Commissioner Atkinson seconded the motion and the request was continued with Commissioners Atkinson, Bitner,

Bullinger, Donahue, Lee, Selzer, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION/PUBLIC HEARING –ANNEXATION, ZONING CHANGE AND FINAL PLAT
HERITAGE RIDGE ADDITION**

Mr. Tomanek explained that because of the similarities in the next two agenda items, Heritage Ridge Addition and Heritage Park Addition, he would like to present their overviews together and hold the public hearings simultaneously, however two separate motions will have to be made on them.

Chairman Yeager called for the public hearing on the final plat; the zoning change from the A-Agriculture zoning district to the R5-Residential zoning district; and final consideration of the annexation of Heritage Ridge Addition. The proposed plat is 61 lots in five blocks on 30.14 acres and is located north of 57th Avenue NW and west of North Washington Street (the SW¼ of Section 8, T139N-R80W/Hay Creek Township).

Mr. Tomanek gave an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development, if a temporary lift station is constructed to allow pumping to the existing municipal sanitary sewer system.
2. Permanent City sanitary sewer service cannot be extended to the property at this time due to a lack of sufficient easements and unannexed adjacent properties. The second option for sanitary sewer service would include the use of a temporary on-site septic tank and disposal of waste to an off-site disposal area.
3. The proposed annexation would not adversely affect property in the vicinity.
4. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed annexation is somewhat consistent with the master plan, other adopted plans, policies and planning practice; however, the area proposed for annexation is not directly adjacent to the existing corporate limit. It is reasonable to consider that the undeveloped land that separates the current corporate limits from the proposed annexed property would be developed in the future, thus providing a contiguous corporate boundary. At this time, Planning staff is not aware of any immediate plans for development by the adjacent land owners and it is unknown how long the undeveloped property would remain outside corporate limits.

Mr. Tomanek then gave the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan Update, which identifies the area as low density residential.
2. The proposed zoning change would generally be compatible with adjacent land uses. Adjacent land uses include existing large lot single-family rural residential to the north and east and agricultural uses to the south and west.
3. The subdivision proposed for this property would be annexed prior to development; therefore, the zoning change would not place an undue burden on public services. However, municipal sanitary sewer service cannot be extended to the property due to a lack of sufficient easements and unannexed adjacent properties.
4. The proposed zoning change would not adversely affect property in the vicinity, provided the appropriate landscape buffer yard materials are installed in conjunction with the development of the multi-family zoned lots along the east edge of the subdivision.
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.

Mr. Tomanek then gave the following findings for the final 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 subdivision generally conforms with the Fringe Area Road Master Plan for this area, which identified 57th Avenue NW as the east-west arterial roadway and Sonora Way as the north-south collector roadway for this section.
4. The proposed subdivision would generally be compatible with adjacent land uses. Adjacent land uses include large-lot single-family rural residential to the north and east and agricultural uses to the south and west.
5. The proposed subdivision would be annexed prior to development; however, sufficient easements are not in place at this time to allow for the extension of a sanitary sewer easement. The applicant/developer has indicated a plan to provide a temporary on-site septic tank intended to function as a private sanitary service. The tank would be installed, operated and maintained by the applicant/developer until such time as a municipal sanitary sewer line can be extended to the property. If such a system is

approved, a maximum of thirty (30) residential units could be permitted in both Heritage Ridge Addition and Heritage Park Addition combined. Another option for sanitary service would include a temporary lift station and piping to connect with the existing municipal sanitary system.

6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision would generally be 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 said based on the above findings, staff recommends approval of the annexation of Heritage Ridge Addition and the zoning change from A – Agriculture to the R5 – Residential zoning district and the final plat of Heritage Ridge Addition (with the understanding that a development agreement will be drafted to address the issues related to the proposed final plat for Heritage Ridge Addition prior to forwarding to the Board of City Commissioners), with the following conditions:

1. City water service will be extended to the property along the 57th Avenue right-of-way to allow a connection to municipal water service.
2. Two options have been presented to handle the sanitary service to the development. Planning staff's preference is that such service provide a temporary lift station adequate to pump the sanitary sewer east along 57th Avenue and south along Washington Street to a connection with the existing municipal sanitary system. The second option is that a private sanitary sewer service be provided until such time as permanent City sanitary sewer service can be extended to the property. This private service would include a temporary community sewer holding tank and trucking of waste material to an off-site disposal area.
3. Until such time as a secondary access road has been provided and the extension of City sanitary sewer to serve the development is in place, the maximum number of residential units allowed in both the Heritage Ridge Addition and the Heritage Park Additions combined shall not exceed thirty (30) units.

FINAL CONSIDERATION/PUBLIC HEARING –ANNEXATION, ZONING CHANGE AND FINAL PLAT HERITAGE PARK ADDITION

Chairman Yeager called for the public hearing on the final plat; the zoning change from the A-Agriculture zoning district to the R5-Residential, R10-Residential, RM10-Residential and P-Public zoning districts; and final consideration of the annexation of Heritage Park Addition. The proposed plat is 102 lots in eight blocks on 52.55 acres and is located north of

57th Avenue NW and west of North Washington Street (the SW¼ of Section 8, T139N-R80W/Hay Creek Township).

Mr. Tomanek gave an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time of development, if a temporary lift station is constructed to allow pumping to the existing municipal sanitary sewer system.
2. Permanent City sanitary sewer service cannot be extended to the property at this time due to a lack of sufficient easements and unannexed adjacent properties. The second option for sanitary sewer service would include the use of a temporary on-site septic tank and disposal of waste to an off-site disposal area.
3. The proposed annexation would not adversely affect property in the vicinity.
4. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed annexation is somewhat consistent with the master plan, other adopted plans, policies and planning practice; however, the area proposed for annexation is not directly adjacent to the existing corporate limit. It is reasonable to consider that the undeveloped land that separates the current corporate limits from the proposed annexed property would be developed in the future, thus providing a contiguous corporate boundary. At this time, Planning staff is not aware of any immediate plans for development by the adjacent land owners and it is unknown how long the undeveloped property would remain outside corporate limits.

Mr. Tomanek then gave the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan Update, which identifies the area as low density residential.
2. The proposed zoning change would generally be compatible with adjacent land uses. Adjacent land uses include existing large lot single-family rural residential to the north and east and agricultural uses to the south and west.
3. The subdivision proposed for this property would be annexed prior to development; therefore, the zoning change would not place an undue burden on public services. However, municipal sanitary sewer service cannot be extended to the property due to a lack of sufficient easements and unannexed adjacent properties.

