



AGENDA
MANDAN PLANNING & ZONING COMMISSION
COMMISSION ROOM 5:15 P.M.
AUGUST 24, 2015

Roll Call, Reading and Approval of the July 27, 2015 minutes.

NEW BUSINESS

1. Lakewood 9th final plat and zone change.
2. Mandan Industrial Park 10th final plat.

OTHER BUSINESS

1. Discussion of proposed ordinance changes.
 - a. Definitions
 - b. Time Limit
 - c. Supplementary provisions
 - d. Accessory buildings
 - e. Incidental uses
 - f. Group uses
 - g. Special uses
2. Election of officers.

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL BUILDING
July 27, 2015

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall Building on July 27, 2015, at 5:15 p.m. CDT.

Commissioners Present: Klein, Van Beek, Leingang, Labor, Mehlhoff, Beach, Robinson

Commissioners Absent: Zachmeier, Fleischer, Kelly, Knoll, Liepitz

Commissioner Leingang motions to approve the June 22, 2015 minutes. Commissioner Labor seconds. Upon vote, the motion receives unanimous approval of the Board.

NEW BUSINESS

1. A request from Enclave Equities LLC, with authorization from Mitzel Builders, Inc. for preliminary plat approval of Lakewood 9th Addition. Said addition is a portion of the NE ¼ of Section 1, Township 138N, Range 81W. The property is located west of 40th Avenue SE and south of 19th Street SE.

Bob Decker, City Planner, describes and identifies the area. This request is driven by a proposal for an assisted living center on part of the property. The project includes several different zoning categories. A zone change request will be coming. There is a deadline in 2017 for the assisted living center. This area is in a flood plain and the elevation will have to be brought up to buildable grade.

Commissioner Leingang motions to approve the preliminary plat with approval of the following, before it goes before City Commission: a developer's agreement, construction plans and stormwater plans. Commissioner Labor Seconds. Upon vote, the motion passes unanimously.

2. A request from Mariner Construction, Inc. and Dixon Properties, LLC for a change of zoning. The request is to change the zoning of Lot A of 19, Block 1, Twin City Industrial Sites from MC (Light Non-Nuisance Industrial/Heavy Commercial) to MB (Heavy Industrial/Heavy Commercial). The property is located at 301 and 305 Bisman Avenue SE.

Bob Decker, City Planner, describes and identifies the area. This is the site of the old cheese plant. The west side of the property would be used as an asphalt plant. The current plant is west of town. The raw material used for the asphalt plant is stored in tanks just west of this site. Having it next door would reduce the hauling and traffic on Main Street. The Mariners have discussed it with neighbors who support the project and signed letters stating so. They also received letters giving the ok from utility companies and state air quality authorities. The road to this site is paved from Twin City Drive and Memorial Highway.

Steve Mariner, Mariner Construction, “Advanced Truss Systems has lots 11, 12, 13, 14. Braun’s have 15. They’ve all signed in favor. Lots 17 & 18 have signed. Dixon Properties is the other half of the 19. He is also requesting. Farmers Union owns that whole piece to the west. They’ve signed also. Glass didn’t sign but they were in favor. I would say it’s like 90% that has signed.”

Mayor Van Beek asks Steve to explain how the property will be used. Steve says the raw material for the oil comes from next door, CHS. They buy it from there and haul it through Mandan. That is about 600 trips a year. They run an estimated 9,000 truckloads on Main Street. This project would eliminate loads on Main Street. They would only use Main Street for projects in Mandan. They mix 3 different materials and blend it with the asphalt. They would be running natural gas so they wouldn’t have any of the waste oil. They have a bag house not a scrubber that would be a lot cleaner. That is why he has the letter from the health department. Steve says Tim Olster at Advanced Truss plant told him they haven’t noticed the odor from the oil for several years. There have been a lot of changes in how it is produced. The heat will not be an issue.

Mayor Van Beek asks about the tar smell. Steve says that comes from Tesoro.

Commissioner Mehlhoff motions to approve the zone change. Commissioner Van Beek Seconds. Upon vote, the motion passes unanimously.

3. A request from Mandan 94 Investors, LLP, for a change of zoning. The request is to change the zoning of a portion of the south half of Section 22 together with Lot 2 of Lot A of the southwest quarter in Section 22, Township 139N, Range 81W from MA (Light Non-Nuisance Industrial/Heavy Commercial) to CC (Heavy Commercial). The property is located on Old Red Trail and is the site of the Mandan Sports Complex.

Bob Decker, City Planner, describes and identifies the area. The current owner is requesting the zone change to commercial. The recently adopted comprehensive plan designated this area as commercial. There are a couple interstate billboards to the south. A traffic light at Collins may have to be factored in. There would have to be traffic control in the planning. The street (16th) would be extended west and loop around the complex and out to Old Red Trail.

Commissioner Mehlhoff asks if there has been any discussion on a PUD zoning. Bob says there hasn’t been with the current owner. Parks and Recreation could look at that option after they acquire the property or if a different buyer would come in interested in the west or east ends of the property.

The road would along the north side of the bike path. The path is already Parks and Recreation property. A request has been made to the DOT to widen Old Red Trail adding a turning lane for the 2 complex approaches. MDU still owns the land with the substation on and Bob does not know at this time if they intend to keep it or move it.

Marlene Gardner, NoDak Plumbing, "Eighth street currently isn't paved. I want to know if they are going to pave it and what impact that's going to be to neighboring specials and that in the area. Old Red Trail...we live north of town and we travel on Old Red Trail a lot. That street is not very wide. The increased traffic when the refinery lets out you take your life in your hands trying to get on Old Red Trail, because they don't stop for anybody. The road is going to have to have some work done to it."

Bob Decker says there is a request for funding to widen Old Red Trail. Interim to at least add a turning lane for access to the sports complex. There are no plans to pave that north/south roadway. Other work done to Old Red Trail would be a later decision.

Commissioner Van Beek motions to approve the zone change. Commissioner Klein Seconds. The motion passes with the following vote: Klein-aye, Van Beek-aye, Leingang-aye, Laber-aye, Mehlhoff-nay, Beach-aye, Robinson-aye.

OTHER BUSINESS

Planning & Zoning Commission televised broadcasting.

The meetings will now be televised by Dakota Media Access. The city has to pay for the service already. It will benefit the community and give them an option to keep them informed.

Bob will be sending commissioners Municode homework. The zoning use groups will be the sections reviewed.

Commissioner Laber motions to adjourn. Commissioner Van Beek seconds. Motion passes unanimously. Meeting adjourns at 5:57 p.m.

NEW BUSINESS ITEM # 1

NEW BUSINESS ITEM # 1

Mandan Planning and Zoning Commission Agenda Item
 For Meeting on August 24, 2015
 Mandan Engineering and Planning Office Report
Lakewood 9th Addition
 Requested Action
Final Plat and zoning

Application Details					
Applicant KLJ	Owner Lee Mitzel	Subdivision Lakewood	Legal Description Portion of S1, T138N, R81W		
Location West of 40 th Ave. SE & South of 19 th St. SE		Proposed Land Use Single family, senior assisted living & light commercial	Parcel Size 52.761 acres	Number of Lots 70	
Existing Land Use vacant	Adjacent Land Uses Residential & commercial		Current Zoning A	Proposed Zoning R7, R3.2, RM & CB	Adjacent Zoning A, R7, R3.2, CB & MD
Fees \$1000	Date Paid July 31, 2015	Adjacent Property Notification Sent August 13, 2015	Legal Notices Published August 21 & 28, 2015		

Project Description
<p>This is a continuation of an existing subdivision development. Area is east of Prairie West Golf Course and south of Kist Livestock Auction.</p> <p>This is a modification of the original concept for this area by adding a skilled care nursing facility. There is a need for this facility in the community and it compliments existing facilities.</p>
Agency & Other Department Comments
Engineering & Planning Staff Comments
<p style="text-align: center;">Engineering & Planning Recommendation</p> <p>Because of the Kist Livestock Sales facility to the north, this development will be focused to the south. Access will be provided by extending 21st St. west to connect to 34th Ave. in Lakewood 8th. For now, 19th will remain a utility easement and multi-use path to the golf course.</p> <p>Sewer service will be from 40th Ave. and water service will be from 19th St. with a looping of water service provided through Lakewood 8th.</p> <p>Pedestrian access to the existing multi-use path in 19th St. alignment will be provided at 2 points in the development.</p> <p>Timeframe for the skilled care nursing facility is:</p> <ol style="list-style-type: none"> 1. Complete land purchase - September 2015 2. Complete platting and rezoning - end of September 2015 3. Pull building permit and begin construction of facility once plat is recorded 4. City will grant approval for temporary construction access to site so work on the structure can proceed during the winter 5. Begin installing underground utilities including public water and sewer - fall of 2015 6. Obtain approval from the city for creation of a street assessment district - late 2015

7. Bid the street assessment district project - early 2016
8. Construct the streets, storm drainage and street lights with the assessment district project - spring and summer of 2016
9. Have project open for public access - fall 2016

Remainder of project will be developed at a slower pace.

Rezoning is written as a PUD district for the whole area in order to allow adjustments to zoning district requirements.

