



AGENDA
MANDAN CITY COMMISSION
JULY 19, 2011
ED "BOSH" FROEHLICH MEETING ROOM
5:30 P.M.
www.cityofmandan.com

-
- A. ROLL CALL:
1. Roll call of all City Commissioners and Department Heads.
- B. MINUTES:
1. Consider approval of the minutes from the July 5, 2011 Board of City Commission meeting
- C. PUBLIC HEARING:
- D. BIDS:
- E. CONSENT AGENDA:
1. Consider approval of the pledge of securities reports as required by NDCC 21-04.
 2. Consider approval of the monthly bills
 3. Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2011-1
 4. Consider approval of Sunset Commercial Park & School District 5th Addition Zone Change. (*First consideration of ordinance 1100.*)
 5. Consider approval of Seven Seas 1st Addition Zone Change. (*First consideration of ordinance 1099*)
- F. OLD BUSINESS:
1. Update on status of Diane's Addition street maintenance project.
- G. NEW BUSINESS:
- H. RESOLUTIONS & ORDINANCES:
1. Consider second and final consideration of Ordinance No. 1098 an ordinance to create a new Chapter to Title 17, Public Nuisances, of the Mandan Code of Ordinances.
 2. *Consider first consideration of Ordinance No. 1100 Zone Change for Sunset Commercial Park & School District 5th Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.*
 3. *Consider first consideration of Ordinance No. 1099 Zone Change for Seven Seas 1st Addition – An ordinance to amend and reenact section 21-03-02 of the Mandan Municipal Code relating to District Boundaries and Zoning Map.*

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4. Consider first consideration of Ordinance 1101 an ordinance to create a new section to the Title 12, Alcohol and Gaming Licenses and Permits, of the Mandan Code of Ordinances relating to the on or off sale of distilled spirits.
 5. Consider a resolution to establish a license fee for the sale of distilled spirits.
- I. OTHER BUSINESS:
- J. FUTURE MEETING DATES FOR BOARD OF CITY COMMISSIONERS:
1. August 2, 2011
 2. August 16, 2011
 3. September 6, 2011 – 5 p.m. start
- K. ADJOURN

Departmental planning meeting will be held the Monday prior to the Commission meeting, all Commissioners are invited, noon, Dykshoorn Conference Room. Please notify the city administrator by 8:30 a.m. that Monday if you plan on attending. If more than two commissioners plan on attending, proper public notice must be given.

The Mandan City Commission met in regular session at 5:00 p.m. on July 5, 2011 in the Ed “Bosh” Froehlich Room at City Hall. Commissioners present were Helbling, Tibke, Rohr, Jackson (via conference call), and Frank. Department Heads present were Finance Director Welch, Police Chief Bullinger, City Administrator Neubauer, Fire Chief Nardello, Business Development and Communications Director Huber, and Engineering Project Manager Bechtel. Absent: City Attorney Brown, Director of Public Works Wright and City Assessor Barta.

Mayor Helbling stated that the de-watering matter will not be discussed at this meeting. He stated there is no new information at this time.

MINUTES: *Consider approval of the minutes for June 21, 2011, regular meeting.* Commissioner Tibke moved to approve the minutes of June 21, 2011, Commissioner Jackson seconded the motion. The motion received unanimous approval of the members present.

PUBLIC HEARING:

BIDS:

CONSENT AGENDA:

1. *Consider Special Sunday opening for Bismarck-Mandan Stock Car Association, Inc. for July 10, 2011.* The Board approved of the Special Sunday opening for Bismarck-Mandan Stock Car Association, Inc. for July 10, 2011.

Commissioner Jackson moved to approve the Consent Agenda as presented. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

OLD BUSINESS:

NEW BUSINESS:

1. *Consider the creation of Water & Sewer Improvement District No. 58, Project 2011-07 (Shoal Loop Extension).* Engineering Project Manager Bechtel reviewed with the Board a request received from Shannon Schlosser and Mike Wachter to create a special assessment district for the costs of the water and sewer to be assessed to their properties. Bechtel stated that this request is a little different because it’s going to be an over depth installation of the water and sewer because that water and sewer does reach farther to the west to serve that Mitzel property and as part of the ordinances that over depth portion of those trunk mains is typically picked up by the City per our ordinance. There are some costs that should be considered as part of this project. They are requesting that the costs of this project be special assessed to their two properties. There would be some benefit to the Mitzel property to the west because of the over depth because those mains will be used to utilize his property in the future. Commissioner Rohr commented that the Board is moving in the direction of handling these projects to collect funds through a pre-paid arrangement up front rather than special assessments

later. He encouraged the Board to consider this option and stated that this action may lead in the direction of handling these matters in a similar fashion as Bismarck does. Bechtel stated that the total cost of this project including the over depth items, engineering, legal and administrative costs contingencies is just below \$80,000. Estimated costs of assessments would be @ \$34,000 plus the engineering and contingency of @ \$16,000 for a total of @ \$50,000 so that would be the portion of the amount assessed to those lots. The parties would have to work out details with Mitzel before the project would go forward because the improvement would affect Mitzel in the future. Bechtel stated that the matter before the Board tonight is only to create the district and the assessment plan would be addressed at a later time. Mayor Helbling suggested that Bechtel, Administrator Neubauer and Finance Director Welch meet to come up with a formula and then submit a proposal at a future meeting.

Commissioner Rohr moved to approve the creation of a Water and Sewer Improvement District No. 58, Project 2011-07 (Shoal Loop Extension) excluding the Mitzel properties. Commissioner Tibke seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: No. The motion passed.

2. *Consider the advertisement of the Resolution of Necessity for Flood Improvement District No. 1, Project No. 2011-06.* Administrator Neubauer stated that at the Special Meeting of the Commission on June 28, 2011, the district for this project was adopted and it was suggested that there be a protest period per typical projects for this project district.

Commissioner Tibke moved to approve the advertisement of the Resolution of Necessity for Flood Improvement District No. 1, Project No. 2011-06. Commissioner Rohr seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

3. *Consider a proclamation to extend the State of Emergency within the City of Mandan pursuant to Section 06-03-07 of Mandan Code of Ordinances.* Administrator Neubauer stated that this proclamation was passed at a recent meeting and that the proclamation is to be renewed every 30 days. This is an extension of what has been passed as the City continues to deal with related issues.

Commissioner Rohr moved to approve to extend the State of Emergency within the City of Mandan pursuant to Section 06-03-07 of Mandan Code of Ordinances. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: Yes; Commissioner Tibke: Yes; Commissioner Frank: Yes; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

RESOLUTIONS & ORDINANCES:

1. *Consider first consideration of Ordinance No. 1098 an ordinance to create a new Chapter to Title 17, Public Nuisances, of the Mandan Code of Ordinances.* Administrator

Neubauer stated that this is the first consideration of Ordinance No. 1098 and that it was presented to the voters earlier this year verbatim by this Board. We are just renumbering that ordinance that was passed so that we can adopt it into our code of ordinances. This was not done at the time because the City did not want there to be any questions from the community on what was being passed. For clarification, what was being passed by the Commission at that time was exactly how it was written by the parties that initiated the measure. This Ordinance is codifying and putting into form that Ordinance. Neubauer stated that the parties that initiated the Ordinance were contacted last week and informed that this matter would be addressed at this forum tonight and they were fine with that. No feedback or comments were received.

