

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
June 22, 2022**

The Bismarck Planning & Zoning Commission met on June 22, 2022, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Steve Bakken, Brian Bitner, Vernon Laning, Paul Levchak, Gabe Schell, Mike Schwartz and Paul Zent.

Commissioners Cole Johnson, Kevin Martin, Wendy Van Duyne and Trent Wangen were absent.

Staff members present were Hilary Balzum – Community Development Senior Administrative Assistant, Jannelle Combs – City Attorney, Ben Ehreth – Community Development Director, Will Hutchings – Senior 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 May 25, 2022, meeting.

MOTION: Commissioner Laning made a motion to approve the minutes of the May 25, 2022, meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

CONSIDERATION

2. **COUNTRY WEST XXXI ADDITION – MAJOR SUBDIVISION PRELIMINARY PLAT**
3. **BRUNSKILL SUBDIVISION – ZONING CHANGE AND MAJOR SUBDIVISION PRELIMINARY PLAT**
4. **GEORGE SUBDIVISION – MAJOR SUBDIVISION PRELIMINARY PLAT**
5. **PART OF BLOCK 10, PART OF BLOCK 18 AND ALL OF BLOCK 19, COFFIN'S ADDITION – ZONING CHANGE**

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 a public hearing on the items as recommended by staff. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION TYLER PARKWAY & ASH COULEE DRIVE

Chair Schwartz called for final consideration of the annexation of the unannexed portion of Tyler Parkway south of 57th Avenue NE and the unannexed portion of Ash Coulee Drive east of the Tyler Parkway. The property is located northwest of Bismarck, from the southern edge of Elk Ridge Second Addition north to the 57th Avenue NW right-of-way (part of the W½ of Section 17, the E½ of Section 18 and the NE¼ of Section 19, T139N-R80W/Hay Creek Township).

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

1. 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 annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Ms. Lee said, based on these findings, staff recommends approval of the unannexed portion of Tyler Parkway south of 57th Avenue NE and the unannexed portion of Ash Coulee Drive east of the Tyler Parkway.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the annexation of the unannexed portion of Tyler Parkway south of 57th Avenue NE and the unannexed portion of Ash Coulee Drive east of the Tyler Parkway. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT MEADOW VILLAGE ADDITION FIRST REPLAT

Chair Schwartz called for the public hearing on the minor subdivision final plat and the zoning change from the R10 – Residential and RM30 – Residential zoning districts to the PUD – Planned Unit Development zoning district for Meadow Village Addition First Replat. The proposed plat is 73 lots in 2 blocks on 24.33 acres and is located in south Bismarck, east of South Washington Street along the west side of Boston Drive and north side of East Burleigh Avenue (a replat of Lots 1-6, Block 1 and Lots 1-11, Block 2, Meadow Village Addition).

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 subdivision final plat:

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

Ms. Wollmuth noted that staff received one written comment regarding the request and that comment was distributed to the commission prior to the meeting.

Ms. Wollmuth said based on these findings, staff recommends approval of the minor subdivision final plat and the zoning change from the R10 – Residential and RM30 – Residential zoning districts to the PUD – Planned Unit Development zoning district, as outlined in the draft ordinance, for Meadow Village Addition First Replat, with the following conditions:

1. A private drive and utility agreement is signed by developer prior to the final plat being recorded; and

Staff further recommends that if approved, these related items not be forwarded to the Board of City Commissioners for final action until a development agreement for any off-site improvements is prepared and agreed to by the developer(s).

Commissioner Levchak asked where exactly the proposed access gate would be located. Ms. Wollmuth said it would be at the southern end of Dana Drive, adjacent to East Burleigh Avenue. Commissioner Levchak asked why it would not connect to Burleigh Avenue. Ms. Wollmuth said Burleigh Avenue is a principal arterial roadway, so access points are preferred to be limited and staff was not comfortable with full access there.

Chair Schwartz asked for it to be explained why a PUD district is advantageous here. Ms. Wollmuth said it would allow development that does not meet specific one and two-family uses where lot sizes will be a bit smaller and have reduced front and side yard setbacks.

Chair Schwartz opened the public hearing.

Brian Zuroff, Mountain Plains, LLC, said there would be a greater buffer between the existing residential area and this property with the PUD zoning ordinance in place and while it would be zoned for multi-family development, there could be more transition from the medium density residential to high density residential uses with some twin homes mixed in and better buffers to the single-family homes.

Kayla TenEyck, 3321 Dortmund Drive, said she is a member of the North Dakota National Guard and has been a registered nurse for the last 15 years. She said she has a passion to serve and protect and as a mother of two her primal instinct is to protect her children. She said last year construction began on Cottonwood Parkview Addition to the north to complete Kamrose Drive and Dortmund Drive with 90 homes, and multiple apartments use their roads to access the area. She said roads are under construction, so they are preparing for increased traffic. She added that Meadow Village to the east has two proposed roads for entrance and exit and this new proposal would add 70 homes plus apartments, and they do not exit to Burleigh Avenue. She said 154 homes are there now and between Cottonwood Parkview Addition and this new area the traffic will double or triple. She said in 2009 a study on pedestrian safety showed that each year approximately 900 pedestrians under the age of 19 are killed and thousands more are injured. She said children do not have the skills to properly assess the danger of traffic and while she understands the need to teach street safety, but when they do not have the mental capacity to understand there needs to be alternative ways to protect them. She shared additional statistics at this time and said she is opposed to these changes and wants Dana Drive to connect to Burleigh Avenue to decrease the traffic on Dortmund Drive and Kamrose Drive. She said this would be safer with less risk of injury.

Arthur Goldammer, representing the development group, said the property is currently zoned RM30 and R10 and this proposed plan would actually reduce the current density by 30-40%. He said they would use the PUD to transition from single-family to twin homes and blend into the RM30 portion for continuity with buffer areas. He said they pushed for Dana Drive to connect to Burleigh Avenue, but with the City's concerns for future traffic it is wise to not have too many access points. He added that pedestrian safety is considered, and they

agree with City staff that this is the best approach to handling the traffic here and for the future surrounding development.

Commissioner Laning asked if Boston Drive would connect to Burleigh Avenue. Mr. Goldammer said it does connect. Commissioner Levchak asked if the streets are signed 25 mph and have controlled intersections. Mr. Goldammer said not directly in the Kamrose addition but the accesses to Burleigh Avenue and South Washington Street are controlled.

Anthony Keegan, 3243 Dortmund Drive, said he is also a member of the North Dakota National Guard and a former police officer as well. He said he has a child with a disability, and she has a tendency to run by herself. He said with three entrances to the proposed development and the increased traffic puts all of the many children in the area at risk. There are already delivery trucks that come through the area driving too fast as well, so he worries about Dana Drive not being open. He said he is concerned of the seventeen lots that would go along his fence line and what would be put in there. He said he knows what goes on in multi-family dwellings from his work with the Police Department and he would like to know what will be adjacent to Dana Drive. He said everyone in the area is concerned about the same issues and with an added private drive there will be an increase in traffic.