Modifications to the normal zoning conditions include some adjustments in setback requirements including a requirement that garage doors be at least 25 feet from the property line. R7 has a 25 foot front yard setback. RM has a front yard setback of only 15 feet. CB has no front yard setback for commercial and defaults to RM for residential. As vehicles have gotten longer, there are many instances where a vehicle parked in front of a garage partially or fully blocks the sidewalk. A new crew cab long bed pickup is 22 feet long before you add a winch on front and tow hitch on the rear.

Parking along the street is another issue. Driveway aprons have been increasing in width to the point that there is no room to park a car along the curb. If you can't park cars along the curb, why build the street wide enough for a parking lane? The proposal is to limit the width of driveway aprons so there is room for a parking space along the curb.

The base zoning for the area next to the golf course is R7. The skilled care nursing facility will be in the center using CB as the base with smaller lot residential to the east using R7 zoning as the base. The southern area will be developed with multi-family residential using RM as the base. The land closest to 40th Ave. will be developed as a mix of office and commercial using CB as the base. Some of this area may be developed with additional multi-family based on market conditions. A portion of the land along the eastern boundary of the property will be a water feature similar to what is on the east side of 40th Ave. SE.

Some of the smaller lots would be 4800 square feet. Others would be 6000 square feet. The setbacks would be adjusted to accommodate these smaller lots. This will improve the affordability of the dwelling units built on these lots.

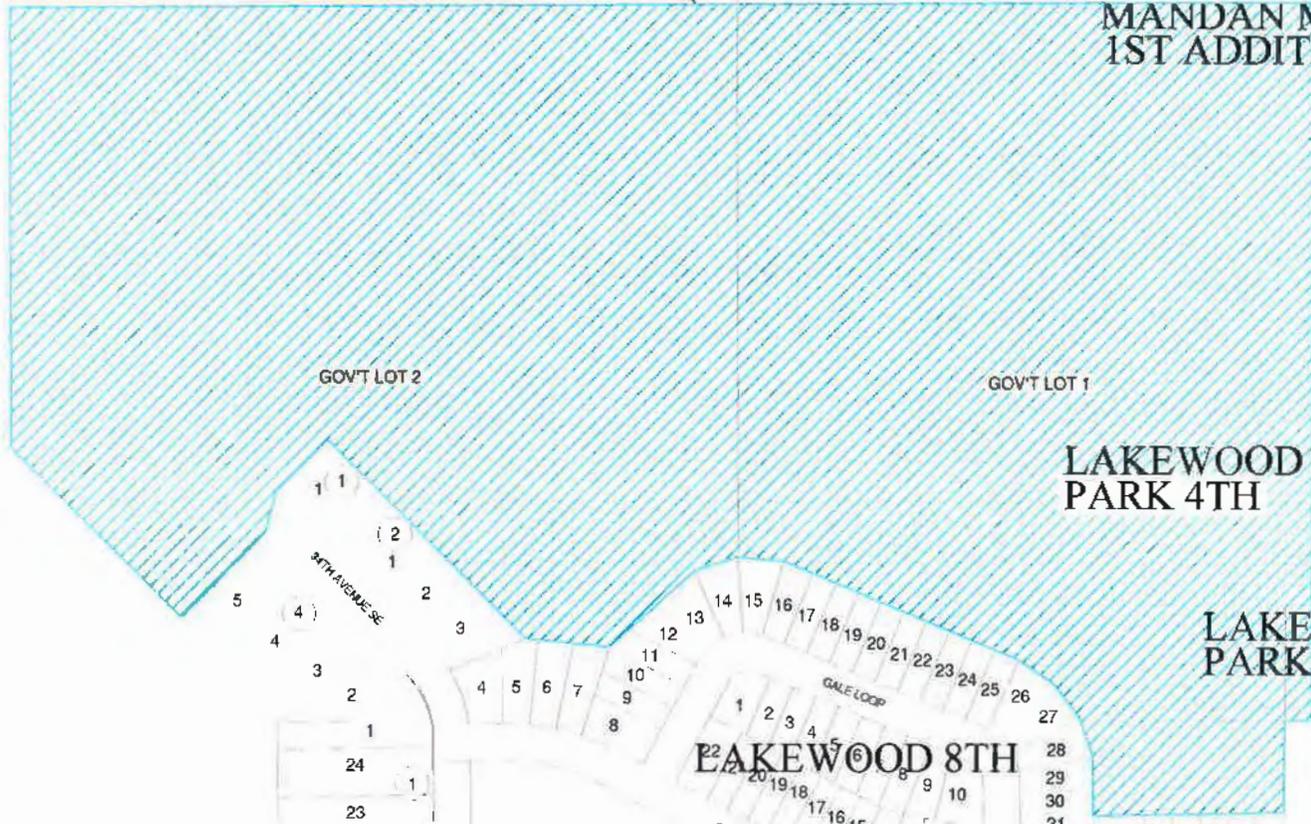
The uses allowed in the CB areas will be reduced from the extensive list normally allowed in CB. This will make the uses more compatible with adjacent residential uses.

The Land Use and Transportation Plan forecast this area to develop as a mix of multi-family and industrial due to the proximity of existing uses at the time the plan was developed. Since then, development has not occurred as forecast. The proposed uses lower the intensity of development from what was forecast and are more compatible with the development that has occurred to the south, the development that has occurred along 40th Ave. SE and the existing golf course.

Proposed Motion

Move to recommend approval of final plat and rezoning for Lakewood 9th Addition.

LAKWOOD 9TH SUBDIVISION



MANDAN MUNICIPAL
1ST ADDITION

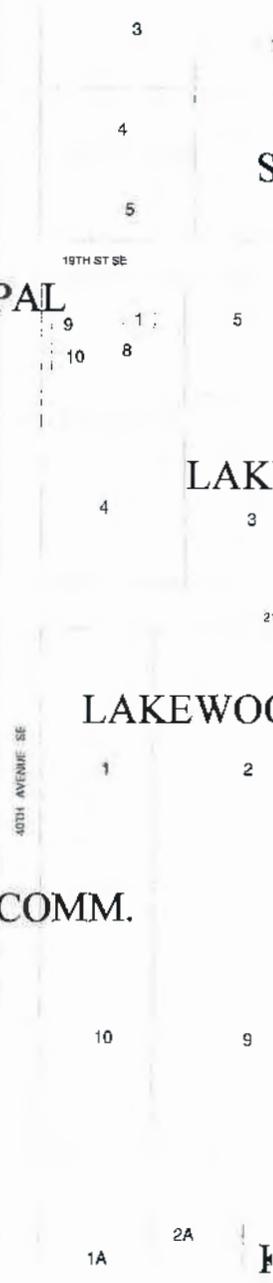
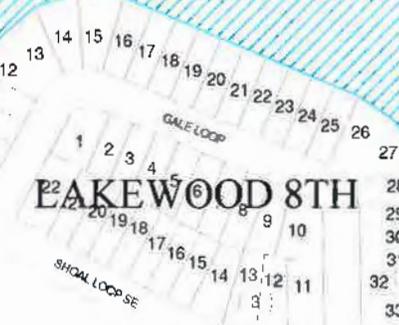
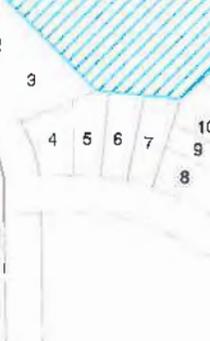
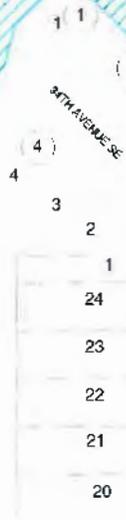
GOV'T LOT 2