4. The proposed zoning change would not adversely affect property in the vicinity, provided the appropriate landscape buffer yard materials are installed in conjunction with the development of the multi-family zoned lots along the east edge of the subdivision.
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.

Mr. Tomanek then gave the following findings for the final 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 subdivision generally conforms with the Fringe Area Road Master Plan for this area, which identified 57th Avenue NW as the east-west arterial roadway and Sonora Way as the north-south collector roadway for this section.
4. The proposed subdivision would generally be compatible with adjacent land uses. Adjacent land uses include large-lot single-family rural residential to the north and east and agricultural uses to the south and west.
5. The proposed subdivision would be annexed prior to development; however, sufficient easements are not in place at this time to allow for the extension of a sanitary sewer easement. The applicant/developer has indicated a plan to provide a temporary on-site septic tank intended to function as a private sanitary service. The tank would be installed, operated and maintained by the applicant/developer until such time as a municipal sanitary sewer line can be extended to the property. If such a system is approved, a maximum of thirty (30) residential units could be permitted in both Heritage Ridge Addition and Heritage Park Addition combined. Another option for sanitary service would include a temporary lift station and piping to connect with the existing municipal sanitary system.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision would generally be 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 said based on the above findings, staff recommends approval of the annexation of Heritage Park Addition and the zoning change from A – Agriculture to the R5 –

Residential, R10-Residential, RM15-Residential and P-Public zoning districts and the final plat of Heritage Park Addition (with the understanding that a development agreement will be drafted to address the issues related to the proposed final plat for Heritage Park Addition prior to forwarding to the Board of City Commissioners), with the following conditions:

1. City water service will be extended to the property along the 57th Avenue right-of-way to allow a connection to municipal water service.
2. Two options have been presented to handle the sanitary service to the development. Planning staff's preference is that such service provide a temporary lift station adequate to pump the sanitary sewer east along 57th Avenue and south along Washington Street to a connection with the existing municipal sanitary system. The second option is that a private sanitary sewer service be provided until such time as permanent City sanitary sewer service can be extended to the property. This private service would include a temporary community sewer holding tank and trucking of waste material to an off-site disposal area.
3. Until such time as a secondary access road has been provided and the extension of City sanitary sewer to serve the development is in place, the maximum number of residential units allowed in both the Heritage Ridge Addition and the Heritage Park Additions combined shall not exceed thirty (30) units.

Commissioner Seminary said he would like to address his desire to avoid donut holes in development of the city. Mr. Tomanek said this does create a gap in the development pattern of the area. He said the land in between this development and the city limits does not have any immediate development plans.

Commissioner Seminary asked if staff wants a temporary lift station why that is not being implemented. Mr. Tomanek said Keith Demke, Director of Public Works – Utility Operations, explained that temporary lines would be abandoned when permanent services are installed.

Commissioner Seminary asked if there is a lack in cooperation from the adjacent land owners. Mr. Tomanek said that there has been a history of developers shorting each other on utility easements and access and due to the lack of a sanitary sewer easement, unique engineered solutions were considered, but that is actually not the case here.

Chairman Yeager opened the public hearings on the proposals for Heritage Ridge and Heritage Park Additions.

Claus Lembke, 250 Northwest 57th Avenue, said he has an issue with the lack of information and communication regarding these proposals. He suggested moving the proposed water line away from the property lines and trees, to the south side under the existing power lines where houses cannot be built. He said to really avoid the leap frog development pattern between developments, a 2-year tax exemption tool to promote development should be offered by the City. Mr. Lembke asked how the utility extensions would be funded.

Mr. Tomanek explained that utility services will be paid by the developer, as property outside of City limits cannot be assessed for improvements within the City.

Commissioner Bitner said he has understood the policy to be that some costs can be put in abeyance until the adjacent property is annexed. Mr. Tomanek said the City has no immediate plans to annex any of the properties in Green Acre Estates.

Commissioner Bullinger said he has seen fees held in abeyance for up to 35 years. Commissioner Bullinger noted that when the County Engineer acquired the necessary right-of-way for 57th Avenue NW improvements it was solely for access purposes, not for utility extensions.

Chad Moldenhauer, Benchmark Developments, LLC, said a master plan was developed for this area so that buyers will know the concept ahead of time. He said the development will be higher-end properties, similar to those in Promontory Point, but will also cater to the 55 and older age groups with higher density, patio homes and twin and townhomes in Heritage Park. He said a landscape buffer is included along the east edge of Heritage Park, plus a walking trail and green space to improve aesthetics as planned with the Bismarck Parks and Recreation District. He said this development fits a lot of the current needs of the city and is something he can be proud of. He said he feels the majority of the annexation concerns have been diffused and he understands the concerns with the higher density, but the density in the area of the twinhomes is less than that of an R5 zoning district so that should not be intimidating. He said he is willing to limit development until secondary access is implemented and that moving the water line to the south side of the plat is not much of an option and would be in place faster if it were on the north side. He said a temporary holding tank for sanitary sewer would be installed in-lieu of traditional sanitary sewer mains initially, but would be replaced with a sanitary sewer main when the required easement is available.

Pat Schweitzer, 410 Greenfield Lane, said his concerns are of access onto 57th Avenue NW and not wanting access allowed through Green Acres Estates. He said it is hard for him to believe anything he hears because so many other parts of the City have been ruined in the past.

Jason Petryszyn, Swenson, Hagen & Co., said secondary access from 57th Avenue NW to 15th Street NW is on the Burleigh County Highway Department's schedule for improvements in the next year, but there are not any plans in the near future for a connection through Green Acres Estates. He said the proposed sanitary plans are for the maximum amount of development, that there will not be any paved roads until next year with stormwater and sewer services being installed in the fall of 2015.

Commissioner Bitner asked how the sewage and wastewater from 30 homes will be stored and moved.

Mr. Petryszyn replied that a box structure will collect a capacity of about 10 days and then it would need to be pumped out by a truck and hauled to the wastewater treatment plant in southwest Bismarck. He said there will possibly be multiple stops made in order to adhere to

load restriction requirements and he has worked with Mr. Demke to calculate average usage and overestimated to best prepare buyers up front for expected costs. Concerns were expressed regarding weight restrictions on large vehicles that would increase the frequency of trips to and from the site during spring months.

There being no further comments, Chairman Yeager closed the public hearing.

Commissioner Seminary said he appreciates the effort made with this concept and is confident it will be appropriate when it is ready; however the development is not ready at this time with all of the temporary fixes needed. He said this development would be an exception to orderly development and would amplify gaps in development. He said it would not do the community the justice it deserves for implementing orderly development.

