

COMBINED APPEAL + PROTEST PACKET

REZ-007-2025 (Ordinance 1840)

Lots 32–36, Block 1, Heart River 4th Addition, Dickinson, ND

Date Submitted: November 26, 2025

Primary Contact / Lead Signatory: Mary Adsero

Address: 730 1st Ave SW Dickinson, ND 58601

Cell: 701-290-2401 | **Email:** wadsero@ndsupernet.com

TABLE OF CONTENTS

| | |
|---|--------|
| 1. Cover Letter | Page 2 |
| 2. Appeal Letter to the Board of Adjustment | Page 3 |
| 3. Protest Petition | Page 6 |
| 4. Signature Pages & Notary Acknowledgments | Page 9 |

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1. COVER LETTER

To: Dickinson Board of Adjustment / City Administrator

From: Wayne & Mary Adsero, Ryan & Kayla Fisher (Owner: Bill Jerome/B&A Properties, LLC.), Kevin & Marcy Praus, & Brandon & Preslee Krebs

Re: Submission of Combined Appeal & Protest – REZ-007-2025, Ordinance 1840

Dear Members of the Board of Adjustment,

Enclosed please find our **formal appeal and protest** relating to the rezoning approval of Lots 32–36, Block 1, Heart River 4th Addition (approximately 1.13 acres), under REZ-007-2025 / Ordinance 1840.

This packet includes:

- Our **Appeal Letter**, with detailed arguments citing Dickinson Municipal Code.
- A **Protest Petition**, containing notarized signature sheets from eligible property owners.

As this submission is being filed within **14 days** following the Planning & Zoning Commission public hearing (held November 12, 2025), we respectfully request the Board's full consideration of these materials.

We ask that the Board remand or overturn the rezoning approval to ensure protection of neighborhood character, public safety, and drainage infrastructure.

Thank you for your time and attention.

Sincerely,

Mary Adsero

on behalf of co-signing property owners

430 1st Ave SW

Dickinson, ND 58601

Cell: 701-290-2401

Email: Wadsero@ndsupernet.com

2. APPEAL LETTER TO THE BOARD OF ADJUSTMENT

Mary and Wayne Adsero

430 1st Ave SW

Dickinson, ND 58601

wadsero@ndsupernet.com | 701-290-2401

Date: November 25, 2025

To: Dickinson Board of Adjustment

Address: 38 3rd Ave W, Dickinson, ND 58601

Re: Appeal of Rezoning Amendment REZ-007-2025 (Ordinance 1840)

Dear Members of the Board of Adjustment,

I write to formally appeal the City Commission's approval of Ordinance 1840 (REZ-007-2025), which rezones Lots 32–36, Block 1, Heart River 4th Addition, Dickinson, from **R-1 (Low-Density Residential)** to **R-2 (Medium-Density Residential)**. As a nearby property owner, I am deeply concerned about how this change will adversely affect my property, the adjacent neighborhood, and the safety and welfare of our community.

Below are the specific grounds for my appeal, based on applicable Dickinson Municipal Code:

1. Incompatibility with Surrounding Land Use / Zoning

- Under **§ 39.01.003** ("Purpose of Zoning Regulations"), the zoning code requires protection of neighborhood character and compatibility of land uses.
- **Table 4-1, § 39.04.005** defines the R-1 district's purpose as preserving low-intensity, low-density residential character, whereas R-2 allows significantly greater density.
- **§ 39.02.003** (Zoning Map Amendment Criteria) further mandates that rezoning decisions promote compatibility and avoid undermining existing neighborhoods.

The proposed increase in density threatens the character and stability of the existing R-1 neighborhood.

2. Inconsistency with the Comprehensive Plan / Long-Range Planning

- **§ 39.02.003(2)** requires that zoning map amendments demonstrate consistency with the City's Comprehensive Plan.

No findings have been made to show that R-2 zoning at this location aligns with the City's future land-use vision or long-term planning goals.