GOV'T LOT 1

LAKWOOD COMM.
PARK 4TH

LAKWOOD COMM.
PARK 5TH

LAKWOOD 8TH



S

LAK

LAKWOOD

F

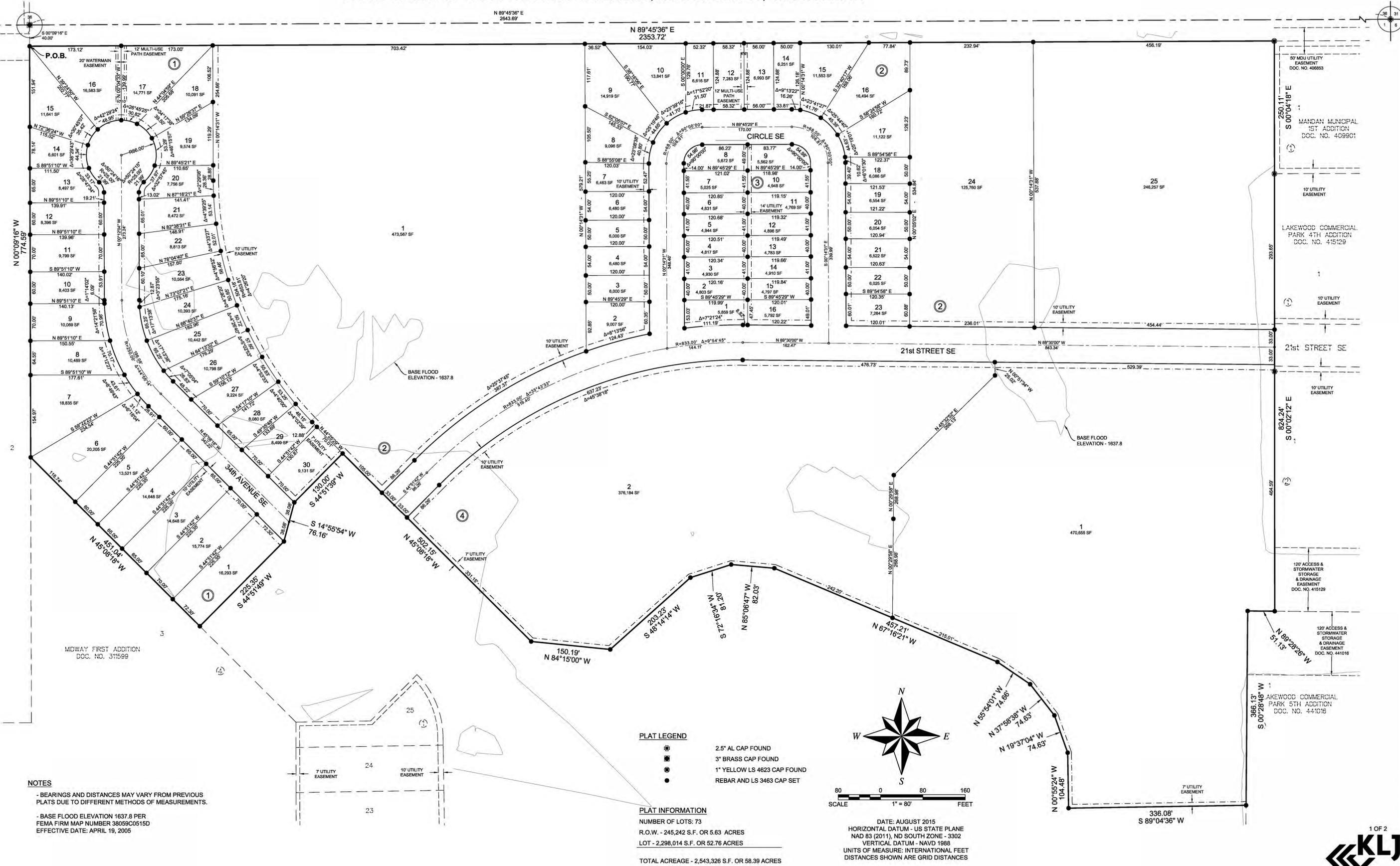
LAKWOOD 9TH ADDITION

TO THE CITY OF MANDAN

A PORTION OF GOVERNMENT LOT 1 AND GOVERNMENT LOT 2, OF SECTION 1, TOWNSHIP 138 NORTH,
RANGE 81 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MORTON COUNTY, NORTH DAKOTA

OWNER:
MITZEL BUILDERS INC
2401 46TH AVENUE SE #101
MANDAN, ND 58554

ENGINEER:
KLJ
4585 COLEMAN ST.
BISMARCK, NORTH DAKOTA 58503



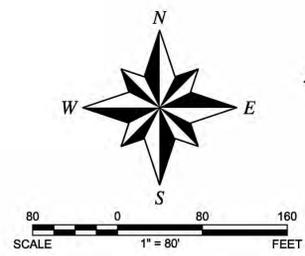
NOTES

- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.
- BASE FLOOD ELEVATION 1637.8 PER FEMA FIRM MAP NUMBER 38059C0515D EFFECTIVE DATE: APRIL 19, 2005

- PLAT LEGEND**
- 2.5" AL CAP FOUND
 - 3" BRASS CAP FOUND
 - 1" YELLOW LS 4623 CAP FOUND
 - REBAR AND LS 3463 CAP SET

PLAT INFORMATION

NUMBER OF LOTS: 73
R.O.W. - 245,242 S.F. OR 5.63 ACRES
LOT - 2,298,014 S.F. OR 52.76 ACRES
TOTAL ACREAGE - 2,543,326 S.F. OR 58.39 ACRES



DATE: AUGUST 2015
HORIZONTAL DATUM - US STATE PLANE
NAD 83 (2011), ND SOUTH ZONE - 3302
VERTICAL DATUM - NAVD 1988
UNITS OF MEASURE: INTERNATIONAL FEET
DISTANCES SHOWN ARE GRID DISTANCES

ORDINANCE NO. 1216**AN ORDINANCE TO AMEND AND REENACT SECTION 21-03-02 OF THE MANDAN CODE OF ORDINANCES RELATING TO DISTRICT BOUNDARIES AND ZONING MAP.**

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

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

1. Lakewood 9th Addition located within the City of Mandan, Morton County, North Dakota shall be excluded from the A (agricultural) zoning and shall be included in PUD District 2015-01 (Planned Unit Development) with the following conditions and restrictions.
 - a. All lots in Block 1 shall conform to the requirements of an R7 district unless modified herein.
 - b. Lot 1, Block 2 shall conform to the requirements of a CB zoning district unless modified herein.
 - c. Lots 2 through 23, Block 2 shall conform to the requirements of an R7 zoning district unless modified herein.
 - d. The minimum average width for Lots 2 through 23, Block 2 shall be 50 feet, the minimum lot size shall be 6000 square feet and the minimum side yard setback shall be 5 feet.
 - e. Lots 24 and 25, Block 2 shall conform to the requirements of a CB zoning district unless modified herein.
 - f. All lots in Block 3 shall conform to the requirements of an R7 zoning district unless modified herein.
 - g. The minimum average width for lots in Block 3 shall be 40 feet, the minimum lot size shall be 4800 square feet and the minimum side yard setback shall be 4 feet.
 - h. Lot 1, Block 4 shall conform to the requirements of a CB zoning district unless modified herein.
 - i. Lot 2, Block 4 shall conform to the requirements of a RM zoning district unless modified herein.
 - j. The portion of a structure containing a garage door that fronts a public street shall be set back a minimum of 25 feet from the property line.
 - k. The minimum building setback along 34th Ave. SE and 21st St. SE shall be 25 feet.
 - l. The minimum building setback along XX Circle SE shall be 15 feet.
 - m. The width of residential driveway aprons shall be limited in order to provide one 20 foot long parking space along the curb in front of each single-family or twin home property.

- n. Commercial uses shall be limited to those in Retail Group A, Service Group A, the Office-bank Group and the health-medical Group.
- o. The maximum lot coverage for all structures on a lot shall be 40%.
- p. Signage shall conform to the requirements of the Mandan Architectural Review Commission.
- q. The developer shall install or arrange for the installation of all utilities. Installation of public water and sanitary sewer shall be accomplished with a 3-way agreement. A public water casement shall be provided near the western end of the development between the 19th St. SE alignment and 34th Ave. SE to provide a location for looping of the public water system.
- r. Fire hydrants shall be installed as directed by the City of Mandan Fire Department.
- s. 34th Ave. SE, 21st St. SE and XX Circle SE shall be constructed using the special assessment district funding option and once constructed shall be public streets owned and maintained by the City of Mandan.
- t. Two public access easements shall be provided for pedestrian access from the streets in the development to the multi-use path along the 19th St. SE alignment.
- u. All on-site paved areas shall be privately owned and maintained.
- v. Configuration of the roadways shall meet the requirements of the City of Mandan Fire Department for emergency vehicle access.
- w. All areas on each residential lot that are not paved or concealed from public view behind a six foot high opaque fence shall be landscaped.
- x. All areas fronting 34th Ave. SE and 21st St. SE shall be landscaped. The landscaping shall include shrubs and/or trees. The landscaping plan must be submitted to the city for review and approval by MARC and the city forester.
- y. A property owners association shall be created to operate and maintain all common facilities.
- z. No public recreation areas are required. All lots shall be accessible to the public multi-use path along the 19th St. SE alignment on the north boundary of the project.
- aa. A stormwater plan for each lot shall be submitted to and approved by the city prior to beginning any land disturbing activities.
- hb. A detailed site plan for each lot shall be prepared and presented to the city prior to beginning any land disturbing activities documenting compliance with the requirements contained herein.
- cc. A subdivision development agreement for each lot shall be fully executed and approved by the city.
- dd. All lots, whether developed or undeveloped, shall be maintained in accordance with City Code requirements.