Commissioner Bitner said the development could be beautiful, but he has concerns of the costs incurred on the public and the infrastructure not being ready at this time.

Additional written comments received are attached as Exhibit K.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to deny the annexation, the zoning change from the A-Agriculture zoning district to the R5-Residential zoning district and final plat of Heritage Ridge Addition. Commissioner Donahue seconded the motion and the request was denied with Commissioners Bitner, Donahue, Seminary, Waldoch and Yeager voting in favor of the motion. Commissioners Atkinson, Bullinger, Lee and Selzler opposed the motion.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to deny the annexation, the zoning change from the A-Agriculture zoning district to the R5-Residential, R10-Residential, RM15-Residential and P-Public zoning districts and final plat of Heritage Park Addition. Commissioner Atkinson seconded the motion and the request was denied with Commissioners Bitner, Donahue, Seminary, Waldoch and Yeager voting in favor of the motion. Commissioners Atkinson, Bullinger, Lee and Selzler opposed the motion.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT METRO INDUSTRIAL PARK THIRD SUBDIVISION

Chairman Yeager called for the public hearing on the final plat and zoning change from the A – Agricultural and MA-Industrial zoning districts to the MA-Industrial zoning district for Metro Industrial Park Third Subdivision. The proposed plat is three lots on 8.8 acres and is located south of Bismarck, south and west of ND Highway 1804/University Drive and north of 48th Avenue SE (a replat of Lot 1, Block 2 and Lots 1, 2, 9, 10 and 11, Block 2, Replat of Metro Industrial Park Subdivision and part of the E½ of the SE¼ of Section 22, T138N-R80W/Lincoln Township).

Ms. Wollmuth gave an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) of the 2014 Growth Management Plan, which identifies this area as industrial.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include the Bismarck Municipal Airport to the north and northeast, undeveloped A-Agriculture zoned property to the northwest and west, and industrial uses to the east and south.
3. The proposed subdivision would be served by South Central Regional Water District; therefore the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not have an adverse impact on 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 acceptable planning practice.

Ms. Wollmuth then gave the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The stormwater management plan has been approved by the City Engineer with written concurrence from the County Engineer.
3. The proposed subdivision is consistent with the 2015 Fringe Area Road Master Plan for this area, which identifies the extension of Centurion Drive as a collector roadway for this area.
4. The proposed subdivision would be generally compatible with adjacent land uses. Adjacent land uses include the Bismarck Municipal Airport to the north and northeast, undeveloped A-Agriculture zoned property to the northwest and west, and industrial uses to the east and south.
5. The proposed subdivision would be served by South Central Regional Water District and would have direct access to extensions of Centurion Drive and Skyhawk Avenue; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.

7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations, provided that a waiver is granted by to waive the requirement to pave extensions of Centurion Drive and Skyhawk Avenue located within the proposed subdivision.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the zoning change from the A-Agricultural and MA-Industrial zoning districts to the MA-Industrial zoning district and final plat of Metro Industrial Park Third Subdivision, including granting of a waiver from the requirement to pave the extensions of Centurion Drive and Skyhawk Avenue located within the proposed subdivision and a waiver to the requirement to install a temporary cul-de-sac along the western portion of Centurion Drive.

Chairman Yeager opened the public hearing.

Randy Lambrecht, United Tribes Technical College, said he does not oppose this development, but he is asking that it be continued as he has concerns with the stormwater management plan. The City has always worked with the college to ensure adequate transitions in development are being made and to allow them to acquire and maintain their own land prior to the college developing their own stormwater management plan.

Commissioner Bitner asked how much time would be needed to devise a stormwater management plan that included the southern portion of the UTTC campus. Mr. Lambrecht said their original intent was to move south into the Apple Creek drainage system, but development at the time of the Missouri River flood was a concern. He said there is not a viable solution at this time so he cannot give a timeframe given the existing water issues.

Commissioner Bitner said given the lot size he feels the plan that was approved is adequate and he could not support a motion to continue this proposal indefinitely.

Commissioner Bullinger said the stormwater management plan provided showed less runoff than what is existing in the area because of the proposed development of a detention pond.

Ron Koch, 600 48th Avenue SE, said he owns the adjacent 80 acres where water is pumped onto and his engineer has concerns of needing to add a drainage ditch.

Dave Lutzky, Ulteig Engineering, said the plan is to detain more stormwater across on the property so that the impact is less on the neighboring properties.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to approve the zoning change from the A-Agricultural and MA-Industrial zoning districts to the MA-Industrial zoning district and final

plat of Metro Industrial Park Third Subdivision, including granting of a waiver from the requirement to pave the extensions of Centurion Drive and Skyhawk Avenue located within the proposed subdivision and a waiver to the requirement to install a temporary cul-de-sac along the western portion of Centurion Drive. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT
HAMILTON’S FIRST ADDITION FIRST REPLAT**

Chairman Yeager called for the public hearing on the minor subdivision final plat and zoning change from the Conditional RM15 – Residential and PUD-Planned Unit Development zoning districts to the R10 – Residential, RM15-Residential and PUD-Planned Unit Development zoning districts on Hamilton’s First Addition First Replat. The proposed plat is 22 lots on 8.95 acres and is located in northeast Bismarck west of Centennial Road along the east side of Hamilton Street and the south side of Calgary Avenue.

Mr. Tomanek gave an overview of the request, including the following findings for the zoning change:

1. The proposed zoning change is outside of the area covered by the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan.
2. The proposed zoning change would generally be compatible with adjacent land uses, on the condition that additional separation is provided between the proposed twin homes and the proposed industrial uses to the south. Existing adjacent land uses include developing single-family homes to the east and industrial/shop uses to the south, industrial and multi-family uses to the west, and Legacy High School to the north across Calgary Avenue. Currently a 50-foot-wide, 6-foot-high earthen berm with trees and shrubs separates the proposed commercial shop uses from the developing single-family dwellings to the east. A 50-foot-wide buried pipeline easement would separate the proposed commercial shop buildings from the proposed apartments and twin homes. In addition to the physical separation, the applicant is proposing to provide landscaping on both sides of the pipeline easement to help separate the two non-compatible land uses.
3. The property is annexed and services would be extended in conjunction with development; 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, provided the required landscape buffer yard is installed in conjunction with site development.

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.

