



MORTON COUNTY

STATE OF NORTH DAKOTA

Planning & Zoning Department

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June 30, 2023

To:
Brad Balerud and Randy Rhone
for Ski Haven LLP and MBR Properties

And

Jesse Hehr
2185 Shaw Drive
Mandan, ND 58554

Gentlemen,

The below communication is in reference to the Honey Hills Estates First and Second Subdivision proposals, which have been under review by the County since the applications were submitted, dated January 3, 2023.

Mr. Hehr has stated at public hearings for the Honey Hills Estates First and Second subdivision (on January 26, 2023; March 30, 2023; and June 22, 2023) and at Morton County Water Board meetings held during that period of time, that he currently experiences negative effects from stormwater flows across his property, and that he has concerns about future stormwater flows across his property that could/would result from the proposed Honey Hills development.

The current iteration of the Stormwater Management Plan for the Honey Hills Developments calls for a retention pond and outlet just north of Mr. Hehr's property, where natural drainage already crosses. The County's current standard for review and approval of stormwater management plans is detailed in Section 8-050(c) of the Morton County Land Use Code and states that the applicant's stormwater management plan must demonstrate how the applicant intends to manage stormwater facilities such that peak discharge rates from the 2-year, 10-year and 100-year events will not be increased between pre-development levels and post-development levels, and that accelerated channel erosion will not occur as a result of land disturbing activity performed to complete the project. Based on the County Engineer's review, the stormwater management plan meets that established threshold of adequacy. The County Engineer has also stated that a careful review of grading plans and site inspections will need to be performed to ensure that the plan is also adequately executed.

I have stated, prior to and throughout the application process for the Honey Hills proposals, that my recommendation, in the interest of orderly development, is for there to be a connected right-of-way between the proposed Honey Lane and the existing Shaw Drive. That road configuration was also the strong recommendation of the Morton County Road Commission. These recommendations were based on Objective 15.3 and Policy 15.3.1 of the of the 2045 Comprehensive Plan, related to adequate circulation. While two points of ingress/egress are ideal, the primary objective, as stated in the Plan, is that of adequate circulation. The determination of whether the proposed configuration should be considered "adequate" is ultimately made by the County Commission, with support in the form of a recommendation from the Planning & Zoning Commission.

The additional benefit of any road, over and above facilitating circulation, is that alongside most fully constructed roads is a ditch that can convey stormwater. Though not required by any adopted Morton County regulation or state law, it is a best practice to establish stormwater easements across private lands up to the point where stormwater flows reach a public right of way/road ditch or a blue line stream. The purpose of stormwater easements is to provide space in which to modify existing water courses or terrain and install improvements that will guide flows along predictable paths and to provide space for the continued maintenance of those improvements.

It is not within the purview of the County to get involved in private negotiations. But it is the interest of the County to facilitate orderly development. The County Comprehensive Plan is the policy basis for decision-making related to the approval or denial of development applications. And though there are, of course, factors other than lot configuration and land use type that contribute to the County's decision as to whether a development is acceptable to approve or not, the 2045 Comprehensive Plan calls for the type of residential development that is being proposed in the Honey Hills development. It would be arbitrary for the County to deny the very type of development that it calls for in its long-range plan, without substantive reasons for the denial.

At the Morton County Water Board Meeting on June 28, 2023, Mr. Hehr handed me a paper copy of some texts, the subject of which was negotiations about his property in relationship to the Honey Hills Development. I have looked at the paper copies he handed me. The paper record includes a total of four texts. Each text consists of between 3 and 5 sentences. I have no knowledge of whether the copy that was handed to me constitutes the entire record of the negotiations or if the bulk of the negotiations took place orally instead of in text or written format. My conclusion (personal opinion only) was that the record of the negotiation looked to be less than a robust effort, jointly by the parties, to arrive at an agreement.

Again, the parties (to whom this letter is addressed) are at their liberty to negotiate or not negotiate as they see fit. The County does not require, as part of a development application, the parties to engage in negotiations pertaining to the purchase of easements or transfer of land. However, my main purpose in sending this letter is to strongly encourage the parties involved to voluntarily ensure they have made a 100%, good-faith effort to negotiate for either roadway or stormwater easements that are in the interest of orderly development and best practices. And because equal sharing of information is paramount in the review of development applications, I will be posting this communication online for the general public to access if they so choose.

Please let me know if you have any question, comments or concerns.

Sincerely,

A handwritten signature in black ink that reads "Natalie Pierce". The signature is written in a cursive, flowing style.

Natalie Pierce
Director of Planning & Zoning
Morton County