Additional written comments in opposition to the requests are attached as Exhibits A & B.

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

Commissioner Laning asked if Freiburg Lane is to be completed to connect to Boston Drive prior to the construction of the properties. Mr. Zuroff said that is correct and that they are working with City Engineering for the development of plans for construction as soon as possible, but in order to facilitate construction the necessary infrastructure needs to be in place first. He said they always work closely with the City to make sure necessary traffic protection measures are in place.

Chair Schwartz asked for a summary on the construction types in various areas. Mr. Zuroff said to the west and north would be single-family homes that would be consistent with the housing style that is there now on slightly smaller lots. He said there would be a mix of twin homes to provide a buffer from the single-family to multi-family and the southeast corner would have apartments including two buildings with 53 units and one with 63 units, as well as individual condo units in the center. He said the previous plan was for twin homes on the west side and all apartments on the rest. He added that while they are adding approximately 240 living units, the original zoning would have allowed for about 340 units. He said Dana Drive and Dana Place are to be private roads which typically have a lower speed limit so traffic volumes down Freiburg Lane would be pushed to Boston Drive as that is the closest collector, but there would not be much differing much from what was previously planned.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the minor subdivision final plat and the zoning change from the R10 – Residential and RM30 – Residential zoning districts to the PUD – Planned Unit Development zoning district, as outlined in the draft ordinance, for Meadow Village Addition First Replat, with the following conditions: 1. A private drive and utility agreement is signed by developer prior to the final plat being recorded; and with the understanding that these related items not be forwarded to the Board of City Commissioners for final action until a development agreement for any off-site improvements is

prepared and agreed to by the developer(s). Commissioner Levchak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

Commissioner Bakken joined the meeting at this time.

**FINAL CONSIDERATION - ANNEXATION
PUBLIC HEARING – FUTURE LAND USE PLAN AMENDMENT, ZONING CHANGE,
FRINGE AREA ROAD MASTER PLAN AMENDMENT AND MAJOR SUBDIVISION FINAL
PLAT
PARADISE VALLEY ADDITION**

Chair Schwartz called for final consideration of the annexation; the Future Land Use Plan amendment to increase the size of the area designated as Commercial/Mixed Use from approximately 12 acres to approximately 19 acres; the zoning change from the RR – Rural Residential zoning district to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts as outlined in the draft zoning ordinance; the Fringe Area Road Master Plan amendment to move the north-south collector for this section approximately 735 feet to the west to align with Boston Drive to the north across East Burleigh Avenue; and the major subdivision final plat for Paradise Valley Addition (part of the N½ and SE¼ of Section 21, T138N-R80W/Lincoln Township). The proposed plat is 277 lots in 13 blocks on 164.92 acres and is located South of Bismarck along the south side of East Burleigh Avenue and the east side of South Washington Street.

Ms. Lee gave an overview of the requests, including the following findings related to land use for the annexation:

1. 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 annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies, and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the findings related to land use for the Future Land Use Plan Amendment:

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended;

3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the 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, if amended as requested;
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; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the findings related to land use for the Fringe Area Road Master Plan Amendment:

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the Fringe Area Road Master Plan was established or last amended;
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;

5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the findings related to land use for the major subdivision final plat:

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

Ms. Lee said based on these findings, staff recommends approval of the annexation; the Future Land Use Plan amendment to increase the size of the area designated as Commercial/Mixed Use from approximately 12 acres to approximately 19 acres; the zoning change from the RR – Rural Residential zoning district to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts as outlined in the draft zoning ordinance; the Fringe Area Road Master Plan amendment to move the north-south collector for this section approximately 735 feet to the west to align with Boston Drive to the north across East Burleigh Avenue; and the major subdivision final plat for Paradise Valley Addition, including granting waivers to allow the use of a private roadway in Block 3 and a cul-de-sac in Block 6, and with the condition that a private drive and private utility agreement be signed prior to the plat being recorded.

Staff further recommends that, if approved, these related items not be forwarded to the Board of City Commissioners for final action a development agreement for any off-site improvements is prepared and agreed to by the developers.

Chair Schwartz said he would like discussion or a motion on the request for annexation only at this time.

MOTION: Commissioner Bakken made a motion to recommend approval of the annexation of Paradise Valley Addition. Commissioner Laning seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

Commissioner Laning asked how long stormwater would stay in the retention pond with the lift station. He said he would be concerned about mosquito issues. Ms. Lee said the pond is designed as stormwater detention so it should drain. Commissioner Schell said the stormwater plan actually has two components, including a wet basin all of the time and

stormwater detention that would be above the normal pool elevation so most often it would have water in it similar to Southbay, Cottonwood Lake or other man-made lakes in the area.

Commissioner Laning asked if it would turn over enough to avoid bug issues.

Andrew Thill, Lowry Engineering, said they do not have any concerns related to mosquitos or other bugs. He added that the pond would be an amenity to the area, and they do not anticipate those issues.

Commissioner Bitner said in 2011 this area had a serious problem during the flood and is there confidence there would not be similar problems again.

Jon Lowry, Lowry Engineering, said the proposed FEMA map would lower the effective floodplain elevation to 1634 feet, so the designs are to that elevation.

Commissioner Bitner said he just wants to make sure any additional development does not increase the flood risk for existing or new residents. He added that while the flood came from the south in that area in 2011, they have not completed any flood protection to his knowledge, so he feels the risk is still high.

Commissioner Bakken asked if the timing is known for Boston Drive to connect to Burleigh Avenue and for Santa Fe Avenue to open up east and west to connect the neighborhood to South 3rd Street and South 12th Street.

Commissioner Schell said the timing of Boston Drive north and south of Burleigh Avenue depends on the passage of the previous agenda item and this one, as well as the developers phasing of the proposed streets moving forward. He said Santa Fe Avenue between South Washington Street and South 12th Street has platted right-of-way to construct the middle segment, but there currently is not a plan to bring that or the adjacent properties out of the flood risk and it is contingent on the adjacent landowners' request for construction.

Commissioner Levchak said South Washington Street has a large bumped out area in the plan and asked what that is. Ms. Lee said that is an existing residence and a lot for a City-owned, developer-built lift station.

Commissioner Levchak asked where the lift station would be pumped to. Commissioner Schell said the stormwater plan would have it discharge to the same location as South Meadows and Tatley Meadows by a gravity system to the south Bismarck channel and then out to the Missouri River as a sequential event. He then asked staff for more information on the intersection of Boston Loop and Boston Drive and a non-access line.

Ms. Lee said because of the proximity from the northernmost piece to that intersection, this private access road would have a gate to not have direct access onto Boston Drive to avoid cars stacking up.

Chair Schwartz opened the public hearing.