Mr. Tomanek then gave the findings for the final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has not approved by the City Engineer.
3. The property is annexed and services would be extended in conjunction with development; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed subdivision would generally be compatible with adjacent land uses, on the condition that additional separation is provided between the proposed twin homes and the proposed industrial uses to the south. Existing adjacent land uses include developing single-family homes to the east and industrial/shop uses to the south, industrial and multi-family uses to the west, and Legacy High School to the north across Calgary Avenue. Currently a 50-foot-wide, 6-foot-high earthen berm with trees and shrubs separates the proposed commercial shop uses from the developing single-family dwellings to the east. A 50-foot-wide buried pipeline easement would separate the proposed commercial shop buildings from the proposed apartments and twin homes. In addition to the physical separation, the applicant is proposing to provide landscaping on both sides of the pipeline easement to help separate the two non-compatible land uses.
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 zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Tomanek said based on the above findings, staff recommends denial of the minor subdivision final plat and zoning change request for Hamilton's First Addition First Replat, with the understanding that Planning staff would be supportive of the initial master plan provided in April 2014 with the applicant's initial zoning change request to amend the zoning district from PUD – Planned Unit Development to Conditional RM15, in which the maximum number of twin homes was four and the maximum number of 12-unit apartment buildings was four, for a total of 56 units.

Chairman Yeager opened the public hearing.

Commissioner Bitner asked if there is a road proposed over the existing pipeline easement. Mr. Tomanek said it is a turnaround for emergency access purposes since the drive lane is longer than 125 feet.

Commissioner Bullinger asked if some of the shop space was given up to add landscaping. Mr. Tomanek said there is less shop space compared to the original proposal to provide room for more landscaping.

Commissioner Atkinson asked if there is going to be a berm on the east side of the plat. Mr. Tomanek said it is a landscape buffer proposed by the developer; the berm would be removed because it will no longer be required since the two adjacent land uses would be low-density residential.

Dave Patience, Swenson, Hagen & Co. said he was under the impression the landscape buffers in the original proposal were not adequate enough between the residential and industrial zoning districts because 50 feet was required. He said the pipeline would allow a four foot tall berm but not six feet, so he thought the 50 foot buffer was acceptable.

Commissioner Bitner asked if the berms were supposed to include trees to screen further. Mr. Patience said he did not understand that as being a requirement.

Mike Baumgartner, Michael Baumgartner Construction, Inc., said he is trying to transition better than with shops and to make the best lot available for the cost. He said he would like to use up the easement space as much as possible in order to stay affordable and maximize the lot.

Commissioner Bullinger asked if the existing berm is going to be removed. Mr. Baumgartner said it will be removed and stop at the pipeline easement then move west around the shops to match the east side of the development.

Commissioner Waldoch said if the density was slightly less and the buffer was moved closer she would support the concept.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to continue the public hearing on the minor subdivision final plat and zoning change from the Conditional RM15-Residential and PUD-Planned Unit Development zoning districts to the R10-Residential, RM15-Residential and PUD-Planned Unit Development zoning districts for Hamilton's First Addition First Replat. Commissioner Seminary seconded the motion and the request was continued with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT
LOT 1A OF LOT 1, BLOCK 1, SUNRISE TOWN CENTRE ADDITION**

Chairman Yeager called for the public hearing on the special use permit to allow a drive-through window and ATM kiosk in conjunction with a financial institution on Lot 1A, Block 1, Sunrise Town Centre Addition. The property is located in northeast Bismarck, along the south side of Saratoga Avenue between Centennial Road and Yorktown Drive.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. A financial institution with a drive-through window is allowed as a special use in the CG - Commercial zoning district, provided specific conditions are met. The proposed drive-through window and ATM kiosk meet all six provisions outlined in Section 14-03-08(4)(g) and meets the required vehicle stacking outlined in Section 14-03-10(2) of the City Code of Ordinances (Zoning). Copies of both sections the ordinance are attached.
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 use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area.
5. Adequate public facilities and services are in place.
6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
7. Adequate measures have been taken to minimize traffic congestion in the public streets and provide for appropriate on-site circulation of traffic.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit to allow a drive-through window and ATM kiosk in conjunction with a financial institution on Lot 1A, Block 1, Sunrise Town Centre Addition, with the following conditions:

1. The construction and operation of a drive-through and ATM kiosk window must meet all applicable requirements for such a use in the CG- Commercial zoning district.
2. Development of the site must generally conform to the site plan submitted with the application.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the special use permit to allow a drive-through window and ATM kiosk in conjunction with a financial institution on Lot 1A, Block 1, Sunrise Town Centre Addition, with the following conditions: 1. The construction and operation of a drive-through and ATM kiosk window must meet all applicable requirements for such a use in the CG- Commercial zoning district and 2. Development of the site must generally conform to the site plan submitted with the application. Commissioner Seminary seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

Citing a potential conflict with the next agenda item, Commissioner Bitner excused himself from the meeting at this time.

**PUBLIC HEARING – SPECIAL USE PERMIT
LOT C IN THE NE1/4 AND SE1/4 OF SECTION 5, T138N-R79W/APPLE CREEK
TOWNSHIP**

Chairman Yeager called for the public hearing on the special use permit to increase the maximum side wall height of an accessory building for a single-family rural residence located on a parcel forty (40) acres or larger in the agricultural zoning district to sixteen (16) feet. The property is located east of Bismarck, between County Highway 10 and Apple Creek Road, along the west side of 80th Street SE.

Ms. Wollmuth gave an overview of the request, including the following findings:

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 Apple Creek Township Board of Supervisors has recommended approval of the proposed special use.
6. The request is compatible with adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit to increase the maximum side wall height of an accessory building for a single-

family rural residence located on a parcel forty (40) acres or larger in the agricultural zoning district to sixteen (16) feet on Lot C of part of the NE1/4 and part of the SE1/4 of Section 5, T138N-R79W/Apple Creek Township.

Chairman Yeager opened the public hearing.

Written comments received on this item are attached as Exhibit L.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to approve the special use permit to increase the maximum side wall height of an accessory building for a single-family rural residence located on a parcel forty (40) acres or larger in the agricultural zoning district to sixteen (16) feet on Lot C of part of the NE1/4 and part of the SE1/4 of Section 5, T138N-R79W/Apple Creek Township. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

Commissioner Bitner returned to the meeting at this time.

**PUBLIC HEARING – SPECIAL USE PERMIT
N1/2 OF THE NW1/4 OF SECTION 5, T138N-R79W/APPLE CREEK TOWNSHIP**

Chairman Yeager called for the public hearing on the special use permit to increase the total square feet of accessory buildings for a single-family rural residence located on a parcel forty (40) acres or larger in the agricultural zoning district to 7,380 square feet and to increase the maximum side wall height of the accessory building to sixteen (16) feet. The property is located east of Bismarck, in the southeast quadrant of the intersection of County Highway 10 and 66th Street NE.