Commissioner Tibke moved to approve the first consideration of Ordinance No. 1098 an ordinance to create a new Chapter to Title 17, Public Nuisances, of the Mandan Code of Ordinances. Commissioner Jackson seconded the motion. Roll call vote: Commissioner Rohr: No; Commissioner Tibke: Yes; Commissioner Frank: No; Commissioner Jackson: Yes; Commissioner Helbling: Yes. The motion passed.

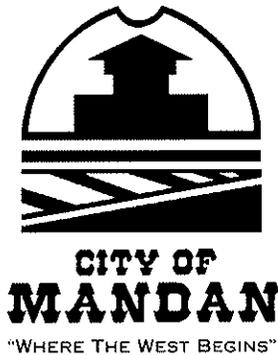
OTHER BUSINESS:

1. On behalf of Del Wetsch, President of the Mandan Progress Organization, Administrator Neubauer extended a thank you to the Board of City Commissioners and all city staff, the police and fire departments and all the volunteers for another successful 4th of July Celebration in Mandan. It was noted that there were no incidents with regard to the burn ban in effect within the flooded areas of the city.
2. FEMA will be holding a public information meeting on Wednesday, July 6, 2011, 6:30 p.m. at the Mandan High School Auditorium, 905 - 8th Avenue Northwest. The meetings will cover assistance programs available to property owners who have suffered losses due to the flooding. There will be presentations as well as question and answer periods. All Morton County residents who experienced flooding are invited to attend.
3. The Bismarck-Mandan Chamber of Commerce is holding a get-together for the businesses in the flood affected areas to discuss the issues involved on Wednesday, July 6, 2011, 11:30 a.m. to 1:00 p.m. at the Chamber Building. Information can be obtained from the Bismarck-Mandan Chamber of Commerce website.

There being no further actions to come before the Board, Commissioner Rohr moved to adjourn the meeting at 5:17 p.m. Commissioner Tibke seconded the motion. The motion received unanimous approval of the members present.

James Neubauer,
City Administrator

Timothy A. Helbling,
President, Board of City
Commissioners



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2011
PREPARATION DATE: July 13, 2011
SUBMITTING DEPARTMENT: Finance
DEPARTMENT DIRECTOR: Greg Welch
PRESENTER: Greg Welch
SUBJECT: Pledge of securities reports.

PURPOSE

The City of Mandan is required semiannually to approve pledges of securities reports.

BACKGROUND

Except for the Bank of North Dakota, financial institutions must pledge security for all public deposits at a ratio of \$1.10 for every \$1.00 above the FDIC coverage amount.

ATTACHMENTS

- Pledge of securities report from Wells Fargo Bank
- Pledge of securities report from Starion Financial

FISCAL IMPACT

None

STAFF IMPACT

None

LEGAL REVIEW

In accordance with the provisions of NDCC 21-04.

RECOMMENDATION

To approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial

SUGGESTED MOTION

Move to approve the following pledge of securities reports:

- Wells Fargo Bank
- Starion Financial

WELLS
FARGO

STAGECOACH SWEEP
WELLS FARGO BANK, N.A.
Confirmation
Repurchase Agreement

CITY OF MANDAN
205 2ND AVE NW
MANDAN ND 58554

ACCOUNT SUMMARY

Date : 06/30/2011
Account : 1390030007

ACCOUNT DETAIL

Investment : Repurchase Agreement

From Date : 06/30/2011
To Date : 07/01/2011

Rate : .05000000 %
Principal : \$ 2,360,674.38
Interest : \$ 3.28

REPURCHASE AGREEMENT DETAIL

Collateralized By : \$ 2,497,267.27
FN-30 : AE9746
% Due : 4.50 %
Maturity Date : 12/01/2040

CUSIP : 31419LZL0
Sequence : 063011
Price : 103.608362
Accrued Interest : \$ 9,364.75

INVESTMENTS NOT FDIC INSURED



109 1st St. NW. Mandan, ND 58554
701-663-6434 • 701-667-1619 (fax)

FAX

To:	Greg Welch	From:	Janice Richter
Company:	City of Mandan	Pages:	4
Fax #:	701-667-3223	Date:	6-30-11
RE:	Pledge Report		

* The following is the pledge report for June 2011. *This report lists all securities currently pledged for your deposit account(s).*

The pledges are reviewed and approved on a monthly basis by the Starion Financial Asset/Liability Management Committee and presented to the Board of Directors.

** If there is an increase in the balance of your account(s) prior to the month end check, please contact us, so that we may increase the amount of pledging if necessary.

If you have any questions, please feel free to contact me at 667-1620 or Mary Erman, Chief Operating Officer at 667-1670.

Thank you.

IMPORTANT: This message intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you receive this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the United States Postal Service. Thank you.

Pledges By Pledgee And Maturity



Pledged To: City of Mandan

Starion Financial - Mandan, ND

As Of 6/30/2011

Receivable Safekeeping Location	CUSIP	Description Maturity	Pledgye Coupon	Moody S&P	Original Face Pledged Percent	Original Face	Pledged	
							Par	Book Value
WELL: Wells Fargo	872129AB9	OAKES ND LN ANTIC REV 02/15/12	1.36	N/A	350,000.00 100.00%	350,000.00	350,000.00	350,140.00
WELL: Wells Fargo	387370VB2	GRANITE FALLS MINN 12/01/12	2.00	N/A	400,000.00 100.00%	400,000.00	400,408.21	401,464.00
WELL: Wells Fargo	0806366D2	BELOIT WIS-XLCA INS 05/01/13	3.75	A+	250,000.00 100.00%	250,000.00	251,113.22	254,977.50
WELL: Wells Fargo	431389AY1	HILL CITY SD SCH DIST-AGI 01/15/14	3.70	Aa3	230,000.00 100.00%	230,000.00	230,000.00	238,776.80
WELL: Wells Fargo	97072NAJ7	WILLISTON ND SALES TAX I 05/01/15	3.00	A2	155,000.00 100.00%	155,000.00	156,397.11	161,045.00
WELL: Wells Fargo	3134G1M68	FHLMC 1TIME CALL 12/28/15	2.25	N/A	1,000,000.00 100.00%	1,000,000.00	1,000,000.00	1,004,370.00
WELL: Wells Fargo	091933CY5	BISMARCK ND PK DIST 05/01/16	2.90	N/A	195,000.00 100.00%	195,000.00	196,000.00	199,871.10
WELL: Wells Fargo	841344HY3	SOUTHEAST CASS WTR RE 05/01/16	3.20	Aa2	245,000.00 100.00%	245,000.00	245,000.00	252,180.95
WELL: Wells Fargo	924478BS8	VERNON COUNTY WIS-NAT 04/01/18	4.20	A1	250,000.00 100.00%	250,000.00	261,492.40	260,030.00
WELL: Wells Fargo	31377PLA0	MBS FNMA-382921 12/01/18	382921 7.24	N/A	1,421,500.00 100.00%	1,421,500.00	1,326,842.20	1,373,016.96
WELL: Wells Fargo	091933DK4	BISMARCK ND PK DIST 05/01/20	3.00	N/A	280,000.00 100.00%	280,000.00	280,000.00	275,917.60
WELL: Wells Fargo	31412VJ74	MBS FNMA 10-YR 05/01/20	935986 4.00	N/A	1,200,000.00 100.00%	1,200,000.00	846,685.98	895,975.73
WELL: Wells Fargo	31417YQM2	MBS FNMA 10-YR 07/01/20	MA0459 4.00	N/A	1,000,000.00 100.00%	1,000,000.00	811,542.96	856,786.86

