

MANDAN PLANNING AND ZONING COMMISSION

MANDAN CITY HALL BUILDING

April 28, 2014

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall Building on April 28, 2014 at 5:15 p.m. CDT.

Commissioners Present: Fleischer, Hilfer, Kelly, Klein, Knoll, Van Beek, Leingang, Laber, Mehlhoff, Liepitz, Robinson

Commissioners Absent: Zachmeier

*Commissioner Fleischer motions to approve the March 24, 2014 minutes. Commissioner Knoll seconds. Upon vote, the motion receives unanimous approval of the Board.*

**New Business**

**1. A request from Hoherz Investment Management Co., LLC, for a building setback variance. A variance would allow the building setback dimension to be reduced to a 22' setback on 19<sup>th</sup> Street SE. The property is Lot 5, Block 1, Sylvester's Industrial Park 2<sup>nd</sup> in Section 22, Township 139N, Range 81W. The property is located at 1916 40<sup>th</sup> Avenue SE.**

Bob Decker, Planner, describes and identifies the area. The setback variance is for the side yard. It is a corner lot so the setbacks are treated as two front yards. The front yard setback for the zoning is 50 feet. The property is addressed off the western boundary and the 50 feet setback would remain on that side. The setbacks along 19<sup>th</sup> are not all 50 feet. The storage units to the east are about thirty some feet. The existing building on this property is at about thirty feet. There was a batch plant on this property that was about 25 feet off the property line. There is a wide right-of-way so even though the request is for a 22 feet setback; they would still be 45 feet off the curb. They want to build a new larger building on the site. When there was a batch plant there, there were piles of sand all over the place that caused storm drainage issues and caused sand to accumulate on the street. This new business will have construction equipment behind the new building in a fenced yard. The request is allow the building closer to 19<sup>th</sup> because it is a long, narrow lot and 50 feet set back on both sides would take up a large portion of the lot. The area is industrial. There is an electrical substation across the low traffic street. Everything complies with the intent of a variance.

Commissioner Fleischer asks if the same owner has the existing building to the north and a small shed to the east. The building to the east looks like it is further south than what the standard would be and he asks if the new building would be in line with where the old building was. Bob says the two remaining structures are on site and will stay. There is only a couple feet difference in where the old building was and the new building will be going. He says the cylinders for the batch plant were sitting closer to 19<sup>th</sup> than the little shed.

Commissioner Mehlhoff asks how far the buildings to the east are setback. Bob says about 33 feet. Abe, Toman Engineering, says they are about 32.5 feet from the property line.

*Commissioner Mehlhoff motions to approve the variance. Commissioner Liepitz seconds. Upon vote, the motion receives unanimous approval of the Board.*

**2. A request from Heart River Partners for a building setback variance. A variance would allow construction on more than 30% of property and allow 10 foot setbacks on southwest, northwest and northeast sides, with a 20 foot setback on the southeast side. Said property is Lot 2, Block 1, of the replat of Lot 1, Block 1, Hoovestol's 2<sup>nd</sup> Addition in Section 26, Township 139N, Range 81W. The property is located at 106 6<sup>th</sup> Avenue SE.**

Bob Decker, Planner, describes and identifies the area. The parcel has been vacant for many years and sits adjacent to the railroad yard. The lot sits behind another one and the access is a 20 feet right-of-way that goes along the edge of the lot in front. There is no need for a front yard setback. The use is compatible with the area. The zoning was changed and the original zoning allowed a greater floor area ratio. The drainage is to be managed appropriately. A stormwater management plan has been submitted. There is a storm drain on the east end of the lot. The lanes for driving between the units are larger than the minimum setbacks. The zone change was approved to allow the storage units. The floor area ratio was missed.

Chairman Robinson says two options were given in the report and asks Bob if he prefers one over the other. Bob says the variance would be the cleaner option. If the zoning was changed back, a variance would have to be done on one of the setbacks. A zone change would be a longer and more involved process.

Commissioner Laber is concerned about the road being blocked off to the mobile home court. She asks if there is another easement that isn't shown. Bob says the gravel driveway is not on this property. It looks like it is because it is close, but it runs right along the property line. There would be a 20 feet paved access to the storage units that will run parallel to the gravel driveway. There will be a curb along the access road to control drainage. The water will be diverted down to this parcel and not towards the gravel road.

Commissioner Fleischer asks if there will be access on the gravel road to the mobile home park. He says there is a concrete barrier that looks like it is there to deter people in the court from using the gravel road. Bob says the gravel drive will stay as it is. It is a secondary access for the mobile home park. The primary access is to the south. The gravel drive is owned by somebody else and not this property owner, so it is a separate issue.