Jon Lowry, Lowry Engineering, said this is an exciting development that has had some challenges, but hopefully it is seen that unique solutions have been found to the problems and while it is in the floodplain, the new proposed FEMA map removes some area from the

floodplain. He added that they have also proposed an oversized detention pond in order to reduce runoff drainage along South 12th Street. He said they were initially requesting 19 acres of commercial property but have reduced it to 14 acres and are proud of the product and thought that has gone into it to create something unique and an asset to the city.

Commissioner Levchak asked if the pond would capture all of the runoff. Mr. Lowry said for the platted area and proposed future phases it will capture as much as possible, but there is a limit and future phases to the southeast would discharge to a low area at South 12th Street, but the volume overall is being reduced.

Commissioner Bitner said the problem in 2011 was not with runoff, it was with the flood from the south and he wants to make sure there is no rise in possible flood elevation here.

Commissioner Schell asked for an update on the right-of-way dedication at South Washington Street and South Burleigh Avenue. Mr. Lowry said they have worked with the owners and believe a future roundabout could be allowed for and they are willing to dedicate additional right-of-way for that as part of this plat if needed.

Jeff Rust, 3801 Bottom Road, said he lives in the development to the north of this area and asked if the material balance for the site has been calculated and how much import would be required.

Hanna Peterson, Lowry Engineering, said around 120,000 cubic yards has been calculated. Mr. Rust said he has an issue with that being hauled in with large, fast trucks and 120,000 cubic yards is a substantial amount, so that needs to be contemplated. He said he is against apartments and asked if the City has any other plans for South Washington Street and Burleigh Avenue, such as widening the turning lanes. He said traffic backs up at the end of the day currently.

Commissioner Schell said there is federal aid available for 2026 but it is possible to advance construct of that improvement and do it sooner, which could solve many of the issues seen there now. He added that a development agreement for this project would take into account off-site improvements as well.

Mr. Rust asked who would be responsible for weed control challenges that this area has had in the past to get the vacant lots sprayed. Mr. Lowry said that would be a developer responsibility. He added that they have filed a notice of intent for the project with the State Health Department, and there will continue to be maintenance agreements with the City as well. He said the majority of dirt for the first phase is limited to on-site activities and Burleigh Avenue and South Washington Street are not intended to be used as haul routes.

Mr. Rust asked if there is a timeline known as he does not want to see this an undeveloped area for 20 years. He said he likes that the area has large lots, and the trees are nice so he does not want to see the zoning change and would rather it stay zoned rural residential.

Randy Heilman said he is a neighbor to Mr. Rust, and he is thankful for the flood discussion. He said he had a home that flooded in Colorado and currently owns the lots at the end of Bottom Road. He said he built his house up so that it would drain and almost every spring there is a large lake of standing water. He said his big concern is of flow coming back onto his property. He added that they paid to have Bottom Road paved so hopefully that does not get used for construction traffic.

Mr. Thill said they are aware of the water and how development could affect it and it is in the design intent to build in a pipe system or means necessary to send it to the pond or to the east and re-route it.

Commissioner Bitner said he wants assurance they will not see a rise in flood levels at those homes. Mr. Thill said there should not be a rise related to this subdivision and any water going south would be re-routed. He added that he cannot speak to other flood issues but can mitigate the effects this build may have.

Commissioner Bitner said they should see a certificate of no-rise but blocking flooding would cause a rise.

A general discussion on flood issues and remedies was had at this time.

Barbara Koch, 600 48th Avenue SE, said she owns the 40 acres to the southwest of this area and accesses it from 49th Avenue SE. She said she is concerned about floodwater and when it flooded in 2011, they had high groundwater but were protected by the dike and having a slab on grade home. She added that they have not heard anything from the developer, and it looks like the street coming down from the north will connect right through their house.

Commissioner Schell said the Fringe Area Road Master Plan alignment of the future Boston Drive connects it to 48th Avenue SE; however, there is not a requirement of the owner but rather for future changes needed to show the re-alignment and at this time there is not a plan to construct it through their property.

Mr. Thill said the house is about a quarter mile further to the south, but the plan does have Boston Drive extending to the edge of the subdivision as the Fringe Area Road Master Plan has shown.

Laura Rust, 3801 Bottom Road, said she appreciates the discussion of flood concerns and has questions of the Meadow Village replat integrating a plan with existing flow to this property. She said she does not know what the various zoning districts mean or how big the lots would be.

Ms. Lee said the R5-Residential zoning would allow single-family homes on lots a minimum of 7,000 square feet. Ms. Rust asked for information on the R10 lots next to High Plains Country Estates. Ms. Lee said those lots would allow one and two-family homes on lots with a minimum of 3,500 square feet per half of a twin home.

Ms. Rust said to please consider it staying rural residential and she can see that work is already being done with staking and equipment at the site. She said she was told that is for soil testing and nobody knew about the January or March meetings that were referenced. She said she would like more consideration given and for it to at least be zone for only single-family homes.

Katie Zainhofsky, 4505 Thornburg Drive, said she lives to the west of this area and understands the water concerns and added if the area is built up, the neighbors to the north would have standing water all of the time.

Additional written comments in opposition of the requests are attached as Exhibits B-D. There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Levchak said the residents have brought up a continuing problem of new high-density development next to existing rural developments. Developers have tried to tier density and this one appears to do the opposite of that. He said he will not support the requests and will vote against them.

Commissioner Bitner said they have had other successful conversations with developers who recognize changes needed and those developers have made changes to accommodate. He asked if changing the zoning arrangement might be considered here. Mr. Lowry said they did start with higher density to follow the development requirements along certain roadways so the thought was to blend single-story next to existing single-family in the northeast and higher density uses supported by City staff would be along the roadways. He said they would like it to proceed as proposed.

Commissioner Bitner said single-family could be placed behind the rural homes and transition the twin homes and higher across the street. Mr. Lowry said they do have intended buffers and have located the zoning as presented with the intention of buffering it. He said he cannot speak to a desire to rearrange it at this time, and they would like to proceed with the staff recommendation for approval.

Commissioner Bitner said more time to speak with the owners should be considered as well.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation; the Future Land Use Plan amendment to increase the size of the area designated as Commercial/Mixed Use from approximately 12 acres to approximately 19 acres; the zoning change from the RR – Rural Residential zoning district to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts as outlined in the draft zoning ordinance; the Fringe Area Road Master Plan amendment to move the north-south collector for this section approximately 735 feet to the west to align with Boston Drive to the north across East Burleigh Avenue; and the major subdivision final plat for Paradise Valley Addition, including granting waivers to allow the use of a private roadway in Block 3 and a cul-de-sac in Block 6, and with the condition that a private drive and private utility agreement be signed prior to the plat being recorded, and with the understanding that these related items will not be forwarded to the Board of City Commissioners for final action until a development agreement for any off-site improvements is prepared and agreed to by the developers. Commissioner Schell seconded the motion.