Although the information in this report has been obtained from sources believed to be reliable, its accuracy cannot be guaranteed.
6/30/2011 11:48 AM - JHK/BISM

Pledges By Pledgee And Maturity



Pledged To: City of Mandan

Station Financial - Mandan, ND

As Of 6/30/2011

Receipt#	CUSIP	Description	Maturity	Prepaid	Pool/Type	Moody	Original Face	Pledged	Original Face	Par	Book Value	Market Value
Safekeeping Location					Coupon	S&P	Percent					
WELL: Wells Fargo	31336WAF8	MBS FHLMC Gold 15 Yr	10/01/20		G11807		100.00%	2,100,000.00	2,100,000.00	817,857.11	657,344.52	670,910.36
WELL: Wells Fargo	952753DG3	WEST FARGO ND WTR & SV	11/01/20		5.40	Aa3	100.00%	235,000.00	235,000.00	235,000.00	235,000.00	250,808.45
WELL: Wells Fargo	385443K54	GRAND FORKS ND	12/01/21		2.80	Aa2	100.00%	165,000.00	165,000.00	165,000.00	164,210.84	168,161.40
WELL: Wells Fargo	144537NV5	CARRINGTON ND	05/01/22		4.05	N/A	100.00%	160,000.00	160,000.00	160,000.00	160,000.00	164,376.00
WELL: Wells Fargo	938688TF5	WASHINGTON CNTY TEX JF	10/01/22		4.00	Aa3	100.00%	250,000.00	250,000.00	250,000.00	256,782.36	270,397.50
WELL: Wells Fargo	672132AG2	OAKES ND SALES TAX	11/01/23		4.30	N/A	100.00%	400,000.00	400,000.00	400,000.00	400,000.00	409,524.00
WELL: Wells Fargo	307489LR3	FARGO ND PK DIST	04/01/24		4.00	Aa1	100.00%	230,000.00	230,000.00	230,000.00	236,946.84	242,725.90
WELL: Wells Fargo	31398VL87	FHR 3656 EA	05/15/24		EXCH		100.00%	1,000,000.00	1,000,000.00	707,007.17	731,296.75	743,414.01
WELL: Wells Fargo	31417VPZ0	MBS FNMA 15-Yr AC8539	12/01/24		4.00	N/A	100.00%	1,300,000.00	1,300,000.00	916,375.66	948,379.51	958,178.55
WELL: Wells Fargo	31294MBC4	MBS FHLMC Gold 15 Yr	10/01/25		E02735		100.00%	1,000,000.00	1,000,000.00	924,720.85	962,412.96	946,188.25
WELL: Wells Fargo	31410FYY5	MBS FNMA Conv	11/01/25		888227		100.00%	1,700,000.00	1,700,000.00	691,307.33	741,770.14	742,890.28
WELL: Wells Fargo	31398KENG6	FHR 3681 PE	01/15/39		P11	N/A	100.00%	1,050,000.00	1,050,000.00	793,740.54	834,475.66	850,809.06
25 Securities Pledged To: 170 - City of Mandan												
									16,566,500.00	12,346,581.45	12,767,312.22	12,944,936.26

Although the information in this report has been obtained from sources believed to be reliable, its accuracy cannot be guaranteed.
6/30/2011 11:45 AM - JHK/BSH



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2011
PREPARATION DATE: July 6, 2011
SUBMITTING DEPARTMENT: Police
DEPARTMENT DIRECTOR: Chief Dennis A. Bullinger
PRESENTER: Chief Dennis A. Bullinger
SUBJECT: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2011-1.

STATEMENT/PURPOSE: The Mandan Police Department is requesting Board approval in the acceptance of a grant through the Department of Human Services administered by the North Dakota Highway Patrol in the enforcement of underage drinking, through May 31, 2012.

BACKGROUND/ALTERNATIVES: The police department has been awarded a contract in the anticipated amount of \$1,000.00 to fund overtime in the enforcement of underage drinking. Two programs support by the grant are "Point of Purchase" or "Off-site Enforcement". The police department generally conducts off-site saturation patrols scheduled to emphasize enforcement during community events that have a high probability of underage drinking.

ATTACHMENTS: Agreement for Participation.

FISCAL IMPACT: Up to \$1,000.00. Funding is in the police 2011 and 2012 proposed budget.

STAFF IMPACT: N/A

LEGAL REVIEW: N/A

RECOMMENDATION: Approve the acceptance of the contract addressing the enforcement of underage drinking.

Board of City Commissioners

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SUGGESTED MOTION: Move to approve the acceptance of Contract #2011-1 from the Department of Human Services in the enforcement of underage drinking.

Board of City Commissioners

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Colonel James J. Prochniak, Superintendent
State Capitol, 600 E Boulevard Ave. Dept. 504
Bismarck, ND 58505-0240
Telephone: 701-328-2455

North Dakota Highway Patrol



Jack Dalrymple
Governor
State of North Dakota

June 28, 2011

Chief Dennis Bullinger
Mandan Police Department
205 1st Avenue NW
Mandan, ND 58554-3162

Dear Chief Dennis Bullinger,

Enclosed is your grant agreement for the Enforcement of Underage Drinking Laws. The North Dakota Highway Patrol has agreed to assist the Department of Human Services in the administration of this funding made available through the Office of Juvenile Justice and Delinquency Prevention.

Please have this agreement reviewed and signed by an authorized individual from you government entity and return to the North Dakota Highway Patrol. Please note that the agreement does not take effect until all parties have signed the contract. **The money granted to your agency must be used by May 31st 2012 and the final voucher is due June 10th 2012.** An electronic copy of the NEW reimbursement voucher will be sent through an email. So please pay special attention when you fill out the reimbursement forms, as we will not accept old versions. I have also included the new reimbursement voucher for a preview. If you do now have an email address please let me know. When you submit the voucher please include any news articles or media that would be related to the activities that were held.