Dan Helbling, Mandan resident, asks a question on the North/South road here to the west of that. Is that adjacent to Dan's Supermarket? *(There are several replies yes)*. Ok, that's what I thought. You're talking about a storage shed being put up there? *(Bob replies storage units)*. Is that going to increase traffic on that road? *(Bob says not significantly)*. I noticed here over the past years I had worked for the railroad I noticed that the stop signs there and stuff a lot of traffic there. I know they were looking at putting a street light in there before to relieve some of the congestion around there, for getting access on and off the main road there. I was just wondering if that is going to increase a lot of traffic. Increase the congestion there.

A couple commissioners do not think it will significantly increase traffic.

Commissioner Laber asks if the developer is present and if they have a footprint and how many units are going in? Bob says there is a site plan layout that shows a drivable lane between each two rows. There will be some additional traffic. Potential customers are right next door.

Commissioner Leingang states the land could be used for an apartment building. Bob says it could be used for more intense uses than the storage units.

Dan Helbling, "We're getting into the tornado season. With the congestion down there, it looked like to me you got seven storage sheds going in there. You got a trailer court next door. What do they have for preparations set up for getting people out in an emergency situation there? To me it looks like there is only one exit in and out of there."

Chairman Robinson says there will be no changes to the existing ingress and egress. It will stay as is. Bob says this will not be affecting the mobile home court.

Dan Helbling, "I wasn't here for this, but now that I brought it up, kinda thinking ahead and worried about people traveling out in the future. There's a tornado warning and people want to get out of the travel court."

Mayor Van Beek says he doesn't think the storage units will affect them.

*Commissioner Leingang motions to approve option 1, which is the variance. Commissioner Klein seconds. Upon vote, the motion receives unanimous approval of the Board.*

**3. A request from Wachter Development for final plat approval of Heart Ridge 3<sup>rd</sup> Addition. Said addition is a Replat of Lots 1-22, Block 4, Heart Ridge 2<sup>nd</sup> Addition and Lot 9, Block 4, Heart Ridge Addition of the SE ¼ of Section 34, Township 139N, Range 81W. The property is located on Plains Bend SE.**

Bob Decker, Planner, describes and identifies the area. He describes it as an oops. This is on a ridge and it is steep on both sides. As they progressed up into this cul de sac, they realized they were off center on that ridge. So, some of the lots wouldn't have a buildable area. They are adjusting the location of this cul de sac. There is no change in the number of lots. This will move the cul de sac over about 30 to 40 feet.

Commissioner Laber wants to clarify if the city or the developer will be paying for the relocation of water and sewer. Bob says the developer.

*Commissioner Leingang motions to approve the final plat. Commissioner Laber seconds. Upon vote, the motion receives unanimous approval of the Board.*

**4. A request from M3 Design Homes, Inc. for final plat approval of the Replat of Lot 3, Block 94, First Northern Pacific Addition. Said addition is in part of the NW ¼ of Section 27, Township 139N, Range 81W. The property is located at 807 5<sup>th</sup> Avenue NW.**

Bob Decker, Planner, describes and identifies the area. This lot is currently vacant. The intent is to build a duplex. Both sides would be sold separately. The zoning does allow duplex units. This plat is dividing the lot into two separate parcels so they may be sold separately. It is a center split of the existing lot. Each lot would be 3500 square feet. The allowance is 2400 square feet minimum by code.

Commissioner Laber drove by the lot and noticed all the other duplexes in the area are over/under. This one would be side by side. It doesn't have the look of the area. She asks Bob if he sees any issues. Bob says it is an allowable use in the zone and this style can be

seen around town. It is common. It is in an older section of town with alleys. Usually this configuration would be found in a newer development.

Chris Kocourek, "How wide do you say the street is?"

Bob says the right of way is 80 feet.

Chris, "Ok, but the street is only 25 feet wide. You're 500 feet from a school. I live there. I measured it. You have nineteen dwellings eleven houses. There are 26 cars on this street no off-street parking. My questions is... I could care less. I have a 6 car driveway. How many parking spots does he have? I'm worried a kid is going to get hit. The street is really really really narrow."

Bob says the developer's plans show a private garage in the back, along the alley. There is a two car garage for each unit.

*Commissioner Leingang motions to approve the final plat. Commissioner Liepitz seconds. Upon vote, the motion receives unanimous approval of the Board.*

**5. A request from Elmer & Alvina Madler for final plat approval of the Replat of Longhorn 1<sup>st</sup> Addition. Said addition is part of the NW ¼ of the NW ¼ of Section 10, Township 139N, Range 81W. The property is located on Highway 1806 North.**

Bob describes and identifies the area. This is in the extraterritorial zone. It is a rural large lot subdivision. No city utility services. This was platted many years ago, but was not developed. They are reconfiguring the plat. There is a substantial amount of electric poles and utility easements on both side of the property. A small cul de sac will be developed. The road will be county. There is no access off 1806, so the road (Enzel Drive) will come off of 37<sup>th</sup> Street. The property directly north is developed into subdivisions. This complies with what is occurring in that area. There is enough buildable area on all lots. Access to Lot 6 is a 40 feet access & utility easement that extends from the cul de sac through Lot 4.