Commissioner Schell asked if the motion includes the condition of additional right-of-way to be dedicated for a roundabout. Commissioner Bakken said it does not.

Commissioner Bitner said the roundabout to not be included could be counterproductive and they have been quite successful when done correctly.

Commissioner Bakken withdrew his motion at this time and Commissioner Schell withdrew his second to the motion.

Commissioner Bitner said he would like to see the owners be given a chance to address the density question and he would consider a different motion.

Commissioner Levchak said if the requests are voted down the applicant could certainly reapply in another form. Commissioner Bitner said it could not go back to square one unless a change to the request is made so it could be better to take an alternative route. Commissioner Levchak said the developer does not seem interested in doing that.

A general discussion of future development in the adjacent open area, zoning arrangement options and existing developments was had at this time.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation; the Future Land Use Plan amendment to increase the size of the area designated as Commercial/Mixed Use from approximately 12 acres to approximately 19 acres; the zoning change from the RR – Rural Residential zoning district to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts as outlined in the draft zoning ordinance; the Fringe Area Road Master Plan amendment to move the north-south collector for this section approximately 735 feet to the west to align with Boston Drive to the north across East Burleigh Avenue; and the major subdivision final plat for Paradise Valley Addition, including granting waivers to allow the use of a private roadway in Block 3 and a cul-de-sac in Block 6, and with the condition that a private drive and private utility agreement be signed prior to the plat being recorded, and with the understanding that these related items will not be forwarded to the Board of City Commissioners for final action until a revised plat showing the dedication of right-of-way for a roundabout is submitted and a development agreement for any off-site improvements is prepared and agreed to by the developers. Commissioner Schell seconded the motion, and the motion was approved with Commissioners Bakken, Laning, Schell, Schwartz and Zent voting in favor of the motion. Commissioners Bitner and Levchak opposed the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT AND ZONING CHANGE MUNICIPAL FOURTH ADDITION FIRST REPLAT

Chair Schwartz called for the public hearing on the zoning change from the P – Public zoning district to the P – Public and PUD – Planned Unit Development zoning districts and the minor subdivision final plat for Municipal Fourth Addition First Replat (a replat of Municipal Fourth Addition). The proposed plat is four lots in two blocks on 23.25 acres and is located in northwest Bismarck, west of Schaffer Street, along the south side of Edwards Avenue.

Ms. Lee gave an overview of the request, including the following findings related to land use for the minor subdivision final 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).

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

Ms. Lee gave the 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. Lee said, based on these findings, staff recommends approval of the minor subdivision final plat and the zoning change from the P – Public zoning district to the P – Public and PUD – Planned Unit Development zoning districts, as outlined in the draft ordinance, for Municipal Fourth Addition First Replat.

Commissioner Zent asked if the climbing wall would be a natural wall, or something built new.

Ms. Lee said it would be a professional interior climbing wall that meets international competition standards.

Commissioner Schell asked what the process would be for the commercial recreational and ancillary uses if other activities want to be conducted. Ms. Lee said additional uses not specifically allowed would require an amendment by the Planning and Zoning Commission.

Commissioner Levchak asked if this development would have any impact related to its proximity to the existing rail bridge. Ms. Lee said they would not impact each other as the railway bridge right-of-way is outside of the plat boundary.

Commissioner Bakken asked if the City access points to water facilities would be maintained with the acquisition of this land and the proposed project so that the existing truck easements are protected. Ms. Combs said there is a purchase agreement and those are not in the plat drawing, however they do have the reservation of an access easement for secondary access.

Commissioner Schell said the City could traverse its own property to get to the rest of the site and this plat would meet the requirements of the purchase agreement.

Chair Schwartz opened the public hearing.

Tanya Smith, Dakota Climbing Co., said their mission is to serve the community through activity and they will have day pass users with access to the first Olympic size climbing wall in the state, as well as food and beverage services, a gear shop, fitness studio, exercise equipment and locker rooms. She said this is a unique opportunity to provide a regional training facility that will connect residents and users to bike-ped activity as well. She added that she believes overall this will create an ideal signature space for the City of Bismarck.

Commissioner Laning asked what types of safety precautions would be in place. Ms. Smith said climbers would be harnessed and the climbing area is padded as well.

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 minor subdivision final plat and the zoning change from the P – Public zoning district to the P – Public and PUD – Planned Unit Development zoning districts, as outlined in the draft ordinance, for Municipal Fourth Addition First Replat. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Bakken, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT HAMBURG INDUSTRIAL PARK 1ST ADDITION 1ST REPLAT

Chair Schwartz called for the public hearing on the minor subdivision final plat for Hamburg Industrial Park 1st Addition 1st Replat. The proposed plat is two lots in one block on 3.5 acres and is located in southeast Bismarck, east of the Bismarck Airport on the east side of Yegen Road and the south side of Hagen Avenue (a replat of Lot 1, Block 2, Hamburg Industrial Park 1st Addition).

Mr. Nairn gave an overview of the request, including the following findings related to land use for the minor subdivision final 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).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies, and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the minor subdivision final plat of Hamburg Industrial Park 1st Addition 1st Replat.

Chair Schwartz opened the public hearing.

Commissioner Levchak asked if there will be enough room for septic systems on these lots. Mr. Nairn said they are sufficiently sized to allow room by the requirements and can defer to the applicant for further information on the exact placements.

Mr. Niemiller said they will be splitting the lot to build on the north piece and eventually would purchase the southern piece as well. He said this would include an office showroom for homebuilder sales, an office and a storage area for that business. He said the septic services planned are sufficient and do meet the needs of this particular use.

Commissioner Schell asked if the developer would be willing to dedicate a sanitary sewer easement in the same location as the access easement if it is needed in the future. Mr. Niemiller said yes, and they have submitted a revised plat that shows the additional dedication to make that service available.

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 minor subdivision final plat for Hamburg Industrial Park 1st Addition 1st Replat. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT AIRPORT INDUSTRIAL PARK THIRD ADDITION FIRST REPLAT

Chair Schwartz called for the public hearing on the minor subdivision final plat for Airport Industrial Park Third Addition First Replat. The proposed plat is two lots in one block on 1.94 acres and is located in southeast Bismarck, east of Airport Road along the north side of Airway Avenue (a replat of Lot 7, less the North 25 feet, Lot 8 less Lot 8A and all of Lot 9, Block 4, Airport Industrial Park Third Addition).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use for the minor subdivision final 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).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff recommends approval of the minor subdivision final plat titled Airport Industrial Park Third Addition First Replat.

Commissioner Levchak asked if there would be an easement to allow access to the back end of the property.

Ms. Wollmuth said access to Lot 2 would be from Airway Avenue and access to Lot 1 would be from the north adjacent to Frontier Drive. She said there would not be an easement running from Lot 1 to Lot 2.

Commissioner Levchak asked if there would be one building on each lot. Ms. Wollmuth said that is correct.

