

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL BUILDING
April 25, 2016

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall Building on April 25, 2016, at 5:15 p.m. CDT.

Commissioners Present: Zachmeier, Fleischer, Kelly, Klein, Knoll, Van Beek, Leingang, Laber, Liepitz, Beach, Robinson

Commissioners Absent:

Commissioner Knoll motions to approve the March 28, 2016 minutes. Commissioner Labor seconds. Upon vote, the motion receives unanimous approval of the Board.

OLD BUSINESS

1. Final plat and zone change of Ash Grove Estates.

Bob Decker, City Planner, describes the item. This was referred back to Planning & Zoning by City Commission. The City Commission reviewed the zone change request to PUD (Planned Unit Development) on April 19 and requested another review by Planning & Zoning. This would be a preliminary design and zoning. Bob gives a brief review of the request: This property was offered for sale by the school district. The land was part of the Red Trail Elementary parcel. The School District Superintendent, Dr. Mike Bitz, is present. The proposal is for a development consisting of 31 single-family residential lots and 7 twin homes. The PUD would allow for adjustments to the single and two family residential standards. Some of the lots are smaller than the standard.

Commissioner Robinson asks if the School District has any issues. Bob says the question about school capacity and occupancy came up at City Commission.

Commissioner Labor is glad to have Commissioner Fleischer and Dr. Bitz here to give the school's side. There were questions at City Commission about the school's needs and whether they should retain the property or sell.

Commission Zachmeier arrives at 6:20 p.m.

Commissioner Fleischer asks Dr. Bitz if the school is full and if they are moving students on a temporary basis to another school. Are there students in southeast Mandan being bussed to Red Trail? How does this fit together with this development?

Dr. Mike Bitz, School District Superintendent, "We are moving an early childhood special education classroom from Red Trail to Roosevelt next year. This isn't all that unusual. Last year we moved an early childhood special education classroom from Ft. Lincoln to Mary Stark. Early childhood special education is students who are aged 3 to 5 who have a disability. They qualify for special education services that we have to provide those services. Mandan has a unique model. We provide those services at neighborhood schools. That is unique, if you go to Fargo, Bismarck, Minot, other larger communities they do it in Bismarck does it in Richholt. I think they call it Bicep. They do it all in one location. We've been doing it in neighborhood schools and we've been doing that for a number of

years. We are moving a classroom from Red Trail to Roosevelt, but the teachers are going to be the same for those students. Paraprofessionals are going to be the same for those students. We also have the same o.t. services, pt. services, speech language pathologists. We try to make it as nice for the students as we can so the change is minimal. We also already have a special education bus that picks these children up. I understand if you're one of the children moving, it may not be pleasant, but it's probably the least disruptive classroom we can move. Last year we moved an early childhood classroom from Ft. Lincoln to Mary Stark and have not had a complaint since school started. We had a couple of parents who were upset during the process, but once we moved it, things have gone well. If anybody has any further questions on that.

Commissioner Fleischer asks how many students that involves. Dr. Bitz says there are two sections. Early childhood goes for a 2.5 hour time period. They do not partake in other activities like music, P.E., lunch. There are in a self-contained room the whole time. At Red Trail there are approximately 9 in the morning session and 9 in the afternoon session.

Dr. Bitz, "Three years ago when we built Red Trail and we had to rezone attendance areas like if you live here you go to Red Trail, if you live here you go to Mary Stark. There was a committee of about 25 of us. I was on that committee. Lee Fleischer was on that committee. As part of that process, we went and held meetings in each of the elementary schools. We met with parents and interested parties in each of the neighborhoods. What we heard resoundingly from everybody is we like our school, we don't want to move and we want to go to school with people in our own neighborhood. We had people telling us that in their neighborhood there were kids that had changed 4 or 5 elementary schools. They were right. That's kind of the way we did things. When we zoned our goal was to keep neighborhoods together. We divided southeast Mandan into three chunks. Right now, from southeast Mandan, we are bussing about 250 students every day to Red Trail, Lewis & Clark, and Ft. Lincoln. We try to keep neighborhoods together so kids can play with their friends. Rezoning is a painful process for parents and for kids. You're not moving nuts and bolts, you're moving kids who have friends and know teachers, so we don't like to do this, don't want to do it. We're going to have to do it again next year. I think Mr. Fleischer is saying if we didn't have to move those, if we had a school in Lakewood that would eliminate a lot of crowding in other schools. Right now Red Trail and Lewis & Clark are schools that are the most crowded. The other schools are all at manageable levels."

