

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
April 28, 2021

The Bismarck Planning & Zoning Commission met on April 28, 2021, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Due to ongoing public health concerns related to COVID-19, many of the Planning and Zoning Commissioners and staff participated in the meeting remotely via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Steve Bakken, Brian Eiseman, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schwartz, Wendy Van Duyne, Trent Wangen and Paul Zent.

Commissioner Brian Bitner was absent.

Staff members present were Hilary Balzum – Community Development Senior Administrative Assistant, Janelle Combs – City Attorney, Ben Ehreth – Community Development Director, Will Hutchings – Planner, Kim Lee – Planning Manager, Daniel Nairn – Senior Planner and Jenny Wollmuth – Senior Planner.

MINUTES

Chair Schwartz called for consideration of the minutes of the March 24, 2021 meeting.

MOTION: Commissioner Bakken made a motion to approve the minutes of the March 24, 2021 meeting, as presented. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

CONSIDERATION

- 2. BASIN ELECTRIC FOURTH ADDITION – PRELIMINARY PLAT**
- 3. RBK VENTURES SECOND SUBDIVISION – ZONING CHANGE AND PRELIMINARY PLAT**
- 4. LOTS 2-4, BLOCK 1, NORTHRIDGE ESTATES COMMERCIAL PARK – ZONING CHANGE**
- 5. KEEPING OF CHICKENS – ZONING ORDINANCE TEXT AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve consent agenda items 2-5, granting tentative approval or calling for public hearings on the items as recommended by staff. Commissioner Bakken seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT POTTER POINTE ADDITION

Chair Schwartz called for the public hearing on the minor subdivision final plat and the zoning change from the RR – Residential zoning district to the RR – Residential and R5 – Residential zoning districts for Potter Pointe Subdivision. The proposed plat is 5 lots in 1 block on 7.42 acres and is located south of Bismarck, between Mills Avenue and Larson Road along the west side of Langer Lane (a replat of part of Lot 2, Block 1, Replat of Lots 1A, Lot 2A and Part of Lot 3A of Mills First Subdivision).

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

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth then gave the findings related to land use for the minor plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer.
3. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed

according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.

4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
6. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the above findings, staff recommends approval of the zoning change from the RR – Residential zoning district to the RR – Residential zoning district for Lots 1, 2, and 5, Block , Potter Pointe Subdivision and the R5 – Residential zoning district for Lots 3 and 4, Block 1, Potter Pointe Subdivision and approval of the minor subdivision final plat for Potter Pointe Subdivision.

Commissioner Bakken asked what the square footage of the proposed Lots 3 and 4 is.

Ms. Wollmuth said they are each approximately 9,000 square feet.

Commissioner Bakken asked what the square footage of the existing surrounding lots is.

Ms. Wollmuth said they are each roughly 30,000 square feet.

Commissioner Bakken said these lots would not be similarly built then.

Ms. Wollmuth said based on the lot sizes and lot coverage requirements for properties zoned R5 – Residential a house with a footprint of approximately 1,700 square feet could be constructed on the proposed lots.

Commissioner Bakken asked if there are concerns of there being two driveways onto Langer Lane?

Ms. Wollmuth said no concerns of that nature have not been voiced by staff.

Commissioner Levchak asked if a summary could be provided of the written comments received on these requests.

Ms. Wollmuth said written comments received prior to the meeting were not favorable of the request.

Commissioner Levchak asked how services would be provided to the location.

Commissioner Schell said there are sewer services currently through Langer Lane and water extensions would be needed to the proposed Lots 3 and 4.

Commissioner Levchak said those lots within 200 feet would be required to connect such as the proposed Lot 1 and the extension of Lot 3.

Commissioner Van Duyne pointed out that what appears to be an extension of Lot 3 is actually a separate lot, Lot 5.

Commissioner Levchak said it does connect to Langer Lane though.

Commissioner Schell said the placement of the homes would have to be established and then the service connections could be determined.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said the area was originally zoned A-Agriculture and was heavily wooded before it was developed in 2009-2010. He said Whispering Bay and Whispering Pointe were developed at that time and rezoned to R5-Residential and the area has filled in steadily since then. He said the same zoning is being requested as what was approved in those subdivisions. He said the proposed homes on the proposed urban lots could still have a total building square footage of over 3,000 square feet and services could extend and connect to the area as well. He said they are working through the floodplain requirements also and are asking for what has already been done which created the surrounding subdivisions originally.

Commissioner Levchak asked if Lots 1 and 5 would remain zoned RR-Rural Residential.

Commissioner Levchak asked if there are concerns of the proximity to the river and if the location would have a septic system. Mr. Niemiller said the rural lots would have septic systems.

Commissioner Levchak asked if soil studies have or would be done to ensure there would not be infiltration from the septic system to the river.

Mr. Niemiller said any requirements would be followed related to the installation of a septic system and the home would go on what is now Lot 5, further away from the river.