Chair Schwartz opened the public hearing.

Mr. Niemiller said the lot line follows the west side of an existing driveway while trying to keep enough space to meet the separation requirements of the building codes.

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

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the minor subdivision final plat for Airport Industrial Park Third Addition First Replat. Commissioner Bakken seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE BLOCK 49 AND PART OF BLOCK 56, GOVERNOR PIERCE ADDITION

Chair Schwartz called for the public hearing on the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Lots 1-24 and the W½ of closed 26th Street adjacent, Block 49, and Lots 1-12 and the E½ of the closed 26th Street adjacent, less the East 33 feet, Block 56, Governor Pierce Addition (Dakota Mobile Home Park). The property is located in east-central Bismarck, the block bounded by East Broadway Avenue, North 25th Street, East Thayer Avenue and North 26th Street.

Ms. Lee gave an overview of the request, 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. Lee said, based on the above findings, staff recommends approval of the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Lots 1-24 and the W½ of closed 26th Street adjacent, Block 49, and Lots 1-12 and the E½ of the closed 26th Street adjacent, less the East 33 feet, Block 56, Governor Pierce Addition.

Chair Schwartz opened the public hearing.

Rob Huft, 602 North 25th Street, said he lives near this area and was made aware of the request last night. He said he has concerns on the change and questions on the ordinance. He asked if any part of the new ordinance would have an age requirement for new homes being brought into this location. Ms. Lee said the ordinance requires a home being moved in could be used but must have a HUD seal which is a requirement that started in the mid-70s.

Mr. Huft then asked if there be any difference from the old ordinance as it relates to upkeep of the property. Ms. Lee said that would be more of a rental housing standard ordinance or maintenance code so related dwelling concerns could be reported.

Bill Dean, 609 North 20th Street, said he represents the property owner and when the property has been zoned CG-Commercial they have not been able to move in used mobile homes and many of the existing ones need to be retired. He said changing the zoning will help a lot as there is still a need for affordable housing and the goal is that this change will allow owner owned dwellings, similar to a traditional mobile home park to help clean up the area.

Additional written comments in opposition to the request are attached as Exhibit E.

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

MOTION: Based on the findings in the staff report, Commissioner Zent made a motion to recommend approval of the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Lots 1-24 and the W½ of closed 26th Street adjacent, Block 49, and Lots 1-12 and the E½ of the closed 26th Street adjacent, less the East 33 feet, Block 56, Governor Pierce Addition. Commissioner Bakken seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Levchak, Laning, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE BLOCK 45, GOVERNOR PIERCE ADDITION

Chair Schwartz called for the public hearing on the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Lots 1-24, Block 45, Governor Pierce Addition (Bismarck Mobile Home Park). The property is located in east-central Bismarck, the block bounded by East Thayer Avenue, North 24th Street, East Rosser Avenue and North 25th Street.

Ms. Lee gave an overview of the request, 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. Lee said, based on the above findings, staff recommends approval of the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Lots 1-24, Block 45, Governor Pierce Addition.

Chair Schwartz opened the public hearing.

Commissioner Zent asked if there are other mobile home parks in this condition that should also be rezoned. Ms. Lee said when the zoning change for Parkview was brought to their attention, they found these two locations and one other between 7th and 9th Streets that would like to change as well. She said they have not heard back from one other owner yet, but staff has offered to all of them not currently zoned RMH to request a change if they would like.

Additional written comments in opposition to the request are attached as Exhibit E.

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

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Lots 1-24, Block 45, Governor Pierce Addition. Commissioner Bakken seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Levchak, Laning, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE LOTS 1 AND 2, BLOCK 1, KILBER NORTH ADDITION FIRST REPLAT

Chair Schwartz called for the public hearing on the zoning change from the RT – Residential zoning district to the CA – Commercial zoning district for Lot 1 and Lot 2, Block 1, Kilber North Addition First Replat. The property is located in north Bismarck, along the south side of 43rd Avenue NE west of Boulder Ridge Road.

Ms. Wollmuth gave an overview of the request, 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 not 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 not 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 not in the public interest and is solely for the benefit of a single property owner.

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

Ms. Wollmuth said, based on the above findings, staff recommends denial of the zoning change from the RT – Residential zoning district to the CA – Commercial zoning district for Lot 1 and Lot 2, Block 1, Kilber North Addition First Replat.

Commissioner Levchak asked how the lot to the south of the existing building is zoned. Ms. Wollmuth said it is zoned Conditional RT-Residential and does not allow for commercial uses.

Commissioner Levchak asked what the difference is from RT – Residential district to CA – Commercial district beyond the office and what would be allowed. Ms. Wollmuth said the CA – Commercial zoning district would allow for uses such as restaurants or retail sales and services.

Commissioner Bakken said there is a building currently under construction to the east on Boulder Ridge Road and asked what that is and how it is zoned. Ms. Wollmuth said it is zoned RT – Residential and is for a medical office, which is allowed in that zoning district.

Commissioner Bakken said this is a corridor of commercial businesses and further to the west are churches. He added he cannot see why this would be considered spot zoning when looking at the corridor as a whole and why those uses could not be expanded.

Ms. Wollmuth said how it is zoned currently would allow for office spaces and churches, but not retail sale and service uses.

Chair Schwartz opened the public hearing.

Abe Ulmer, ILSE, Inc., said he appreciates the work that has been done to bring this request to consideration and while the current zoning does allow many uses consistent with CA-Commercial zoning district, they would like to allow for additional small commercial uses. He added that they had planned for a 16,000 square foot building and a lot modification has been requested to combine the lots into one parcel. He said they could accommodate up to seven tenants and the proposed site layout meets all of the other requirements for parking, lot coverage and landscaping. Mr. Ulmer added that current adjacent uses are offices, a dental clinic and a memory care facility and City staff's main reasons to recommend denial was for commercial use concerns. He said they would isolate or spot zone, but the commercial feel of the area is already there. He added that the RT – Residential zoning district to the south has existing office complexes and to the north is vacant but zoned CA – Commercial. He added that the City has multiple commercial spot zones such as Arrowhead Plaza, Northbrook Mall and Washington Square Addition to name a few. He closed by saying concerns have been raised related to added vehicle trips but that will be restricted by use and they have developed and submitted a stormwater management plan to meet City standards with extra detention that is currently under review.

Commissioner Levchak asked if it would be a single building with seven tenants, would the building be enclosed or its own outlet similar to a strip mall. Mr. Ulmer said it would be similar to a strip mall with separate entrances and they are proposing landscaping buffers between the various properties.

Commissioner Schell asked what specific uses the CA – Commercial zoning district would provide that the RT - Residential does not.

Derek Hoerner, DPH Investments, said their plan was to make this a medical park or small retail area but it would not be a large commercial lot like Home Depot or even a gas station. He said they want to keep it nice and clean and when it was purchased in 2014 the zoning was changed to RT-Residential when 43rd Avenue NE was still a very small roadway.