Ms. Wollmuth gave an overview of the request, including the following findings:

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 Apple Creek Township Board of Supervisors has recommended approval of the proposed special use.
6. The request is compatible with adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit to increase the total square feet of accessory buildings for a single-family rural residence located on a parcel forty (40) acres or larger in the agricultural zoning district to 7,380 square feet and to increase the maximum side wall height of the accessory building to sixteen (16) feet on the N½ of the NW¼ of Section 5, T138N-R79W/Apple Creek Township.

Chairman Yeager opened the public hearing.

Written comments received on this item are attached as Exhibit M.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the special use permit to increase the total square feet of accessory buildings for a single-family rural residence located on a parcel forty (40) acres or larger in the agricultural zoning district to 7,380 square feet and to increase the maximum side wall height of the accessory building to sixteen (16) feet on the N½ of the NW¼ of Section 5, T138N-R79W/Apple Creek Township. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT OFF-STREET PARKING

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to off-street parking. Ms. Lee explained that the proposed amendment would clarify the applicability of the off-street requirements for new developments, expansions and alterations and changes of use. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the proposed zoning ordinance draft language and the recommendation of staff, Commissioner Lee made a motion to approve the zoning ordinance text amendment relating to off-street parking as recommended by staff. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner,

Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT
SPECIAL USES/TEMPORARY USES**

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to special uses/temporary uses. Ms. Lee explained that the proposed amendment would add provisions for temporary retail sales in the CA, CG, CR and MA zoning districts as a special use. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the proposed zoning ordinance draft language and the recommendation of staff, Commissioner Atkinson made a motion to approve the zoning ordinance text amendment relating to special uses/temporary uses as recommended by staff. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT
SPECIAL USES/DRIVE-IN/DRIVE-THROUGH ESTABLISHMENTS**

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to special uses/drive-in/drive-through establishments. Ms. Lee explained that the proposed amendment would add a provision to allow for drive-through pharmacy uses in the CA-Commercial zoning district.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the proposed zoning ordinance draft language and the recommendation of staff, Commissioner Lee made a motion to approve the zoning ordinance text amendment relating to special uses/drive-in/drive-through establishments as recommended by staff. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT
CR-COMMERCIAL DISTRICT/PARKING & LOADING**

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to CR-Commercial District/Parking and Loading. Ms. Lee explained that the proposed amendment would clarify off-street parking and loading requirements in the CR-Commercial zoning district and make them consistent with previous changes elsewhere in Title 14.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the proposed zoning ordinance draft language and the recommendation of staff, Commissioner Lee made a motion to approve the zoning ordinance text amendment relating to CR-Commercial district/parking & loading as recommended by staff. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Commissioner Lee said he received a letter of concern regarding Midwest Business Park Addition from Jan Wangler. He asked if the Planning and Zoning Commission needs to address the letter at this time. Mr. Tomanek said he has conferred with Charlie Whitman, City Attorney, regarding the northern terminus of the landscaped berm. Mr. Tomanek noted that the purpose of the berm is to screen views into the site and that the consulting engineer hired by the developers of Midwest Business Park Addition determined the appropriate location of the berm based on the existing grade of 52nd Street. Mr. Tomanek stated that he and Attorney Whitman had both conveyed this message to Donovan Voeller, an adjacent homeowner. Mr. Tomanek added that the decision by the Board of City Commissioners was finalized with the plat request in 2014 and that Mr. Voeller was told that he could contact city commissioners to request the Board of City Commissioners reconsider their previous decision. Mr. Tomanek closed by stating that no action is necessary by the Planning and Zoning Commission.

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:46 p.m. to meet again on May 27, 2015.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Lee Yeager
Chairman

April 29, 2015 -- Bismarck Planning and Zoning Commission Meeting

Comments from: Lew Dendy, 1201 Eagle Crest Loop, Bismarck, ND 58503 [REDACTED]

Re: Ash Coulee Estates Addition, by Verity Homes of Bismarck, LLC

Commissioners:

The design of the Verity Homes Ash Coulee Estates Addition, as represented on the March 11, 2015 replat prepared by Swenson, Hagan & Company, has a serious design flaw that jeopardizes the lives of those who will reside in and visit that area. I encourage Commission disapproval of this addition.

For many decades the Bismarck Planning and Zoning Commission has wisely approved residential developments that provide 40-foot wide streets and sidewalks that support the safety of both vehicle occupants and pedestrians. Forty-foot wide streets provide adequate room for parking on each side and two lanes of opposing vehicular traffic in between. Sidewalks provide a safe means for pedestrians to move through the area.

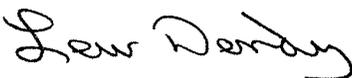
The design for the Ash Coulee Estates Addition provides neither of these vital safety features. Instead, the Ash Coulee Estates Addition is planned with narrow 30-foot wide streets and no sidewalks. With parking permitted on both sides of the street, only a single driving lane will remain in the center of the street. This single driving lane will be used by vehicles traveling in both directions, making head-on confrontations routine. The building density in the area (37 houses on the 17 original lots) will ensure that most of the on-street parking is routinely occupied. Drivers at the residential speed limit of 25 miles per hour will approach each other at a closure rate of 50 miles per hour and they will find few options to safely pass each other. There are a few streets in Bismarck that face this problem now, but those streets were built decades ago. Bismarck Planning and Zoning Commissioners in recent decades have chosen much more wisely to approve 40-foot wide streets, providing adequate residential parking and safe vehicle passage. The narrow streets planned for the Ash Coulee Estates Addition are a serious safety flaw that should not receive the Commission's approval.

But an even more serious safety flaw with this addition is the absence of any sidewalks. The houses are set back only 20 feet from the street leaving no room for sidewalks and no possibility of adding them in the future. With a truck parked in a home's driveway, one bumper will be inches from the garage door and the other will be over the street curb. For residents moving through this neighborhood on foot, their only available choice will be to walk down the single driving lane in the street. Mixing head on traffic and pedestrians in a single driving lane is literally a fatal flaw to this design. Most of the decisions in designing a housing development such as this concern cost. This design appears to value cost above other factors and sacrifices the safety of our children. I don't think the Commission intends to jeopardize the safety of our children. Please, reject this addition. If unable to do so, at least require the inclusion of 40-foot wide streets and adequate sidewalks.