Commissioner Levchak asked if access between the lots would be private. Mr. Niemiller said that access would only be for the RR-Rural Residential lots so it would remain private.

Commissioner Levchak asked about the configuration of Lot 5 and why there was a portion of Lot 5 adjacent to Langer Lane. Mr. Niemiller said that is a space reserved for landscaping for the proposed subdivision and would like it to be placed on Lot 5, the lot he intends to own so that he can maintain it.

Commissioner Eiseman asked why Lot 1 and 5 would be combined. Mr. Niemiller said it is more efficient to plat it as two separate lots and combine, then split again through the Rural Residential Split process which requires a public hearing and notification of adjacent property owners if the owner wishes to sell the lot in the future.

Commissioner Eiseman said the proposed urban lots are only 112 feet deep and have easements along the front as well.

Mr. Niemiller said that is correct, that there is a 10-foot utility easement as well as a 20-foot Burleigh County water easement that is to be relocated and released as the site develops.

Russ Arman, 3008 Whispering Drive, said the easements behind the property reduce the buildable area of Lots 3 and 4 and Lots 3 and 4 are not harmonious with Whispering Bay or Whispering Pointe Lots 3 and 4 which once sold would have to petition for annexation and determine utilities as well as benefit from street improvements that are already paid for. He said Lots 3 and 4 should be combined and accessed through the proposed private access instead of directly from Langer Lane.

Commissioner Eiseman said it sounds like there is more acceptance to the lots being larger and comparable to those surrounding.

Heidi Hilzendeger, 2533 Langer Lane, said she supports the development but the proposed Lots 3 and 4 do not fit the lot sizes for this area.

Justin Steinle, 2713 Langer Lane, said he has the same oppositions as others and he wants the lot sizes to be similar to what is there now.

Commissioner Zent asked what the average size of the surrounding lots in the area is. Ms. Wollmuth said they are each approximately half an acre.

Jessica Knutson, 2506 Langer Way, said she is not opposed to the development either but the small lot sizes of Lot 3 and 4 are concerning, as well as the proposed accessed off Langer Lane. She said the development does not seem ready at this time.

Mr. Niemiller said Whispering Pointe, a plat approved by the Planning and Zoning Commission in 2010, also had a private access road as part of the lots and easements were in place to avoid building around it.

Additional written comments in opposition of the requests are attached as Exhibits A-K.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Laning said he has concerns with the smaller lot sizes and their potential impact on surrounding property values.

Commissioner Levchak said there is also the issue of how the other lots will be combined and then split again later.

Commissioner Eiseman said the neighborhood is ok with the development if the lot sizes are appropriate and he feels the developer has an opportunity to make those adjustments and bring the requests back.

MOTION: Commissioner Laning made a motion to deny the zoning change from the RR – Residential zoning district to the RR – Residential zoning district for Lots 1, 2, and 5, Block 1, Potter Pointe Subdivision and the R5 – Residential zoning district for Lots 3 and 4, Block 1, Potter Pointe Subdivision and approval of the minor subdivision final plat for Potter Pointe Subdivision, based on the size of the lots proposed to be zoned R5-Residential not being the same size as the adjacent R5-Residential lots and concerns that these smaller lot sizes could negatively affect the property value of adjacent lots. Commissioner Levchak seconded the motion and the motion was approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion. Commissioner Schell opposed the motion.

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

Chair Schwartz 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 district to the PUD-Planned Unit Development zoning district for Hamilton’s First Addition First Replat. The proposed plat is 19 lots in 1 block on 7.12 acres and is located in northeast Bismarck, north of East Century Avenue and west of Centennial Road on the west side of Hamilton Street (a replat of part of the East 67 feet and the South 61 feet of Lot 1 and Lots 2-3, Block 1, Hamilton’s First Addition).

Mr. Nairn gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
7. The proposed planned unit development would preserve the natural features of the site insofar as possible, including the preservation of trees and natural drainage ways.
8. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated.
9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
11. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn then gave the findings related to land use for the minor plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer.
3. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare

Mr. Nairn said, based on the above findings, staff recommends approval of the zoning change from the RM15 – Residential and PUD – Planned Unit Development zoning districts to a new PUD – Planned Unit Development zoning district, as outlined in the draft PUD

ordinance attached to the staff report, and a minor subdivision final plat for Hamilton's First Addition First Replat, with the following conditions:

1. A Private Drive/Private Utility agreement for service of Lots 1-18, Block 1 is submitted prior to recordation of the plat.
2. Private roadway Hamilton Pointe is signed as "Fire Lane – No Parking"

Commissioner Levchak asked if, with the condos on the northwest side, would the new street be an extension of an existing street.

Mr. Nairn said a dedication of a piece of land is being worked on and the condo association has signed an access easement to allow that connection.

Commissioner Levchak asked if a response was provided by the school district.

Mr. Nairn said they are informed of these requests and they did not provide input on this one.