Daniel Keith, DK Orthodontics, said they did not anticipate the very quick growth in North Bismarck, but it has ascended by being open to change. He said his grandparents built Kirkwood Mall and at the time that was considered south Bismarck. He added that they have had interest from some small, limited retail businesses such as bakeries or small retail type uses that would be in between DK Orthodontics, Maple View, and the Ridgeview properties. He added that as the area is adapting and changing, and he appreciates an openness to changing how the future can look here.

Commissioner Levchak asked if the building would be architecturally compliant with others in the area. Mr. Keith said it would be and they have spent over a year creating civil and architectural plans so the layout and rendering visuals are appealing.

Commissioner Zent said the zoning as is could support a desirable building. Mr. Keith said it could and a site plan has been submitted for construction so they can move forward as needed one way or another.

Commissioner Zent said he would welcome something different to the area besides a bakery or other food use, such as medical offices.

Commissioner Bakken said this is a great example of what infill with walkability to the adjacent neighborhood could look like. He said if signage is faced toward 43rd Avenue NE and not far from the adjacent neighborhood could there be a consideration for dimmable signage to control light pollution.

Mr. Keith said they can absolutely make sure that is remediated and will take any other suggestions as well.

Loran Galpin, Ridge View and Ridge West, presented an image of the Ridge View property at this time. Mr. Galpin said he designed and developed Ridge View and Ridge West and when it first came time to develop Kilber North Addition, it was with the intention of making sure the use combinations did not interfere with each other or generate commercial traffic. He said they wanted to be reflective of the neighborhood to protect and preserve it and he likes the dental office, but most tenants there now are very specific service providers. He said they have had problems with a slippery street system and the narrow drive proposed for site access would not accommodate the proposed commercial uses. He added that to have a spot ozone in the middle of the development is not in keeping with the intent of the original developer or the current developments or character that was originally required.

Mr. Keith, the property owner/developer said master plans have changed as the City changes and he has seen that on this extensive meeting agenda. He added that it needs to be understood there are multiple owners in the Kilber development group, and they did their due diligence in reaching out to owners to get their blessing on this change. He said one owner of that development group did agree with the change and their only concern was to have the front of the building face the other businesses, instead of facing 43rd Avenue NE.

Mr. Galpin said there was a question of how the building would be placed and what would be in it, but as one owner amongst many he was asked to represent the partnership regarding this request. He said he is not looking to get into a war of words, but the projects speak for themselves and with limited access and extra traffic this will not be healthy for the current occupants or the adjacent neighborhoods.

Mr. Ulmer said access would be sufficient for fire trucks and semis both in and around. Whether the building is constructed as RT – Residential or CA - Commercial the site will be developed.

Mr. Galpin said he will be glad to see it built and in materials reflective of the quality of the area, but traffic components differ with the other allowable uses. He added that this not a commercial site no matter how you sell it, and this is a spot zone and should be judged on that basis.

Mr. Keith said when they originally purchased the property it was to be twinhomes with his dental office, but that plan changed, and it was zoned to RT - Residential. He said this use would generate much less traffic than a lot of other options. He stated that he cares about the quality of the site but that the area has a commercial feel and should be zoned as such.

Additional comments in opposition to the request are attached as Exhibit F.

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

Commissioner Schell said he has concerns of isolated zoning with ample CA - Commercial zoning to the north, across 43rd Avenue NE and where the benefit is, as well as the zoning taking place before the building is constructed so plans could change. He closed by saying this could become something else that fits in that district and will not support the request.

Commissioner Bakken said across the road has constraints and there is access issues to address there and until that happens it is not a full commercial site, but would be a great infill project for the surrounding residential area.

MOTION: Commissioner Bakken made a motion to recommend approval of the zoning change from the RT – Residential zoning district to the CA – Commercial zoning district for Lot 1 and Lot 2, Block 1, Kilber North Addition First Replat. Commissioner Zent seconded the motion and with Commissioners Bakken, Bitner and Schwartz voting in favor of the motion and Commissioners Laning, Levchak, Schell and Zent opposing the motion, the motion failed, and the request was considered to be denied.

**PUBLIC HEARING – ZONING CHANGE
LOT 7, BLOCK 41, NORTHERN PACIFIC 2ND ADDITION**

Chair Schwartz called for the public hearing on the zoning change from the RT – Residential zoning district to the DF – Downtown Fringe zoning district for Lot 7, Block 41, Northern Pacific 2nd Addition. The property is located in central Bismarck, between East Avenue B and East Avenue C and North 5th Street and North 6th Street.

Mr. Nairn gave an overview of the request, 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.

Mr. Nairn said, based on the above findings, staff recommends approval of the zoning change from the RT – Residential zoning district to the DF – Downtown Fringe zoning district for Lot 7, Block 41, Northern Pacific 2nd Addition.

Chair Schwartz opened the public hearing.

Mike Bohrer, Venture Property Management, said the zoning change was requested because they have occupied their space as a real estate office for eight years and would like to sell it, but a new user would need more options beyond a small office use. He said the area adjacent was changed to DF-Downtown Fringe recently. He said that staff had initially explored rezoning the entire block but did not move forward with this, so they decided to request zoning just the lot they own instead.

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

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the zoning change from the RT – Residential zoning district to the DF – Downtown Fringe zoning district for Lot 7, Block 41, Northern Pacific 2nd Addition. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Levchak, Laning, Schell, Schwartz and Zent voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING)
LOT 14, BLOCK 1, BROOKFIELD ESTATES**

Chair Schwartz called for the public hearing on a special use permit to increase the total allowable square footage of accessory buildings to 3,154 square feet with the construction of a 1,350 square foot accessory building on Lot 14, Block 1, Brookfield Estates. The property is located east of Bismarck, north of County Highway 10 and east of 66th Street NE, along the west side of West Bristol Drive (828 West Bristol Drive).

Ms. Wollmuth 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 Gibbs Township Board of Supervisors has not provided a recommendation for the proposed special use
4. 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.
5. Adequate public facilities and services are in place or would be provided at the time of development.
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
7. 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.
8. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to increase the total allowable square footage of accessory buildings to 3,154 square feet with the construction of a 1,350 square foot accessory building on Lot 14, Block 1, Brookfield Estates.

Commissioner Schell asked if Gibbs Township elaborated on their recommendation to deny the request. Ms. Wollmuth said Gibbs Township did make that recommendation after the staff report was prepared and read the comments provided on the resolution to include due to the size of the existing five structures on the property, moisture runoff to not only this property but adjoining property and the age of the residential subdivision they respectfully decline the special use permit.

Commissioner Laning asked when the allowance to increase accessory buildings to 3,200 square feet happened. Ms. Wollmuth said it was around 2006 and there have been some special use permits in this subdivision approved or others similar in size since that time.

Commissioner Bitner said Gibbs Township mentioned runoff or drainage issues and he does not know why that would be since in recent years Burleigh County Water Resource District did a substantial drainage remediation project in this subdivision.