SECTION 2. RE-ENACTMENT. Section 21-03-02 of the Mandan Code of Ordinances is hereby re-enacted as amended. The city principal planner 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:

First Consideration:

Second Consideration and Final Reading:

Recording Date:

NEW BUSINESS ITEM # 2

NEW BUSINESS ITEM # 2

Mandan Planning and Zoning Commission Agenda Item
 For Meeting on August 24, 2015
 Mandan Engineering and Planning Office Report
Replat Lot 1, Block 2, in Mandan Industrial Park 7th
 Requested Action
Lot is being replatted into 6 lots

Application Details					
Applicant Patrick Wachter	Owner Jessara LLC	Subdivision Mandan Industrial Park 7 th Addition	Legal Description Lot 1, Block 2		
Location Old Red Trail & 30 th Ave. NW		Proposed Land Use industrial	Parcel Size 5.79 ac	Number of Lots 1	
Existing Land Use industrial	Adjacent Land Uses industrial		Current Zoning MA/MC	Proposed Zoning MA	Adjacent Zoning MA & MC
Fees \$200	Date Paid July 20, 2015	Adjacent Property Notification Sent August 13, 2015	Legal Notices Published August 7 & 14, 2015		

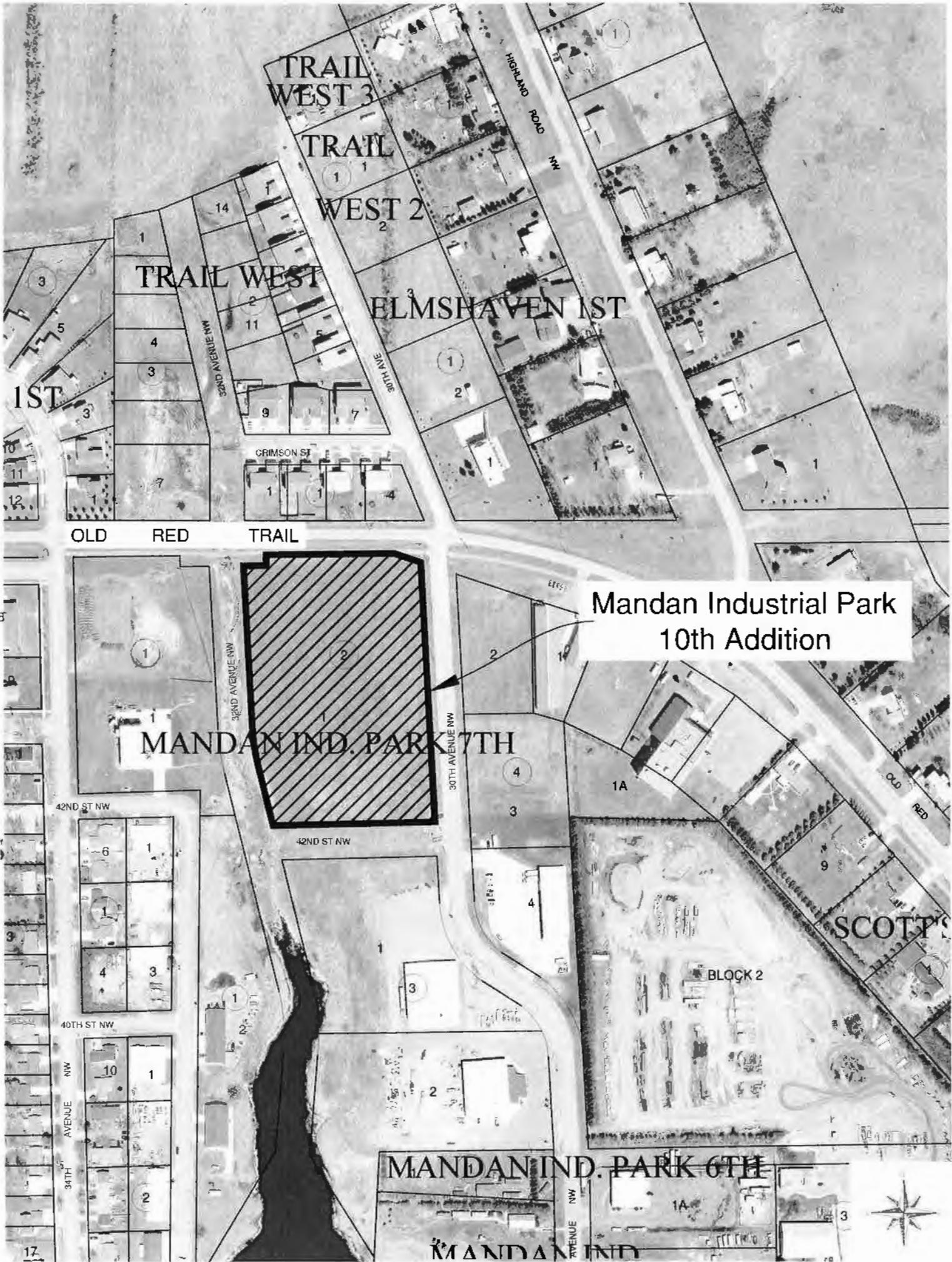
Project Description
<p>The plan is still to initially construct a building for Novaspect in the northwest corner of the lot.</p> <p>From the Novaspect web site.</p> <p><i>At Novaspect, our Core Purpose is to improve our customer's performance through the innovative application of technology. We do this by engineering, selling and servicing industrial process controls. That is what we do, but we are very proud of how we do this because we work hard to build Customer Relationships, we are passionate at creating Effective Processes, we position ourselves to attract the Best Talent, and ensure we are delivering Local Services with Proven Technologies.</i></p> <p><i>Our employees and culture are the keys to our success. We work to provide the experience, training, organization and culture to allow careers to thrive. We are proud to offer what we think is the best employment opportunity in the process control and valve repair industries.</i></p> <p><i>To provide our local services, Novaspect has people, resources and facilities throughout the upper midwest, reaching from Northern Indiana through Illinois, Wisconsin, Minnesota and throughout North Dakota. Some of these facilities include our Midwest Volve Services subsidiary which offers comprehensive valve repair services. They are all part of our Core Purpose aiming to improve our customer's performance through the innovative application of technology.</i></p> <p>Platting of the lot into 6 lots will allow development of the remainder of the property.</p> <p>The right-of-way along the south boundary was converted to an access and utility easement and this plat incorporates that area into the plat.</p> <p>The sanitary sewer easement that runs north/south through the property has been reduced in width. This is acceptable to city staff due to the fact that the area will be paved and easily accessible and re-grading will reduce the depth of the sewer.</p>
Agency & Other Department Comments
Engineering & Planning Staff Comments

Engineering & Planning Recommendation

Recommend approval of replat.

Proposed Motion

Move to recommend approval of replat of Lot 1, Block 2 and the north half of the vacated right-of-way of 42nd St. NW of Mandan Industrial Park 7th Addition.



TRAIL WEST 3

TRAIL WEST 2

TRAIL WEST

ELMSHAVEN 1ST

1ST

OLD RED TRAIL

Mandan Industrial Park
10th Addition

MANDAN IND. PARK 7TH

SCOTT'S

BLOCK 2

MANDAN IND. PARK 6TH

MANDAN IND.



OTHER BUSINESS ITEM # 1

OTHER BUSINESS ITEM # 1

SUBPART B

SUBPART B

Subpart B
Land Development and Public Services
Chapter 101
ADMINISTRATION AND PLANNING
Article 1. In General

Sec. 101-1-1. Legislative Intent.

Sec. 101-1-2. Applications.

Sec. 101-1-3. Definitions.

"Animal hospital or clinic" means a facility for the care and well-being of household animals, under the direct supervision of a licensed veterinarian; including, but not limited to, medical services, grooming, confinement or kenneling for medical purposes and full medical services meeting the following requirements:but excluding ia. Incinerating or cremating of animals or animal parts upon the premises is prohibited;b. Includes an on-site, porous, well-drained exercise area for pets to use that is no smaller in size and dimension than 15 feet by 25 feet which is to be kept neat and clean at all times;c. Animal carcasses and/or animal tissues are to be frozen, sealed in waterproof containers, and either kept in a frozen state until commercial waste pickup day or removed directly from the facility to the City's waste landfill site or a licensed crematorium; andd. The term "household pet" as used herein is specifically defined to include only the following taxonomically identified animals;(1) Mammalian Genus species(a) *Canis familiaris*, the domestic dog, and(b) *Felis catus*, the domestic cat(2) Mammalian Families(a) *Leporidae*, rabbits,(b) *Cricetidae*, hamsters,(c) *Gerbillidae*, gerbils, and(d) *Muridae*, mice and rats(3) Avian Orders(a) *Psittaciformes*, parrots, parakeets, lorries, budgerigars, and cockatiels,(b) *Passeriformes*, canaries and finches, and(c) *Columbiformes*, pigeons and doves; and(4) Reptilian Groups(a) *Squamata*, lizards and snakes, and(b) *Testudine*, turtles.

"Animal hospital" means a facility for the care and well-being of animals under the direct supervision of a licensed veterinarian; including, but not limited to, grooming, confinement or kenneling for medical purposes, and full medical services.

"Dog daycare" means a commercial facility for the daytime care and feeding of dogs.

"Kennel" means a commercial facility for the indoor boarding of household pets, as defined in subsection (4) of the term "animal clinic," that includes an on-site, porous, well-drained exercise area for pets to use that is no smaller in size and dimension than 15 feet by 25 feet, which is kept neat and clean at all times.

"pet" means one of the following taxonomically identified animals:

- (1) Mammalian Genus species;
 - (a) *Canis familiaris*, the domestic dog, and
 - (b) *Felis catus*, the domestic cat;
- (2) Mammalian Families;
 - (a) *Leporidae*, rabbits,
 - (b) *Muridae*, gerbils, hamsters, mice and rats, and
 - (c) *Mustelidae*, ferret;
- (3) Avian Orders;
 - (a) *Psittaciformes*, parrots, parakeets, lorries, budgerigars, and cockatiels,
 - (b) *Passeriformes*, canaries and finches, and
 - (c) *Columbiformes*, pigeons and doves;

- (4) Reptilian Groups;
 - (a) Squamata, lizards and snakes; and
 - (b) Testudine, turtles.

"Pet grooming" means a facility for the indoor grooming cosmetic care and maintenance, with no overnight boarding, of the pets listed in subsection (4) of the definition of the term "animal clinic."

"Pet hospital or clinic" means a facility devoted to the medical care and associated services for the limited number of animals defined as pets as opposed to an animal hospital or clinic which treats all animals.