Chair Schwartz asked how much space would be required between the houses.

Mr. Nairn said they would need to be at least ten feet apart.

Chair Schwartz opened the public hearing.

Mr. Niemiller said with the north piece of this property an opportunity was seen for some affordable homes and a mixed-use area with the zoning option, in addition to an access loop in and out of the site.

Commissioner Bakken asked if Hamilton Street would connect to Jericho Road.

Mr. Nairn said there is not a plan for that at this time.

Commissioner Bakken asked what the benefit or disbenefit of that connection would be.

Commissioner Schell said the right-of-way would then not be platted on one side so the connection would be difficult to achieve and the need for it might not be there.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the zoning change from the RM15 – Residential and PUD – Planned Unit Development zoning district to a new PUD – Planned Unit Development zoning district, as outlined in the draft PUD ordinance attached to the staff report, and a minor subdivision final plat for Hamilton's First Addition First Replat, with the following conditions: 1. A Private Drive/Private Utility agreement for service of Lots 1-18, Block 1 is

submitted prior to recordation of the plat; and 2. Private roadway Hamilton Pointe is signed as “Fire Lane – No Parking”. Commissioner Eiseman seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE LOT 2, BLOCK 1, J & L ADDITION

Chair Schwartz called for the public hearing on a zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition. The property is located in south Bismarck, south of East Bismarck Expressway between South 12th Street and Airport Road, along the southeast side of Park Avenue.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
7. The proposed planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways.
8. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

10. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said based on these findings, staff recommends approval of the zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition, as outlined in the draft PUD ordinance attached to the staff report.

Commissioner Levchak asked what the square footage of the proposed caretaker unit is.

Ms. Wollmuth said it is similar to an efficiency apartment with a bathroom and is located on the second floor of the building.

Chair Schwartz opened the continued public hearing.

Mr. Niemiller said mainly this change is needed to accommodate the proposed living unit because the current industrial zoning district does not allow that type of use.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition, as outlined in the draft PUD ordinance attached to the staff report. Commissioner Wangen seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE LOTS 23-24, BLOCK 23, STURGIS ADDITION

Chair Schwartz called for the public hearing on a zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition. The property is located in central Bismarck, south of East Main Avenue, east of South 9th Street, along the east side of South 14th Street and the south side of East Sweet Avenue.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.

2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
7. The proposed planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways.
8. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated/
9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
11. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Hutchings said, based on these findings, staff recommends approval of the zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition, as outlined in the draft PUD ordinance attached to the staff report, with the following conditions:

1. The building and site plan are revised to meet the 20-foot setback requirement in front of all overhead garage doors.
2. A landscape plan is provided indicating required buffer yard landscaping.

Commissioner Bakken asked if the units are intended to be rentals.

Mr. Hutchings said they would be condos for purchase.

Commissioner Levchak asked how far from the back of the building is it to the setback.

Mr. Hutchings said it is six feet and they worked to move that in order to have a twenty-foot setback in the front yard.

Chair Schwartz opened the public hearing.

Clint Dreyer, Parclin LLC, said the idea of the patio door where it is started with having a larger setback and as that changed it was determined there would not be patio doors but windows instead, so that part will look different once constructed. He said they regularly handle four-plex projects similar to this one and want to keep the curb appeal high.

Commissioner Levchak asked if there would be only one point of egress in each unit.

Mr. Dreyer said they did discuss that and will construct the property to the requirements. He said a patio door would make sense for exit needs purposes as well and they can make either one work.

Chair Schwartz asked what would be done with the remaining six feet. Mr. Dryer said they would infill with sod and shrubs and have discussed what would make the most sense and would also install whatever the City Forester recommends.

Commissioner Levchak said the door would not provide adequate fire exit either if it were placed up against the landscaping in the back.

Allison Grote, 305 South 14th Street, said she lives directly south of this property and has concerns regarding room in the back and if the proposed fence would just be a privacy fence.

Mr. Dreyer said yes, that is what has been discussed for installation.

Commissioner Bakken asked how far it is from Ms. Grote's property to the setback line.

Ms. Grote said she only very recently purchased the property so she is not sure. Mr. Hutchings shared that it is approximately fourteen feet from the new unit to her house and nine feet from the fence to her house.

Additional written comments in favor of the request are attached as Exhibit L.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition, as outlined in the draft PUD ordinance

attached to the staff report. Commissioner Eiseman seconded the motion and it was approved with Commissioners Bakken, Eiseman, Laning, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion. Commissioner Levchak opposed the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING)
LOT 5, BLOCK 12, GRANDE PRAIRIE ESTATES THIRD SUBDIVISION (3539 HEARTLAND LOOP)**

Chair Schwartz called for the public hearing on a special use permit to increase the total allowable square footage of accessory structures to 3,080 square feet on Lot 5, Block 12, Grande Prairie Estates Third Subdivision. The property is located north of Bismarck, west of Centennial Road and north of 43rd Avenue NE on the east side of Heartland Loop (3539 Heartland Loop).