Commissioner Leingang asks if there is enough land to expand Red Trail because it is at capacity now. Dr. Bitz says after the sale of this land to the developer, the school will still have over 16 acres left for school purposes. When Red Trail was built, the utilities were all stubbed in to support future expansion. When the Lakewood school is built, it will open space in Red Trail and other schools.

Frank Leingang, lives a couple blocks from Red Trail Elementary, "I was at the commission meeting last week. We brought up the issue of the school and water problems and various other issues that is why it is brought back here. The reason I am concerned is because the school capacity. At the commission meeting, not once did I say what is this subdivision going to do to the school, as far as overcrowding. I went back to the zoning commission meeting you guys had last week and not once did I see it mentioned. Not once. That caused me a lot of concern. I've done some research on it. I contacted Dr. Bitz. I got the information on what the capacity is for each school and how many students are there. I have a couple handouts I can give you. They have Custer is over by 10. Ft. Lincoln is over by 9 students. Lewis & Clark over by 19. Mary Stark is under by 129. Red Trail is over by 44 students.

Roosevelt is under by 28. Mandan Middle School is over by 42. Mandan High School is under by 154. Red Trail is already over the limit. If we take and add another, what Mr. Decker said is not what I heard at the City Commission meeting. He said 31 homes and 7 twin homes. I heard differently. I heard a total of 54. Seven twin homes and the rest. There's a lot more houses than what he's stating. That's what was put out in the letter that got sent out only on Thursday for this meeting for people to attend. That information is not what I heard. The reason we're here is cause the school board has decided to sell this land at an obnoxiously low price. Mr. Fleischer was the only one that disagreed. They sold that 10.62 acres for \$277,000. The way Verity Homes currently has it they probably stand to make about a million dollars off of this. If you sell the lots at \$15,000 for the small ones and \$25,000 for the big ones. I know lots up there are going for \$25,000 and \$40,000. It's really really low. It should have never been sold at that price. I'm glad that Dr. Bitz said there's room to expand. I don't know where that room is at. They're going to have to tear into the playground, into the baseball diamonds or something I would imagine. I don't know if you are aware of it, but to the west is West Hills Estates 1, 2, 3 and 4. One, two and three have been there for over 5 years. Number 4 isn't even built yet. Between those 4, there's 77 lots available. Right now there is 37 empty. Go to Meadows 1-7 divisions. There's 25-30 empty lots there too. So you're looking between 60-70 empty lots and now we want to put another subdivision in. You're going to add another 100 to possibly 200 kids to that school. I don't know how they can sustain it. The houses that are being proposed, they went from R7 to PUD and around the outside are single-family homes. Toward the back of the school is going to be 7 twin homes. A horseshoe configuration and the homes in the center are going to be very very small. Single-family. I call them bachelor homes because I don't know who would buy them. There's no basements. I know they range from \$190,000 to I believe to \$300,000. I don't know if that includes the lot. I don't know if that's an affordable house. They say it's for first time home buyers. These people here are first time home buyers. They're not going to buy a house like that. Those houses will end up not being sold and probably up being rented out. So you have people renting. Nothing against renters, but they don't have skin in the game when it comes to maintaining a house. These homes don't have basements. Do they have crawl spaces I wonder? Where are they going to go if a tornado comes? There's also water issues up there. This here is a retention pond that's up there right now. It catches a little bit from around the school and gymnasium roof. Then it seeps away into the storm sewer. It runs down below the hill and drains into this little single drain. That's where they plan on putting their other retention pond? Everything drains there. When you get an inch of rain in a short period of time, believe me it's a flood. The first three or four lots will be flooded, unless that sewer system is totally redone. That's the single drain that controls it. You have water socks that they've put in there to slow the drainage because the sewer system can't handle it. It's my understanding you put a water sock in there so you don't get too much pressure into the system and blow off manhole covers. If you look in the grate, there's even water socks in there to help flow the flow of the water. It crosses 37th Ave NW and goes into this weeds and cattails. Continues down to 34th Ave NW, goes under that. Goes behind 34th Ave NW goes around the back of all the manufactured homes there and it drains into this. I took that picture Sunday after we had a quarter inch of rain. Two hours later. That's how much water was flowing. That's all that's left of that drainage right now because they back filled that and brought a bunch of dirt in there and they're going to put commercial in there. So, that is it over a quarter inch of rain, two hours later. Imagine if you get an inch of rain in 15 minutes. It'll be flooded all over. It's going to have to be redone and who is going to pay for that? Usually, when they do that everybody gets hit with specials.

