

MANDAN PLANNING AND ZONING COMMISSION

MANDAN CITY HALL BUILDING

February 23, 2015

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall Building on February 23, 2015, at 5:15 p.m. CDT.

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

Commissioners Absent: Kelly

Commissioner Fleischer motions to approve the January 26, 2015 minutes. Commissioner Laber seconds. Upon vote, the motion receives unanimous approval of the Board.

NEW BUSINESS

1. A request from Leslie Volochenko for a preliminary plat and a change of zoning. The request is to change the zoning of Lot AE less Lot 1 & less R/W 8.79 acres of the SE ¼ in Section 26, Township 139N, Range 81W from A (Agricultural) to CC (Heavy Commercial). The property is located east of Mandan Avenue NE on Division Street NE.

Bob Decker, City Planner, identifies and describes the area. PUD zoning may be an option for the property. Staff recommends a formal developer agreement, a stormwater management plan and creation of a PUD district. A rail line runs along the west side of the property. The property could be a spur for truck access to load boxcars. There is a storm drain system that runs through the property that will have to be addressed. It is in the gateway overlay zones and specific buffering requirements must be met.

Dave Patience, Swenson & Hagen, says the city has put a street around the property (Division) and there are services to the property. He understands there have been problems in the past with the site. There would have to be buffers on the south side between them and the adjoining owners. The only thing that should affect the adjoining property owners is they may have to move some of their stuff off the property. The owner's intention is to sell the property and each of the 5 lots could be used for whatever use the buyer wants as allowed under the CC or PUD zone. They are considering the PUD because they could eliminate Industrial Use Group B and any type of farming use. It could be tailored to fit in the neighborhood better.

Commissioner Knoll asks if the owner has considered using the property for housing. Dave asks who would want to live next to the interstate. Some in the audience say they live next to the interstate. Dave says this property adjoins the interstate and buildings that could go on this lot would act as a buffer and lessen the noise for the neighbors.

Commissioner Fleischer asks if the notch in the upper northwest corner is owned by somebody else. Dave says that is right-of-way and there is a detention pond in there right now with a storm drain.

Rod Bosch, lives in that area, and asks why doesn't Leslie Volochenko want to zone it residential like everything else is? What insurance do the neighbors have that a bar or something will not go in there?

Dave says Mr. Volochenko has had the property for a long time and purchased it knowing it was along the interstate, had access to an interchange and next to a railroad. It has high visibility. That doesn't sound like residential property. There is existing residential and he completely agrees that needs to have a buffer. They have to put up fences, berms and landscaping. No planning guides out there would tell you that is residential. When you go to sell it, how are you going to tell somebody they are going to look out at the interstate? Dave says a lot of the homes there were there before the interstate. The correct way to handle it is to buffer the home there and take advantage of the interstate. He doesn't think they will do anything with the railroad. Having the interchange right there is a plus for commercial use. Hopefully, they can limit it to light commercial where there wouldn't be a lot of noise or odors from industrial uses. With Bob's help, they could tailor it to do the job.

Chair Robinson points out they are asking for Heavy Commercial and Dave is indicating they don't want that. Dave says they would take it as long as they could put restrictions on there. They are open to CC with restrictions or the PUD zoning.

Chair Robinson says the challenge is they do not have specifics on what is requested for the PUD zoning. The neighborhood is probably at least 80% residential. Dave says he can't do a site plan for vacant lots that you're going to sell. He thinks the best they can do for now would be CC with no industrial group B or farming groups allowed. Buffers would also be included.

Commissioner Leingang asks if 4th Street NE can be extended into this development. Dave says there are houses on both sides of the street. Commissioner Leingang asks why duplexes couldn't be placed there and he is not going to be sold on moving from residential to heavy commercial. Dave says that is why they are requiring the buffer in there. Commissioner Leingang says he knows how the buffers work and he's been dealing with one for 30 years. He says they never materialize.

Commissioner Leingang says this is the third time this has come back to the board and it keeps coming back with the same request. There is no way he is going to go along with heavy commercial.

Dave Patience says the ordinance states if they have a buffer then commercial can adjoin residential. He is going by what is in the ordinance. The ordinance says he has to have a fence, a berm with plantings and so many trees.

Commissioner Leingang asks how many feet between the residential and commercial. Dave says there was a buffer in there for 25' and another 20' for a sanitary sewer easement and a 50' no build zone. They are willing to setback farther like 100' from the south residences. Commissioner Leingang asks what the matter with putting duplexes in there is. Dave says the ordinance says you have to have a 100' deep lot for duplex and it has to have a city street in front which is another 66'. So, now he puts a street in this little 8 acre piece with twin home on one side and commercial on the other. He can't do that either according to the ordinance. Dave says the client asked for commercial and according to our ordinance that's what happens by the interstate is commercial, with the exception that the interstate was there first and the homes were put in afterwards. Dave says the interstate was constructed in 1966 and

he thinks the houses are older than that. Some in the audience say no and somebody says not one of them.