Commissioner Laber asks if the developer is present. She has a question about Lot 1. It looks as though 75% of the lot is under easement and could not be built upon. Has the developer looked at using that as a park or green space?

Ron Manchester, Toman Engineering, "First of all, no, it wasn't thought of to be used as a green space. However, we felt there would be enough buildable space to put a small home in what I'd call the southeast corner of the lot, because you can have your drain fields and stuff underneath these utilities. You can't have a structure there, but there is room to run drain fields and have an animal, if the lot is large enough to do that."

Commissioner Laber asks if his feeling is it will be explained to the purchaser that area where they can build. Ron says everybody will be informed about the easements. Bob says this is a rural lot compared to the city lots the commission usually sees.

Ann Green, A member of the Board of the Central Dakota Humane Society, "We are a neighbor of Mr. Madler and we just have a few questions. Potential concerns that we want to make sure are least heard or are on record. Mostly our concerns are whether the road that is proposed that ends in a cul de sac will have an impact on our adjacent property to the west? So, that is a question. We were unaware that this particular plat was up for final approval as I

understand that the original or the preliminary process happened some time ago. Potentially, in 1998 based on some of the paperwork that's included. So, we want to make sure that our property to the west is unaffected. Specifically, there is at least, from our understanding, the potential that trees and a potential fenced play area might be impacted. I guess what we're saying is there hasn't been a survey or an understanding of how this potential project might affect us. We weren't aware of it. So, before this body makes a decision we want to make sure that our interests are protected.

Chairman Robinson asks Ron to comment on the location of the road.

Ron Manchester, "We aren't making any improvements west, on your side of the section line. All the improvements are being made on the Madler property. So, I'm not sure how we're going to actually affect any of your property. We're not making any improvements over there."

Bob says there is an existing right-of-way that straddles the property line. There are no changes from what is there on the west side of the property line.

Ron, "The Madler's actually had to give up more right-of-way on the east side so they could have the road all on one side of the section line."

Ann Green, "Potentially, a question for Mr. Manchester then, with your approval Mr. President. Has that land been recently surveyed? Will those pieces take place before construction begins?"

Ron, "Yes, there will be a survey."

Ann, "Another question that we had is the current Central Dakota Humane Society lot is rather uniquely shaped and we want to ensure that Entzel, which I believe is the road that would join with the north/south road. Would Entzel connect to 1806 or did I correctly understand that there would be no access to 1806 right there?"

Bob shows her the no access line drawn on the plat prohibiting access off 1806.

Ann, "So, full access to the cul de sac would come from Entzel Road?"

Bob says correct and adds from the north.

Ann, "Another concern that we had or want to make sure that is on the record is that all work done at this particular location will be at the developer's expense."

Ron says correct.

Ann, "I did want to point out that I'm not sure how you refer to this particular document that's a part of your packet this evening. But, I did note that there's a representation that adjacent land uses are noted as vacant or residential. CDHS is zoned currently as light industrial. I just want to make sure that that's clear on the record. We intend to continue to use that land as light industrial."

For clarification, Bob says her property is to the west. The triangle. There will be no activity outside of the property that is being reviewed today.

Commissioner Mehlhoff asks Justin (City Engineer) and Bob if there is any concern about the road and cul de sac being off the curb running along 1806. Bob says there is a definite separation between 1806 and Entzel Drive. When the lines are drawn on the plat it looks closer, but there is a separation and are far enough apart.

*Commissioner Fleischer motions to approve the final plat. Commissioner Knoll seconds. Upon vote, the motion receives unanimous approval of the Board.*

## **OTHER BUSINESS**

### **1. Review ordinance revising Chapters 1 & 2 of Title 21 of the Mandan Municipal Code.**

Bob made the changes this board recommended at the last meeting. He is looking for a formal recommendation to forward this to the City Commission for approval of an ordinance adoption. These two chapters contain administrative procedures only.

A recodification of the entire code through Municode is in process. Over the next several months this board will be discussing various sections of Title 21 ahead of Municode's formal updating of the code.

*Commissioner Leingang motions to recommend the ordinance to the City Commission for final approval. Commissioner Liepitz seconds. Upon vote, the motion receives unanimous approval of the Board.*

### **2. Discuss proposed revisions to Chapter 3 of Title 21 of the Mandan Municipal Code.**

This chapter is the beginning of the rules and regulations of various groups. He tried to be specific in how elaborate the changes were for a specific small group. He has 39 different items listed. His request is for the commissioners to review this and come back with their notes if there is something they don't like or something they want to discuss. When all the discussion on this section is done, it will come before the board as a formal public hearing because this affects the actual rules and regulations.