Mathias Geiser, Trident Court, "We have gathered 76 plus signature in opposition to the rezoning. We are not against Verity Homes building there. We are simply against the fact of

the rezoning to the PUD. Two of you commissioners ask the hard question at your last month's meeting. It seems like you're using the PUD to get around the current zoning. That's absolutely what's happening here. We will hold you accountable to that. The city has no legal obligation to rezone to PUD. The only legal obligation here before you is to let him get building permits and approve the plat and build as the current R7 zoning. That's what we're asking. Now the school issue's been addressed. You're going to say it's not your issue. I'm going to tell you again don't pass the buck. One of the major issues with this proposed neighborhood is that it is inconsistent with the adjacent neighborhoods. These lots down to 30' wide, 4,000 square foot lots. There's houses bigger than that up there. That's not even that big of a house. The adjacent zoning to the southwest is residential multi RM. That should not be used as a scapegoat to pry and allow this in because that land is actually developed as single-family. With the exception of two duplexes. Property values have been brought up a number of times. It may not be the value affected so much, but the sale ability and the desirability. When it comes time to sell your home when you're directly adjacent to this development, buyers are going to think a couple different times about this. Do they really want to be across from these smaller homes? Maybe the neighborhood isn't that great. You guys are also hearing Mr. Kroh's construction project, which has now been approved, coming up to the west. As of today at noon there was 35 homes in Mandan priced from \$150,000-\$250,000. I would say that's affordable. In Bismarck they had 60 homes priced in that range. We're not even half the size of Bismarck, so proportionately; we have far more homes for sale for first time home buyers. Retention pond has been a major issue for those on 37th Avenue. I've collected thirteen signatures alone on the east side of 37th Avenue. Many of which are here tonight for you. These people have sump pumps that run continuously all summer long. They already started out with the early spring. There are water issues there. There always have been and will be. The bedrock is only 30 meters deep there according to the U.S. Geological Survey. Just a block to the north or south, bedrock is 50 to 100 feet. The U.S. Geological Survey also designates that area as a temperate flooded and swamp forest. Not sure exactly what that means, but I think it's pretty wet. How is Ash Lane or Loop going to fair with these water issues? When 37th Avenue went in ten, twelve, fifteen years ago I was in high school and I remember when that street buckled. It was almost comical. Now the street was rebuilt and drain tile was put in in my understanding. Will drain tile be installed underneath this Ash Loop? Who is going to be responsible for that one after it buckles? There are major contenders here that need to be specifically addressed by a hydrology engineer. We all know water has a way of finding the path of least resistance. The statement that it will flow down the pipe. That's a little too easy to say. It ought to be abolished completely. I noticed on the agenda the draft of new small lot zoning is up. It's a very convenient time, probably necessary. But I will say it's convenient. City staff is promoting this development instead of regulating it. If we need development that's great and we need to foster it, but we do not need to be in cahoots with developers. This developer says that sidewalks are going to be the responsibility of the homeowner. That's against municipal code. You can look that up yourself. That's a complete embarrassment that we would allow such a thing. That problem exists throughout the town and it needs to be taken care of. Parking is going to be an issue. With only double stall garages there, you're going to fit two vehicles there. A lot of people don't even use their garage these days. They need storage or just for a work shop. Some things that haven't been answered is mailbox locations. The mailbox locations need to be figured out before this plat can be approved. I personally was involved with the city, Commissioner Laber, Justin Froseth, about a particular developer who took it upon himself not to put in the new postal service compliant group mail boxes. We were getting our mail downtown for 6 months. That doubled my round trip. It was a pain. Fire hydrants need to be in there as well then figure out your parking issue. At most I see 31 spots on the inside loop. This does not conform to the master plan. When you look at this

map all you see is low density housing and the school. If you approve this, you're approving spot zoning and you're creating a patchwork quilt zoning up there.