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to increase the total allowable square footage of accessory structures to 3,080 square feet on Lot 5, Block 12, Grande Prairie Estates Third Subdivision, with the following condition:

1. All accessory structures on the lot are for residential uses only, and not commercial uses.

Commissioner Bakken asked if this is a commercial venture for the applicant.

Mr. Nairn said the applicant has indicated it is not and noted commercial uses are currently not allowed at this location.

Commissioner Laning asked what the rights of the adjacent property owners might be if they do not agree with the request.

Mr. Nairn said any zoning code violations are enforceable by the Building Official and are generally complaint-based.

Commissioner Levchak said there is a lot of objects on the property now.

Mr. Nairn said the neighborhood has informed of the concern of the number of trailers on the property and the aerial picture shown in the staff report is from April 2020. He said he viewed the property recently and there are only a few trailers on site at this time, but not obviously a commercial use.

Commissioner Levchak asked if the building is intended for personal storage. Mr. Nairn said that is his understanding.

Commissioner Levchak asked if complaints have been received on this property of there being commercial uses happening. Mr. Nairn said neighbors have noted that trailer sales have occurred on this lot.

Chair Schwartz opened the public hearing.

Mr. Walker said he did have some rental trailers on his property but two of them that are there now belong to him and are for personal use. He said he would move all of them inside the accessory building if he can construct it.

Commissioner Levchak asked if this would be an addition to the existing accessory building.

Mr. Walker said that is correct and it would be landscaped as well.

Commissioner Zent asked if does own a trailer rental business. Mr. Walker said he does but all of his rental trailers are or will be at his French Street and Airport Road locations.

Chair Schwartz asked if all of the rental business would be operated from an alternate location from now on.

Mr. Walker said yes and he understands the concerns of his neighbors and has corrected them over the last two years.

Matt Sagaser, 4420 Hillsboro Drive, said on behalf of the Grande Prairie Estates Homeowners Association they are asking for consistency and request to not allow a property violation beyond what is normally allowed. He said Mr. Walker's yard looks great but please do not allow the creation of a new precedent.

Dennis Fuller, 3540 Heartland Loop, said he lives directly across the street from Mr. Walker and his home faces where the building addition would be constructed. He said it would be large and obstruct his view and he is not aware of any other buildings this large in the area. He said the commercial venture issue seems to have been remedied and the rental inventory has been moved but he is concerned it will return.

Chair Schwartz asked what the remedy might be to avoid an obstruction of their view. Mr. Fuller suggested the addition be constructed on the opposite side. He said he understands things happen and needs change, he just does not love the location of the building blocking his view. He said the previous issues are about 95% better, the noise is less and the traffic is less and he wants to see Mr. Walker's business be successful, just not in the neighborhood.

Additional written comments in opposition to the request are attached as Exhibits L-Q

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the special use permit to increase the total allowable square footage of accessory structures to 3,080 square feet on Lot 5, Block 12, Grande Prairie Estates Third Subdivision, with the following condition: 1. All accessory structures on the lot are for residential uses only, and not commercial uses. Commissioner Laning seconded the motion and the motion was approved with Commissioners Bakken, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion. Commissioner Eiseman opposed the motion.

OTHER BUSINESS

CERTIFICATE OF APPRECIATION – BRIAN EISEMAN

Chair Schwartz said Commissioner Eiseman is retiring from the Bismarck Planning and Zoning Commission and provided him with a resolution and certification of appreciation for his time of service.

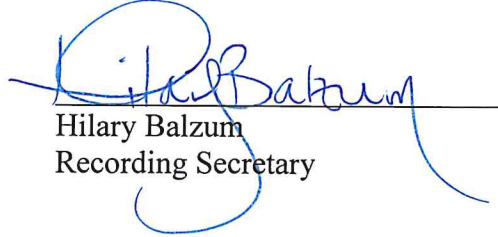
Commissioner Eiseman thanked those present and said it has been a pleasure to serve in this capacity.

There was no other business to discuss at this time.

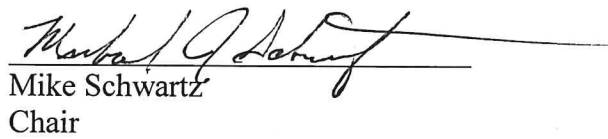
ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:38 p.m. to meet again on May 26, 2021.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Mike Schwartz
Chair

From: [Jenny Wollmuth](#)
To: [Ben Ehreth](#); [Kim Lee](#); [Hilary Balzum](#); [William Hutchings](#); [Daniel Nairn](#)
Subject: FW: Potter Pointe Subdivision hearing 4-28-2021
Date: Tuesday, April 27, 2021 3:46:35 PM

Jenny Wollmuth, AICP, CFM
Senior Planner | Planning Division
Community Development Department
701.355.1840-Department
701.355.1845- Direct
www.bismarcknd.gov

From: CODY K STROTHMAN < >
Sent: Tuesday, April 27, 2021 3:37 PM
To: Jenny Wollmuth <jwollmuth@bismarcknd.gov>
Subject: Potter Pointe Subdivision hearing 4-28-2021

External Email - Use caution clicking links or opening attachments

RE: Potter Pointe Subdivision hearing 4-28-2021

I am writing to express my opposition to the proposed R5 change on the Potter Pointe Subdivision by the P&Z committee on April 28, 2021.