If you still doubt the danger to Bismarck's citizens presented by this addition, please drive through Verity's/Red Door's similar Madison Village Addition, it's a couple of blocks southwest of the Tractor Supply Company (northwest of the north Walmart).

But please – drive very slowly and watch for the children.

Sincerely,



Lew Dendy

Hilary Balzum

From: Planning - General Mailbox
Sent: Tuesday, April 28, 2015 4:03 PM
To: Jason Tomanek; Jenny Wollmuth; Kim Lee; Carl Hokenstad; Hilary Balzum
Subject: FW: Ash Coulee Addition

From: Durwood G. [mailto:████████████████████]
Sent: Tuesday, April 28, 2015 12:33 PM
To: Planning - General Mailbox
Subject: Ash Coulee Addition

My name is Durwood Geier and I own Geier Homes. I have built several custom homes in Eagle Crest 1st Addition and prior to designing and building these homes I always reviewed the covenants that they would be subject to as residents of Eagle Crest. We also discussed what the plans were for the surrounding area and whether there was anything planned that could negatively affect their investment. That's why I, as well as the people I built homes for, are concerned that if you allow the rezoning of this piece of property you will definitely be allowing something to be done that will negatively affect not only their property but many other peoples property in the surrounding area. That's why I ask that you deny the rezoning request for Ash Coulee Addition.

Thanks for your work!

Durwood D. Geier
Geier Homes

EAGLE CREST DEVELOPMENT
101 SLATE DRIVE
BISMARCK, ND 58503



April 28, 2015

Planning Commission
221 N 5th Street
Bismarck, ND 58501

RE: Proposed plat-Ash Coulee Estates

To Planning Commissioners:

This letter is regarding the zoning change requested for parcel "Ash Coulee Estates Addition."

I understand the cities position of wanting to see higher density housing. However, this is an in-fill area surrounded by up-scale homes. It would be an injustice to allow any lot to be less than 70' wide.

This simply is not an area for a plat like proposed. These are 2-story homes on 33' lots on a hillside.

The city owes harmony to adjacent neighbors. Please maintain the integrity of the area and keep the lot sizes larger and the price point higher. This is an area meant to support larger housing!

Sincerely,

A handwritten signature in cursive script that reads "Jack Knutson".

Jack Knutson
Eagle Crest Development

Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, April 29, 2015 8:19 AM
To: Kim Lee; Jenny Wollmuth; Jason Tomanek; Hilary Balzum; Carl Hokenstad
Subject: FW: April 29th hearing - Ash Coulee Development

From: Alison Harrington [mailto:████████████████████]
Sent: Wednesday, April 29, 2015 7:28 AM
To: Planning - General Mailbox
Subject: April 29th hearing - Ash Coulee Development

Dear Ms. Lee

I am writing in response to the letter dated April 17th, 2015 that describes a proposed housing project on Ash Coulee. The proposal calls for a change in zoning from R-5 Residential to R –r Residential and PUD – Planned Unit Development to allow the construction by Verity Homes of 37 homes on this parcel of land. I strongly object to the changes in zoning and locating high density housing in an area zoned for R - 5 Residential which allows for up to 5 houses per acre. While the proposal calls for single family homes, they are smaller than those of Eagle Crest and there are more per acre which means high density on this parcel.

The Horizon Heights development and the Eagle Crest developments are all zoned for R-5 Residential which has led to orderly and manageable development in the area around Horizon Middle School and the newly built Liberty Elementary. In addition, the housing that has been built has been consistent with the housing north of Century and west of Washington Ave, single family home plots that are on about ¼ of an acre. Currently there is no high density housing in this area apart from the apartment building build across from the new elementary school on N Washington.

I support orderly development and growth in Bismarck and have enjoyed many of the benefits that have accompanied that growth including the new restaurants, shops, schools, and extra-curricular activities. However, jamming 37 homes, creating an “urban development” in a residential “suburban like” area that was not designed to handle the increased population is counter intuitive. The development around Horizon Middle School was clearly designed to be a suburban neighborhood meaning single family homes with yards, garages, and changing the zoning to accommodate a builders project is not in the best interest of this well established neighborhood. Bismarck needs a more reasoned approach that identifies areas where high density growth is appropriate, for example near major thoroughfares that can handle increased traffic, near services such as grocery stores, transportation, convenience stores, etc.

Another concern that needs to be addressed is how can zoning be changed so quickly? Zoning is developed in part to manage growth and to let the buyers in the surrounding developments understand the nature of their neighborhood. If I buy in an area zoned for single family homes with a density of up to 5 per acre, then I expect development at that pace. This possible zoning change is in my backyard

and it concerns me. When we purchased the land it was understood it was and R-5 Residential with the same type of homes that are in Eagle Crest. We would not have purchased it if we knew it was a PUD development in our backyard. Now I have to worry about the safety of my kids in my own backyard and I have concern of resale value of my home. The current property values will go down indeed. To change the zoning at the request of a developer to accommodate more housing per acre changes the game and makes zoning unreliable and unbelievable. If zoning changes, it clearly puts the needs of the developer ahead of the existing neighborhood. I hope the city of Bismarck puts the needs of the community first. The zoning should stay as it is, R-5 Residential. Why the need for change? It is not needed for the community, that is for certain.

I would appreciate the opportunity to discuss this project with you and will be available to discuss this further at any time.

Thank you for your time.

Alison Harrington
1420 Talon Rd


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Binarch planning + zoning comm.

R.E. Ash Coulee estates addition - zoning change

The areas along Ash Coulee dr, North, South and east of this area are all filled with homes that are of the same quality and profile. This proposed development sounds like it could be of a different type of homes and and "eye sore" and distraction that would lower the value of the other homes in this surrounding area.

I strongly object to this zoning change - There is also a problem with access to this area. Ash Coulee dr is not designed to handle more traffic. The city needs to improve the road etc before any more development in this area and re-zoning what is already there is very bad planning.

Respectfully -

Harold Kaech
5000 Cornice dr
Asus NID 58503

Sandra Bogaczyk

From: Gasper, Sabina <[REDACTED]>
Sent: Monday, April 20, 2015 9:18 AM
To: Planning - General Mailbox
Cc: 'Frank' ([REDACTED])
Subject: Hearing, April 29 - Ash Coulee development

Importance: High

Dear Ms. Lee,

I am writing in response to the letter dated April 17, 2015 that describes a proposed housing project on Ash Coulee. The proposal calls for a change of zoning from R-5 Residential to R-r Residential and PUD-Planned Unit Development and to allow the construction by Verity Homes of 37 homes on this parcel of land. I strongly object to ad hoc changes in zoning and locating high density housing in an area zoned for R-5 Residential which allows for up to 5 houses per acre. While the proposal calls for single family homes they are smaller than those of Eagle Crest and there are more per acre which means high density on this parcel.