Upon the return of the grant agreement, we will sign it and return a copy to you.

If you have chosen not to take part in the program, please return the unsigned agreement and specify that. We will then redistribute your funds to other local agencies.

I have also enclosed a brochure of **free** materials that can be obtained through the Prevention Resource & Media Center and how to access a prevention coordinator in your area. If you need more brochures please let me know.

Regards,

A handwritten signature in cursive script that reads "Elizabeth A. Johnson".

Elizabeth Johnson
Research Analyst
North Dakota Highway Patrol
600 E. Boulevard Ave. Dept. 504
Bismarck, ND 58505-0240
701-328-4256
701-328-1717 fax
eajohnso@nd.gov
Fax: 701-328-1717

E-mail: ndhpinfo@nd.gov - NDHP Website: www.nd.gov/ndhp - ND State Website: www.nd.gov
An Internationally Accredited Law Enforcement Agency Providing Professional Service

Board of City Commissioners

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CONTRACT #2011-1

GRANT AGREEMENT

The State of North Dakota, acting through its North Dakota Highway Patrol (NDHP) (Grantor), has determined the services identified in the Scope of Service paragraph below from an appropriate basis for the expenditure of funds allocated to Grantor.

Mandan Police Department, 205 1st Avenue NW, Mandan ND 58554-3162, proposes to provide those services.

Grantor and Grantee therefore enter in to the following:

1. TERM OF GRANT

- a. This contract becomes effective when all parties have signed and expires on May 31, 2012. This grant may be terminated at any time by mutual consent of both parties, or upon 30-days written notice by either party, with or without cause.

2. SCOPE OF SERVICE

- a. Grantee shall utilize grant funds to fund overtime enforcement programs that enforce underage drinking laws. These programs can either be point of purchase programs or off-site programs. Point of purchase enforcement refers to programs such as Cops in Shops, Server Training, Shoulder Taps, and Compliance Checks. Off-site saturation patrols will be strategically scheduled to emphasize enforcement during community events that have a high probability of underage drinking.
- b. Grantee shall submit enforcement activity reports, in the form of the Statistical Data portion of SFN 52208, to the Grantor on a monthly basis by the by the 15th day of each month with the final report due fifteen (15) days after the expiration or termination of this grant.

3. COMPENSATION

- a. Grantor, upon receipt and approval of SFN 52208 Reimbursement Voucher or other form required by Grantor, shall reimburse Grantee for allowable expenses incurred. "Allowable expenses" include the overtime salary paid, not to exceed time and a half of the officer's normal salary. Mileage and administrative costs are not allowable expenses. The total amount paid under this grant may not exceed \$1000. No funds will be paid for services until they have been provided. Grantee shall submit its request for reimbursement to Grantor monthly by the 15th day of each month. Grantee

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shall submit its final reimbursement request to Grantor no later than 15 days after the expiration or termination of this grant. Grantor may not pay Grantee until Grantee signs and returns to Grantor the Certification of the OMB Circular Information Guide, which is made a part of this grant by reference here.

- b. Payment for services under this grant may include federal monies. Anticipated funding at the time this grant is executed is listed below. The funding source of actual payments and the federal program can be verified by contacting NDHP Support Services Division.
 - i. Anticipated Funding:
 - 1. Federal \$1000
 - 2. State \$
 - 3. Other \$
 - 4. Unknown \$
 - ii. Catalog of Federal Domestic Assistance Number 16.727, Department of Justice, Enforcing Underage Drinking Laws.

4. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

- a. The Grantee understands that this grant is a one-time grant, and acknowledges that it has been furnished no assurances that this grant may be extended for periods beyond its termination date.

5. GRANTEE ASSURANCES

- a. This grant shall be construed according to the laws of the state of North Dakota. In connection with the furnishing of supplies or performance of work under this grant, persons who contract with or receive funds to provide services to the North Dakota Highway Patrol are obligated and agree to comply with all local, state and federal laws, regulations and executive orders related to the performance of this grant including but not limited to the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the North Dakota Human Rights Act, the Drug Abuse Prevention Treatment and Rehabilitation Act of 1970, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1992, the Pro-children Act of 1994, and the Drug-free Workplace Act of 1988.
- b. Unless otherwise authorized by federal law, the charges to be made by Grantee do not include costs financed by federal monies other than those generated by this grant.

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- c. The Grantee certifies by signing this grant that it is not presently debarred, declared ineligible or voluntarily excluded from participation in transactions with the State or Federal Government by any Department or Agency of the Federal Government.
- d. Grantee must be an approved vendor with the Office of Management and Budget within the State of North Dakota as required by N.D.C.C. § 54-44.4-09.
- e. Grantee assures that:
 - i. No Federal funds from this agreement will be paid by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Grantee agrees to complete and submit Standard Form –LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

6. AUTHORITY TO CONTRACT

- a. Grantee may not contract for or on behalf of, or incur obligations on behalf of, Grantor. Grantee may not subcontract.

7. INDEPENDENT ENTITY

- a. Grantee shall perform as an independent entity under this grant. Grantee, its employees, agents, or representatives are not employees of the Grantor for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers' Compensation Act. No part of this grant may be construed to represent the creation of an employer/employee relationship between Grantor and Grantee. Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee's activities and responsibilities under this grant.

8. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

- a. Grantee agrees to keep financial records necessary to fully disclose the complete financial status of the grant. Grantee must submit documentation supporting requests for reimbursement for review by Grantor or its agents, upon request. If Grantee has expended federal funds (when considering all sources) during Grantee's fiscal year at the amount specified in OMB Circular A-133, Audits of State, Local Governments, and Non-Profit

Organizations, which is made a part of this grant by reference here, that Circular must be followed pursuant to the Single Audit Act of 1984, Public Law 98-502; and the Single Audit Act Amendments of 1996, Public Law 104-156. Grantee agrees to file a copy of the "Reporting Package" as described by the Circular referenced above with the NDHP Support Services Division within the time frame identified in that Circular.

- b. Additionally, Grantee agrees to spend all federal assistance received from Grantor in accordance with applicable laws and regulations such as: the Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government,; and OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, which are made a part of this grant by reference here.

9. RETENTION OF RECORDS

- a. Grantee agrees to retain financial records for three years from the date of submission of the final expenditure report, or if subject to audit, from the date the audit is completed and closed, whichever occurs later. Grantee must provide Grantor, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Grantee that are pertinent to the services provided under this grant. Program records must be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

10. TERMINATION OF GRANT FOR CAUSE

- a. The Grantor by written notice of default to the Grantee may terminate the whole or any part of this grant:
 - i. If the Grantee fails to provide services required by this grant within the time specified or any extension agreed to by the Grantor; or
 - ii. If the Grantee fails to perform any of the other provisions of this grant, or so fails to pursue the work as to endanger performance of this grant in accordance with its terms.
- b. The rights and remedies of the Grantor provided in the above clause related to defaults by the Grantee are not exclusive and are in addition to any other rights and remedies provided by law or under this grant.