Article 2. Planning and Zoning Commission

- Sec. 101-2-1. Creation.
- Sec. 101-2-2. Membership.
- Sec. 101-2-3. Term of office; unexcused absences cause for removal.
- Sec. 101-2-4. Vacancies.
- Sec. 101-2-5. Officers; duties; vacanciesselection of officers.
- Sec. 101-2-6. Meetings.
- Sec. 101-2-7. Compensation and reimbursement.
- Sec. 101-2-8. Powers and duties.

(l) *Length of approval or recommendation.* Planning and zoning commission approvals or recommendations are valid for six months. Should the applicant or the city commission fail to act on the approval or recommendation within six months, the action of the planning and zoning commission will lapse and a new application must be submitted and all applicable fees paid.

Chapter 105 DISTRICT REGULATIONS (ZONING)

Article 1. In General

- Sec. 105-1-1. Existing uses.
- Sec. 105-1-2. Supplementary provisions.

The regulations specified in this chapter shall be subject to the following supplementary provisions and interpretations.

- (1) *Structures excluded from height limits.* A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, radio broadcast and communication towers, television towers, spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building.
- (2) *Projections into yards.* Steps, terraces and open porches may extend into any minimum front or rear yard not more than six feet and into any minimum side yard not more than four feet, provided, however, that the floor thereof is no higher than that of the entrance to the building, and such features may extend into any minimum side yard not more than four feet; provided, however, that such feature shall not be less than two feet distant from a lot line. Fire escapes and outside open stairways may project not more than 4.5 feet into any minimum required

yard. Chimneys may extend into any minimum yard not more than two feet. No such feature shall extend closer than two feet to a lot line.

- (3) *Existing front yard depth.* When the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a greater front yard depth than required by these regulations, no building hereafter erected or altered shall have less front yard depth than the average depth of said existing front yards. This regulation shall apply also to the side yard, adjacent to a street, of a corner lot, but shall not be construed as to reduce the buildable width of a corner lot to less than 24 feet. No portion of any alley shall be considered a part of any yard.
- (4) *Fences and walls.* The building line and yard requirements of these regulations shall not apply to retaining walls or other walls or fences not over five feet in height; except that on a corner lot in any residential district shall be no fence, wall terrace, structure, shrubbery planting or other obstruction to vision having a height greater than three feet above the curb level for a distance of 25 feet from the intersection of the front and side street lines. On a corner lot in a commercial or industrial district, no portion of a building or other obstruction to vision between two and ten feet above the curb level, except a post or column, shall occupy the space by the vertical planes on the front and side street lines and on the line joining points on such street lines at distances of five feet from the intersection thereof.
- (5) *Location of accessory buildings.*
 - a. Location.
 1. In multi-family, commercial, industrial and agricultural districts, location of accessory buildings shall conform to the requirements for principal buildings.
 2. In R7, R3.2, RH and RMH any residential districts, all accessory buildings shall be located in the rear yard and shall be not less than two three feet from a rear or side lot line or less than five feet from an alley line. In the case of a corner lot, accessory buildings, other than a detached garage, shall be located along the rear half of the adjoining residential lot's side lot line. A detached garage on a corner lot must be set back 25 feet from the side street or a distance equal to the setback of the principal building on the adjoining residential lot, whichever distance is greater the rear line of which abuts a lot in a residential district having frontage on the street adjacent to the side street line of the corner lot, an accessory building shall be located at least 30 feet from the side street line and, if located less than 60 feet from the side street line, shall be at least ten feet from such rear lot line. An accessory building, or any enclosure, group, or run, or any part used for the housing, shelter, or sale of animals or fowl, shall be located at least 25 feet from any rear or side lot line and at least 50 feet from any building used for dwelling purposes on an adjoining lot.
 3. Accessory buildings containing a garage door that faces an alley must be set back at least 10 feet from the alley in order to accommodate the turning radius of a vehicle. When the property has no existing parking spaces other than the area for the proposed accessory building or has more than one dwelling unit, the minimum setback for an accessory building containing a garage door facing the alley must be 22 feet in order to allow space for parking of a vehicle in front of the garage door.
 - b. Use. No accessory building may be used for dwelling purposes Where a corner lot abuts a side street having no lots fronting thereon the same side of the street as such corner lot, an accessory building may be located not less than 15 feet from the side street line.
 - c. What is included. Any structure, whether open or closed in, that is not part of a principal building. A private garage having any part of its wall in common with a dwelling or being attached to a dwelling by a breezeway or roofed passageway, up to 6 feet long shall be

- considered a part of the a principal buildings and shall comply in all respects with the requirements of this chapter applicable to the principal building.
- d. Number. For residential lots up to 10,000 square feet, two accessory buildings are allowed. For residential lots greater than 10,000 square feet up to 20,000 square feet, three accessory buildings are allowed. For residential lots exceeding 20,000 square feet, four accessory buildings are allowed.
 - e. Surface. Except for storage sheds not exceeding 120 square feet, no accessory building shall have an outer surface of corrugated or sheet metal.
 - f. Timing. Construction of the principal structure must have commenced before construction of an accessory structure may proceed.
 - g. Size. For R7, R3.2, RH and RMH districts, the total square footage of all accessory buildings may not exceed 10% of the lot area. For RM, CA and CB districts, the total square footage of all accessory buildings may not exceed 20% of the lot area. The total area of all structures on the lot may not exceed the maximum structure coverage established for the zone in which the lot is located.
 - h. Height. The maximum height of an accessory building is 16 feet to the midspan of the roof system with a maximum wall height of 10 feet.
 - i. Water and sewer. Any accessory building that is connected to water and sewer must have a frost protected foundation.
 - j. Pole structures. Pole structures are not permitted in R7, R3.2, RH, RM, RMH, CA and CB districts.
- (6) *Through lots.* Any building constructed on an interior lot having frontage on two streets shall be located so as to comply with the regulations governing front yards on both streets.
- (7) *Mixed uses.* Any building containing two or more dwelling units and space designed or used for commercial or industrial purposes shall comply with all requirements for multifamily dwellings in the district in which it is located; provided, also, that no such building designed or used for mixed residential and other uses shall be permitted in any district in which multifamily dwelling is not permitted.
- (8) *General regulations for manufactured and modular homes.* The following general regulations pertain to mManufactured and modular homes that are placed on individually owned lots, and all manufactured homes must meet the following standards.:
- a. The home shall have no less than 1,000 square feet of floor area except where the zone in which it is to be located has a greater minimum square footage requirement.
 - b. The home shall have no less than a 24-foot exterior width.
 - c. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
 - d. The home shall have a non-reflective roofing material.
 - e. All transporting apparatus including The home shall not have wheels, axles, transporting lights or removal towing apparatus hitch must be removed.
 - f. The home shall be located and installed or built according to the same standards for foundation system, permanent utility connections and setback which would apply to a site-built, single-family dwelling on the same lot.
 - g. The design, location and appearance of the home must be in harmony with existing adjacent properties, structures and locations.
 - h. Any such home which, according to its title document, was manufactured prior to the year during which it is to be sited upon its permanent foundation shall be subject to the provisions of chapter 107111, article XI10 moving of vehicles.

- i. Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.
- (9) *Use of barbed or razor wire limited.* The use of barbed or razor wire is limited to security fencing around commercial, industrial, governmental or utility facilities.
- (10) *Use of tents.* Tents are not permitted, except in a developed camp ground, manufactured home or travel trailer park or in the back yard of a developed residential lot with a permanent residential structure.

Sec. 105-1-3. Incidental uses.

The uses of land and buildings permitted in the several districts established by this article chapter are designed by listing the principal uses permitted. In addition to such principal uses, it is the intent of this chapter and this section to permit, in each district, those uses customarily incidental to any principal use permitted in the district. Such permitted incidental uses are specifically listed as follows, and any listed use is permitted on the same lot with the principal use to which it is incidental:

(1) *Accessory uses.*

a. *Dwellings.*

1. Private garage used only for the storage of non-commercial motor vehicles, commercial vehicles with a rated capacity less than 2.5 tons and personal property.
2. when the storage space, together with the principal building and the space of any other accessory buildings, does not exceed the floor area ratio coverage permitted within such zoning districts. No private garage or off-street parking space incidental to a dwelling located in a residential district may be used to store a tractor-trailer, freight-hauling vehicle or either part, nor any other commercial vehicle having a rate capacity in excess of 2.5 tons. No more than oOne commercial vehicle having a rated capacity of 2.5 tons or less shall be stored in the open on any the lot on which the principal use is a dwelling.
23. Private greenhouse or vegetable, fruit or flower garden from which no products are sold or offered for sale.
34. Children's playhouse and playground equipment.
45. Shed or other accessory building, tool room for storage of equipment used in grounds or building maintenance or home occupation, but not including stable, chicken house or other buildings to house agricultural livestock.
5. Not more than three dogs, four months of age or older.
6. Private kennel.
7. Customary domestic pPets as defined in chapter 101 of this code, but not including horses, poultry or agricultural livestock.
87. Incinerator incidental to the principal use only.
9. Private swimming pool and bath house.
108. Statuary, trellises, barbecue stoves, fireplaces or similar ornamental or landscaping features.