The Horizon Heights and adjoining Eagle Crest developments are all zoned as R-5 Residential which has led to orderly and manageable development in the area around Horizon Middle School. In addition, the housing that has been built is consistent with housing north of Century and west of Washington Aves, namely single family homes on plots that are about ¼ acre. In other words, there is no high density housing in this area apart from the apartments being built across from the new elementary school.

I support orderly and planned growth of Bismarck and have enjoyed the benefits that accompany the growth – new restaurants, shops, cultural activities and broad community support for good schools and extra-curricular activities. However, the notion that we need to contain “urban sprawl” by jamming 37 homes in a residential area that was not designed to handle the increased population is counter intuitive. The development around Horizon Middle School was clearly designed to be a “suburban” neighborhood – single family homes, with yards, garages – changing the zoning to accommodate a builder’s project flies in the face of good development. Bismarck needs a more reasoned approach that identifies areas where high density growth is appropriate, eg near major thoroughfares that can handle the increased traffic, near services such as gas stations, grocery stores and transportation and then the development of plans to build accordingly.

Before this project should be considered by the public the following should available:

- **An environmental impact study that addresses the following:**
 - **Is Ash Coulee adequate to handle the increased traffic that 37 new homes would bring? Consider at least 2 cars per home which means 64 additional cars on Ash Coulee each day.**
 - **What is the anticipated water use of these new homes? Are the wastewater treatment facilities adequate?**
 - **Do new sewer lines have to be dug?**
 - **Liberty Elementary was oversubscribed when it opened, what is the expected increase in enrollment? What are the plans to handle that increased enrollment?**
 - **What will be the impact of the construction equipment on the surrounding area? The roads are narrow, designed for cars not heavy equipment. How will this be addressed?**
 - **What is quality of life impact on the neighborhood? How will property values be affected?**

The other question that needs to be addressed is how can zoning be changed so quickly? Zoning is developed in part to manage growth and to let buyers understand the nature of their neighborhood. If I buy next to a commercially zoned lot then I can expect commercial building, if I buy in an area zoned for single family homes with a density of up to 5 per acre, then I expect development at that pace. To change the zoning at the request of a developer to accommodate more housing per acre changes the game mid-stream and makes zoning unreliable and unbelievable and clearly puts the needs of the developer ahead of the existing neighborhood.

Lastly, this same project has been before the planning board before and since it is again the subject of a hearing, can it be assumed the project did not get community support? If so, then why are you revisiting it? I would also ask that you come out to the site, take a look at the roads, the homes and the development north of this site. You will see that this proposal is not consistent with the current development plans and would be a blight on the neighborhood.

I would appreciate the opportunity to discuss this project with you and will be calling your office to discuss further.

Kind Regards,
Sabina Gasper
1333 Golden Eagle Ln


Hilary Balzum

From: Planning - General Mailbox
Sent: Friday, April 24, 2015 9:01 AM
To: Kim Lee
Cc: Jason Tomanek; Hilary Balzum
Subject: FW: Ash Coulee development

From: Marci Olson [mailto: [REDACTED]]
Sent: Thursday, April 23, 2015 9:37 PM
To: Planning - General Mailbox
Subject: Ash Coulee development

Dear Ms. Lee,

Since I will be out of town on the date of the meeting, scheduled April 29, 2015, I am emailing you to express my opinion. I am writing in response to the letter dated April 17, 2015 that describes a proposed housing project on Ash Coulee. The proposal calls for a change of zoning from R-5 Residential to R-5 PUD which would allow Verity Homes to construct 37 homes on this parcel of land.

I strongly **object** to these proposed changes in zoning. The proposal does call for single family homes, but they are considerably smaller than those of the Eagle Crest addition and this proposal also allows more homes per acre. I have lived in this neighborhood for 10 years and the development that has occurred up to this point has been orderly and consistent with all the single family homes north of Century and west of Washington Ave. There has not been high density housing in this area.

The area around Horizon Middle School was designed to be a "suburban" neighborhood, single family homes with yards and garages. Changing the zoning is clearly benefiting the builder, not the quality of the neighborhood, nor does it make sense for good development.

One concern I have is the increase in traffic on Ash Coulee, which has no street lights, no curb and gutter and is already difficult to navigate during school hours and activities. What about the impact on sewer and water treatment? How will this affect the value of our homes in the area?

This same project was brought to the planning board before and I am wondering why it is being revisited? Have you been out to Eagle Crest to look at the current development, as you would be able to clearly observe this proposed project would not be consistent with the current development.

I would be happy to discuss this with you after my return to Bismarck, but I didn't want to miss the opportunity to express my concerns before the upcoming meeting.

Again for the various reasons I have expressed above, I am suggesting this proposed project be denied.

Sincerely,
Marcia Olson

1339 Golden Eagle Ln



Hilary Balzum

From: Planning - General Mailbox
Sent: Monday, April 27, 2015 1:10 PM
To: Hilary Balzum; Kim Lee; Jason Tomanek; Jenny Wollmuth; Carl Hokenstad
Subject: FW: Ash Coulee development Hearing, April 29

From: Jeremy Skoglund [mailto:jeremy.skoglund@cityofbismarck.com]
Sent: Saturday, April 25, 2015 1:57 PM
To: Planning - General Mailbox
Subject: Ash Coulee development Hearing, April 29

Dear Ms. Lee,

I am writing in response to the proposed housing project on Ash Coulee and the request for a zoning change from R5-Residential zoning to R5-Residential and PUD-Planned Unit Development zoning. My wife and I recently moved to Bismarck and have been very impressed with the amount of planning that has gone into the developments around the community. We particularly liked the planning that went into the area around the proposed housing project that has given the area a suburban neighborhood feel. Prior to purchasing our home in the Eagle Crest development, we verified what the surrounding area was zoned for, so we could understand what to expect for developments in the future.

I strongly object to the request to change zoning in this area of Bismarck, especially for property that is so close to the surrounding well-planned developments. While I understand the need for a developer to try and get the most out of a development, it seems to me that there are better areas around the community for a development that allows for more units per acre. This proposed zoning could substantially affect the value of the homes in the area, which are typically \$350,000 to \$450,000 or higher. The homes the developer is proposing for this area would run \$217,000 to \$240,000, based on what the developer has for sale in other areas of Bismarck.

