

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
May 27, 2015**

The Bismarck Planning & Zoning Commission met on May 27, 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 Mel Bullinger, Doug Lee, Mike Schwartz, Lisa Waldoch and Wayne Yeager. Commissioner Seminary participated via telephone.

Commissioners Tom Atkinson, Brian Bitner, Mike Donahue, Vernon Laning and Ken Selzler were absent.

MINUTES

Chairman Yeager called for consideration of the minutes of the April 29, 2015 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the April 29, 2015 meeting as received. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

CONSIDERATION

- A. TRACT 207 OF THE NW1/4 OF SECTION 2, T138N-R80W/LINCOLN TOWNSHIP – ZONING CHANGE**
- B. LOT 16, BLOCK 17, SONNET HEIGHTS SUBDIVISION – ZONING CHANGE**
- C. LOT 1, BLOCK 1, CAPITAL VIEW ADDITION; LOT 1, BLOCK 1, CAPITOL PLACE; AND LOTS 5-10, BLOCK 8, FISHER ADDITION – ZONING CHANGE**
- D. LOT 1A OF LOT 1, BLOCK 1, KILBER NORTH ADDITION – ZONING CHANGE**
- E. TRACT 304 OF BLOCK 9, TRACTS 420, 422 AND 500, ALL OF BLOCKS 41, 43, 45, 47, 67, 69 & 71, AND LOTS 1-18, BLOCK 65, ORIGINAL PLAT, AND LOTS 1 & 2, BLOCK 4 AND LOT 1, BLOCK 5, WACHTER’S ADDITION – ZONING CHANGE**
- F. SUBDIVISION REGULATIONS/IMPROVEMENTS – ZONING ORDINANCE TEXT AMENDMENT**

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

- A. Tract 207 of the NW1/4 of Section 2, T138N-R80W/Lincoln Township – Zoning Change

- B. Lot 16, Block 17, Sonnet Heights Subdivision –
Zoning Change
- C. Lot 1, Block 1, Capital View Addition; Lot 1, Block 1, Capitol Place; and Lots 5-10, Block 8, Fisher Addition –
Zoning Change
- D. Lot 1A of Lot 1, Block 1, Kilber North Addition –
Zoning Change
- E. Tract 304 of Block 9, Tracts 420, 422 And 500, All of Blocks 41, 43, 45, 47, 67, 69 & 71, and Lots 1-18, Block 65, Original Plat, and Lots 1 & 2, Block 4 and Lot 1, Block 5, Wachter’s Addition –
Zoning Change
- F. Subdivision Regulations/Improvements –
Zoning Ordinance Text Amendment

Chairman Yeager said he would like to recuse himself from consideration of consent agenda item C due to a conflict of interest with the project and called for consideration of consent agenda items A, B, D, E and F.

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

Chairman Yeager turned the meeting over to Vice Chairman Lee for consideration of consent agenda item C.

Vice Chairman Lee called for consideration of consent agenda item C.

MOTION: Commissioner Laning made a motion to approve consent agenda items C, calling for a public hearing on the item as recommended by staff. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Bullinger, Laning, Lee, Schwartz, Seminary, and Waldoch voting in favor of the motion.

Chairman Yeager returned to the meeting at this time.

Mr. Tomanek explained that agenda items 8 and 9 may be discussed simultaneously, however separate motions must be made on each of them.

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

Chairman Yeager called for the reconsidered public hearing on the final plat; the zoning change from the A-Agriculture zoning district to the R5-Residential zoning districts 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 in northwest Bismarck, north of 57th Avenue NW and west of North Washington Street (part of 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, provided 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. However, the developer has indicated a willingness to construct a temporary sanitary lift station and force main pipe connection that would be extended to provide sanitary sewer service to the development. The temporary sanitary services would be extended from the northern end of the existing sanitary main at LaSalle Drive and North Washington Street.
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 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 and municipal services would be extended to the property prior to development; therefore, the zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then gave the 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 2014 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. Sonora Way would be constructed by the owner with the initial phase of development to allow for a secondary access to and from the proposed subdivision.
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 permanent sanitary sewer line. The developer has indicated a willingness to construct a temporary sanitary lift station and force main pipe connection that would be extended to provide sanitary sewer service to the development. The temporary sanitary services would be extended from the northern end of the sanitary line at LaSalle Drive and North Washington Street.
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, zoning change from the A-Agriculture zoning district to the R5-Residential zoning district and final plat of Heritage Ridge Addition, with the following conditions:

1. 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.
2. Municipal water service will be extended to the property along the 57th Avenue NW right-of-way to allow a connection to City water service.
3. A temporary sanitary lift station and force main connection shall be constructed and operable prior to the issuance of any residential building permits.
4. Sonora Way will be constructed by the developer as a required secondary access road.

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

Chairman Yeager also called for the reconsidered public hearing on the final plat; the zoning change from the A-Agriculture zoning district to the R5-Residential, R10-Residential, RM15-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. However, the developer has indicated a willingness to construct a temporary sanitary lift station and force main pipe connection that would be extended to provide sanitary sewer service to the development. The temporary sanitary services would be extended from the northern end of the existing sanitary main at LaSalle Drive and North Washington Street.
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 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 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 and municipal services would be extended to the property prior to development; therefore, the zoning change would not place an undue burden on public services.
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 findings for the final plat:

1. All technical requirements for consideration 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 2014 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. Sonora Way would be constructed by the owner with the initial phase of development to allow for a secondary access to and from the proposed subdivision.

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 permanent sanitary sewer line. The developer has indicated a willingness to construct a temporary sanitary lift station and force main connection that would be extended to provide sanitary sewer service to the development. The temporary sanitary services would be extended from the northern end of the sanitary line at LaSalle Drive and North Washington Street.
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 findings contained in the staff report, staff recommends approval of the annexation, 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 with the following conditions:

1. 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.
2. Municipal water service will be extended to the property along the 57th Avenue NW right-of-way to allow a connection to City water service.
3. A temporary sanitary lift station and force main connection shall be constructed and operable prior to the issuance of any residential building permits.
4. Sonora Way will be constructed by the developer as a required secondary access road.

Commissioner Lee asked if the gap in development will be addressed with this annexation request.

Mr. Tomanek said a gap would be created between the current city limits and this annexed portion, but an adequate annexation route would be implemented up North Washington Street and west on 57th Avenue NE, leaving some land in between which belongs to a separate owner whom has no immediate plans for development at this time. Commissioner Laning asked if a four inch pressurized sewage system will be adequate for this development once it is at full capacity.

Jason Petryszyn, Swenson, Hagen & Co., said they looked at pumping scenarios for 400 units and they are confident in their calculations and feel the proposed system will be more than adequate to support the entire development in its entirety.

Commissioner Seminary said discussions were held after the last meeting with Mr. Moldenhauer, adding he feels his desire to accommodate and grow in an orderly fashion, in addition to the new policy for orderly development, will help avoid non-cooperation and gaps in development in the future. He said he feels comfortable with Mr. Moldenhauer's sincerity and professionalism and that he wants to do this with determination and cooperation and he is thankful for that.

Chairman Yeager said he feels there is some opposition to the second access being Sonora Way instead of 15th Street NW.

Mr. Tomanek said Burleigh County would continue 57th Avenue NW to the west along the section line then up 15th Street NW for a mile to be developed as they are able to do so.

Commissioner Laning asked if the annexation of this property would impede the development of 15th Street NW since it is going to be dedicated by Burleigh County. Mr. Tomanek said there has not been any discussion to that affect with County Engineer Marcus Hall.

Chairman Yeager opened the public hearing.

Terry Sailer, 1313 Restful Drive, said he has concerns about the R10 and RM10 zoning as this will allow for the possibility of assisted living uses as well as the allowance of Crested Butte Road and Sonora Way being through streets. He said the proposals do not fit with the 2014 Growth Management Plan and connecting to Crested Butte Road should not be allowed as previously requested. He said he would rather see R5 zoning and lower density and he has obtained multiple signatures and comments in opposition to the request. These items are attached as Exhibit A.

Linda Axtman, 6340 Crested Butte Road, said her comments are included in those submitted by Mr. Sailer and that she would be more in favor of parks and green spaces or something with less impact on the surrounding area.

Chairman Yeager asked at what point the second access point has to be completed. Mr. Tomanek said it is required after 30 units are completed, so possibly in a year or two.

Bill Bandy, 6375 Crested Butte Road, said Sonora Way and Crested Butte Road are not adequate to support the routine traffic that will be generated by any influx of occupancy at this time and access to other developments is not compatible either. He said the traffic through that area is inconsiderate and most people are just using it as a short cut.

Mr. Moldenhauer said when development is coming into rural areas it is hard to satisfy everybody, but his development is one that he and the City can be proud of. He said the first

phase will pertain to the south portion of the development and a master plan does include development for the north portion at some point, possibly with higher density and understands that may also raise some concerns. He said he engaged Jake Axtman as his landscape architect on how to beautify the area along the 57th Avenue NW and throughout the development, and he would like to do so differently than any other place in Bismarck to include unique signage, landscape buffers and trails which are included in a park plan he developed with Bismarck Parks and Recreation District. He said the density schematics show zoning adjacent to the development to the east being under four units per acre so they will not be at their maximum density allowed. A landscape buffer of approximately 300 feet will be between the proposed twinhomes and the neighboring rural development. He added that the previous main concern of sanitary sewer services has been addressed and instead of setting an undesirable precedent by utilizing holding tanks on each individual lot, a second temporary lift station will be constructed. He added they are also willing to build Sonora Way to the north for emergency service purposes if needed.