My name is Cody Strothman and I live a half block away on Langer Way where it intersects with Langer Lane. I have been here for 10 years.

The proposed R5 part of the proposal (for Lots 3 and 4 only) is not in harmony with the size and amenities of the lots and homes in neighboring Whispering Bay and Whispering Pointe Subdivisions. While the lot sizes may meet R5 requirements they are much smaller than the closest 68 other residential lots. The smallest lots in the area are on Langer Way and they are more than 13,000 sq ft each. A significant portion of the lots will not be level and the easement setback requirements further squeeze the buildable options even more.

The purchasers of the two subject R5 lots will need to be annexed at their expense and will seek ingress and egress to Langer Lane without having shared in the special assessments. Those of us on Langer Way paid for our private drive and maintain it.

I would prefer that the development remain all RR; but if the owner wants to have a another residence in front of his, he should create and sell off one large lot with private access on the same private driveway that he and the existing neighbor are already using.

I realize that P&Z has no interest or concern for provisions of future covenants, but starting with lots sizes that are not in harmony with rest of the residential area raises serious concerns that there will be additional issues to address with our neighbor if this subdivision is approved as presented at the April 28 hearing.

Additionally, the drainage culvert that serves these lots is plugged. It runs from the front left corner

of proposed lot 4, underneath Langer Way and my yard and opens into the bay channel beside the gangway on my dock.

Cody K Strothman
2301 Langer Way
Bismarck ND 58504

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Art & Dorothy Mariner
2813 Shoreline Circle
Bumaw, N.D. 58504



4-27-2021

Dorothy Mariner 4-27-2021

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
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I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Kristy Mariner 4/27/2021
Greg Mariner 4/27/2021

Kristy + Greg Mariner
2515 Langer Lane
Bismarck ND 58504

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW:
Date: Wednesday, April 28, 2021 1:10:09 PM

From: KENT FETZER < >
Sent: Tuesday, April 27, 2021 6:57 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject:

External Email - Use caution clicking links or opening attachments

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
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I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Kent Fetzer
2402 Sagamore Place
Cape Coral FL 33914

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: letter Re: Potter Pointe
Date: Wednesday, April 28, 2021 1:10:36 PM
Attachments: [image001.png](#)
[Potter Pointe Subdivision concerns.docx](#)

From: Jessica Knutson < >
Sent: Tuesday, April 27, 2021 4:59 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: letter Re: Potter Pointe

External Email - Use caution clicking links or opening attachments
Attached is my letter opposing the rezoning of Potter Pointe from RR to R5.

Thanks.

Jessica Knutson

CCIM / Partner / Commercial REALTOR®



Aspen Group LLP

424 South 3rd Street . Suite 2

Bismarck, ND 58504

701-223-2450 office

701-223-2322 fax

www.aspengrouprealestate.com

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
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I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Jessica Knutson

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Potter Pointe Subdivision Public Comments
Date: Wednesday, April 28, 2021 1:10:44 PM

From: Daniel Keith < >
Sent: Tuesday, April 27, 2021 4:49 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Potter Pointe Subdivision Public Comments

External Email - Use caution clicking links or opening attachments

Dear Planning and Zoning Commission Members:

My name is Dr. Daniel Keith and I live at 2200 Larson Road (Bis, ND, 58504) in Whispering Bay. I am also a Whispering Bay HOA Board Member.

I am respectfully writing in opposition to the proposed Potter Pointe Subdivision within the Whispering Bay area. that is up for public comment at the commission meeting on 4/28/21.

I, along with the entirety of our Whispering Bay Homeowners Association, are not in favor of this for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision.

(The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report. Thank you for allowing public comment and for your consideration. We all thank you for dedicated service to the city of Bismarck!

Sincerely,

Daniel J. Keith, DDS, MS

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
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I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1, 2 and 5.

Sincerely

Robert Winter
Lot #34
Whispering Bay

We own Lots 1 and 2 in Whispering Pointe. Our home is located on Lot 1. Our property is adjacent to the proposed rezoning. I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).
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Sincerely,

Tim Smith
2404 Langer Way
Bismarck ND 58504

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Potter Pointe Subdivision
Date: Wednesday, April 28, 2021 1:11:30 PM

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

From: Steve Mariner >
Sent: Tuesday, April 27, 2021 3:34 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Shelly Mariner <>
Subject: Potter Pointe Subdivision

External Email - Use caution clicking links or opening attachments

Good Afternoon

We are opted to the potter pointe subdivision this property should have to meet the 65,000 sf minimum requirements.