Mathias Geiser asks those in the audience to stand if they are against this development. The majority of the audience stands.

Bob Decker says the developer has to submit a stormwater plan that is reviewed and must be approved before a building permit is issued. The current pond will be expanded. There is an issue right now with standing water because discharge pipes are plugged. That has to be taken care of.

Landon Niemiller, Swenson Hagen, says the pond will be expanded by at least 1/3, maybe more. The stormwater runoff would be decreased by decreasing the street size as well. This was designed by Jason Petryson, PE. Landon says Jason is a hydrologist as well.

Ron Webb, 4706 37th Avenue NW, "When it rained last year, it rained so hard it filled up that pond almost to 3/4 level because it got plugged or water was coming in so fast. Right after the rain, what did I see out the front window? I'm right across the street. There's kids out there with bicycles playing in that pond. That's the part that really upsets me. If one of those kids would have slid in there and drown, God help us all. That's the decisions you gotta make. It's nothing to play around with. Contractor have good intentions, but they don't always come out that way. We're the ones that live there with this water and see it every day. You don't."

Ken Geiser, 37th Avenue NW, "The reason most of us are here is we don't trust this planning & zoning process. The rezoning request has some minor variances. That request is full of changes to the zoning process. Spacing distances, street changes, buildings are five feet from the property line up to two and a half stories. That's like a 25, 30 foot building 10 feet apart. It's like tunnels. Does that fit in that neighborhood? Have any of you been up in there? The street width. A comment just made that the 30th street downtown is plenty wide. I've been down there in the winter. Car parked on one side. Snow banks on either side and try to drive through that. It's not plenty wide. There's been water on that surface and subsurface for a long time. I don't think you have to be an engineer, developer or anybody else to know that if you get in the way of water it's going to find a way to get where it wants to go. If you look to the area east of Ash Grove there were several that gave assurances that there would be no problems. What do we have now? Thirty-seventh has been rebuilt at least once. Thirty-fourth is a series of patches. Residents in that area have water in their basements. Sump pumps are running. All because of water and plans that was approved by this planning process. If you look at Ash Grove, you have the same assurances by the developer. Engineers are saying no problems. Do you really believe that? The developer has invested \$300,000 in this project, is my guess, he needs to maximize his units. He needs to minimize his investment. Minimize his cost for affordable housing. Affordable for whom? Sounds to me like it's the developer. The developer is also a salesman. He's telling you what he thinks you want to hear."

Art Goldammer, Verity Homes, "I put together a little synopsis based on feedback that we've heard, you've heard. The PUD is in the City Ordinance. It's intended to be a good thing for municipalities to encourage flexibility, innovation, better land use. It's easier to write a PUD standard and have a developer adhere to it than to rewrite a zone ordinance. Mandan has a lot of uses within the R7 zone. I listed a few of them. You could a college, schools, student dormitories, power plant for school, museum, community centers, transformer station, a sewage station, animal hospital, oil & gas wells, fire stations or a trailer park. This is the Mandan zoning map for 2014. You got commercial, industrial, trailer parks, multi-family and

single-family. To claim this is outside of the use of the area is off based. Some of the concerns raised by commissioner were garage stalls. One stall was not preferred. These all have two or three stalls. Parking has been an issue. Two in the garage, two in the driveway plus street parking. Ordinance only requires two spots per home. I do trust our engineers know what they're doing and can arrive at the proper calculations; if you can't trust those then the whole system is defunct. What is affordable housing? U.S. Department of Housing and Urban Development defines affordable housing as a monthly mortgage payment and related housing expenses to be less than 30% of a household income. Mandan has a \$56,813 median household income. According to affordable housing standards would put that at \$1420 a month for housing. A \$220,000 sale price with 3% down on a 30 year at 3.75%, which is a little higher than today's rate, with property tax and specials payment based on reduced specials for small lots, with PMI insurance is \$1215 a month. That's an average. I don't want this to be confused with low income or assisted housing. This is affordable housing. This is a first time buyer. Dr. Bitz addressed the school. I live in Lakewood and would love to see a school down there. The school board has done a great job of purchasing land ahead of time. The narrower streets, with parking on one side the driving lane is wider than a typical residential street. The boulevards are wider. The boulevards are wider by 3.5 feet per side. That is an additional 7 feet for snow storage than a typical street. Public Works has looked at this and approved. It would be a less burden on the city maintaining the narrower street. Anytime businesses or homes are added to an area there is going to be more traffic. That's unavoidable with a growing city. We are trying to mitigate the high cost of specials by offering an alternative use of land. Our plan reduces urban sprawl by better land use. There is land to the north and west that will someday be developed. Do we put a moratorium as a city on progress and growth and say no more houses and no more streets? As a commission, sometimes you're forced with these decisions that are unpopular no matter which way you go. I just ask you look for betterment of the city's needs vs. the requests of a certain area. It has city staff support and has been approved once by this commission.ö