Mike Chamberlain, 600 57th Avenue NW, said he has concerns of 57th Avenue NW being part of the annexation as the construction process will significantly hinder the use of that roadway for those who live near it and use it regularly. He said a development that will create a gap in development should not be going in since there are no immediate plans for development of the area to the south.

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

Commissioner Lee said he understands a gap in development is being created, but at the same time annexation cannot be forced before it is ready, and this looks like an excellent opportunity for growth and orderly development. He said this can be done right and feels it would be a good introduction to what needs to be done to expand the city.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation, zoning change from the A-Agriculture zoning district to the R5-Residential zoning district and final plat of Heritage Ridge Addition, with the following conditions: 1. 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; 2. Municipal water service will be extended to the property along the 57th Avenue NW right-of-way to allow a connection to City water service; 3. A temporary sanitary lift station and force main connection shall be constructed and operable prior to the issuance of any residential building permits and; 4. Sonora Way will be constructed by the developer as a required secondary access road. Commissioner Laning seconded the motion and the request was unanimously approved with Commissioners Bullinger, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation, 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 with the following conditions: 1. 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; 2. Municipal water service will be extended to the property along the 57th Avenue NW right-of-way to allow a connection to City water service; 3. A temporary sanitary lift station and force main connection shall be constructed and operable prior to the issuance of any residential building permits; and 4. Sonora Way will be constructed by the developer as a required secondary access road. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Bullinger, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION
RECONSIDERED PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT
ASH COULEE ESTATES ADDITION**

Chairman Yeager called for continued final consideration of the annexation and the public hearing on the minor subdivision final plat of Ash Coulee Estates Addition. The proposed plat is 30 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 noted that the request for a zoning change had been withdrawn and gave an overview of the requests, including the following finding 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.
6. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then gave the 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 been approved by the City Engineer; a revised storm water management plan is not needed as the overall density has decreased.

3. The proposed minor subdivision final plat would be compatible with adjacent land uses. Adjacent land uses include a rural residential to the northwest, single-family 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 based on the above findings, staff recommends approval of the annexation and minor subdivision final plat for Ash Coulee Estates Addition.

Commissioner Seminary asked if a public hearing would be needed on the zoning change now that the requirements are being fulfilled for the R5 zoning district. Ms. Lee said the property will be developed with the existing R5 zoning district, so a public hearing is no longer needed as the request for a PUD has been withdrawn, but a public hearing is still needed for the final plat.

Chairman Yeager opened the public hearing.

Ken Tupa, 9204 Mellowsun Drive, said he would like to present his concerns on behalf of the Horizon Heights Homeowners Association as he does not feel this is appropriate development for the area. His comments are attached as Exhibit B.

Darrin Lee, 1269 Eagle Crest Loop, said the best solution would be to build according to the existing plat that was approved in 2014, as it is what was appropriate for the area and that is why it was approved. He said he is opposed to the proposed changes as they are now.

Sabina Gasper, 1333 Golden Eagle Lane, said these changes are inconsistent and the original plat is what would work with the neighborhood as it would not have imposed any safety issues with traffic or lighting. She said spot zoning in an established area should also be avoided. Her comments are attached as Exhibit C.

Cade Jorgenson, 5067 Crested Butte Drive, said it was only a year ago that an 18 lot development was approved that was consistent with the Growth Management Plan but the proposed access throughout the development is too narrow and a two-lane road will not be adequate for the increased number of lots.

Art Goldammer, Verity Homes of Bismarck, LLC, said a neighborhood meeting was held and the request for PUD zoning has been withdrawn. He said the area will be developed according to the allowances within the R5 zoning district including an average lot size of more than 10,000 square feet. He said a one way private street with a bike and drive lane wider than most city streets will be developed and the homes will be comparable to those in Horizon Heights and Eagle Crest Addition.

Ms. Gasper said she has concerns of Mr. Goldammer's homes being transitional housing and that does not fit well with the area and will ruin the neighborhood.

Delnita Kraenzel, 1316 Golden Eagle Lane, said she lives directly adjacent to the proposed development and when she moved back ten years ago she specifically chose Eagle Crest Addition based on the location and the surrounding area. She said she would like to see her investment protected.

Additional written comments received in opposition to these proposals are attached as Exhibits D-L.

Chairman Yeager closed the public hearing.

Commissioner Seminary asked what it means when the findings say the annexation will not have an adverse effect on the surrounding area. Ms. Lee explained that staff does not believe the development would adversely affect the area based on professional judgment and past experiences. She said it is also already surrounded by single family residential homes so it will transition accordingly.

Commissioner Seminary asked if the finding of the annexation requests being consistent with the 2014 Growth Management Plan accounts for all master plans completed by the City. Ms. Lee said the Future Land Use Plan, Growth Management Plan and Fringe Area Road Master Plan, as well utility and water service plans, are all taken into consideration when composing staff reports and making recommendations.

Commissioner Seminary asked if this would be considered spot zoning. Ms. Lee said there is R5-Residential zoning to the north and south as well as lower density and rural residential housing adjacent to this location, and it is proposed to be developed in accordance with the R5 requirements.

Commissioner Seminary asked what the main roads to exit the development will be. Ms. Lee said Ash Coulee Drive and Talon Road will be the main entrance and exit until Tyler Parkway is connected.

Commissioner Seminary asked how many lots are in the adjacent Eagle Crest 6th Addition. Ms. Lee said there is approximately 100 lots.

Commissioner Seminary said he is torn on how to feel about these requests, but is reminded that development is not forced on anybody. He said the neighborhood will not be

sustainable or lively if there is anger in it from the very beginning. He said Mr. Goldammer's development fits the guidelines that staff uses to make their decisions and he looks to follow good, harmonious planning practices, but this development seems to counteract that.

Commissioner Lee said he appreciates the efforts the developer has put forth and the proposals meet the intent of the zoning ordinance. He said with the surrounding development they cannot tell one person no and the next person yes to their requests. He said the lots and homes will be affordable and that is what is needed right now in order for people to live and neighborhoods to grow.

Commissioner Laning asked if there is a zoning district less than the R5-Residential. Ms. Lee said RR-Residential would be the next lowest in density.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation and minor subdivision final plat for Ash Coulee Estates Addition. Commissioner Seminary seconded the motion and the request was unanimously approved with Commissioners Bullinger, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

Chairman Yeager noted that the next four items on the agenda all have recommendations to continue to the next meeting. Ms. Lee explained that staff is working on having stormwater approvals prior to the meeting packets being distributed so these recommendations can be avoided in the future. She said adjacent property owners are notified but then may see a recommendation of continue in the packet so they choose not to attend the public hearings but then recommendations get changed to approve without them knowing so their opportunity to comment is missed. She said the Planning Division and the Engineering Department have worked out a way to address this problem so it can hopefully be avoided in the future.

**PUBLIC HEARINGS –
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 the zoning change from the RM15-Residential and PUD-Planned Unit Development zoning districts to the RM10-Residential, RM15-Residential and PUD-Planned Unit Development zoning districts for Hamilton's First Addition First Replat. The proposed plat is 17 lots in one block 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 requests, 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 be compatible with adjacent land uses, provided appropriate landscaping and an earthen berm are installed in conjunction with site development 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; the northerly portion beyond the pipeline easement of this berm would be removed in conjunction with site development.
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 been 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 be compatible with adjacent land uses, provided the appropriate landscaping and an earthen berm are installed in conjunction with site development 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; the northerly portion

beyond the pipeline easement of this berm would be removed in conjunction with site development.

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.

Mr. Tomanek said based on the above findings, staff recommends approval of the minor subdivision final plat and zoning change from Conditional RM15 – Residential and PUD – Planned Unit Development zoning districts to the RM15 – Residential zoning district for Lots 1 and 16, Block 1, to the R10 – Residential zoning district for Lots 2-15, Block 1 and to the PUD – Planned Unit Development zoning district for Lot 17, Block 1, Hamilton’s First Addition First Replat, as outlined in the draft PUD ordinance, with the following conditions:

1. The development of Lots 2-15 shall be twinhomes.
2. The earthen berm and landscape materials are installed in conjunction with site development.

Commissioner Seminary asked if this item was advertised as a public hearing even though the original recommendation was to continue it.

Mr. Whitman said it is still advertised as a public hearing even with the different recommendation.