11. TERMINATION FOR LACK OF FUNDING OR AUTHORITY

- a. The Grantor may terminate this grant effective upon delivery of written notice to the Grantee, or on any later date stated in the notice, under any of the following conditions:

- i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The grant may be modified by mutual consent of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this grant or are no longer eligible for the funding proposed for payments authorized by this grant.
 - iii. If any license, permit or certificate required by law or rule, or by the terms of this grant, is for any reason denied, revoked, suspended or not renewed.
- b. Termination of this grant under this section is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

12. CONTINGENT LIABILITY

- a. During the term of this grant, and for four years after this grant expires or is terminated, Grantee agrees to reimburse Grantor for any claims submitted by Grantor for federal financial participation in the cost of this grant to the extent those claims are disallowed by any federal agency for failure on the part of Grantee to comply with this grant or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Grantee prompt written notice of any disallowed claims subject to reimbursement by Grantee. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

13. INDEMNITY

- a. The Grantor and Political Subdivision (Grantee) each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

14. INSURANCE

- a. Grantee shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverage:
 - i. Commercial general liability, including premises or operations, contractual, and products or completed operations coverage (if applicable), with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.

Board of City Commissioners

Agenda Documentation

Meeting Date: July 19, 2011

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2011-1.

Page 9 of 12

- ii. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
- b. Workers compensation coverage meeting all statutory requirements. The insurance coverage listed above must meet the following additional requirements:
 - i. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Grantee. The amount of any deductible or self retention is subject to approval by the State.
 - ii. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
 - iii. The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State representative.
 - iv. The Grantee shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement.
 - v. Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.

15. NOTICE

- a. All notices or other communications required under this grant shall be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Mandan Police Department
205 1st Avenue NW
Mandan, ND 58554-3162

OR

North Dakota Highway Patrol
600 E Blvd Ave, Dept. 504
Bismarck, ND 58505-0240

16. INTEGRATION, MODIFICATION, AND SEVERABILITY

- a. This grant constitutes the entire grant between the Grantee and the Grantor. No alteration, amendment, or modification of this grant shall be effective

unless it is reduced to writing, signed by the parties and attached hereto. If any term of this grant is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the grant does not contain the illegal or unenforceable term.

17. COLLATERAL CONTRACTS

- a. Where there exists any inconsistency between this grant and other provisions of collateral contractual agreements that are made a part of this grant by reference or otherwise, the provisions of this grant shall control.

18. APPLICABLE LAW

- a. This grant is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this grant must be brought in the District Court of Burleigh County, North Dakota.

19. ASSIGNMENT

- a. Neither party may assign this grant or the party's rights under this grant without the written approval of the other party. Approval to assign may not be unreasonably withheld. This grant is equally binding on the respective parties and their successors and assigns.

20. WORK PRODUCT, EQUIPMENT, AND MATERIALS

- a. All work product, equipment or materials created or purchased under this grant belong to the Grantor and must be delivered to Grantor at Grantor's request upon termination of this grant. Grantee agrees that all materials prepared under this grant are "works for hire" within the meaning of the copyright laws of the United States and assigns to Grantor all rights and interests Grantee may have in the materials it prepares under this grant, including any right to derivative use of the material. Grantee shall execute all necessary documents to enable Grantor to protect its rights under this section. Grantor must provide written approval of Grantee's use of work product or materials for purposes outside the scope of this grant.

21. COMPLIANCE WITH PUBLIC RECORDS LAWS

- a. Grantee understands that, except for disclosures prohibited in Section 24, the Grantor must disclose to the public upon request any records it receives from Grantee. Grantee further understands that any records which are obtained or generated by the Grantee under this grant, except for records that are confidential under Section 24, may, under certain circumstances, be

open to the public upon request under the North Dakota open records law. Grantee agrees to contact the Grantor immediately upon receiving a request for information under the open records law and to comply with the Grantor's instructions on how to respond to the request.

22. ATTORNEY FEES

- a. In the event a lawsuit is instituted by the Grantor to obtain performance due of any kind under this grant, and the Grantor is the prevailing party, Grantee shall, except when prohibited by N.D.C.C. § 28-26-04, pay the Grantor's reasonable attorney fees and costs in connection with the lawsuit.

23. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

- a. The Grantor does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The Grantor does not waive any right to a jury trial.

24. CONFIDENTIAL INFORMATION

- a. Grantee agrees not to use or disclose any information that is confidential or exempt from mandatory public disclosure which it receives from the Grantor under this grant except as necessary to carry out the purposes of this grant or as authorized in advance by Grantor. The Grantor agrees not to disclose any information it receives from Grantee that the Grantee has previously identified as confidential and which Grantor determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of Grantor and Grantee to maintain confidentiality of information under this section continues beyond the term of this grant, or any extensions or renewals of it.

25. ACKNOWLEDGEMENT OF NDDHS AGREEMENT

- a. The local entity acknowledges the binding nature of the agreement between the North Dakota Highway Patrol and the North Dakota Department of Human Services dated June 1, 2011 Chief Dennis Bullinger
- b. Mandan Police Department
- c. 205 1st Avenue NW
- d. Mandan, ND 58554-3162 Chief Dennis Bullinger
- e. Mandan Police Department
- f. 205 1st Avenue NW
- g. Mandan, ND 58554-3162, to provide funding for the enforcement programs, with the terms of the NDHP/NDDHS agreement being incorporated within

Board of City Commissioners

Agenda Documentation

Meeting Date: July 19, 2011

Subject: Consider Acceptance of Grant from the Department of Human Services, for the Enforcement of Underage Drinking, Contract #2011-1.

Page 12 of 12

the terms of this agreement, a copy of which is attached to this Grant Agreement.

LOCAL ENTITY

(TITLE) _____ DATE _____

STATE OF NORTH DAKOTA
NORTH DAKOTA HIGHWAY PATROL

COLONEL JAMES J. PROCHNIAK
SUPERINTENDENT _____ DATE _____

LIEUTENANT BRANDON SOLBERG
PLANNING AND PROPERTY OFFICER _____ DATE _____



Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2011
PREPARATION DATE: July 13, 2011
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider a change of zoning of Sunset Commercial Park & School District 5th Addition from RM (Multi-Family) to CB Restricted (Heavy Commercial).

STATEMENT/PURPOSE: Request from HIT, Inc. The purpose of the zone change is for an office building. Right now the lots are split down the middle with different zoning.