Chair Schwartz opened the public hearing

Written comments in opposition to the request are attached as Exhibit F.

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 buildings to 3,154 square feet with the construction of a 1,350 square foot accessory building on Lot 14, Block 1, Brookfield Estates. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (DRIVE-UP WINDOW) PART OF LOT 2, BLOCK 1, WACHTERS NORTH ADDITION

Chair Schwartz called for the public hearing on a special use permit to allow a drive-up window in conjunction with a full-service restaurant (Applebee's) on part of Lot 2, Block 1, Wachters North Addition. The property is located in north-central Bismarck, along the east side of State Street/US Highway 83 in the southwest quadrant of Harvest Lane and North 14th Street (3200 North 14th Street).

Ms. Wollmuth 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.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to allow a drive-up window in conjunction with a full-service restaurant (Applebee's) on part of Lot 2, Block 1, Wachters North Addition, including the waiver request to reduce the number of required stacking spaces from 12 to 3 with the following conditions:

1. Any future changes to operations that expand the drive-through from a call-ahead order pickup window will need to be re-evaluated.
2. Site Development must generally be consistent with the site plan submitted.

Commissioner Schell asked if the request would have to come back for evaluation if operation plans changed in the future. Ms. Wollmuth said staff would evaluate any changes and if more stacking spaces are needed, they would request they come back to this board for approval.

Commissioner Zent asked if there would be signage for the layout of the drive-through since having a bigger parking lot this could cause some congestion. Ms. Wollmuth said there would be striping and signage to help with traffic flow patterns.

Chair Schwartz opened the public hearing.

Commissioner Schell asked for confirmation that the required minimum amount of parking is still being met on the site with the conversion of some spaces being dedicated to the drive-up area.

Katie Vasbinder, Bartlett & West, said there would be three spaces dedicated to the drive-up area, but the on-site parking requirement is still being exceeded.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend approval of the special use permit to allow a drive-up window in conjunction with a full-service restaurant (Applebee's) on part of Lot 2, Block 1, Wachters North Addition, including the waiver request to reduce the number of required stacking spaces from 12 to 3 with the following conditions: 1. Any future changes to operations that expand the drive-through from a call-ahead order pickup window will need to be re-evaluated; and 2.

Site Development must generally be consistent with the site plan submitted. Commissioner Bakken seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING- ZONING ORDINANCE TEXT AMENDMENT AGENCY FOSTER HOME FOR ADULTS

Chair Schwartz called for the public hearing on a zoning ordinance text amendment to include provisions to allow agency foster care for adults as a permitted use in the R5 – Residential and R10 – Residential zoning districts.

Ms. Lee gave an overview of the amendment, then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on these findings, staff recommends approval of the zoning ordinance text amendment for Section 14-02-03 (Definitions), Section 14-04-03 (R5 Residential District) and Section 14-04-06 (R10 Residential District) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Commissioner Zent asked if this change would allow for shift work. Ms. Lee said that is correct and these homes would always be staffed with at least one professional.

Chair Schwartz opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend approval of the zoning ordinance text amendment for Section 14-02-03 (Definitions), Section 14-04-03 (R5 Residential District) and Section 14-04-06 (R10 Residential District) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report. Commissioner Laning seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARING- ZONING ORDINANCE TEXT AMENDMENT FRONT YARD SETBACK IN CG AND MA ZONING DISTRICTS

Chair Schwartz called for the public hearing on a zoning ordinance text amendment to modify the front yard setback provisions in the CG and MA zoning districts relating to an increased setback along specified major roadways.

Ms. Lee gave an overview of the amendment, then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on these findings, staff recommends approval of the zoning ordinance text amendment for Section 14-04-12 (CG Commercial District) and Section 14-04-14 (MA Industrial District) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Chair Schwartz opened the public hearing.

There being no 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 ordinance text amendment for Section 14-04-12 (CG Commercial District) and Section 14-04-14 (MA Industrial District) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

OTHER BUSINESS

Chair Schwartz thanked Mayor Bakken for his years of service to the Planning and Zoning Commission and the citizens of the City of Bismarck and it has been a privilege to sit on this board together.

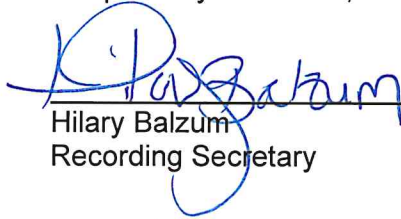
Mayor Bakken said it has been a privilege and thanked staff and those present for their commitment to the work that they do.

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 8:45 p.m. to meet again on July 27, 2022.

Respectfully submitted,


Hilary Balzum
Recording Secretary


Mike Schwartz
Chair

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Zoning Change Request Comments - Meadow Village Addition 1st Replat
Date: Tuesday, June 21, 2022 8:46:08 AM

From: Brian VerDouw [REDACTED]
Sent: Monday, June 20, 2022 11:28 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Zoning Change Request Comments - Meadow Village Addition 1st Replat

CAUTION: ***External Email - Use caution clicking links or opening attachments***

To Whom it may concern,

I am writing to provide resident comment on the request by REI Holdings, LLC to make a zoning change to the Meadow Village Addition 1st Replat. In particular, as a resident on Brandenburg Loop, my concern resides with the fact that Dana Drive does not have a direct outlet to Burleigh Avenue. While an outlet on the east end of this addition will take place with Boston Drive, our concern lies with the increased traffic that is bound to come from the west entrance as well. With Dana Drive not accessible from Burleigh Avenue, residents of this addition will need to access their homes or apartments either from Boston Drive to the east or Freiburg Avenue to the west. It is unrealistic that all eventual residents to this addition would access their homes or apartments only from the newly constructed Boston Drive. This will mean that there will be increased traffic on streets such as Frieburg Lane, Dortmund Drive and potentially Brandenburg Loop as well just to name a few streets in the area. With three active kids in our home, they are outside in the summer time and frankly in the winter time as well. There are many other kids in our neighborhood as well who are active outside and many of them play together, bouncing from one home to the next. My concern is with additional traffic flow, that will increase the chances that someone will eventually get hit. I appreciate now the fact that there isn't a "through" opportunity in our neighborhood which means that by and large, you are either driving in our neighborhood knowing where you need to go, or you are completely lost. With this proposed change, our neighborhood certainly becomes more of a through opportunity.

I understand that the emergency gate planned at the south end of Dana Drive is an agreement between the developers and city emergency services and frankly, I am not a developer or an engineer, so I trust decisions that are made by the experts. But given that, I just want to make my voice heard as a concerned citizen that in making our neighborhood more of a through opportunity in not fully opening up Dana Drive to Burleigh, it brings a much greater risk for a child to get hurt from traffic than there is currently.