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 Seminary made a motion to approve the minor subdivision final plat and zoning change from Conditional RM15 – Residential and PUD – Planned Unit Development zoning districts to the RM15 – Residential zoning district for Lots 1 and 16, Block, to the R10 – Residential zoning district for Lots 2-15, Block 1 and to the PUD – Planned Unit Development zoning district for Lot 17, Block 1, Hamilton’s First Addition First Replat, as outlined in the draft PUD ordinance, with the following conditions: 1. The development of Lots 2-15 shall be twinhomes; and 2. The earthen berm and landscape materials are installed in conjunction with site development. 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 HEARINGS – ZONING CHANGE AND FINAL PLAT REUTER’S ADDITION

Chairman Yeager called for the public hearing on the final plat and the zoning change from the R5-Residential zoning district to the R5-Residential, P-Public and PUD-Planned Unit Development zoning districts for Reuter’s Addition. The proposed plat is 177 lots in 10 blocks on 40 acres and is located in northeast Bismarck, along the west side of 52nd Street NE, east of Roosevelt Drive between 43rd Avenue NE and East Century Avenue (the SE¼ of the NE¼ of Section 24, T139N-R80W/Hay Creek Township).

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

1. The proposed zoning change is consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies the future use of this development block as medium-density residential. Medium-density residential land use requires an overall density of 4 to 10 units per acre; the proposed overall density of the subdivision is 4.4 units per acre.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing single-family homes to the west and undeveloped A-Agricultural zoned land to the north, east and south.
3. The entire subdivision would be annexed prior to development and building permits will not be issued until the final plat is annexed; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth then gave the 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.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan for this area, which identifies 52nd Street NE as an arterial roadway and East Calgary Avenue as the east-west collector roadway for this section.

4. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing single-family homes to the west and undeveloped A-Agricultural zoned land to the north, east and south.
5. The entire subdivision would be annexed prior to development and building permits will not be issued until the final plat is annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities.
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 with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of final plat and the zoning change from the R5-Residential zoning district to the R5-Residential, P-Public and PUD-Planned Unit Development zoning districts for Reuter's Addition.

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 Lee made a motion to approve the final plat and the zoning change from the R5-Residential zoning district to the R5-Residential, P-Public and PUD-Planned Unit Development zoning districts for Reuter's Addition. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT JMAC INDUSTRIAL PARK ADDITION

Chairman Yeager called for the public hearing on the final plat and the zoning change from the A-Agriculture zoning district to the MA-Industrial and P-Public zoning districts for JMAC Industrial Park Addition. The proposed plat is 13 lots in three blocks on 78.45 acres and is located north of Bismarck along the south side of 71st Street NE approximately ¼ mile east of US Highway 83 (A replat of Auditor's Lots A & B in the NW1/4 of Section 10, T139N-R80W/Hay Creek Township).

Mr. Tomanek 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) in the 2014 Growth Management Plan.

2. The proposed zoning change would generally be compatible with adjacent land uses; provided the adjacent property to the east, when developed, includes adequate zoning transitions to help buffer the existing rural residential property to the east. Adjacent land uses include industrial and commercial land uses to the west, agricultural uses to the north, south and east. A fully developed 15 lot rural residential subdivision is located approximately 1/8 mile east of the proposed plat. The Canadian Pacific Railway borders the west boundary of the rural residential subdivision and provides separation between the proposed zoning change and the existing rural residential land use to the east.
3. The proposed subdivision is not annexed; however, City water and sanitary services would be extended to the site to allow for future annexation. Development of the subdivision would be limited to a single lot (Lot 1, Block 1) until such time as water and sanitary sewer services are in place and the subdivision has been annexed. 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, provided adjacent property to the east, when developed, includes adequate zoning transitions to help buffer the existing rural residential property to the east.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

1. All technical requirements for consideration of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision is generally consistent with the 2014 Fringe Area Road Master Plan/ for this section, which identifies 19th Street North as the north-south collector roadway for this section.
4. The proposed subdivision would generally be compatible with adjacent land uses; provided the adjacent property to the east, when developed, includes adequate zoning transitions to help buffer the existing rural residential property to the east. Adjacent land uses include industrial and commercial land uses to the west, agricultural uses to the north, south and east. A fully developed 15 lot rural residential subdivision is located approximately 1/8 mile east of the proposed plat. The Canadian Pacific Railway borders the west boundary of the rural residential subdivision and provides separation between the proposed zoning change and the existing rural residential land use to the east.
5. The proposed subdivision is not annexed; however, City water and sanitary services

would be extended to the site to allow for future annexation. Development of the subdivision would be limited to a single lot, Lot 1, Block 1, until such time as water and sanitary sewer services are in place and the subdivision has been annexed. 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, provided adjacent property to the east, when developed, includes adequate zoning transitions to help buffer the existing rural residential property to the east.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the final plat and the zoning change from the A-Agriculture zoning district to the MA-Industrial and P-Public zoning districts for JMAC Industrial Park Addition, with the understanding that a development agreement addressing the extension of municipal services and the development of the proposed subdivision would be finalized prior to the plat and zoning change request being forwarded to the Board of City Commissioners of City Commissioners for final action.

Commissioner Seminary asked if this use will be generally compatible with the adjacent land uses with the appropriate buffers and what is done to make sure those buffers are enforced. Mr. Tomanek said any new construction in the city and its extraterritorial area goes through site plan review that includes review of parking and landscape requirements as well as the intended use. He said planned implementation of the required landscape buffers will have to be shown prior to approval of the site plan.

Commissioner Laning asked if there are any concerns regarding the overhead utility transmission line. Mr. Tomanek said Western Area Power Association was given notice of the plat and they have not voiced any concerns.

Commissioner Lee asked if the concerns from the township residents have been addressed. Mr. Tomanek said they have been discussed and addressed appropriately.

Commissioner Laning dismissed himself from the meeting at this time.

Chairman Yeager opened the public hearing.

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

Written comments received in opposition to these proposals are attached as Exhibit M.

MOTION: Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the final plat and the zoning change from the A-

Agriculture zoning district to the MA-Industrial and P-Public zoning districts for JMAC Industrial Park Addition, with the understanding that a development agreement addressing the extension of municipal services and the development of the proposed subdivision would be finalized prior to the plat and zoning change request being forwarded to the Board of City Commissioners of City Commissioners for final action. Commissioner Waldoch seconded the motion and the request was continued with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT BENEDICTINE FIRST SUBDIVISION

Chairman Yeager called for the public hearing on the zoning change from the A-Agriculture zoning district to the Conditional RM-Residential zoning district and final plat for Benedictine First Subdivision. The proposed plat is three lots in one block on 16.71 acres and is located south of Bismarck, along the west side of ND Highway 1804, south and southwest of the University of Mary (Part of the SW¼ of the NW¼ and part of Government Lot 4, Section 2, and part of Government Lots 1 and 2, Section 3, T137N-R80W/Fort Rice Township).

Ms. Lee 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) in the 2014 Growth Management Plan, which identifies this area as rural residential.
2. The proposed zoning change would only allow the existing use as a monastery; therefore, it would continue to be compatible with adjacent land uses. Adjacent land uses include the University of Mary campus to the north and east, and a combination of agricultural uses and rural residential uses to the south and west across Apple Creek.
3. The property would continue to be served by an extension of City water from the campus and a private on-site sewer treatment system through the University of Mary and would have access to ND Highway 1804 via an interior access easement; therefore, the proposed 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, as the use of the property would not change.
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 final plat:

1. All technical requirements for approval of a final plat have been met.
2. A request for a waiver from the storm water management plan submittal requirements has been submitted, and has been approved by the City Engineer.
3. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for the area, which identifies ND Highway 1804 as an arterial roadway. There are not any arterial or collector roadways identified within the boundary of the proposed plat.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include the University of Mary campus to the north and east, and a combination of agricultural uses and rural residential uses to the south and west across Apple Creek.
5. The property would continue to be served by an extension of City water from the campus and a private on-site sewer treatment system through the University of Mary and would have access to ND Highway 1804 via an interior access easement; therefore, the subdivision would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity, as the use of the property would not change.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change from the A-Agriculture zoning district to the Conditional RM-Residential zoning district and the final plat of Benedictine First Subdivision.

Chairman Yeager opened the public hearing.

Jason Ulmer, 8009 Briardale Loop, said he attended University of Mary and is supportive of development, but he has concerns of it being rezoned just to add an accessory building. He said the other lots will be oversized and would like to know if there is going to be a height restriction on the height of the desired accessory building and if it will be set back on the hill. He said the description given for a group dwelling is very broad and it is not applicable to the adjacent land uses as it is a monastery. He said he also has concerns of the stability of the land in that area and the possibility of landslides caused by development.

Chairman Yeager asked what uses the Conditional RM-Residential ordinance will allow. Ms. Lee said it would allow monastery, religious uses and group dwellings limited to those uses. She said all other uses have been removed and the owners have no other plans to expand further.

Brian Eiseman, Axien Engineering, said the intent is not to fully develop this property but rather be permitted to construct an accessory building as a maintenance facility which fits in the RM-Residential uses and so the property needs to be platted.

Commissioner Bullinger asked what the square footage of the accessory building will be. Mr. Eiseman said it will be a standard two or three stall garage used to house grounds maintenance tools.

Commissioner Bullinger asked if drainage will be affected at all. Mr. Eiseman said the drainage impact will be insignificant with stormwater running off to the southeast lagoons that exist for that purpose.