BACKGROUND/ALTERNATIVES: The zone change was approved by the Planning & Zoning Commission on June 27th, 2011. There was one nay voted by Commissioner Labor. She did not want to see CB next to residential. Neighbors were ok with CB restricted, if the restrictions were enforced. They agreed it would be less desirable to keep it in RM zoning, which would allow for an apartment building. They are happy with HIT's properties.

ATTACHMENTS: 1. Office Report
2. Map
3. Ordinance

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

SUGGESTED MOTION: To approve the zone change to CB Restricted (Heavy Commercial), restricted to Nursing Facilities and Office Space.

MANDAN PLANNING OFFICE REPORT
June 21, 2011

Applicant(s): HIT, Inc.

Owner(s): same

Developer(s):

Requested Action: Zone Change Approval

Name of Subdivision: Sunset Commercial Park & School District 5th

Legal Description: Lot 1, Block 2 of Sunset Commercial Park 1st and Lot 1, Block 4 of School District 5th of Section 21, Township 139N, Range 81W.

Located: Southwest corner of 27th Street NW and 12th Avenue NW.

Parcel Acreage: 4.98

Existing Land Use: Dakota Alpha Nursing Facility and vacant land.

Proposed Land Use: same with office building

Adjacent Land Use: Vacant and Residential

Existing Zoning: CB (Heavy Commercial) and RM (Multi-Family Residential)

Proposed Zoning: CB (Heavy Commercial) in its entirety

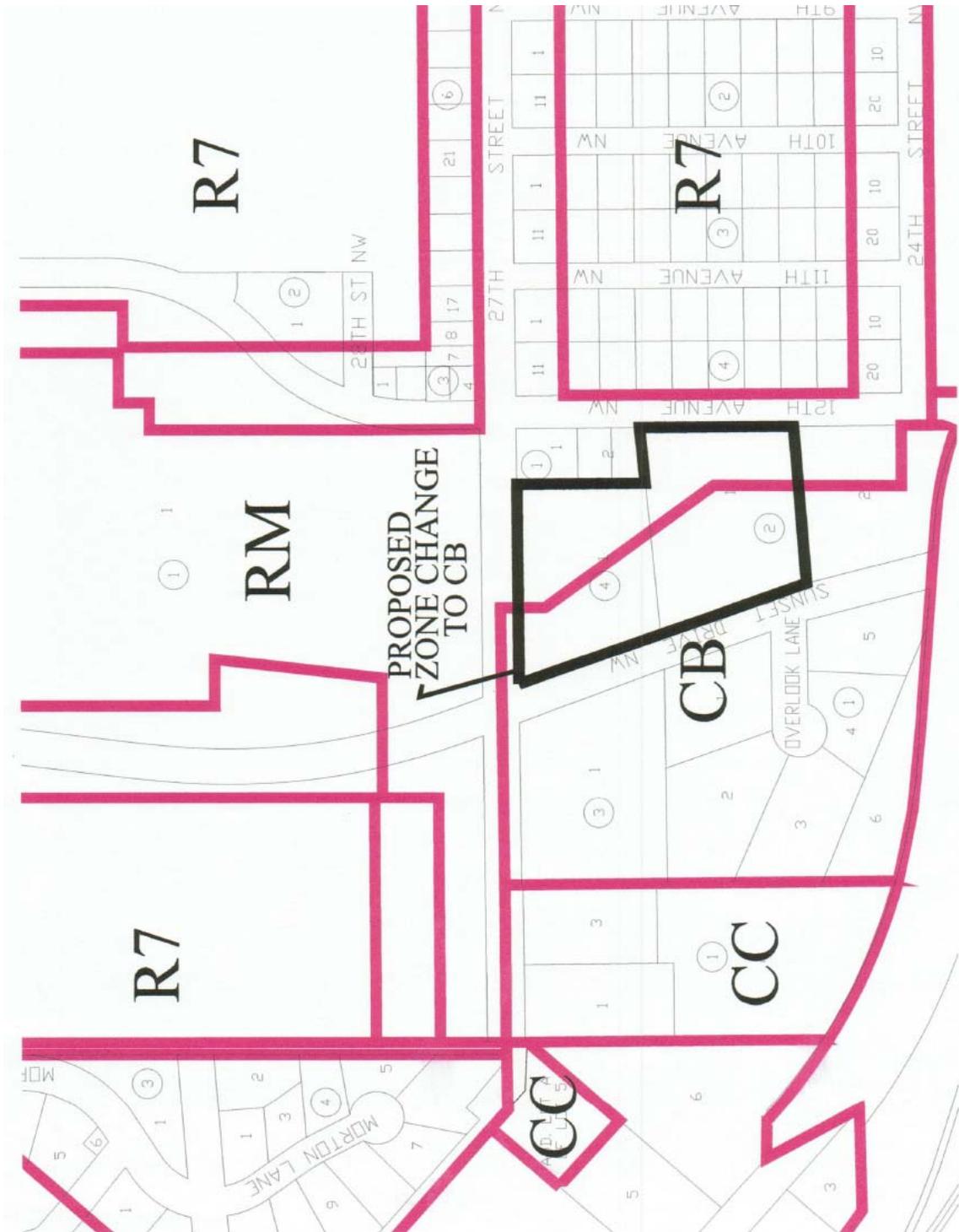
Adjacent Zoning: RM (Multi-Family Residential), CB (Heavy Commercial)

Fee(s) Required: \$150.00 Date Received: May 20, 2011

Adjacent Property Owner Notification: June 15, 2011

Dates of Legal Notices: July 8th & 15th, 2011

Recommendations: The Planning Office recommends approval.



ORDINANCE NO. 1100

**AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE
MANDAN MUNICIPAL CODE RELATING TO DISTRICT
BOUNDARIES AND ZONING MAP.**

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan,
North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is
amended to read as follows:

The following described property located within the City of Mandan shall be
excluded from the RM (Multi-Family) zoning and shall be included in CB (Heavy
Commercial), restricted to nursing facilities and office space, namely,

Lot 1, Block 2 of Sunset Commercial Park 1st Addition and Lot 1, Block 4
of School District 5th Addition in Section 21, Township 139N, Range 81W

And as so amended said section is hereby reenacted. The purpose of the zone change is
to build an office building. The city administrator is authorized and directed to make the
necessary changes upon the official zoning map of the city in accordance with this
section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>June 27, 2011</u>
First Consideration:	<u>July 19, 2011</u>
Second Consideration and Final Passage:	<u>August 2, 2011</u>
Publication Date:	<u>August 26, 2011</u>



Consent No. 5 & Ord No. 3

Board of City Commissioners

Agenda Documentation

MEETING DATE: July 19, 2011
PREPARATION DATE: July 13, 2011
SUBMITTING DEPARTMENT: Engineering
DEPARTMENT DIRECTOR:
PRESENTER: Dave Bechtel
SUBJECT: Consider a change of zoning of Lot 1, Block 2 of Seven Seas 1st Addition from CB (Heavy Commercial) to CC (Heavy Commercial).