Thanks
Steve Mariner

Sent from my iPhone

From: [Planning - General Mailbox](#)
To: [Ben Ehreth](#); [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: April 28th Planning Commission Testimony
Date: Wednesday, April 28, 2021 2:38:24 PM

From: Brent < >
Sent: Wednesday, April 28, 2021 2:22 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: April 28th Planning Commission Testimony

External Email - Use caution clicking links or opening attachments

Brent Levinson
2830 Langer Way
Bismarck

Planning and Zoning Meeting April 28th, 2021

Members of the Planning & Zoning Commission thank you for your time and consideration of my testimony. My name is Brent Levinson. I live at 2830 Langer Way, a short distance from the proposed development.

I am writing in support of concerns expressed by those property owners most affected by this development, Tim and Jodi Smith, Jessica Knutson, and many others on Langer Lane.

The smallest lots in the Whispering Pointe development are Lots 2,3 & 4 at 13,317 square feet. These lots abut the proposed development. Part of this 13,317 square feet is a road allowance, if you subtract the road allowance (68' x 14' or 952 sqft) from published lot area you have 12,365 of real property. Most lots in the Whispering Bay area are 19,000 to 20,000 sqft. The proposed replat of Potter Pointe indicates two lots with areas 9,287 sqft each, 33% smaller than 3 lots referenced above.

It is understandable that property owners whom have made significant investments in their land and homes would be concerned by an adjacent development that is not of similar scale and design.

I have talked with Dan Potter, and I understand that the current lot layout was swayed by the challenge of working around Potter Pointe Lot 5 easements (a 20' water easement and 10-20' utility easements). This is understandable. I support Dan's efforts to develop his property. I also support the interests of nearby and established property owners. Any new lots should be the same, or large area, than the smallest lots in the Whispering Pointe development. Further, the homes developed and the enforced covenants on those properties should make the final developed properties integrate to the overall accord of the Whispering Bay and Whispering Pointe developments.

Thank you,
Brent Levinson

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#)
Subject: FW: planning and zoning for Potter Pointe Subdivison
Date: Wednesday, April 28, 2021 4:05:37 PM

Thank you,

Allison Carlson

Office Assistant II
City of Bismarck Community Development
221 N 5th St
Bismarck, ND 58501
Office: (701) 355-1465
Fax: (701) 222-6450
Website: www.bismarcknd.gov

From: Cory Knutson < >
Sent: Wednesday, April 28, 2021 4:03 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: planning and zoning for Potter Pointe Subdivison

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This email is in regards to the proposed Potter Pointe Subdivision. I have some concerns with the proposed subdivision. This current land is zoned RR, by dividing a portion of this land to R5 off of Langer Lane is not consistent with the surrounding subdivision. These lots 3 and 4 are smaller than anything in the area. approx 9,000 sq. ft. current adjacent lots are closer to 13,000 sq. ft and are accessed off of a private drive. There are no other lots accessed off the west side of Langer Ln. without a private dr. As current non private city Lots in the area are considerably larger around Whispering bay.

Another issue is these two lots 3 and 4 have not shared any cost of city improvement as there were no plans to annex this into the city that I am aware of . I am not opposed to proper development. This proposed development is not consistent with the current surroundings and lot sizes. Another option is to keep the zoning as RR and enter from a private Dr. Please consider this option before approval of the current proposed subdivision.

Thank you,

Cory Knutson

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: PUD change 301 S. 14th Street
Date: Wednesday, April 28, 2021 1:10:27 PM

From: CODY K STROTHMAN <>
Sent: Tuesday, April 27, 2021 5:03 PM
To: William Hutchings <whutchings@bismarcknd.gov>; Planning - General Mailbox <planning@bismarcknd.gov>
Subject: RE: PUD change 301 S. 14th Street

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Bighorn Properties, LLC is in favor of the zoning change from RM30 to PUD for the construction of a four unit rowhouse at 301 S. 14th Street.

The Vander Wal project will be an improvement to housing conditions within the 'machinist district'.

Cody K Strothman
Richard L Goodwin
Dba Bighorn Properties, LLC
2031 46th Ave SE
Mandan, ND

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Troy Walker special use permit at 3539 Heartland Loop
Date: Friday, April 23, 2021 8:34:53 AM

From: Dan Domagala <>
Sent: Friday, April 23, 2021 7:07 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Troy Walker special use permit at 3539 Heartland Loop

External Email - Use caution clicking links or opening attachments

Please deny this permit. There is a reason that we have rules. I am afraid it is for commercial use. Mr. Walker is already breaking the covenants by parking over a dozen trailers on his lot, as shown on photograph.