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

**PUBLIC HEARING – ZONING CHANGE
LOT 1A OF LOT 1, BLOCK 1, PEBBLE CREEK 8TH ADDITION**

Chairman Yeager called for the public hearing on the zoning change from the RT-Residential zoning district to the CA-Commercial zoning district for Lot 1A of Lot 1, Block 1, Pebble Creek 8th Addition. The property is located in northeast Bismarck, along the north side of Century Avenue and east of Nebraska Drive.

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

1. The proposed zoning change is outside of the area included in the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a multi-family residential to the northwest, mixed-density residential to the west, a cemetery to the south and light industrial uses to the east and northeast.
3. The property is already annexed and services are in place; 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,

Mr. Lee said based on the above findings, staff recommends approval of the zoning change from the RT – Residential zoning district to the CA – Commercial zoning district on Lot 1A of Lot 1, Block 3, Pebble Creek 8th Addition.

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 Schwartz made a motion to approve the zoning change from the RT – Residential zoning district to the CA – Commercial zoning district on Lot 1A of Lot 1, Block 3, Pebble Creek 8th Addition. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
AUDITOR’S LOTS D, E, N & R OF LOT 1, BLOCK 1, NORTHERN PLAINS
COMMERCE CENTRE; AUDITOR’S LOTS A, B & C OF LOT 2, BLOCK 1,
BISMARCK AIRPORT ADDITION; AND BLOCKS 8 AND 9, AIRPORT
INDUSTRIAL PARK 4TH ADDITION**

Chairman Yeager called for the public hearing on the zoning change from the MA-Industrial and P-Public zoning districts to the MB-Industrial zoning district for Auditor’s Lots D, E, N & R of Lot 1, Block 1, Northern Plains Commerce Centre; Auditor’s Lots A, B & C of Lot 2, Block 1, Bismarck Airport Addition; and Blocks 8 and 9, Airport Industrial Park 4th Addition. The property is located in southeast Bismarck, along both sides of Yegen Road north of the intersection with Rifle Range Drive.

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

1. A portion of the proposed zoning change is designated as Industrial in the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan and a portion of the proposed zoning change is outside of the area included in the FLUP.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a combination of light and heavy industrial uses to the north, east, west and south.
3. The property is already annexed and services are in place; 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 said based on the above findings, staff recommends approval of the zoning change from the MA – Industrial and P – Public Use zoning districts to the MB – Industrial zoning district on Auditor’s Lots D, E, N & R of Lot 1, Block 1, Northern Plains Commerce Centre; Auditor’s Lots A, B & C of Lot 2, Block 1, Bismarck Airport Addition; and Blocks 8 and 9, Airport Industrial Park 4th Addition.

Commissioner Bullinger asked if the adjacent owner, John Erickson, is aware of the zoning change. Ms. Lee said a separate letter was sent to him with the information on the change, but a response was not received.

Chairman Yeager opened the public hearing.

Matt Sagaser, Bobcat Company, said they have substantial investment in their property with the hopes of attracting MA-Industrial uses similar to that of the existing Bobcat Company and that will be difficult with an adjacent MB-Industrial zoning district.

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

Written comments received in opposition to the proposal are attached as Exhibit N.

Commissioner Seminary said he echoes Mr. Sagaser’s concerns on economic development investments and wants him to know that his comments are sincerely being heard.

Commissioner Lee said he is torn on how people rely on the existing zoning when making their investments and plans and then the directly adjacent zoning changes with adverse effects.

MOTION: Based on the findings contained in the staff report, , and the information presented at the meeting, Commissioner Lee made a motion to deny the zoning change from the MA – Industrial and P – Public Use zoning districts to the MB – Industrial zoning district on Auditor’s Lots D, E, N & R of Lot 1, Block 1, Northern Plains Commerce Centre; Auditor’s Lots A, B & C of Lot 2, Block 1, Bismarck Airport Addition; and Blocks 8 and 9, Airport Industrial Park 4th Addition. Commissioner Schwartz seconded the motion and the request was approved with Commissioners Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion. Commissioner Bullinger opposed the motion.

PUBLIC HEARING – PUD AMENDMENT MADISON LANE ADDITION

Chairman Yeager called for the public hearing on a major PUD amendment for Madison Lane Addition to amend the existing Planned Unit Development (PUD) to modify the

minimum lot size for the construction of a twinhome. The previous PUD amendment allowed the construction of a twinhome but did not modify the minimum lot size to accommodate the allowed twinhome. The proposed location and size of the twinhome has not changed from the previously approved amendment. The property is located in north Bismarck, approximately ¼ mile west of US Highway 83 between Canada Avenue and LaSalle Drive along the private roadway, Madison Lane.

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

1. The proposed PUD amendment is compatible with adjacent land uses. Adjacent land uses include single and two-family residential to the north and mixed density residential uses to the south, east and west.
2. The entire property is located within City limits; therefore the proposed PUD amendment would not place an undue burden on public services.
3. The proposed PUD amendment would not adversely affect property in the vicinity.
4. The proposed PUD amendment is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed PUD amendment 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 Planned Unit Development amendment for Madison Lane Addition, as outlined in the attached PUD amendment document.

Commissioner Bullinger asked if construction has already started at this location. Mr. Tomanek said a lot split application has been processed, but building permits have not been issued at this point because of the lot size issue.

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 Lee made a motion to approve the Planned Unit Development amendment for Madison Lane Addition, as outlined in the attached PUD amendment document. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT
APPEALS PROCESS/SPECIAL USE PERMITS**

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to appeals process/special use permits. Ms. Lee explained that the proposed amendment would clarify the appeal of a denial of a special use permit by the Bismarck Planning and Zoning Commission to the Bismarck Board of City Commissioners. 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 appeals process/special use permits as recommended by staff. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT
P PUBLIC USE ZONING DISTRICT**

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating P Public use/zoning district. Ms. Lee explained that the proposed amendment would modify provisions for height restrictions based on proximity to residential zoning districts.

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 P Public use zoning district as recommended by staff. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC INPUT

**POLICY FOR DEDICATION OF EASEMENTS AND RIGHTS-OF-WAY
REQUIRED FOR ORDERLY DEVELOPMENT**

Ms. Lee explained that at the request of the Board of City Commissioners, staff has developed a policy regarding orderly development and the extension of services to

neighboring properties. She said comments were received both in support and in opposition to the policy and developers were encouraged to attend the meeting to comment. The Commission can decide to forward the draft policy to the Board of City Commissioners for adoption if so desired.

Chairman Yeager called for public input from those present.

Art Goldammer, Verity Homes of Bismarck, LLC, said he sees the benefits a policy like this can bring and he fully supports it as it is a wise policy and practice to have in place.

There being no further comments, Chairman Yeager closed the public input portion of the meeting.

Commissioner Lee said a policy like this has been needed for a long time and he strongly encourages its passing. He said developers cannot be allowed to block their neighbors from development and possess all control of services.

Commissioner Bullinger asked if a developer could potentially skirt this policy by dividing ownership and interest among family trusts and liabilities. Mr. Whitman said not all things can be totally prevented, but hopefully a display of intentions can start the need to extend services to neighbors. He said partnerships cannot be avoided but the policy needs to be given a try.

Written comments received in favor and opposition to the policy are attached as Exhibits O-Q.

MOTION: Commissioner Lee made a motion to forward the draft Policy for Dedication of Easements of Rights-of-Way Required for Orderly Development with a favorable recommendation. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Bullinger, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Daniel Nairn introduced himself as the new Planner in the Planning Division of the Community Development Department and said his planned start date is June 1st.

Commissioner Seminary said his employer, Houston Engineering, sponsors the American Red Cross gold tournament each year and he encourages everybody to attend.

There was no other business to discuss at this time.

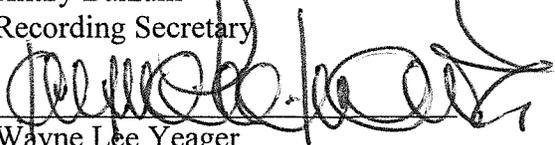
ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:14 p.m. to meet again on June 24, 2015.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Lee Yeager
Chairman

I live in the development just north of the area currently being discussed. The issues that are of concern to us in this area are:

1. The zoning change to R10 Residential(10 units/acre) and RM10 multi-family (10 units/acre)
2. The possibility of an assisted living facility in between our development and the area currently being discussed.
3. The possibility that they could extend a road through Crested Butte Rd.
4. And that Sonora Way will be a through street.

We are not opposing that development should occur in this area, we know it is coming and are accepting of it. It is the type of development we are most concerned about. The city has this area planned for low density population. According to Page 21 of the Growth Management Plan, Low Density Residential is described as primary residential use with urban services, yielding gross densities in a range from 1 and 4 units per acre (average of 2.5 units/ per acre). This zoning corresponds to an R5 zoning district. The current proposal is to rezone part of this area to be R10 and RM10. I am also under the impression that this developer wants to build an assisted living area to the north of the proposed development. Rezoning to R10 for the current proposal and the possibility of the assisted living area does not fit in with the current growth plan. We are good with R5 rezoning but oppose the R10 and Rm10 rezoning. Also, after meeting with one of the city planners, Jason Tomanek, it is my understanding that they have stated to K&L homes this is not the right place for an assisted living facility.