3. Stormwater, Drainage & Flooding Risks

- Under **Chapter 38, Article 38.14 (Storm Water Management Ordinance)**:
 - **§ 38.14.230** requires a Storm Water Management Plan, including pre- and post-development hydrology and protection of existing structures.
 - **§ 38.14.240** mandates that peak post-development discharge for storm events (2-, 10-, and 100-year) not exceed pre-development rates.
 - **§ 38.14.410** prohibits land-disturbing activities that increase runoff in ways that could harm adjacent property.
- Under **Chapter 14, § 14.04 (Flood Prevention)**, the Board of Adjustment must assess “danger to life and property due to flooding,” expected flow velocities and rates, and flood-management compatibility.

The rezoning as approved raises serious concerns because no hydrologic analysis, plan for detention / retention, or mitigation has been provided. This places my property — and others — at risk of increased flooding, basement seepage, and infrastructure strain in an area already determined to be sensitive to flooding.

4. Infrastructure, Traffic, Buffering & Neighborhood Impacts

- **§ 39.01.003(1)** requires that zoning protect public health, safety, and welfare.
- **§ 39.02.003** requires consideration of infrastructure capacity (roads, utilities, drainage) before approving zoning changes.
- **§ 39.04.020 (Supplemental Regulations)** mandates that the City enforce buffer zones, screening, lighting, and traffic control where needed.

Under the proposed rezoning, impacts such as increased traffic, noise, reduced open space, inadequate buffering, and overloading of stormwater and roadway systems have not been sufficiently evaluated or mitigated. Although these impacts are not required to be evaluated prior to a rezoning, I am requesting a **stormwater impact analysis** as part of this appeal.

5. Procedural / Subdivision / Lot-Modification Compliance

- **Chapter 52 – Subdivision Regulations**, particularly:
 - **§ 52.09 (Lot Modification Restrictions)** prohibits reconfiguration of lots at the same time as rezoning unless all subdivision procedures are followed.
 - **§ 52.04 / § 52.05** govern preliminary and final plat processes, which are required when lots are changed, combined, or otherwise modified.

It is unclear from the record whether the rezoning request contemplates lot reconfiguration (or combinations) and whether those processes fully comply with updated Chapter 52 requirements. Approval without a proper subdivision review raises serious procedural and legal questions.

Request for Relief

For these reasons, I respectfully ask the Board of Adjustment to:

- **Vacate or remand** the approval of the rezoning, so that proper engineering, analysis, and public review can be conducted; or, at the very least;
- **Impose strict conditions**, including: on-site stormwater retention or detention, limits on impervious surface, buffering and screening requirements, traffic mitigation, and any other measures necessary to protect neighborhood character and infrastructure.

Conclusion

The rezoning, as approved, poses substantial risks to property, public welfare, and the integrity of our residential neighborhood. I urge the Board to carefully consider this appeal, apply the relevant code provisions cited above, and take corrective action.

Thank you for your attention and service to our community.

Sincerely,

Mary Adsero

3. PROTEST PETITION

PROTEST PETITION — REZONING REZ-007-2025 / ORDINANCE 1840

To: City Administrator, City of Dickinson, ND (via Office of Building Official)

Date of Planning Commission Hearing: November 12, 2025

Filing Deadline (14 days): November 26, 2025

Subject Property (Legal Description):

Lots 32–36, Block 1, Heart River 4th Addition Subdivision, SE ¼ of SE ¼, Section 9, Township 139N, Range 96W, Dickinson, ND (approx. 1.13 acres)

A. Basis for Protest & Statutory Justification

We, the undersigned property owners, assert a valid protest under the Dickinson Municipal Code:

- According to the City’s protest provision (Zoning Map Amendment process), a protest petition must be filed within 14 days of the Planning Commission public hearing.
 - The petition must include **notarized signatures** from either:
 1. Owners of at least **20% of the property being rezoned**, or
 2. Owners of **20% of the total area of privately owned parcels within 150 feet** of the subject property (excluding public rights-of-way).
 - A valid protest elevates the voting requirement for approval: **three-fourths (¾) of the City Commission** must vote in favor.
-

B. Specific Grounds for Protest

1. Incompatibility With Surrounding Zoning / Land Use

- *Code References:*
 - § 39.01.003 (Purpose of Zoning: compatibility, neighborhood stability)
 - § 39.02.003 (Zoning Amendment Criteria)
 - Table 4-1, § 39.04.005 (R-1 vs. R-2 District Purpose)
- *Argument:* The R-2 zoning is inconsistent with the existing R-1 neighborhood, undermining residential character and predictability.