b. *Church.*

1. Parish house, together with any use accessory to a dwelling as listed in subsection (1)a of this section.
2. Religious education building.
3. Bulletin board not to exceed 20 square feet in area.
4. Off-street parking lot for use, without charge, of members and visitors to the church.

c. *Health-medical group.*

1. Any use accessory to a dwelling as listed in subsection (1)a of this section.

2. Off-street parking lot for use, without charge, of staff members or visitors.
 3. Private garage.
 4. Nun's home, nurse's quarters.
 5. Laundry incidental to hospital
- Accessory buildings containing residence accommodations for staff.
2. Accessory buildings providing utility and maintenance services for the primary use.
- d. *Office-bank, retail, commercial, recreation groups.*
1. Storage of customer-, client- or operator-owned vehicles.
 2. Storage of supplies, stock and merchandise within a fully enclosed building.
 3. Manufacturing and repair facilities incidental to the principal use, subject to the following limitations:
 - (i) Floor space shall not exceed 25 percent of the total floor space devoted to the principal use.
 - (ii) No motive power other than electricity shall be used.
 - (iii) No motor used on any machine for manufacturing and repair shall exceed one horsepower.
 - (iv) All operation shall be conducted so that no dust, odor, smoke, noise, vibration, heat or glare created by such operation is perceptible from any boundary line of the lot on which the principal use is located.
- e. *Service groups.*
1. Garage or parking lot for the storage of customer-, employee-, client- or operator-owned vehicles.
- (2) *Home occupation.*
- a. *Dwelling Limitations.* There is permitted, in a dwelling, any occupation customarily incidental to the principal use as a dwelling, subject to the following limitations:
1. No person other than a member of the immediate family occupying a the dwelling is employed.
 2. Storage of business inventory but Nno stock in trade is displayed or sold upon the premises.
 3. No alteration of the principal building that changes the character thereof as a dwelling.
 4. No illuminated sign is used, and no sign other than one giving the name and occupation, and not more than one square foot in area, is displayed.
 5. No more area than 25 percent of the area of one story ofground floor area of the primary building, whether located in the primary building or an accessory building, is devoted to the home occupation, not including rooms let to lodgers.
- b. *Customary home occupations.* The following are declared to be customary home occupations as intended by this section.:
1. Dressmaker, seamstress or, tailor.
 2. Music teacher or dance instructor.
 3. Artist, sculptor or author.
 4. AuthorBusiness office.
 5. Emergency treatment, only of patients by physicians, dentists or licensed drugless physiciansDog daycare limited to a maximum of four dogs in the dwelling at any one time, including dogs owned by the residents of the dwelling.
 6. Emergency interview, only of clients by lawyers, architects, engineers and similar professionsOvernight boarding of one dog or one cat in addition to any animals owned by the residents of the dwelling.
 7. MinisterConsulting and event planning services.

8. The letting for hire of not more than two rooms for residential purposes to not more than four persons.
9. Pet grooming of no more than two animals at one time restricted.

USE GROUP CHANGES

USE GROUP CHANGES

Proposed Changes to 105-1-4

This is a proposed update to the Use Groups language. Questions are:

1. Is a use in the wrong group?
2. Is a use missing from a group?
3. Should a use be removed from a group?
4. Do we need to add a group?

Sec. 105-1-4. Use Groups is changed to read:

Section 105-1-4. Use Groups.

(a) Decision matrix. In order to carry out the purposes of this chapter, certain uses having similar characteristics are classified together in "use groups". In any district in which a use group is permitted, it is the intent of this chapter to permit any particular member of that use group to locate within that district. The uses listed are examples of uses that fit the category. Not every possible use is listed. Should an application for a use that, in the opinion of the city planner, is not listed within a use group, the city planner shall evaluate the proposed use applying the criteria listed below.

(1) Criteria.

- a. The actual or projected characteristics of the specific use in relationship to the stated characteristics of the various use groups.
- b. The amount of site area, floor space and equipment required for the use.
- c. The frequency and type of sales activity generated by the use.
- d. The nature of the customer interaction generated by the use, i.e. on site, remote access, daily or infrequent.
- e. The number of employees required per shift for the use.
- f. The hours of operation.
- g. The building site arrangement and access requirements for the use.
- h. The types of vehicles or equipment used in association with the use.
- i. The number of vehicle trips generated by the use per day of the week over the course of a week, month and year.
- j. The means by which the use advertises itself.
- k. Whether the use is likely to be located independent of other uses on the site or established in a shared use environment.

(2) Procedure. The city planner shall issue a written opinion as to the use's appropriate designation. The city planner's decision shall be given to the applicant and posted on the city web site. The decision may be appealed to the Commission, either by the applicant or an adjoining property owner, within 15 days of posting of the decision. If the city planner determines that the proposed use does not fit within any use group or zoning district, a request shall be forwarded to the Commission for review and recommendation as to the disposition of the request for approval of the specific use.

(b) Group Dwelling. A group dwelling is a building used for residential purposes.

(1) Distinguishing characteristics of a Group Dwelling include:

- a. The occupants are unrelated;
- b. Separate cooking facilities are not provided for individuals or groups of individuals;

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- c. Persons residing in the building are domiciled more or less permanently, in contrast to the transient resident characteristic of hotels, motels, bed and breakfast facilities or treatment facilities; and
 - d. Correctional facilities are not included.
- (2) The following uses are examples of a group dwelling.
- a. Boarding house or rooming house.
 - b. Convent or monastery.
 - c. Fraternity or sorority house.
 - d. Orphan's home.
 - e. Group home licensed by the department of human services.

(c) Retail Group A. A use in Retail Group A is one in which the principal activity is the retail sale of fresh, freshly prepared or packaged food products, merchandise and associated services conducted primarily within an enclosed building.

- (1) Distinguishing characteristics of uses in Retail Group A include:
- a. Use is dependent to some extent on the proximity of other retail and service establishments;
 - b. Merchandise is not of such nature as to require transport to the customer's premises in any vehicle larger than a pickup or small delivery truck; and
 - c. No incidental manufacturing or processing is carried on in such a manner as to produce offensive noise, dust, odor, glare, heat or vibration perceptible or measurable above ambient levels at the property boundary.
- (2) The following are examples of Retail Group A uses.
- a. Antiques, collectibles or recycled items.
 - b. Appliances and electronics rental and sales.
 - c. Art, hobby or craft supplies.
 - d. Camera sales and service, photo supplies or photographic studio.
 - e. Jewelry, clock and watch sales, cleaning and repair.
 - f. Books and other printed materials, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code.
 - g. Recorded video or music for rental or sale, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code.
 - h. Musical instrument rental, sale and repair.
 - i. Butcher shop, retail sales bakery, delicatessen, fast food, full service restaurant, coffee shop or other eat-in or take-out food preparation establishment.
 - j. Ice cream, soda fountain or candy.
 - k. Department store, variety store or specialty merchandise including sporting goods or exercise equipment.
 - l. Drugstore.
 - m. Flowers, gifts or greeting cards.
 - n. Furniture and accessories including bedding, home furnishings and office equipment.
 - o. Office supplies including copying or shipping services.
 - p. Groceries and household items.
 - q. Hardware, tools, equipment, supplies and accessories.

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- r. Auto parts, supplies, accessories and outdoor activity supplies with no servicing or repair of vehicles.
- s. Package liquor.
- t. Pets and pet supplies with associated grooming and dog daycare services.

(d) Retail Group B. A use in Retail Group B is one in which the principal activity is the sale of merchandise, vehicles or equipment.

(1) Retail Group B is differentiated from Retail Group A as follows:

- a. Merchandise is generally larger;
- b. Land area required is generally larger;
- c. Merchandise is of such a nature as to require fifty percent or more of the space within the building for storage of the merchandise;
- d. Merchandise is of such a nature as to be stored or customarily displayed outside a fully enclosed structure; and
- e. The success of the activity is not dependent upon the proximity of other uses in Retail Group B.

(2) The following are examples of Retail Group B uses.

- a. Auto, truck, construction equipment and farm implement sales, service, leasing and rental.
- b. Lumber yard and related merchandise, tools and equipment sales, including incidental mill work.
- c. Feed, grain and farm supply sales.
- d. Trailer, RV and manufactured home sales and service.

(e) Service Group A. A use in Service Group A is one in which the principal activity is providing a service with accompanying sale of parts or supplies.

(1) Distinguishing characteristics of uses in Service Group A include:

- a. Dependent to some extent on the proximity of other retail and service establishments; and
- b. Operations are carried on in such a manner as to produce no offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.

(2) The following are examples of Service Group A uses.

- a. Appliance, watch, jewelry, camera or electronics repair.
- b. Barber or beauty shop.
- c. Dressmaker, milliner or tailor.
- d. Dry cleaning or laundry.
- e. Self-service Laundromat.
- f. Pet grooming and dog daycare.
- g. Pet hospital or clinic.
- h. Furniture repair or upholstering.
- i. Shoe and other leather goods repair.
- j. Private club, lodge hall, union headquarters.
- k. Undertaking establishment, mortuary or funeral home.

(f) Service Group B. A use in Service Group B is one in which the principal activity is providing a service with accompanying sale of parts or supplies.