During the last city planning and zoning commission meeting, a comment was made that the proposed development only has one access point and should have two. K&L homes made the comment that they could just tie into Crested Butte Road. I would like to know if this is even a possibility. This was never mentioned in any of the growth plan discussions and this road is not designed to be a through street. The reason for this statement was because 15th street would not be completed before this development was. We are really against Crested Butte being opened to the South.

We would really like to see this development stay within the plan of low density and be rezoned to R5, NOT R10 or RM10. If compromises are being made, and this land can be rezoned to something other than the plan, then how about reconsidering the possibility of not going North through Sonora Way but instead having traffic from this new development routed to 15th street. If developers don't have to follow the plan then what good is this plan anyway?

Jeff Towner, 1312 Restfull Drive, Bismarck, ND 58503

Diane Chielens, 1312 Restfull Drive, Bismarck, ND 58503

Gary hoffer. 6370 Crested Butte pl Bismarck ND 58503

1209 Restful Drive

6680 Valley Vista Lane

Terry Sailer
Terry Sailer, 1313 Restful Dr.

Mark + Senia Kinzel
6355 Valley Vista Lane

Byron + Terri Lannoye
1045 Restful Drive

Pat + Brenda DesLauriers
66402 Sonora Way

Rene Blomquist
6330 Sonora Way

6370 SONORA WAY

Remario Johnson

Al Gladstein
6500 Crested Butte Rd

6348 CRESTED BUTTE ROAD

[Signature]

Jeff / Diane

- This change of plan will destroy the semi-rural nature of the area, which is why most families live in this area.
- ^{Gary} My residence is located at 6370 Crested Butte place. I strongly oppose a second access road into the K&L development. Crested Butte addition along with the Green Acres addition are rural communities with each home owner having from 2 to 5 acres of land. We are rural and will stay rural and should not be subjected to developers turning our rural atmosphere into a city atmosphere. We see empty beer and wine containers left deposited in our ditches and roads from people swinging through our development to drop off before heading into Bismarck. If Crested Butte Road is opened up and with its winding road we could possibly see accidents from drunk drivers taking the short cut into Bismarck. A rural road could turn into a deadly road because of its sharp turns. Keep Crested Butte road closed from the K&L development for its safety concerns to its residents. Gary Hoffer
- ^{Don't, 1209 Resful} Agreed. The expansion of new developments out in this area seems to be unchecked. With all the new housing, apartments, churches, school(s), roadways (existing and proposed), commercial, where are the green spaces, parks, playgrounds etc. It looks like all this development is to bring in younger families (mostly), but it lacks the very things that most residents out here appreciate the most - wide open spaces, a night sky we can still view the stars at night, safe / uncongested roads where we can walk our pets and let our children or grandchildren ride bikes without fear of being hit by speeding, careless drivers rushing through our quite neighborhood enroute to town. Give us some peace.
- ^{6680 Valley Vista} If 15th street is planned to be the second outlet for this development, but is not expected to be complete prior to the development moving forward, the developer should be required to pay for that second outlet as it was planned. His problem should not become the problem of an existing development to reconcile and deal with the increase in traffic. If there is a forced increase in traffic, who is studying the ability of the current roads in the Crested Butte subdivision to handle that traffic? Who will pay for upgrades if needed?
- ^{6340 Crested B} Developing 15th street is a good option because it already goes north from 1804. It could be a straight road into the city eventually and would give river traffic another access. Since there is little house development, it would impact fewer residents. If the developer needs another access point, the developer should pay this cost. Crested Butte Road is not a good option because it is very curvy. It is gravel. It has no street lights and no curbs. It would impact more residents. It sounds as though a temporary inexpensive option for the developer, but not forward thinking. I would urge the city to consider how areas will function in the future and the continued value of properties. I would urge developers to consider their ability to impact and enhance a city, our city. Parks and green spaces within a city add value, beauty, use, less traffic to an area. The area off Washington Street, with the golf course, the YMCA, softball fields, tennis courts, the walking paths is a good example. Many of the homes surrounding are modest, but their value continues because of their proximity to this green space. This area is well used. It offers options for all ages, sitting on benches, walking dogs, watching kids play ball, feeling connected to the activity and beauty of this open green space. Optimist Park is a more modest example of green space, but I have often sat there eating takeout before I am on my way to other chores and last night again, I watched as teenagers played volleyball, shot hoops and residents walked their dogs. Optimist Park is near a more concentrated development of condos and apartments, however the park and open area give people options to get some fresh air, have fun, connect with others. This northwest area of the city has such potential for livability and beauty. I hope you will consider a more balanced and forward thinking view to our city's development. Thank you. Linda Axtman

Thank you for taking these ideas into consideration.

6370 Crested Butte PL

Crested Butte Road with its numerous curves and blind spots as an access. Road into the K&I development would be an accident just waiting to happen. The residents that live out here know the area and know it is used to walk their families and pets. Opening it up to speeding vehicles getting a thrill out of throwing gravel and seeing how fast they could maneuver the curves is just deadly. If there is an accident with a casual walker, jogger or a child walking their pet who would be responsible, the commissioners who approved such a dangerous decision, the driver speeding through a rural road, or should we place the blame on the individual because they did not walk in the ditch. We have no walking paths. Commissioners need to look at this road and remember whether a driver is alcohol fueled or not speed limits on rural roads don't mean anything to some drivers. Do the right thing and protect our families. Thank you

Gary Hoffer

6665 Valley Vista Lane

I don't agree with tying into Crest Butte Road. Why wouldn't 15th street be using as a thru street? For one, it isn't a residential street, it doesn't meander thru a residential setting. Also, if the City states this is not an appropriate area for an assisted living area, why would one developer be able to get the City of Bismarck to change their mind?

May 18, 2015

Bismarck Planning and Zoning Commission
Mr. Wayne Yeager, Chairman
City County Office Building
221 N. 5th St.
Bismarck, ND 58501

Re: Proposed Zoning/Plat change, Lots 1-18, Block 1, Ash Coulee Second Addition

Dear Mr. Yeager:

Proposed changes to the current zoning and replat for Lots 1-18, Block 1, Ash Coulee Second Addition, have recently come to the attention of the Horizon Heights Homeowners Association (HHHA). HHHA represents more than 350 homeowners within additions 1-5 of the Horizon Heights development. As our development is adjacent to the Ash Coulee Second Addition property, we wish to communicate to the Planning and Zoning Commission, our objection to and concern with the proposed changes.

Upon reviewing the 2014 Bismarck Growth Management Plan (existing and future land use), it appears the Horizon Heights and Eagle Crest developments as well as some adjacent parcels are designated low-density residential areas (corresponding to R5 zoning). Low-density is defined as 1-4 units per acre with an average of 2.5. It is our understanding the Ash Coulee property was rezoned and replatted to R5 in 2014, with 18 lots and also appears to be included within the low-density designation. This 2014 zoning change and replat are appropriate for the property and consistent with the adjacent residential developments. However, the proposed changes to the Ash Coulee property are a departure from the low-density residential designation. Even with corresponding R5 zoning for this property, if the current 2014 plat is amended with the PUD, the proposed number of units exceeds the definition for low-density. The density within the proposed PUD would be greater than 5 units per acre (approx. 5.4 units/acre). This difference in unit density is inconsistent with the surrounding residential developments and disrupts the orderly pattern for residential zoning in this area.

To further illustrate the density of the proposed Ash Coulee development, information provided by the developer at the May 13 meeting demonstrates the significant difference in lot sizes. Lots sizes

for the proposed PUD will be between 5500 and 7500 sqft. Most lots in Horizon Heights are 9500 to 12,000 sqft.; Eagle Crest, 11,000 to 13,000 sqft.

The density of units within the proposed PUD also brings with it other potential departures from the adjacent home developments, including width of front lot, setback, width of street, sidewalks, and lighting.

For these reasons, the Horizon Heights Homeowners Association respectfully asks the commission to deny the request for changes and further, that any future proposed changes submitted be consistent with adjacent developments and work within the definition for the low-density residential land use category (1-4 units/acre, or 2.5 average).

Sincerely,



Ken Tupa
President,
Horizon Heights Homeowners Association
PO Box 1842
Bismarck, ND 58502



cc: Mayor Mike Seminary

Hilary Balzum

From: Gasper, Sabina [REDACTED]
Sent: Thursday, May 21, 2015 9:10 PM
To: Planning - General Mailbox
Subject: FW: Ash Coulee Estates

Hi,
Pls pass this email to the planning board. Many thanks, Sabina Gasper

Sabina M Gasper | Senior Director, Outcomes Research
Zoetis | 100 Campus Drive | Florham Park, NJ 07932
Office: [REDACTED] FAX: [REDACTED] Cell: [REDACTED]
Visit Us: zoetis.com

zoetis

FOR ANIMALS. FOR HEALTH. FOR YOU.