2. Lack of Consistency With Comprehensive Plan

- *Code Reference:* § 39.02.003(2) — requires consistency with Comprehensive Plan.
- *Argument:* Rezoning to R-2 was not justified with findings that align with long-range planning goals or the Future Land Use Map.

3. Stormwater, Runoff, and Flooding Risks

- *Code References:*
 - Chapter 38, Article 38.14:
 - § 38.14.230 (stormwater plan required),
 - § 38.14.240 (peak discharge limitation),
 - § 38.14.410 (prohibition on increasing harmful runoff)
 - Chapter 14, § 14.04 (Flood Prevention criteria: board must assess danger to life, property, velocity, etc.)
- *Argument:* No engineered stormwater plan was submitted; rezoning will increase impervious area and runoff, endangering neighboring properties by increasing flood risk.

4. Infrastructure, Traffic, Buffering, and Neighborhood Impacts

- *Code References:*
 - § 39.01.003(1) (Protect public health, safety, welfare)
 - § 39.02.003 (Infrastructure adequacy)
 - § 39.04.020 (Supplemental zoning regulations for buffer, traffic, screening)
- *Argument:* Additional density threatens to overload roads, utilities, generate excessive noise, and lacks adequate buffering or screening to protect residential neighbors.

C. Formal Protest Statement

We, the undersigned owners of property within 150 feet of the proposed rezoning (Lots 32–36, Block 1, Heart River 4th Addition), formally **object to** and **protest** the approval of REZ-007-2025 / Ordinance 1840, on the basis of the foregoing arguments and in accordance with Dickinson Municipal Code.

We demand that any approval of this ordinance require a **three-fourths (¾) supermajority vote** of the City Commission, as required under the Code when a valid protest petition is submitted.

4. SIGNATURE PAGES & NOTARY ACKNOWLEDGMENTS

| Owner (Printed) | Signature | Address or Legal Description |
|-----------------|--|---|
| Bill Jerome |  | 234 7 th St S.W. Dickinson ND 58601 |
| Date Signed | | |
| <u>11/25/25</u> | | |

| Owner (Printed) | Signature | Address or Legal Description |
|-----------------|---|---|
| Kayla Fisher |  | 234 7 th St SW Dickinson ND 58601 |
| Date Signed | | |
| <u>11/25/25</u> | | |

| Owner (Printed) | Signature | Address or Legal Description |
|-----------------|--|---|
| Ryan Fisher |  | 234 7 th St SW Dickinson ND 58601 |
| Date Signed | | |
| <u>11/26/25</u> | | |

| Owner (Printed) | Signature | Address or Legal Description |
|-----------------|---|---|
| Preslee Krebs |  | 716 1 st Ave SW Dickinson, ND 58601 |
| Date Signed | | |
| <u>11/25/25</u> | | |

Owner (Printed)

Brandon Krebs

Date Signed

11/25/25

Signature



Address or Legal Description

716 1st Ave SW
Dickinson ND

Owner (Printed)

Kevin Praus

Date Signed

11-25-25

Signature



Address or Legal Description

188 7th St. S.W.
Dickinson N.D.

Owner (Printed)

Marcy Praus

Date Signed

11-25-2025

Signature



Address or Legal Description

188 7th St. SW
Dickinson, ND
58601

4. SIGNATURE PAGES & NOTARY ACKNOWLEDGMENTS

Owner (Printed)

Wayne Adsero

Date Signed

11/25/25

Signature



Address or Legal Description

730 1st ave SW Dickinson, ND

Owner (Printed)

Signature

Address or Legal Description

Mary Adsero

Mary Adsero

1730 1st Ave SW
Dickinson ND

Date Signed

11/25/2025

Notary

STATE OF NORTH DAKOTA COUNTY OF STARK On this 26 day of November, 2025, before me, the undersigned, personally appeared in person, known (or proven) to me to be the person whose name is signed above, and acknowledged that they executed this instrument.

Notary Public

Jacey Wilson

My commission expires:

~~05/29/2028~~
05/29/2028