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- (1) Service Group B uses are differentiated from Service Group A uses as follows:
 - a. Its success is not dependent upon the proximity of other retail or service uses; or
 - b. Repair or service operations are such as to produce some offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located; and
 - c. The use may be conducted around the clock.
 - (2) The following are examples of Service Group B uses.
 - a. Carwash, either automatic or self-service.
 - b. Auto, truck or equipment repair.
 - c. Kennel.
 - d. Animal veterinary services.
 - e. Off premise advertising sign.
 - f. Taxicab or bus company office with vehicle parking.
 - g. Commercial garage or parking lot.
 - h. Self-storage units.
- (g) Office Group.** A use in the Office Group is one in which the principal activity is the conduct of a commercial, governmental, financial, professional or management function.
- (1) The use is generally conducted in an office type setting mostly during normal weekday business hours with limited customer traffic throughout the day.
 - (2) The following are examples of Office Group uses.
 - a. Bank, credit union or financial services company.
 - b. Commercial school including business, secretarial, dancing, music, physical culture, technical or trade.
 - c. Governmental services office.
 - d. Insurance or real estate office.
 - e. Private corporate office.
 - f. professional services office.
 - g. TV or radio station broadcast studio.
 - h. Utility company office.
- (h) Commercial Recreation Group.** A use in the Commercial Recreation Group is one in which the principal activity is the furnishing of recreation for a profit.
- (1) Distinguishing characteristics of uses in the Commercial Recreation Group include:
 - a. Alcoholic beverages may be offered for sale for consumption on the premises; and
 - b. The activity is not operated by a governmental agency.
 - (2) The following are examples of Commercial Recreation Group uses.
 - a. Bowling alley.
 - b. Dancehall.
 - c. Pool hall, video game room or billiard parlor.
 - d. Roller-skating or ice skating rink.
 - e. Sports arena.
 - f. Tavern, saloon or bar.
 - g. Theater.
- (i) Public Recreation Group.** A use in the Public Recreation Group is one in which the principal activity is carried on by a governmental agency.

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- (1) The activity may be similar or equal to a use in the commercial recreation group.
- (2) The following are examples of Public Recreation Group uses.
 - a. Community center.
 - b. Golf course.
 - c. Museum.
 - d. Park.
 - e. Playground.
 - f. Swimming pool.
 - g. Sports complex.

(j) Health Group. A use in the Health Group is one in which the principal activity is related to the care and medical treatment of human beings.

- (1) Facilities include anything up to and including a full service hospital.
- (2) The following are examples of Health Group uses.
 - a. Medical clinic or urgent care facility.
 - b. Basic care facility licensed by the North Dakota Department of Health under Chapter 23-09.3.
 - c. Assisted living facility registered with the North Dakota Department of Human Services.
 - d. Sanitarium or similar treatment facility licensed by the Department of Human Services.
 - e. Nursing home licensed by the North Dakota Department of Health under NDCC Chapter 23-16.
 - f. Hospital for human beings licensed under NDCC Chapter 23-16.

(k) Education Group. A use in the Education Group is one in which the principal activity is education. Sports activities linked to an educational entity are included.

- (1) The activity can be directed at any age group and be operated by a public, private or religious group.
- (2) The following are examples of Education Group uses.
 - a. Pre-school.
 - b. Kindergarten.
 - c. Grade school.
 - d. Middle school or high school.
 - e. Junior college or college.
 - f. Private or parochial schools offering a curriculum substantially equivalent to that offered by public schools.
 - g. Student or faculty dormitory.
 - h. Administrative building.
 - i. Stadium, gymnasium or field house.
 - j. Athletic field.
 - k. Utility or maintenance service building.

(l) Wholesale Group. A use in the Wholesale Group is one in which the principal activity is the sale of merchandise to individuals and corporations for resale to the public.

- (1) Distinguishing characteristics of uses in the Wholesale Group include:

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- a. The merchandise offered for sale is stored wholly within a completely enclosed building that may be fully climate controlled for the products being stored;
 - b. No unusual fire or safety hazard is caused by the storage of the product or merchandise;
 - c. No live animals are housed in the facility; and
 - d. No junk, wrecked automobiles, secondhand equipment, or other salvaged material or dead animals are stored on the premises.
- (2) The following are examples of Wholesale Group uses.
- a. Cleaning products and supplies.
 - b. Electrical equipment and parts.
 - c. Drugs.
 - d. Food, grocery and beverage.
 - e. Furniture, appliances and accessories.
 - f. Paper or plastic.
 - g. Pumps, pipe and associated parts.
 - h. Vehicle parts and tires.

(m) Industrial Group A. A use in Industrial Group A is one involving manufacturing or the storage and sale of heavy building materials or equipment.

- (1) The distinguishing characteristics of Industrial Group A are:
- a. There is no unusual fire, explosion or safety hazard;
 - b. There is no production of noise at any boundary of this district in which such use is located in excess of the ambient noise level at that point;
 - c. There is no emission of smoke in excess of any density described as No. 1 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 2 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any thirty-minute period;
 - d. There is no emission of dust, dirt, toxic chemicals or offensive odors or gas; and
 - e. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
- (2) The following are examples of Industrial Group A uses.
- a. Manufacture, compounding, processing, packaging, treatment, or assembly of the following materials and products, but excluding the use in any operation of a punch press over twenty tons rated capacity, a drop hammer, or an automatic screw machine:
 1. Assembly of electric appliances, electronic instruments and devices, radios, phonographs, and television sets, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders, and similar products;
 2. Bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils;
 3. Blacksmith shop and machine shop;

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4. Electric and neon signs, outdoor advertising signs, commercial advertising structures, and light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and similar products;
 5. Ice manufacturing or soft-drink bottling plant;
 6. Laundry, cleaning and dyeing works including carpet and rug cleaning;
 7. Musical instruments, toys, novelties, and rubber and metal stamps;
 8. Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas; and
 9. Products from previously prepared materials including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, precious metals or stones, fur, glass, hair, horn, leather, paper, plastics, shell, textiles, wood (excluding planing mills) and yarns.
- b. Experimental laboratories.
 - c. The following uses when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than six feet in height:
 1. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors;
 2. Feed or fuel yard;
 3. Public utility service yard, or electrical receiving or transforming station; and
 4. Pipe yard, or storage, sale or rental of oil and gas well-drilling equipment.

(n) Industrial Group B. A use in Industrial Group B is one involving manufacturing storage and sale of products and material in which the operations create a greater degree of hazard or more annoyance than the operations of uses in Industrial Group A.

(1) The distinguishing characteristics of Industrial Group B are:

- a. The design and the operation of the building and the design and use of the premises fully comply with all special requirements established by this paragraph including;
- b. There is no emission of smoke in excess of a density described as No. 2 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 3 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any thirty-minute period;
- c. There is no emission of toxic gases or fumes; and
- d. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2) The following are examples of Industrial Group B uses.

- a. Any use listed in Industrial Group A involving the use of a punch press over twenty tons rated capacity, a drop hammer, or an automatic screw machine, provided that all other requirements for Industrial Group B uses are complied with.
- b. Any other use listed under Industrial Group A which cannot comply with the requirements of an Industrial Group A use, provided that all requirements for an Industrial Group B use are complied with.
- c. Manufacture, compounding, processing, refining and treatment of the following materials and products:
 1. Acetylene;

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2. Alcohol;
 3. Asphalt;
 4. Brick, tile or terra cotta;
 5. Concrete products or mixing;
 6. Electric steam power plant;
 7. Lampblack;
 8. Oilcloth or linoleum;
 9. Paint, shellac, turpentine, lacquer or varnish;
 10. Paper or pulp;
 11. Petroleum products;
 12. Plastics;
 13. Beer, whiskey or alcoholic beverages;
 14. Sand and gravel excavation, processing or storage;
 15. Stove or shoe polish; and
 16. Tar or tar products.
- d. Junkyard, provided that all operations are conducted wholly within an enclosed building or within an area enclosed on all sides with a solid wall or uniformly painted fence, not less than eight feet in height; provided further that there shall be no burning of wrecked automobiles or other products except within a furnace or incinerator approved by the city engineer.
- e. The following uses provided that they shall be located not closer than five hundred feet from any zone in which they are prohibited:
1. Cement, lime, gypsum, or plaster of paris manufacturing;
 2. Distillation of bones;
 3. Manufacturing or forging with power hammer;
 4. Fat rendering;
 5. Fertilizer manufacturing;
 6. Garbage, offal, or dead animal reduction;
 7. Gas manufacture;
 8. Petroleum refining;
 9. Smelting of tin, copper, zinc, or iron ores;
 10. Soap manufacture;
 11. Stockyards or feeding pens;
 12. Slaughter and packing of animals and meat products; and
 13. Tannery or curing or storage of raw hides.
- f. Bulk storage of petroleum and petroleum products.

(o) Utility Service Group. A use in the Utility Service Group is one necessary for the safe or efficient operation of a telecommunications, gas, water, electric, refuse, storm sewer or sanitary sewage system for the benefit of the public.