From: Gasper, Sabina
Sent: Thursday, May 21, 2015 9:02 PM
To: 'Kim Lee'; 'khas@bismarcknd.gov'
Cc: Darrin Lee [REDACTED]
Subject: RE: Ash Coulee Estates

Dear Mayor Seminary and Ms Lee,

While we are certainly happy that Verity Homes has revised their proposal to be more consistent with the surrounding area, we still have concerns about the density of the proposed housing.

At the meeting on May 13, Arthur Goldhammer said he bought only 6.8 acres which is the PUD area under discussion. His current plan calls for homes on 9.5 acres and we are puzzled as to why he is talking about building on 9.5 acres when he bought only 6.8 acres.

This new plan, while an improvement over the original proposal, is still more dense than what the Bismarck Growth Management Plan specifies for this area. Again, we support development but it must be consistent with what is outlined in the plan which is 1-4 units per acre with an average of 2.5 units per acre. The Eagle Crest development, which this proposal abuts, consists of 2.5 units per acre and his proposal doubles the number of homes per acre.

We look forward discussing with you on May 27.

Kind Regards,

Sabina Gasper
Darrin Lee

From: Kim Lee [<mailto:klee@bismarcknd.gov>]
Sent: Thursday, May 21, 2015 4:16 PM
To: Gasper, Sabina
Subject: Ash Coulee Estates

Sabina –

Verity Homes of Bismarck, LLC has withdrawn its request for a zoning change and has submitted a revised minor subdivision final plat that meets all of the requirements of the existing R5 zoning district.

A copy of the letter and attachments that went out the adjacent property owners today is attached for your information.

Let me know if you have any questions or need any additional information.

Kim L. Lee, AICP
Planning Manager
City of Bismarck|Community Development Department
221 North 5th Street|PO Box 5503
Bismarck, ND 59506-5503
Office: 701.355.1840
Direct: 701.355.1846
Website: www.bismarcknd.gov
Facebook: www.facebook.com/bismarcknd.gov
Twitter: www.twitter.com/BismarckNDGov

Please note my new e-mail address – klee@bismarcknd.gov

This e-mail, including attachments, is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510 et seq., may be confidential, or may contain confidential material. It is intended for use only by the person(s) to whom it is directed. If you are not the intended recipient and/or received it in error, you should (1) reply by e-mail to the sender; (2) delete this e-mail, including deletion of all associated text files from all storage locations including individual and network storage devices; and (3) refrain from disseminating or copying this communication. The media in which any electronic data files are transmitted can deteriorate over time and under various conditions. The City does not warrant the accuracy of any information contained in electronic data files transmitted by e-mail.

May 18, 2015

Dear Mr. Yaeger,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

According to the 2014 Bismarck Growth Management Plan (existing and future use), the Horizon Heights and Eagle Crest developments are designated as low-density residential areas within the R5 zoning designation with a unit density of 1-4 per acre.

The Ash Coulee property was rezoned and replatted to R5 in 2014, with 18 lots and according to the plan appears to be included within the low-density designation of the Management Plan. The 2014 rezone and replat are appropriate for this property and consistent with the adjacent residential developments.

However, the proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approx. 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,

Sabina M Gasper
1333 Golden Eagle Ln
751-1440

Hilary Balzum

From: Planning - General Mailbox
Sent: Monday, May 18, 2015 3:55 PM
To: Kim Lee; Jason Tomanek; Jenny Wollmuth; Hilary Balzum; Carl Hokenstad
Subject: FW: Letter for Mr. Yeager & Commissioners

Importance: High

From: [REDACTED]mailto:[REDACTED]
Sent: Monday, May 18, 2015 9:25 AM
To: Planning - General Mailbox
Subject: Letter for Mr. Yeager & Commissioners
Importance: High

Please see that Mr. Yeager and all Planning & Zoning Commissioners receive this letter for the May 27th meeting. Thank you.

May 18, 2015

Dear Mr. Yeager/Planning & Zoning Commissioners:

We are writing to voice our opposition to the development proposed by Verity Homes on the 6.5 A. parcel on Ash Coulee Dr. This is located just north of Golden Eagle Lane and south of Horizon Heights. We oppose this proposal because it is inconsistent with development plans in the city’s 2014 Growth Management Plan (GMP).

According to the 2014 GMP (existing and future use), the Horizon Heights and Eagle Crest developments are designated as low-density residential areas within the R5 zoning designation with a unit density of 1-4 per acre.

The Ash Coulee property was rezoned and replatted to R5 in 2014, with 18 lots and according to the plan appears to be included within the low-density designation of the GMP. The 2014 rezone and replat are appropriate for this property and consistent with the adjacent residential developments.

The proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approximately 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We respectfully request you to vote “No” on this proposed development and any other proposed project that would have a density more than the low-density plan of 1-4 homes per acre as specified in the 2014 Bismarck GMP.

Sincerely,

Ron & Cheryl Borth

4908 Fountainblue Dr
Bismarck ND 58503



Sent from Windows Mail



May 18, 2015

Dear Mr. Yaeger,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

According to the 2014 Bismarck Growth Management Plan (existing and future use), the Horizon Heights and Eagle Crest developments are designated as low-density residential areas within the R5 zoning designation with a unit density of 1-4 per acre.

The Ash Coulee property was rezoned and replatted to R5 in 2014, with 18 lots and according to the plan appears to be included within the low-density designation of the Management Plan. The 2014 rezone and replat are appropriate for this property and consistent with the adjacent residential developments.

However, the proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approx. 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,



Heidi Allbee
1449 Eagle Crest Loop
Bismarck, ND 58503



May 18, 2015

Dear Mr. Yaeger,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

According to the 2014 Bismarck Growth Management Plan (existing and future use), the Horizon Heights and Eagle Crest developments are designated as low-density residential areas within the R5 zoning designation with a unit density of 1-4 per acre (average of 2.5 units/per acre).

The Ash Coulee property was rezoned and replatted to R5 in 2014, with 18 lots and according to the plan appears to be included within the low-density designation of the Management Plan. The 2014 rezone and replat are appropriate for this property and consistent with the adjacent residential developments.

However, the proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approx. 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,

Joe and Laura Mastel
4904 Cornice Drive
Bismarck, ND 58503



May 18, 2015

Dear Planning Commission Members,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

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However, the proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approx. 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,

Joe and Laura Mastel
4904 Cornice Drive
Bismarck, ND 58503



May 18, 2015

Dear Mr. Yaeger,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

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The Ash Coulee property was rezoned and replatted to R5 in 2014, with 18 lots and according to the plan appears to be included within the low-density designation of the Management Plan. The 2014 rezone and replat are appropriate for this property and consistent with the adjacent residential developments.

However, the proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approx. 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,

*Dave & Kathy Kleppe
1309 Eagle Crest Loop
Bismarck, ND 58503*



May 18, 2015

Dear Mr. Yaeger,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

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We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,

Heidi and Jeremy Smith
1412 Talon RD



May 18, 2015

Dear Mr. Yaeger,

We are writing to demonstrate our opposition to the development planned by Verity Homes on the 6.5 acre parcel on Ash Coulee just to the north of Golden Eagle Ln. Verity verbally told us at a meeting on May 13 that they want to build 29 homes on this parcel of land. We oppose this proposal because it is inconsistent with development plans as laid by the city in the 2014 growth management plan.

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However, the proposed changes to the Ash Coulee property by Verity Homes are a departure from the low-density residential designation, with unit density greater than 5 per acre (approx. 5.4 units/acre within the PUD). The density of units within the proposed PUD also brings with it other departures from the adjacent home developments, including lot size, width of front lot, setback, width of street, sidewalks, and lighting. All of these departures present safety issues for the wider neighborhood as well as residents of the development.

We urge you to vote "no" on this proposed development and any other proposed project that would have a density more than the low density plan of 1-4 homes per acre as specified in the 2014 Bismarck Growth Management Plan.

With Kind Regards,

Jason and Traci Hilsabeck
1309 Golden Eagle Lane

[REDACTED]

* Copy *

Exhibit K.

To: Verity Homes

We received your letter on the 6th of May at our house at 1316 Golden Eagle Lane. We appreciate you calling your first meeting with the neighbors. Unfortunately, I work and will be out of town on the 13th of May and will not be able to be in attendance. I wasn't able to speak the public hearing either due to the time limit/commission ending the home owners speaking.

My husband and I understand and appreciate what the city is trying to do. It makes sense in the grand scheme. I was born and raised in Bismarck ND. I came from one of the areas that have the smaller lots, homes, and easements between homes. It was a great neighborhood to grow up in. We were relocated by my company and made our way to Florida and then a suburb of Philadelphia. We also understand planned housing and can appreciate it.

When we made the decision to relocate our family back to Bismarck, we researched where we wanted to live. We wanted to be on the North side as that is where my work office was at. When looking at various neighborhoods, we checked out the Sleepy Hollow area and Eagle Crest as our builder could get lots in either. We decided to go to Eagle Crest as we didn't want our home by the quad and duplexes or the commercial view when you came out of that development. We chose Eagle Crest. The thought of the entire development and the land behind my house being all the same type, made me comfortable that the investment we were making would continue to appreciate. The price we paid for our land and house was commensurate based on what was going to be built around us. We could have saved money if we built in the Sleepy Hollow area.