Thank you,
A Grand Prairie Neighbor

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: letter of comment, agenda item # 10, April 28, 2021 meeting
Date: Monday, April 26, 2021 3:42:49 PM
Attachments: [GPEA Covenant Committee GrievanceNotification June2020 \(1\).docx](#)

From:
Sent: Monday, April 26, 2021 1:36 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>; Planning - General Mailbox <planning@bismarcknd.gov>
Cc:
Subject: letter of comment, agenda item # 10, April 28, 2021 meeting

External Email - Use caution clicking links or opening attachments

To: Bismarck Planning and Zoning Commission

From: Dennis Fuller

Subject: #10 for the April 28, 2021 Bismarck Planning and Zoning Commission meeting

Date: 26 April 2021

This letter concerns Agenda item #10 for the April 28, 2021 Bismarck Planning and Zoning Commission meeting. I see it identified as Project ID: Sup2021-003 for Lot 5, Block12, Grande Prairie Estates Third Subdivision owned by Troy Walker.

I, Dennis Fuller, am the owner of the property directly across Heartland Loop from the Troy Walker Property.

First my apologies for not responding sooner to a letter that may have been sent to my address concerning this special use permit. I am currently in Arizona and our mail was put on hold in the time period we were told the letter of notification was sent. I only became aware of the application for special use permit pertaining to Troy Walker this morning.

I strongly oppose this application based on my past experiences and disagreements with Troy Walker which I will explain.

Troy Walker has a utility trailer sales and rental business which he operated out of his home, the property described above, for a number of years. This goes back perhaps as many as 5 years. Troy operated trailer sales, rental, and storage on his property. Troy rented trailers to be used as storage for personal belongings. He stored these trailers on his property. Eventually trailers were in excess of 20 feet in length and there were as many as 12 in a row across the northeast corner of the property.

Sales, rentals, and related shop work grew to a 7 day per week operation. The pressure washing and noise created by repairs and reconditioning was fairly constant. Customer traffic dramatically increased over the past 2 years by Troy's customers and by him and his employee hauling trailers and equipment. On more than one occasion semi-trucks and trailers have also delivered products and parts to Troy's residence. Obviously the roads in our neighborhood are not designed for such traffic.

In addition he and his employee performed dealer preparation on new trailers along with repair and reconditioning of used trailers. Rental trailers were pressure washed. This work was done in Troy's driveway utilizing his current shop space.

About two years ago Troy rented property at French St. (near Greensboro Dr. and Centennial Rd.). I assumed it was for the purpose of expanding his inventory and getting the business out of his residence. There is little infrastructure there such as paved surfaces or shop space. So the work continued at his home property as before.

I had tried on several occasions to discuss the matter with Troy explaining, in addition to not being a good neighbor, he was violating county and city zoning as well as the Grand Prairie Estates Home Owners Association covenants. He explained he was working on an agreement with the business he was renting land from to build a shop but that never seemed to happen.

In early June 2020 the situation became more serious. One of Troy's customers ran me off the road on Heartland Loop just north of my property. I am sure it was not intentional but he appeared to be watching the trailer he was hauling and not the road ahead. I was very

shaken and upset. I contacted my lawyer and we discussed appropriate action. I first contacted the Grande Prairie Estates Homeowners Association who responded to my grievance with a letter to Troy. I also met Troy outside his residence and explained my complaints to him.

1. I had been run off the road by one of his customers and was out of patience with him running a business from his home.
2. I had spoken to other neighbors and they expressed their own discontent with the noise, traffic, and danger created by his home-based business. Children and adults routinely walk and bicycle on Heartland Loop.
3. I pointed out to Troy he was in violation of current zoning laws as well as our home owner's association covenants.
4. I had contacted my lawyer for advice.
5. I had contacted the homeowners association with my complaint.
6. I very much wanted to settle the issue between us and not officially get my lawyer, Burleigh County, or the City of Bismarck involved.
7. I asked that he stop doing business at his residence immediately to include rentals, storage, sales, repair, cleaning of rental trailers, and all customer traffic, and further to remove all trailer inventory from his property.

Troy responded with understanding during our meeting. I was left with the impression that he acknowledged all my concerns to be valid and true. Troy did receive notification from the Grande Prairie Estates Homeowners Association as well that he was in non-compliance.

Troy also did respond quickly to my request for action on his property. Inventory was moved from the property to his location on French St. The reduction in noise and traffic was immediate. The neighborhood returned to normal as far as noise and traffic.

It was my belief that we had resolved the issue. However given the past history with Troy, I am not convinced of his motive for his request to greatly increase the size of his shop. I suspect he intends to use it for commercial purposes. I am not sure if any zoning changes could be possible in addition to Troy's request for a larger shop but I am very concerned about his business returning to his Heartland Loop property.

In addition, the proposed plan for the building is directly across the street from the front view of our house. The shop addition will largely block an otherwise pleasant view. I feel the partial blocking of the view, plus such an unusually large building in the neighborhood, will affect my property value.

Finally, I communicated my concern to the president of the Grand Prairie Estates Homeowner's Association. He was unaware of the proposal and believed covenant approval was needed before city and county approval.