Thank you,
Brian VerDouw
317 Brandenburg Loop
Bismarck, ND 58504

[REDACTED]

[REDACTED]

From: Ruth
To: [Planning - General Mailbox](#)
Subject: Concerns for Bismarck planning and zoning
Date: Wednesday, June 22, 2022 6:53:51 AM

CAUTION: ***External Email - Use caution clicking links or opening attachments***

To whom it may concern,

I am a property owner to the east of the proposed Paradise Valley subdivision and to the south of the final Meadow village subdivision addition. The amount of traffic that these two subdivisions will cause on Burleigh avenue and south Washington is extremely concerning. They are both extremely busy as it is and at certain times it is extremely hard for traffic to merge on from side subdivisions, especially onto South Washington. I do not like the idea of making that worse and making Burleigh even more busy. The bike path along Burleigh is very close to the road and is used by many people, including families, and by increasing the amount of traffic you increase risk of accidents by motor vehicle and walkers/bikers/joggers. If these subdivisions are approved, please, please address the increased traffic problem that they will cause. Thank you for your time.

Ruth Wanner

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From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Meeting June 22
Date: Wednesday, June 15, 2022 2:03:16 PM

From: Ali Norman <[REDACTED]>
Sent: Tuesday, June 14, 2022 5:39 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Meeting June 22

CAUTION: *External Email - Use caution clicking links or opening attachments*****

Hello,

I am a resident of the south meadows neighborhood, along with my family. My concern for this new property "Paradise Valley" is the heavy traffic on South Washington St. This is one of two main roads that neighborhoods south of ours drive daily to get to where they need to go. Due to the nature of this rural area there are often very fast drivers on Washington, as well. Not only is safety a concern, this road is very busy in the school year and early mornings. Often times taking minutes to at the stop sign at the intersection of Burleigh and Washington St. This one stop sign is the only stop before you enter town, which then street lights begin. Based on the outline of the new property, I would be very concerned with the amount of entryways that this new development would have on Washington St. making this traffic much more concentrated and introducing many new variables for accidents. I have seen firsthand how easy it is for a driver to make an attempt to get on Washington and not realizing how fast this oncoming traffic is. It is my suggestion from a driver and neighbor that we limit the number of roads that introduce more traffic on South Washington. I understand your greed for space but also consider the safety of our people.

Best,

Ali

From: [amy.siverson](#)
To: [Planning - General Mailbox](#)
Subject: MBR Properties, LLC
Date: Wednesday, June 22, 2022 7:48:26 AM

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Bismarack Planning & Zoning Commission,

I am opposed to the zoning change for proposed building of Paradise Valley. We purchased our home in the High Plains development for the rural area and to not be surrounded by businesses and multi family units.

Burleigh Ave and South Washington Street would need to be expanded to accommodate for the additional traffic. Burleigh Ave currently has no shoulder and a bike path along the north side. The increased traffic will make the use to the bike path dangerous.

Thank you for your time,
Gary and Amy Siverson

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: proposed change for Bismarck Rental Properties LLC
Date: Tuesday, June 14, 2022 10:07:21 AM

From: Brian Seehafer <[REDACTED]>
Sent: Tuesday, June 14, 2022 9:02 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: proposed change for Bismarck Rental Properties LLC

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Re: Zoning change for block 49 and part of Block 56 and block 45

At this point there are a lot of concerns for changing this zoning to include RMH-Residential:

These 2 areas are already crime and drug ridden and need to be cleaned up. The police department drives thru this neighborhood about once an hour because of the prior mentioned activities. There have been many drug busts in the last few years. There are some very nice people as well that live in these areas. However, instead of allowing more manufactured homes to be brought into these areas, these areas should be cleaned up to improve the other values of houses and businesses. A lot of the mobile homes that are there now have boarded up windows or other repairs that are needed.

Within the last couple of years – the trailers that were in these two blocks were painted gold and red. Everyone is laughing at this. It did not make it look more like a development, but rather made it stick out like the crime infested area that it is.

Changing this zoning will just increase the number of manufactured homes being brought in and the crime in this area. Lets clean up what is there and improve the city values before we allow more eyesores to this area.

Brian Seehafer

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Comments for Public Hearing, June 22, 2022 - Zoning Change Request for Lots 1 and 2, Block 1, Kilber North Addition First Replat
Date: Wednesday, June 15, 2022 2:01:39 PM

From: [REDACTED]
Sent: Tuesday, June 14, 2022 5:37 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Comments for Public Hearing, June 22, 2022 - Zoning Change Request for Lots 1 and 2, Block 1, Kilber North Addition First Replat

CAUTION: ***External Email - Use caution clicking links or opening attachments***

TO: BISMARCK PLANNING AND ZONING COMMISSION
FROM: TOM AND DEB HAYDEN, BOULDER RIDGE ROAD
SUBJECT: ZONING CHANGE – LOTS 1 AND 2, BLOCK 1, KILBER NORTH ADDITION FIRST REPLAT
DATE: JUNE 15, 2022

We were recently notified that DPH Investments, LLC is requesting approval of a zoning change from the RT-Residential zoning district to the CA-Commercial zoning district for Lots 1 and 2, Block 1, Kilber North Addition First Replat along 43rd Avenue NE, west of Boulder Ridge Road. We are very strongly opposed to this change but will not be in town the evening of the meeting to oppose the change.

We have been on Boulder Ridge Rd, Knutson's first addition, since 2006. At the time, much of the area around us was all open land. We have seen the landscape change from open area with beautiful trees, many pheasants, partridge and other wildlife to all trees being removed, office buildings and apartments being added on the south, and several other Boulder Ridge additions to the east and north.

As it is, the currently zoning allows for offices and multi-family residential uses. With a change to CA-Commercial, we could potentially have increased traffic, noise, litter, etc. Most importantly, there are two schools very nearby, with children in the area at all times. With a potential zoning change, we are concerned with the safety of the many children in getting to their respective schools.

Also, we are very fearful of a zoning change and what could happen to the landscape just out our back door. Our property is one of our largest assets, and we would not want any devaluation in the future with the wrong type of buildings or businesses.

We appreciate your consideration of our concerns after reading all correspondence on the issue and after hearing comments and discussion at the meeting.

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Special use permit to increase the total allowable square footage of accessory buildings in Brookfield Estates.
Date: Monday, June 20, 2022 12:51:53 PM

From: [REDACTED]
Sent: Monday, June 20, 2022 11:12 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Special use permit to increase the total allowable square footage of accessory buildings in Brookfield Estates.

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Planning and Zoning Commissioners , I m writing this as a concerned resident of Brookfield Estates, I believe that

the allowable square footage for accessory building in our development has been growing over the years, and the

question where is it going to stop !! The allowable square footage was around 1300 sq ft., when we moved here

in the mid 70's . So where is it going to stop, if ever. Our development used to be one of the nicest rural area in the

county.

Respectfully Yours

Donald Reiner
801 East Bristol Drive
Bismarck ND 58501