What you and the city are asking is for us to take a hit to our investment. We are hardworking people from the Midwest and our homes are part of our investments. We and our neighbors are being asked to take a negative impact to our investments so this can be built. The price we paid for our land and homes was not based on this type of development being built behind us. The assessment of home value the city has been assessing us on is not based on this type of development being in our backyards.

The builders and developers are long out of the picture for our homes. I am sure you can appreciate being able to make a good investment and getting a good return on an investment. If someone was negatively impacting your investment, I am sure you would not be supporting it either.

We believe a neighborhood like this does have value and if it was planned and thought through prior to the purchases of homes around it, it would be a different story. To change the schematic and to impact the investments of the surrounding neighborhood is not something we can support.

The safety concerns that were brought up are also alarming as a citizen of Bismarck. The print on the information provided really is hard to read so I wasn't aware that no sidewalks are planned or that the roads are smaller. These homes are on a higher elevation than our homes. We were the first home in our section. The winters can be brutal here. When the wind comes down the hill with snow, the snow accumulates and drifts. There was a 6 foot + drift that would go from my garage door through the road. The snow plows do not get to our streets until about 48 hours after the storm. If another storm comes, the neighborhood can add more time on as the plows restart at the emergency roads. Where are the school buses going to get these children from? Who is going to police parking on only one side of the road? How will snow removal be handled? These are some additional concerns the city and you as the developer need to consider in whatever place these are being built.

Again, we do not support the plan for 38 homes to be put in the back of our house. We appreciate your time and consideration.

Shawn & Delnita Kraenzel
1316 Golden Eagle Lane
Bismarck ND 58503

CC: File, Planning and Development Commission

~~(Circled text)~~
Exhibit L.

Hilary Balzum

From: Planning - General Mailbox
Sent: Tuesday, May 26, 2015 2:01 PM
To: Carl Hokenstad; Kim Lee; Jenny Wollmuth; Jason Tomanek; Hilary Balzum
Subject: FW: Opposition to rezoning and plot approval for Verity Homes in the Eagle Crest Development

From: Joel Johnson [mailto:~~redacted~~]
Sent: Tuesday, May 26, 2015 12:41 PM
To: Planning - General Mailbox
Subject: Opposition to rezoning and plot approval for Verity Homes in the Eagle Crest Development

To whom it may concern.

My family and I reside at 1347 Golden Eagle Lane, Bismarck, ND. My Home number is ~~redacted~~

Please accept my email in my absence for the planning discussion scheduled for tomorrow night. Work demands have me travelling this week and I cannot attend. Having said that, please understand that our community, the residents of Eagle Crest, are strongly opposed to the plan to double the number of lots on the existing plot, in our backyard.

As a neighborhood, we have asked Verity to simply match the investment in our neighborhood that the rest of us have already made. We take pride in our yards, clean and safe sidewalks, and quiet streets. It is this the very care and value that we have take that Verity now wishes to plant a very different feeling development in the middle of our established neighborhood. We welcome new neighbors, and even new developers. It is not our responsibility to subsidize a developers bottom line.

There are several shortcomings within their plan. In no particular order...

1. They are placing twice as many homes in the space than we currently have. It will be very crowded. I personally chose this neighborhood based on the quiet and safe feel of which it was always intended.
2. They are not building a full sized street with neither curbs and gutters or even sidewalks for our children. The lack of gutters is a significant issue as many of us have had to deal with drainage issues already. I have personally spent thousands to repair damage from water and in re-landscaping my yard.
3. Lack of setbacks and sidewalks do not allow emergency vehicles not proper snow removal.
4. Finally, we all take objection to their effort of building without adding specials. My neighbors and I have each invested between \$10,000-\$20,000 with our city to pay for the very issues I have addressed above. Verity has no interest in making even an effort to return in kind.

Please feel free to call my cell phone for further explanations or ideas. The email I am sending is my work address and is also fine. I look forward to hearing the direction of the commission to redirect Verity back to the original plot which includes approximately 18 lots and sufficient streets, setbacks, sidewalks, curb, and gutter.

Thank you all.

Best Regards,

Joel E. Johnson

Joel E. Johnson - Sales Manager

Golberg Companies Inc.
4179 County Road 40 NW
Garfield, MN 56332

Cell: [REDACTED]
Office: [REDACTED]
Email: [REDACTED]



~~XXXXXXXXXX~~
Exhibit M.

Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, May 27, 2015 12:59 PM
To: Carl Hokenstad; Hilary Balzum; Jason Tomanek; Kim Lee; Jenny Wollmuth
Subject: FW: public hearing re JMAC Industrial Addition

From: [REDACTED] mailto:[REDACTED]
Sent: Wednesday, May 27, 2015 11:30 AM
To: Planning - General Mailbox
Cc: [REDACTED]
Subject: public hearing re JMAC Industrial Addition

I am writing in regards to the rezoning issue for JMAC Industrial Addition. We are against the rezoning which as we understand it would allow a concrete plant to be built so close to our property at 6808 North Star Acres Road. We have recently built a new home and have moved into it directly east of that proposed addition. Only a railroad and its right away would separate our lot from the addition. We do not want such a business practically in our back yard. We are concerned not only for the additional traffic on 71st Street, but also for the dust, noise and industrial view. It is bad enough that our neighborhood had no say in the placement of a cell tower 2 lots north of our home. Plus we hear there are plans to expand 71st as part of a bypass. We purchased the lot for our new home because we wanted to be in a quiet, rural neighborhood, not a noisy, polluted commercial neighborhood. This is an older, established neighborhood. Let it remain the peaceful area it is. I would encourage JMAC to look elsewhere for their proposed business endeavor.

John E

From: John E
Sent: Wednesday, May 20, 2015 10:06 AM
To: 'planning@nd.gov'
Cc:
Subject: zoning change for Mariner Construction

Planning and Zoning Commission
5-27-2015

I am in receipt of your letter dated May 15, 2015 concerning possible zoning change for the parcel mentioned. I am the property owner directly to the east across Yegen road, Anderson Western Inc., We have been in this location since 1998 and have seen considerable development in this area since that time. I also have storage units on Cartridge loop. My number one concern all along this corridor of development is the amount of dust that is generated by the heavy traffic and the increase in truck traffic, I have been in the Highway construction business for the better part of 45 years both in North Dakota and Minnesota and at no time while on a project would that kind of dust be tolerated on a haul road much less obscuring visibility on a very busy Yegen road. I understand this is an industrial area of Bismarck but I think a little consideration of the environment and pollution control need to be addressed all along this corridor. I know that I am not alone in my thoughts and concerns regarding this issue, The DUST has to stopped in this area, I am sure once the jail is up and operational they too will be concerned with this hazard and cleaning nuisance.

Thank You for your consideration in this matter, hopefully something can be done before it gets any worse in our area.

John T. Erickson (General Partner JTJ Partnership)
CEO Anderson Western INC.
Property Owner

Thoughts on land development ordinance/policy.

The footprint of the City of Bismarck is unique in that as it goes further to the north and along the Missouri River it will continually be challenged by the Land formation known as the Missouri Breaks making for less units per acre than some would like but a very peaceful and enjoyable setting. To compare us to flatlanders is not very fair or equitable. I love the challenge that the Breaks provide and the lifestyle is worth the extra effort of development, it is also all we have.

In 1960 we were building 900 sq ft homes that at the most had 1 stall garages many of us grew up in them. Today's consumer demands more and more each year. All growth should be consumer driven, the government has trouble keeping up with everything that it currently does and is generally slow to respond and when it does finally respond it is usually to late.

Street width standards have been set for our weather patterns and modern safety standards, if you want to narrow them I do not have a problem with that, but I would not want to be by the phone after the first big snowstorm of the year. A few years ago we started putting 6" of recycled material under our streets basically it has almost doubled our specials for streets. The first one in my subdivision to be done looks the same as all of the other streets prior to this modification. Winters are very hard on our infrastructure because of our soils and our severe winters. We should be very careful when we remove snow not allowing the operators to remove the chip seal would go further than the 6" recycled material or the narrowing of the streets.

Our Zoning regulations are fine we already have a tool to use to get what you are after with densities the PUD is frequently used and adequate to allow the developer much flexibility. Again the consumer is demanding more, I used to do 62'x115' (7130 sq ft) lots for single family homes but have had to move those numbers up a bit in order to accommodate the garages that are now in demand, that has its positives as well because it keeps some of the cars off the streets, when I was growing up in the 60's and 70's most families had only one or two cars at the most that is not the case today.

Granny flats are fine with me as well it would allow one to build a small comfortable dwelling on your single family lot and then rent it out to help with the payments, specials, property taxes, new park specials, income taxes, sales taxes, garbage fees, recycling fees, and the likes.