Attached is the letter sent to Troy from the Grand Prairie Estates Homeowners Association in June of 2022 stating he was in non-compliance at that time.

Regards,

Dennis Fuller

Grand Prairie Estates Association – Covenants Committee

6/12/2020

GPEA Covenants Committee. Covenant #470858, amended #486664

4420 Hillsboro Drive

*Subdivision's 1, 2, 3, 4

Dear GPE Landowner/Homeowner;

Re: Grievance of Protective Covenants – Notification, First Notice

In Grand Prairie Estates, our goal is for all of our landowners to live within our subdivisions in harmony and free from nuisances and risk of annexation to the City of Bismarck. Unfortunately, this isn't always possible and that requires action from the landowner and the committee.

NOTICE: It has been made known that your property is in violation of one or more GPE Protective Covenants. Protective Covenant in Violation: Covenant # 470858, Item 1.

1. No lot, lots or portions thereof may, at any time be used for commercial purposes, it being specifically prescribed that the lot located within said tract shall be used for residential purposes only, and no buildings shall be erected thereon except for residential purposes, except that accessory out buildings may be constructed to promote uses, and then only as the same shall comply with county zoning regulations.

15. No one owning or occupying any lot within Grande Prairie Estates shall create, permit, or maintain any nuisance on the premises, including but not limited to unsightly signs, refuse piles, unkept yards, poultry, livestock (except as herein provided), and unsightly and ugly fences, landscaping, and exterior paint color. Further, no noxious or offensive trade or activity shall be carried out upon any lot, nor shall anything be done thereon which may be or become any annoyance or a nuisance to the neighborhood.

GRIEVANCE:

- The operation of a commercial business within a property in Grand Prairie Estates 3rd Subdivision for the purpose of selling commercial items, such as trailers. This activity has created a nuisance and has been previously unresolved by good faith neighborly efforts.

ACTION STEPS REQUESTED:

- Cease any commercial activity on your property
- Eliminate any nuisance activities with relation to this activity

Thank you for your prompt attention to this matter.

If you have any questions or concerns with this notice or the action steps requested within, please contact one of the committee members listed below.

GPEA COVENANTS COMMITTEE:

Matt Sagaser, Chair

Dan Rouse, Steve Ellefson, Seth Sandness

cc:

Executive Committee

Melissa Sagaser, Secretary

***This is not a legal document. This is an attempt to resolve a dispute within the Grand Prairie Estates HOA Group.**

APR 27 2021

Dear Bismarck Planning & Zoning Commission

We are the Saylers and we live on Rawhide Dr. just off Centennial rd. We are against the approval to increase the total allowable area of accessory building to 3,200 sq ft. in grand Prairie Estates. The trailer traffic that goes by our property is already more than we'd like. If the city allows Troy Walker to build such a large building on his property the trailer traffic will increase considerably. This is a residential area and not suited for businesses Vote No

Cleaton & Ramona Sayler

Ramona Sayler
Cleaton Sayler

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Troy Walker Lot 5, Block 12, Grande Prairie Estates 3rd Subdivision
Date: Tuesday, April 27, 2021 1:18:01 PM

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

From: Wayne <>
Sent: Tuesday, April 27, 2021 10:58 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Troy Walker Lot 5, Block 12, Grande Prairie Estates 3rd Subdivision

External Email - Use caution clicking links or opening attachments

Hi,

I am happy with the current zoning laws we have in place out here at Grande Prairie Estates. I think they are sufficient for the majority of residents out here.

That said I am concerned about the potential use of the garage addition. We are worried there would be a potential for increased commercial trailer traffic past our house in case the addition was not used for residential purposes.

I work in the Williston area and see firsthand the result of no zoning laws every day I drive out to work and am happy our neighborhood here has not developed in such a way.

My wife and I enjoy the peace and quiet out here, enjoy our neighbors, but are apprehensive on this special use permit. Please weigh the pros and cons in your decision. Most of us would love to have larger garages but, do abide by the zoning laws put in place.

Thank you,

Wayne Sellner

3507 Heartland Loop

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Troy Walker request special use permit in Grande Prairie Estates
Date: Tuesday, April 27, 2021 1:17:51 PM

From: >
Sent: Tuesday, April 27, 2021 11:33 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Troy Walker request special use permit in Grande Prairie Estates

External Email - Use caution clicking links or opening attachments

In regards to the Troy Walker request to expand his area to add more than the allowable space for his buildings, I would suggest to not allow that.

First of all it would be against the County norms which would start a precedence for anyone thinking to do the same. The other problem is Troy owns a trailer sales business and the building space would likely be used for some business purposes.

Our development covenants also states no business to be carried out on the property because it is a zoned residential area.

Please leave my name from the request, I don't want to start hard feelings or any resentment between us.

I live at _____ and my son and his family resides at _____
They have the same sentiment as I do.

Sincerely,