STATEMENT/PURPOSE: Request from Shannon Gangl. The purpose of the zone change is for a condo/lease building and a cold storage building.

BACKGROUND/ALTERNATIVES: The zone change was approved by the Planning & Zoning Commission on June 27th, 2011. Current requirements would still apply, which are: A 100' side-yard setback, an established tree row with a 6' to 8' fence on the east side of the tree row and an access gate between Lots 11 of Sunview Heights Addition and Lot 1 of Seven Seas 1st Addition.

ATTACHMENTS:

1. Office Report
2. Map
3. Ordinance

FISCAL IMPACT: Minimal

STAFF IMPACT: Minimal

LEGAL REVIEW: All of my commission data has been forwarded to the City Attorney for his review.

SUGGESTED MOTION: To approve the zone change to CC (Heavy Commercial), with requirements of a 100' side-yard setback, an established tree row with a 6' to 8' fence on the east side of the tree row and an access gate between Lots 11 of Sunview Heights Addition and Lot 1 of Seven Seas 1st Addition.

June 21, 2011

Applicant(s): Shannon Gangl

Owner(s): Shannon Gangl

Developer(s):

Requested Action: Zone Change Approval

Name of Subdivision: Seven Seas 1st Addition

Legal Description: Lot 1, Block 2 Seven Seas 1st Addition of Section 16 & 21,
Township 139N, Range 81W

Located: Old Red Trail

Parcel Acreage: 2.29

Existing Land Use: Vacant and one 5,400 SF Condo/Lease Building

Proposed Land Use: Condo/Lease Building and Cold Storage Building

Adjacent Land Use: Residential and Hotel

Existing Zoning: CB (Heavy Commercial)

Proposed Zoning: CC (Heavy Commercial)

Adjacent Zoning: R7 (Single-Family Residential), CB (Heavy Commercial) &
MA (Light Non-Nuisance Industrial/Heavy Commercial)

Fee(s) Required: \$150.00 Date Received: May 20, 2011

Adjacent Property Owner Notification: June 10, 2011

Dates of Legal Notices: July 8 & 15, 2011

Recommendations: The Planning Office recommends approval as proposed.

ORDINANCE NO. 1099

**AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE
MANDAN MUNICIPAL CODE RELATING TO DISTRICT
BOUNDARIES AND ZONING MAP.**

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan,
North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is
amended to read as follows:

The following described property located within the City of Mandan shall be
excluded from the CB (Heavy Commercial) zoning and shall be included in the CC
(Heavy Commercial) with the following requirements:

- A 100' side-yard setback.
- An established tree row with 6' to 8' fence on the east side of the tree row.
- An access gate between Lot 11 of Sunview Heights Addition and Lot 1 of Seven
Seas 1st Addition.

namely,
Lot 1, Block 2 of Seven Seas 1st Addition in Sections 16 & 21, Township
139N, Range 81W .

and as so amended said section is hereby reenacted. The purpose of the zone change is
the construction of a condo/lease building and a cold storage building. The city
administrator is authorized and directed to make the necessary changes upon the official
zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>June 27, 2011</u>
First Consideration:	<u>July 19, 2011</u>
Second Consideration and Final Passage:	<u>August 2, 2011</u>
Publication Date:	<u>August 26, 2011</u>

ORDINANCE NO. 1098

An Ordinance to create a new Chapter to Title 17, Public Nuisances, of the Mandan Code of Ordinances.

BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

17-05-01. Declaration of Purpose and Intent.

1. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual or unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.

2. The provisions and prohibitions of this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

17-05-02. Definitions.

For the purpose of this chapter, certain words and phrases are defined as follows:

1. “dB(A)” means the A-weighted sound level in decibels, as measured with a sound level meter that meets the requirements for a type 1, 2, SIA, or S2A in American National Standard Specification for Sound Level Meters ANSI S1.4.

2. “Noise” means any sound.

3. “Person” means any person, partnership, association, joint venture, corporation or any other entity.

17-05-03. Unlawful Noise.

1. It is unlawful for any person to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. Loud, unnecessary or unusual noises or noises which annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others are defined with reference to subsection 2 of this section.

2. The standards which shall be considered in determining whether a violation

exists include, but are not limited to, the following:

- a. The volume of the noise.
 - b. The intensity of the noise.
 - c. Whether the nature of the noise is usual or unusual.
 - d. Whether the origin of the noise is natural or unnatural.
 - e. The volume and intensity of the background noise, if any.
 - f. The proximity of the noise to residential sleeping facilities.
 - g. The nature and zoning of the area within which the noise emanates.
 - h. The density of inhabitation of the area within which the noise emanates.
 - i. The time of the day or night the noise occurs.
 - j. The duration of the noise.
 - k. Whether the noise is recurrent, intermittent or constant.
3. A noise need not exceed the decibel levels in Table I to be in violation of this section.

17-05-04. Tables; Exceptions.

1. It is unlawful to project a sound or noise excluding noise emanating from a motor vehicle from one property into another, within the boundary of a use district which exceeds the limiting noise criteria set forth in Table I below as measured at the property line of the property from which the noise is emanating.

- a. Sound or noise projecting from one use district into another use district with a different noise level limit may not exceed the limits of the district into which the noise is projected.
- b. The permissible levels in decibels set forth in Table I are modified so that any noise occurring on property deemed to be nonconforming use property is determined upon the conforming zoning designation of the property.

2. TABLE I. Limiting Noise Levels for Zoning Districts.

	Zoning District		
	Residential	Commercial	Industrial
Maximum number of dB(A) permitted from 7:00 a.m. until 11:00 p.m. daily	55	65	80
Maximum number of dB(A) permitted from 11:00 p.m. until 7:00 a.m. of the following day	50	60	75

a. Motorized vehicles. It is unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table II as follows:

3. TABLE II. Limiting Noise Levels for Motor Vehicles.

a. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of ten thousand (10,000) pounds or more:

Maximum allowable limit: 88 dB(A) measured at 25 feet.

b. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than ten thousand (10,000) pounds:

Maximum allowable limit: 80 dB(A) measured at 25 feet.