Dedication of easements and right of ways is just another way of saying that we want to jump across your property so that we can increase urban sprawl more than you say it is already being increased. The existing method has been delivering single family, commercial, industrial, apartment and every other type of lots you could want for the past history of our great city I don't know why or who or for what reason you now feel it is necessary to change a system that has brought us unprecedented contiguous growth and a great family oriented city. It appears that it is for one property owner that feels they deserve the right to develop even though in truth their property is a few years away from being ripe. How can one read the tea leaves well enough to predict where all of his streets and infrastructure will be in 10 years or however long it has taken to get to the end of his development? We would be asked to continually change our ghost plat to reflect the wishes of an owner that would continually change his mind. When I first started developing in northeast Bismarck the city looked at my plat and

told me that I would be responsible for crossing private property and extending services to my property I asked them to put the infrastructure in on the private property and hold that in abeyance until that property owner developed his land they told me no, that if I want services I had to put in my own and design it to provide services to all adjacent owners. Now they are willing to provide services to politically connected developers and hold them in abeyance for an unknown time frame, I am not against abeyance I just feel that everyone should be treated equally that is not the case in this instance. So I paid for my major trunk lines, wider roads, storm water facilities ect that will benefit upstream land owners where is the process in your new ordinance/policy that will allow me to "recoup" like you can through abeyance? Those of us who choose to not have specials and charge the consumer for those items through increased lot fees need a method similar to abeyance so when the benefiting adjacent landowner will not reimburse you it does not submit your property to non developable status. I am afraid that your intentions will not be met unless they are for certain individuals and not for everyone. Again where is the problem and is the solution the Government or private individuals working out their differences like they always have in the past, this solution is not the answer it will only cause hard feelings and I am afraid produce the opposite of what you are after. We are already experiencing unprecedented lot cost increases this will only increase that problem.

The death spiral of the Affordable home.

- 6" of recycled under pavement almost doubles cost of pavement bids.
- Change to water line fittings unknown cost I will get it for you.
- Adoption of new energy code. \$6,500.00 I believe it will be higher but I will use their number. Benefit to consumer \$3.00 per month on 1100 sq ft home.
- Sheetrock lid of unfinished basements \$1,600.00 then take down discard and put up again so the actual cost to consumers is much higher. Benefit to consumer \$0.00
- Seal ductwork in conditioned basement space \$1,500.00 bids from mechanical contractor. Benefit to consumer \$0.00

And now this.

Thank you,

Robb Sattler
701-220-7628



Exhibit P.

3100 N. 14th Street Suite 1
Bismarck, ND 58503

3369 39th St SW Suite 2
Fargo, ND 58104

May 20, 2015

Bismarck Planning & Zoning Commission
Bismarck City Commission
Bismarck Planning Staff
221 North 5th Street
Bismarck, ND 58501

RE: Proposed Policy for Orderly Development

To Whom It May Concern:

I wanted to write a letter in support of the proposed policy for dedication of easement and rights-of-way required for orderly development.

This policy is years overdue. I'm very pleased the city is thinking proactively and considering policy that will only help the city as a whole grow the way a city should.

As a developer and builder, this policy could potentially create more competition and/or prohibit companies like ours from holding hostage adjacent land owners, which in turn hurts the city overall. I feel that in the long run, such policy will necessitate better land planning and use by developers and also encourage orderly growth.

If certain land owners choose not to develop their property, adjacent land owners certainly need to be able to exercise their right to improve their land.

By adopting this policy, Bismarck will thrive like never before. The goals and vision of the 2014 Growth Management Plan, and the Future Land Use plan will be much more attainable.

Thank you again for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthur W Goldammer".

Arthur W Goldammer, CEO
Verity Homes



SWENSON, HAGEN & CO. P.C.

civil engineering . surveying . land planning . hydrology
landscape & site design . construction management

May 26, 2015

Kim,

Thank you for the opportunity to comment on the proposed dedication of easements and right-of-way required for orderly development.

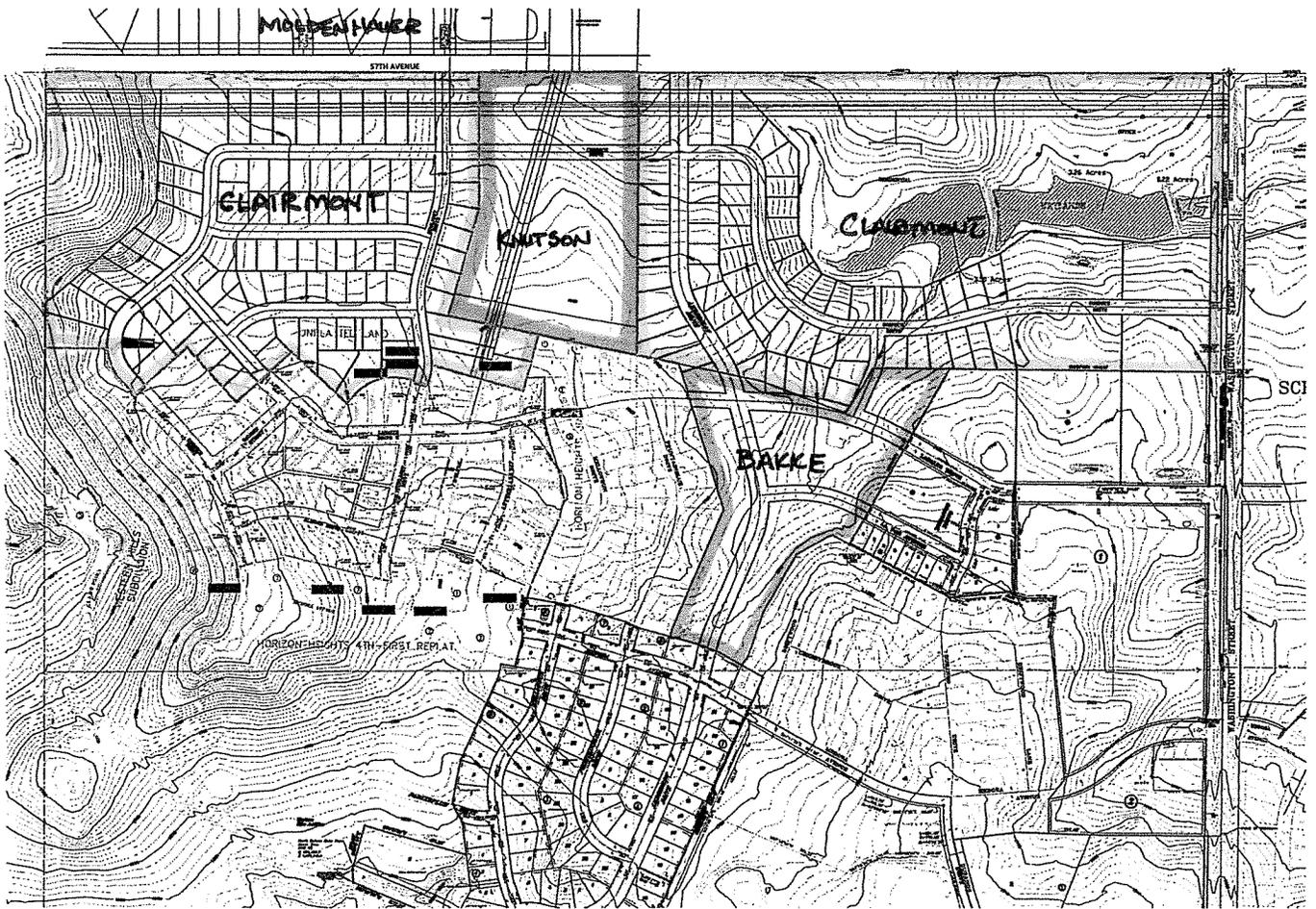
Rather than use a hypothetical situation, I would like to present some real world questions regarding the proposed policy.

The example I will use is the unplatted area south of 57th Avenue and west of Washington Street.

- There are 3 property owners of the unplatted area. See attachment No. 1.
- Let's say the goal is to provide gravity sanitary sewer to Moldenhauer property from Washington Street.
- The east property owner (Clairmont) is required to provide an easement or right-of-way through his property because he wants to plat the four (4) southeast lots for multi-family use.

Some points that I would make are:

1. We have a tentative masterplan from the developer's point of view but we do not know if Engineering Dept., Planning Dept. and the Planning and Zoning Commission will approve the developer's layout. What happens if the city wants to move the collector street to a different location because of sight distance or some other alignment concern? What happens if the location of the collector street needs to pass through another person's property and they have not completed a masterplan? Or if the adjacent owner does not agree with the proposed layout?
2. The adjacent owners have not decided how they want to develop their property and we have no control over that. What happens if the adjacent owner decides the most logical development could be to share a street? Without going before the city planning and zoning to get public comments, the adjacent owner may say that we and the city did not allow him the opportunity to develop his property to the best of its potential.
3. Let's say the masterplan street location is acceptable or easy. Who is responsible to design street grades and development grading plan so we know what elevation to install waterlines and sewer lines at? If grading is necessary, either cut or fill over the utility lines, who pays for that?
4. Once utilities are installed, it limits the developer's flexibility if a buyer either want to change zoning and lot depths. The mayor is proposing smaller lots, instead of single family maybe the market changes to townhomes or quad homes. Markets do change.



ATTACHMENT NO 1