Commissioner Laber, "On the ordinance where you have the red strike outs, right after you have all your general requirements, the next page it says the official zoning map shall include extraterritorial areas over which the city has zoning authority. But I thought didn't we just make some sort of agreement?"

Bob, "What we did is we have legal authority to go out two miles. What we did is we said we all worry about the first mile; the county will worry about the second mile because most of it is agricultural. There's not a lot of activity. What we will do is in that statement I wanted to make sure that that area is captured in our zoning ordinance in our map to show that we have legal authority to zone within that area. So, it's updating the phrasing to recognize that our authority goes beyond city limits."

Commissioner Laber, "Ok and within our authority we have some authority here and not other cases. So, you just want to encapsulate the whole two miles that is designated per the North Dakota Century Code."

Bob, "We will show the two miles on the zoning map but we will differentiate between what we're worried about and what the county's worried about. The way that's set up, that agreement's set up, that boundary can be adjusted by resolution we don't have to go to an ordinance to change that boundary as we annex area and we want to adjust that boundary between whose responsible we can do that by a formal resolution."

Commissioner Laber, "I had a question in section 21-03. I'm still in this one where you have the strike outs. That's my favorite one, sorry. On the bottom, it's the 48 hour parking limit for motor homes and trailers. In section 3 it says the parking of motor homes; if they're exceeding twenty feet in length you can't park them for more than 12 hours. I was just wondering why did you shorten it so much. If you have I personally own a 40 foot motor home. I just don't park it in front of my house. If I needed to stock it or something, I'd have 12 hours to do so, but it states 48 hours in the header and I was just wondering what the purpose of the 12 hours is."

Bob, "If you notice the 48 is on the lot, the 12 hours is on the street."

Commissioner Laber, "Oh, ok, so and why would you want to maintain that if it's over twenty feet? I mean because you're still as a motor home owner or user you are still probably doing the same thing with it right?"

Bob, "The twenty feet is a typical parking space. That's where the twenty feet comes from."

Commissioner Laber, "Ok, if you're taking more than your allotted spaces, then you need to be there for a shorter period of time. Is that idea?"

Bob, "The idea is you don't want to take up the whole block with your motor home and your car and all the other stuff that follows behind it."

Commissioner Laber, "Ok. I wanted to understand what the thinking was."

Bob explains some of the strike-throughs may have been moved and not completely removed. They just fit better somewhere else. That is why he provided a finished version as well as the strike-through version, so the commissioners could see how the final would look. He asks the commissioners to continue to look it over and study it.

Bob says the way the groups are written right now is all or nothing. He says that doesn't make sense because these are groups that are set up as a category or a type of use. If there is a similar type of use, but it is not referenced in a group, why should a big deal be made about it? That is why he is wording it to give it some wiggle room.

### **3. Consider adding Telecommunication Facilities as a permitted use category.**

Chair Robinson wants to know if Bob is asking if item #3 should be added as a separate category or added to a category.

Bob says the code defines a Telecommunication Facility. He included this definition in the agenda documentation. However, it does not show up anywhere in any of the groups or zones. He recommends adding it to the utility service group because it is a utility function. Examples: transformer, transmission lines, sewer pumping station, water pumping station, water reservoir and cell towers. He is looking at adding a couple utility uses as we go

forward with the municode update. This came up because Verizon is looking at additional cell towers. Technically, there was no group to place it in, but the property they want to put it on is in an acceptable area.

Commissioner Robinson agrees with starting at the utility group. He asks if Bob is looking for a motion or recommendation. Bob requests a motion.

Commissioner asks if this would cover privately owned tower as well. Bob says yes. This covers the use and not who owns it.

*Commissioner Mehlhoff motions to recommend to the Board of Adjustment that they add Telecommunication Facilities to the Utility Service group. Commissioner Van Beek seconds. Upon vote, the motion receives unanimous approval of the board.*

Chapter 3 will be reviewed at the next meeting.

The May meeting will be on Tuesday, May 27<sup>th</sup>, because of the Memorial Day holiday.

There will be a joint City Commission and Planning & Zoning comprehensive plan meeting in June. Commissioners are asked to attend one of the following:

**Monday, June 2, at 5:00 p.m.** ó Planning Advisory Committee (PAC)/ Comprehensive Land Use & Transportation Plan.

**7-9 p.m.** ó Public Input meeting /Comprehensive Land Use & Transportation Plan.

**Tuesday, June 3, at 5:00 p.m.** ó PZ/CC joint meeting/Comprehensive Land Use & Transportation Plan.

Commissioner Fleischer motions to adjourn. Commissioner Knoll seconds. Upon vote, the motion received unanimous approval of the board.

The meeting adjourns at 6:25 p.m.

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