4. Exceptions. The following uses and activities are exempt from noise level regulations under this section:

a. Noises of safety signals, warning devices, and emergency relief valves.

b. Noises resulting from any authorized emergency vehicles, when

responding to an emergency call or acting in time of any emergency.

c. Noises resulting from work of an emergency nature.

d. Any construction or reasonable and necessary maintenance activities except in residentially-zoned areas between the hours of 11:00 p.m. to 7:00 a.m.

e. Any other noise resulting from activities of a temporary duration permitted by law and for which a special permit therefore has been granted under this section by the city.

f. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations are exempt. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.

g. All railroad locomotives and railroad operations and motor carriers engaged in interstate commerce.

h. The use of snow removal equipment, including but not limited to tractors, plows and snow blowers in the aftermath of a snowfall.

i. The following events will be exempt:

- a. Buggies-n-Blues Sponsored Events
- b. 4th of July City Sponsored Events
- c. Mandan Racetrack
- d. Mandan Shell Concerts in the Park
- e. Use of Fireworks As Currently Set by the City of Mandan

5. Application for special permit. Application for relief from the noise level designated in this section on the basis of undue hardship may be made to the chief of police for the City of Mandan. Any permit granted by the chief of police shall contain all conditions under which the permit has been granted and shall specify a reasonable time that a permit is effective. The chief of police may grant the relief as applied upon a finding:

a. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this section; or

- b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other subsections of this section; and
- c. That no other reasonable alternative is available to the applicant; and
- d. The chief of police may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

17-05-05. Guests on Premises.

It is unlawful for any person to permit or allow guests on his or her premises to make any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

17-05-06. Noisy Party or Gathering Prohibited.

No person shall participate in any party or gathering consisting of two or more people when the party or gathering occurs in a residentially zoned or used area or building between the hours of 11:00 p.m. and 7:00 a.m. and when the party or gathering gives rise to unreasonable noise likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area, considering the time of day and the residential character of the area or building.

17-05-07. Order to Disperse - Refusal Prohibited.

When a police officer determines that a party or other gathering of people is creating unreasonable noise, disturbing the peace, or is disturbing the quiet or repose of another person, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person ordered to leave the premises by a police officer shall refuse to do so.

17-05-08. Tenant or Owner - Cooperation Required.

Every owner of a premises, or tenant in charge of a premises, who has knowledge of a disturbance shall cooperate with police and make reasonable effort to stop the disturbance.

17-05-09. Violations - Prima Facie Evidence.

The following shall be prima facie evidence of a violation in any prosecutions under this Chapter:

1. As to tenants, and owner if owner resides on the premises, if twice or more on the same day or if on successive days, the police department is called upon to enforce the terms of this ordinance either by citizen complaint or by personal investigation of a police officer.

2. As to the owner if the owner does not reside at the premises, if the police department gives the owner written notices of three violations of this ordinance by his tenants at any single location within a six month period.

3. Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of unreasonable noise in violation of this Chapter.

17-05-10. Classification; Penalty.

A violation of any provision of this ordinance is an infraction, for which the maximum penalty is a fine in the amount of \$500.00.

President of City Commission

ATTEST:

City Administrator

First Consideration: July 5, 2011
Second Consideration and Final Passage: July 19, 2011
Publication Date: August 12, 2011

ORDINANCE NO. 1100

AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE MANDAN MUNICIPAL CODE RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.

BE IT ORDAINED By the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is amended to read as follows:

The following described property located within the City of Mandan shall be excluded from the RM (Multi-Family) zoning and shall be included in CB (Heavy Commercial), restricted to nursing facilities and office space, namely,

Lot 1, Block 2 of Sunset Commercial Park 1st Addition and Lot 1, Block 4 of School District 5th Addition in Section 21, Township 139N, Range 81W .

And as so amended said section is hereby reenacted. The purpose of the zone change is to build an office building. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>June 27, 2011</u>
First Consideration:	<u>July 19, 2011</u>
Second Consideration and Final Passage:	<u>August 2, 2011</u>
Publication Date:	<u>August 26, 2011</u>

ORDINANCE NO. 1099

AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE MANDAN MUNICIPAL CODE RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.

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SECTION 1. AMENDMENT. Section 21-03-02 of the Mandan Municipal Code is amended to read as follows:

The following described property located within the City of Mandan shall be excluded from the CB (Heavy Commercial) zoning and shall be included in the CC (Heavy Commercial) with the following requirements:

- A 100' side-yard setback.
- An established tree row with 6' to 8' fence on the east side of the tree row.
- An access gate between Lot 11 of Sunview Heights Addition and Lot 1 of Seven Seas 1st Addition.

namely,
Lot 1, Block 2 of Seven Seas 1st Addition in Sections 16 & 21, Township 139N, Range 81W .

and as so amended said section is hereby reenacted. The purpose of the zone change is the construction of a condo/lease building and a cold storage building. The city administrator is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with this section.

President, Board of City Commissioners

Attest:

City Administrator

Public Hearing:	<u>June 27, 2011</u>
First Consideration:	<u>July 19, 2011</u>
Second Consideration and Final Reading:	<u>August 2, 2011</u>
Publication Date:	<u>August 26, 2011</u>

ORDINANCE NO. 1101

DISTILLER'S LICENSE

An Ordinance to create a new Section to Title 12 of the Mandan Code of Ordinances, Alcohol and Gaming Licenses and Permits, relating to the on or off sale of distilled spirits.

BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, North Dakota, as follows:

12-02-04.3. Class DY. A Class DY license shall authorize the licensee to produce distilled spirits, and to sell said distilled spirits at a location within the City of Mandan, subject to the following restrictions and conditions:

1. A Class DY license may be issued only to a business who obtains a license from the Office of the Attorney General allowing the production of distilled spirits.
2. A Class DY license will authorize the licensee to only sell distilled spirits.
3. The Class DY license shall be governed by all the provisions of state law and of this chapter generally applicable to all license qualifications.
4. The fee for a Class DY license shall be as determined by resolution of the Board of City Commissioners.

By: _____
President
Board of City Commissioners

ATTEST:

City Administrator

First Consideration: _____

Second Consideration and Final Consideration: _____

RESOLUTION

Be it resolved by the Board of City Commissioners of the City of Mandan, pursuant to § 12-02-06, Mandan City Code, that license fees for the sale of alcoholic beverages shall be as follows:

CITY OF MANDAN ALCOHOL LICENSE FEE SCHEDULE

EFFECTIVE July 1, 2011

<u>License</u>	<u>Fee</u>
Class A (General Retail-On & Off sale Beer & Liquor)	\$3,100.00
Class B (Club-On & Off sale Beer & Liquor)	\$2,800.00
Special B (Publicly Owned or Operated Facilities-On Sale Beer)	\$100.00
Special B (Publicly Owned Facilities-On sale Beer & Liquor)	\$100.00
Class C (Motel & Hotel - On & Off sale Beer & Liquor)	\$2,900.00
Class D (Exclusive Off sale Beer & Liquor)	\$3,100.00
Class D (Exclusive Off sale Beer & Wine)	\$600.00
Class E (Restaurant-On sale Beer & Liquor)	\$2,500.00
Class F (Restaurant-On sale Beer & Wine)	\$1,150.00
Class G (Commercial passenger vessels)	\$1,150.00
Class WB (Wine or Brewery)	\$600.00
Class MP (Member Producer)	\$600.00
Class DY (Distilled Spirits)	\$_____

Dated this _____ day of _____, 2011.

By: _____
 President
 Board of City Commissioners

Attest:

 City Administrator