I believe the homes that Verity Homes is proposing for Ash Coulee are homes that belong more in their other developments, such as the area south of Canada Avenue. The Canada Avenue area includes similar sized homes and lots which are close to a major thoroughfare that would better accommodate this development.

I appreciate the opportunity to voice our concerns and know that the Bismarck Planning & Zoning department will continue to provide orderly and planned growth for the community. I thank you for your hard work.

Sincerely,

Jeremy Skoglund

1258 Eagle Crest Loop



Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, April 29, 2015 2:32 PM
To: Kim Lee; Hilary Balzum; Jenny Wollmuth; Jason Tomanek; Carl Hokenstad
Subject: FW: Ash Coulee Estates Addition

From: Splonskowski, Shane R [mailto:████████████████████]
Sent: Wednesday, April 29, 2015 1:50 PM
To: Planning - General Mailbox
Subject: Ash Coulee Estates Addition

I am writing you to let you know I am NOT in agreement with the rezoning of the Ash Coulee Estates Addition for numerous reason.

Shane Splonskowski
Eagle Crest Resident

American Family Insurance Company | American Family Life Insurance Company | American Family Mutual Insurance Company | American Standard Insurance Company of Ohio | American Standard Insurance Company of Wisconsin | Midvale Indemnity Company | Home Office - 6000 American Parkway | Madison, WI 53783

*If you are not the intended recipient, please contact the sender and delete this e-mail, any attachments and all copies

Exhibit J.

To: Bismarck Community Development Department
RE: Disagreement of the proposed rezoning - Ash Coulee Estates Addition

Fax: 701-222-6450

I am writing you to let you know I do NOT agree with the proposed rezoning to accommodate the request of Verity Homes, Daryl and Joan Scofield, and Leona Kohler. At first glance it looked like they are trying to immolate the spacing in a trailer home park not a housing development.

I strongly object the proposed changes which would locate high density housing in an area zoned for R-5 residential. You also have to take into consideration the traffic issue that are already a concern for the area near the Horizon School not to mention the 127 lots that are available to be built on directly west of the this planned development. Ash Coulee Road is the only way in and out of the community. The roadway is currently in need of repair and would need to be widend and improved to accomadate increased traffic flow with the current building are in the works not to mention another 37 homes.

The large majority of the all housing in the area consists of homes located on $\frac{1}{4}$ of an acre or large which would consist of 4 homes per acre. Verity homes wants to exceed this by 1.4 homes per acre.

This housing increase would already stress the already overcrowded new elementary school.

Are there plans to build another school in the area?

- **If not, how to you plan on handling the increased enrollment?**

Are there plans to widen the road?

Are there plans to build a secondary access road?

Do new sewer lines need to be dug?

How will the increase of heavy equipment using the road be addressed?

I do NOT agree with any changes to the zoning in this area to accommodate the profit margins of a builder.

Sincerely,

Concern Citizen

Jason Tomanek

From: Planning - General Mailbox
Sent: Thursday, April 23, 2015 9:13 AM
To: Kim Lee; Jenny Wollmuth; Jason Tomanek; Steve Saunders; Susan Redman; Carl Hokenstad
Cc: Hilary Balzum
Subject: FW: Haycreek Estates

From: Don Ronsberg [mailto: [REDACTED]]
Sent: Wednesday, April 22, 2015 6:02 PM
To: Planning - General Mailbox
Subject: Haycreek Estates

Dear Bismarck Planners: My wife and I moved out to Hay Creek Estates in 2006 (Adobe, Valley Vista, Restful Drive, Sonora). It was a compromise between me living out in the country and my wife living within city limits. We both love this area because it gave us a bit of both. This was to be our "forever" home. Now, the city is moving closer every year. We understand the aspect of growth. We understand the reality of this oil boom that has brought it. But growth unchecked is irresponsible. Every year the houses, churches, school(s), commercial areas keep coming at us. Where are the parks? Where are the greenways? How about a Frisbee golf course or biking / walking trail? And now, another new development planned, as we watch the construction of a 5 story multi-wing apartment complex almost in our back yard. Soon, there will be paved roads that connect these areas to us. More traffic, more speeding (and yes, it is already happening even where we are at). We are finding (and not just my household) more and more beer, alcohol bottles and other trash from the "night" crowd (and yes, we have called the Sheriffs Dept).

Please slow it down, or move it where it's wanted, further North across 1804, NE or East. I don't speak for just myself either. Every neighbor I speak with feels the same way. I would speak at your upcoming commission meeting but I will be out of town on 29 April. So I'm speaking here and now.

We moved out here to be more isolated. Where we can walk our dogs without leashes, let our kids (or grandkids) ride their bikes without worrying about them getting hit by a careless, speeding car, where we can still see the stars at night and hear the coyotes howling. This is a little slice of heaven for us. Please don't spoil it anymore.

Respectfully

Don Ronsberg

Hilary Balzum

From: Planning - General Mailbox
Sent: Monday, April 27, 2015 1:15 PM
To: Hilary Balzum; Jenny Wollmuth; Jason Tomanek; Kim Lee; Carl Hokenstad
Subject: FW: Public Hearing input April 29

From: Jean Schafer [mailto:████████████████████]
Sent: Monday, April 27, 2015 7:57 AM
To: Planning - General Mailbox
Subject: Public Hearing input April 29

For the April 29 public hearing you have an agenda item that we received a letter on. With regards to the request made by John and Shelley Botsford to increase the maximum side wall height to 16-feet for an accessory building, we support their efforts to do so, and hope the commission acts favorable on this request.

Thank you.

Kelly and Jean Schafer
8228 Burr Oak Loop
Bismarck

Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, April 29, 2015 4:28 PM
To: Kim Lee; Carl Hokenstad; Jason Tomanek; Jenny Wollmuth; Hilary Balzum
Subject: FW: Public hearings for Wednesday, April 29, 2015

From: Darr, Brad W. [mailto: [REDACTED]]
Sent: Wednesday, April 29, 2015 4:11 PM
To: Planning - General Mailbox
Subject: Public hearings for Wednesday, April 29, 2015

This email is in regards to the two public hearings for Wednesday, April 29, 2015.

1. Brad Roseau special use permit to increase the total square feet of accessory building.
2. John and Shelley Botsford increase the maximum side wall to 16 feet.

My thought is that both of these items should be changed for all or not at all.

Brad Darr
Home owner 7500 Beacon Loop Bismarck ND
[REDACTED]