Art shows pictures of the same kind of development already in Bismarck.

Commissioner Knoll asks Commission Fleischer if he has an idea when the Lakewood school will be built. Commissioner Fleischer says it depends on the need. The school district's priority right now is to deal with the middle school population and to get something in Lakewood. When a school is built it will create a lot of room at Red Trail.

There is discussion about the pond. Bob says a fence should be considered. The pond would be maintained (mowed) by homeowners association.

Mary Derringer, Lewis Road, öArt Goldammer built our home. He does a wonderful job. I feel a little better seeing his homes. I have to wonder if he got the land for a song, why is he trying to cram so many. He does do good work. We've never had any trouble with our home. Other than, when the school was built our sump pump ran and ran. My daughter had to switch schools in 6th grade. Sometimes change is wonderful. You'd be surprised. Kids are resilient. I'm tired of my taxes going up. Some of you know my husband. We have a business here. To add a school onto taxes, I don't know what that all involves. I feel better. Now that I've seen what the homes look like that makes me a little more comfortable.ö

Commissioner Laber motions to reconsider the preliminary plat. Commissioner Zachmeier seconds. The motion passes with the following vote: Zachmeier-aye, Fleischer-aye, Kelly-aye, Klein-nay, Knoll-nay, Van Beek-aye, Leingang-nay, Laber-aye, Liepitz-aye, Beach-aye, Robinson-nay

Commissioner Laber asks what would happen if in the future if there is an issue with the water not draining. What is the remedy? Justin Froseth, City Engineer, says the city has stepped up review of stormwater management plans. It depends on what the problem would be. It would have to be fixed. The city could possibly look at the utility fund to construct a project.

Commissioner Van Beek motions to approve the preliminary with PUD on the conditions that the stormwater is reviewed, a fence constructed around the pond and a plan created for a cohesive property line where the 20' strip of land will be deeded to neighbors. Commissioner Laber seconds. Motion is denied with the following vote: Zachmeier-nay, Fleischer-aye, Kelly-aye, Klein-nay, Knoll-nay, Van Beek-aye, Leingang-aye, Laber-aye, Liepitz-nay, Beach-nay, Robinson-nay

Commissioner Zachmeier expresses his concerns. The recording of the meeting does not pick this up because his microphone is not on.

Bob Decker says instead of having little drainage ponds on each subdivision, drainage basins and regional facilities that the city could manage are being studied. The long range plan shows the area as low density residential. Two-family and single-family are considered low density.

Commissioner Zachmeier motions to proceed with R7 zoning. Commissioner Klein seconds. Commissioner Klein withdraws motion.

2. Final replat and zone change of Lots 20-39, Block 2, Lakewood 8th Addition.

Bob Decker, City Planner, briefs the commissioners. The zone change has been approved by City Commission with the first reading of the ordinance. The second reading of the zone change ordinance will go to the next City Commission meeting along with this final plat, if approved.

Commissioner Laber motions to approve the final plat. Commissioner Knoll seconds. Upon vote, motion passes unanimously.

OTHER BUSINESS

1. Draft of proposed zoning districts.

Bob Decker, City Planner, gives the commissioners an update and draft on work he has done to the zoning districts. He asks the commissioners to review it and come back with their feedback. City staff has not reviewed this yet.

2. Resignation by Commissioner Miles Mehlhoff.

Commissioner Mehlhoff has resigned. A press release will go out seeking appointee. Letters of interest will be due May 18. Interviewing applicants can be done at the next meeting.

Commissioner Leingang motions to adjourn. Commissioner Labor seconds. Motion passes unanimously. Meeting adjourns at 7:32 p.m.