(1) The distinguishing characteristics of Industrial Group B are:

- a. The structure or use is necessary for the safe or efficient operation of the utility;
- b. The utility which the structure or use serves is one available to the general public;
- c. The design and location of the premises and structure is in full compliance with all requirements of this section and of this chapter;

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- d. The use is located on a lot no larger than needed for the use;
 - e. The use complies with all height and yard regulations for the district in which it is located;
 - f. Wherever the lot on which the use is located adjoins a lot in a residential district, there is planted and maintained a landscaped screen planting strip no less than five feet in width adjacent to all lot boundaries that adjoin a lot in a residential district;
 - g. Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children or pets, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located; and
 - h. For the proper operation of the utility it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.
- (2) The following are examples of Utility Service Group uses.
- a. Telecommunication transmission tower.
 - b. Gas pressure regulator station.
 - c. Water pumping station
 - d. Water reservoir
 - e. Electric transmission line
 - f. Electric transformer station.
 - g. Solid waste recycling center.
 - h. Stormwater detention facility
 - i. Stormwater pumping station
 - j. Sewage pumping station.

PROPOSED CHANGES TO USE GROUPS

PROPOSED CHANGES

Proposed Changes to Use Groups

1. Added the decision matrix.
2. Removed private club, etc. from group dwelling.
3. Took orphans home out of health group and added it to group dwelling.
4. Took out the "not group dwelling" wording.
5. Grouped some of the uses in retail group A to shorten the list.
6. Added language in retail group A about adult printed matter.
7. Added dog daycare to retail group A.
8. Moved lumber yard from industrial group A to retail group B.
9. Added dog daycare to service group A.
10. Changed animal clinic to pet veterinary clinic in service group A.
11. Put private club, etc. in service group A.
12. Rephrased and merged some items in service group A.
13. Changed auto laundry to car wash in service group B.
14. Removed steam bath from service group B.
15. Added kennel and animal veterinary services to service group B (animal refers to large animals and excludes dogs and cats).
16. Added self-storage units to service group B.
17. Removed schools from service group B.
18. Added taxi office with vehicle parking to service group B.
19. Changed office-bank group to office group.
20. Added schools to office group.
21. Combined some uses in office group.
22. Removed taxi cab office from office group.
23. Removed telephone exchange from office group.
24. Moved public recreation next to commercial recreation.
25. Moved wholesale farther down the list and added items.
26. Changed health-medical to health.
27. Reordered education.
28. Removed the farming groups.
29. Rephrased things in the industrial groups and added sand and gravel to industrial group B.
30. Added items to utility group.

SPECIAL USES

SPECIAL USES

105-1-5 Special uses

Proposed revisions to special uses.

1. Completely rewrote this section.
2. Removed churches. Churches are permitted in several zones. Other zones can be conditional use.
3. Removed temporary uses. This is a license or permit issue, not zoning.
4. Removed trailer courts. This is already in a zone (RH)
5. Added adult daycare.
6. Added drug or alcohol outpatient treatment or counseling facility

Section 105-1-5 Special uses is revised to read:

Sec. 105-1-5 Special uses.

(a) **Purpose.** In order to carry out the purposes of this chapter, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons be reviewed by the planning and zoning commission prior to the board approving the use at a specific site.

(b) **General Provisions.** The uses listed in this section are conditional uses that require special handling.

- (1) The planning and zoning commission must conduct a public hearing, which hearing shall have been noticed in a newspaper of general circulation in the city at least ten days prior to the date of such hearing.
 - (2) Notices must be mailed at least ten days prior to the hearing to all property owners within 500 feet of the boundary of the proposed project.
 - (3) In order to give a favorable recommendation, the planning and zoning commission must consider the following:
 - a. The proposed use is in harmony with the purpose and intent of this chapter.
 - b. The proposed use is not in conflict with the city's adopted comprehensive plan.
 - c. The proposed use will not adversely affect the health and safety of the public and the workers and residents in the area.
 - d. The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhoods.
 - e. The proposed use meets all appropriate regulations for the district in which it will be located.
 - (4) The planning and zoning commission may require the submission of additional plans, special studies or reports during review of the application.
 - (5) The planning and zoning commission may recommend special requirements for the proposed use. The reasons for the special requirements must be documented.
 - (6) Once the planning and zoning commission has acted, the city commission must hold a public hearing and then act to ratify the recommendation of the planning commission, modify the recommendation of the planning commission or reject the application.
- (c) **Application submittal.** An application for a special use shall be submitted to the city planner. Whenever possible, applications should be submitted electronically.

105-1-5 Special uses

(d) **Airport or heliport.** An airport or heliport may be permitted in an A agricultural district as a special use provided:

- (1) The area is sufficient to meet the federal aeronautics administration's (FAA) requirements for the class of airport or heliport proposed;
- (2) There are no existing flight obstructions such as towers, chimneys, other tall structures or natural obstructing land forms outside the proposed facility which would fall within the approach zones to any of the proposed runways or landing strips;
- (3) There is sufficient distance between the end of each useable landing strip and the airport boundary to satisfy the requirements of the FAA or any other regulatory authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones may fall, satisfactory evidence thereof shall be submitted with the application;
- (4) Any building, hangar, or other structure shall be at least one hundred feet from any street or property boundary;
- (5) Adequate space for off-street parking must be provided. A traffic study must be submitted to document the need for the number of spaces proposed; and
- (6) The application for authorization of an airport or heliport shall be accompanied by plans meeting the requirements of the FAA, other regulatory agencies and the city.

(e) **Cemetery.** A cemetery and ancillary uses may be permitted in an I-L, I-H or A district as a special use provided:

- (1) No graves shall be located less than one hundred feet distant from any property line;
- (2) There shall be a strip at least seventy-five feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;
- (3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and
- (4) No public mausoleum, columbarium, crematory, or cemetery chapel shall be erected within two hundred feet of any property boundary.

(f) **Drive-in theater.** A drive-in theater may be permitted in an I-L, I-H or A district as a special use, provided:

- (1) No part of such theater shall be located closer than one thousand feet to the boundary of any residential district;
- (2) The area accessible to patrons' vehicles shall be treated with a suitable material to prevent dust;
- (3) Reservoir parking space off the street shall be provided for patrons awaiting admission in an amount not less than thirty percent of the vehicular capacity of the theater;
- (4) The vehicular circulation shall be so designed and constructed as to permit only one-way traffic within the boundaries of the parcel on which the theater is to be located;
- (5) The screen shall be so located and shielded that the picture shown shall not be visible from any highway within 500 feet of the property boundary; and
- (6) A structure for the sale of food and nonalcoholic beverages may be permitted as an accessory use for a drive-in theater.

(g) **Golf driving range or miniature golf course.** A golf driving range or miniature golf course may be permitted in an I-L, I-H or A district as a special use, provided:

105-1-5 Special uses

- (1) The area within five hundred feet of all boundaries of the lot is not developed in residences to a greater density than one dwelling unit per acre;
 - (2) Any flood-lights used to illuminate the premises are so directed and shielded as to prevent the direct lighting area from extending beyond the property boundary; and
 - (3) When the area within 500 feet of the property boundary is undeveloped, the approval is limited to one year and must be renewed annually. If residential development exceeding a density of one dwelling unit per acre is approved within this 500 foot area, the approval for this use may be withdrawn unless all property owners within the 500 foot area sign written consents to allow the use to continue on a year to year basis.
- (h) **Fire or emergency medical response.** A facility providing fire and/or emergency medical response services may be permitted in any zoning district as a special use, provided:
- (1) Egress from the building to the street shall be equipped with a call activated traffic control signal;
 - (2) Sufficient parking shall be provided to accommodate the maximum number of personnel per shift plus at least 2 visitor spaces; and
 - (3) If the use is approved, landscaping, signage and design of the building exterior shall be reviewed and approved by the Mandan Architectural Review Commission.
- (i) **Day care center.** A day care center is a facility providing services to more than 12 children or any number of adults. A day care center requires a special use permit and must comply with the following criteria:
- (1) The facility must receive state approval before an occupancy permit can be issued;
 - (2) For a facility catering to children, each building shall provide not less than thirty-five square feet of interior play area per child;
 - (3) For a facility catering to children, an outdoor play area of not less than seventy-five square feet per child shall be provided. The play area shall be fenced and located in the rear yard of the premises and behind the building setback requirement when the building is located on a corner lot. A buffer zone of ten feet shall be provided between the play area and an adjoining residential lot;
 - (4) For a facility catering to adults, there shall be an outdoor lawn area and covered porch offering either active recreation or passive activities for groups or individuals;
 - (5) As a minimum, onsite parking shall be provided at a ratio of one space per each two employees per shift plus one space per each 12 clients, and
 - (6) Drop off and pickup of clients shall be in an area off the public street.
- (j) **Correctional facility.** A correctional facility may be permitted as a special use in a I-L, I-H or A district and must comply with the following criteria:
- (1) The facility fronts on an arterial street;
 - (2) There are no churches, schools or residentially developed property within 500 feet;
 - (3) The primary illumination field for exterior lighting shall not extend beyond the property boundary;
 - (4) No building shall be closer than 35 feet to the property line; and
 - (5) As a minimum, onsite parking shall be provided at a ratio of one space per two employees per shift plus one space per four inmates.

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(k) ***Drug or alcohol outpatient treatment or counseling facility.*** A drug or alcohol outpatient treatment or counseling facility may be permitted as a special use in a C-R, I-L, I-H or A district and must comply with the following criteria:

- (1) The facility fronts on an arterial street;
- (2) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per two clients per hour;
- (3) Hours of operation are limited to between 6:00 AM and 8:00 PM;
- (4) The facility is no closer than 1000 feet to a school, daycare facility or residentially developed property; and
- (5) The facility is no closer than 500 feet to an establishment selling alcohol.