Commissioner Knoll asks if Mr. Volochenko has tried selling the lots. Dave says the property is not platted or zoned so you don't know what you can actually use it for if you bought it. There is no use on it right now it is agricultural. He says you can buy it right now and put a livestock facility in there. He doesn't think anybody will purchase the land for residential because who would want to look out at the interstate and refinery.

Commissioner Laber says she has a hard time giving blanket commercial next to residential. She likes the idea of a Planned Unit Development proving what goes in there like a daycare or office building or a lot of things that would not be intrusive. Because the client does not have a comprehensive plan as to what kind of businesses he wants to solicit to, she feels like he is asking for the most he can have so he can get the most money out of it. She thinks it is not appropriate for this piece of land until there is some kind of plan. He needs a PUD or some kind of plan for each of the lots so he can sell and build something the neighborhood can wrap their minds around and everybody is ok. She understands where they are trying to go because the property has all the infrastructure needed. They can all support projects that would be appropriate in this area. It is hard for her to approve something that is not well planned. If he had investors who came forward and said here are our plans and footprint and we came together to create a PUD there would probably be no problem. She can't see just doing Heavy Commercial and say have fun and too bad you people that live there. She tells Dave a PUD requires a site plan.

Dave says they are good with doing a PUD if they have a handle on what kind of uses can go in there. They would be happy to come back with a PUD for each site plan. Commissioner Laber says usually the PUD encompasses the entire acreage. A site plan for all 5 lots and how it is going to interact with each other. A PUD is mixed uses and mixed types.

James McEachran, 1710 4th Street NE, I've lived there since 1998. I think you should know that there have been abandoned vehicles on that property ever since I've lived there. Currently there is a semi-tractor and trailer there's actually two trailers there. The one tractor and trailer have been there all 17 years that I've lived there. There has always been other abandoned vehicles on that property. It's very interesting to hear about planting trees because after one of these commission meetings when he was declined recently, he pushed over most of the trees of that property and if you drove by there, you would have seen that. He just pushed them over. The lot behind my house I have a lot more weeds because the trees are gone. If he gets this change to heavy commercial, and does not sell the property, I can tell you what it's going to look like. It's going to have a lot of abandoned vehicles and trucks and more tractor trailers. There's basically junk back there. If you zone this heavy commercial, and he does not sell it, there will be more junk back there. Some of this junk has been there for 17 years. I have a parts car for my project car on my property behind my fence the police made me move it. I had a week to move it. He's had junk back there for 17 years. Vehicles that he has not had moved. It would be really nice if he could sell it to someone else. But if he doesn't sell it and you guys zone it heavy commercial, you're just going to get more of what you have now.

Shelly Bosch, 1714 3rd Street NE, I agree with the last person. It has been nothing but a junk hole back there. We have had stuff like you couldn't imagine. It got cleaned up a little bit, but all the trees were knocked down. They were just laying there. It was just a mess. As far as if something does get built back there, the buffering, the fencing and stuff when it's going

to happen? I can about imagine what kind it's going to be. It's not going to happen. I'm totally against that. If nothing happens, like he said before, there's probably going to be more stuff back there. It never gets enforced back there. It looks like a junk yard and it's horrible. Who knows what we got growing back there. I just hope somebody pays attention because I don't foresee a buffering or anything that's going to go up that's going to help any of that back there.ö

Corey Wanner, 1714 4th Street NE, öI would just like to know í you've got heavy commercial. What other zonings could go there other than heavy commercial? If this gets continued now, and not tabled, will the neighbors be aware of that? Them are my questions.ö

Chair Robinson says if it is continued, it will not have to be advertised, so they would have to look to the next meeting, which is on March 23rd. Bob says staff will notify the neighbors as this continues.

Commissioner Leingang asks if this property is in city limits and why didn't it change to R7 when it was annexed? Bob says some of these older parcels never did change when they were brought into the city.

Commissioner Klein asks why the city hasn't made him clean it up. Bob says the city did have the police monitoring it, but it seems it reverts back. It needs to be monitored more heavily.

Commissioner Fleischer motions to continue and request a Planned Unit Development are brought back before the commission. Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

2. A request from LB Family Properties for a change in zoning. The request is to change the zoning of Lot 2, Block 1, less the south 125' of Highland 2nd Addition Replat of the SW ¼ in Section 1, Township 139N, Range 81W from CA (Light Commercial and Services) to CC (Heavy Commercial). The property is located on Collins Avenue at 12th Street NW.

Bob Decker, City Planner, identifies and describes the area. This is a small CA zone surrounded by residential. CA is a neighborhood commercial concept it is for local services not city services or general services going to CC opens it up to much more intense uses. The two that have been shown to us are a self-service car wash and some storage units. The self-service car wash would be a city wide or regional draw. It wouldn't necessarily serve the area. They propose 36 storage units in the back part of the property. A storage sales rep told a developer not to buy any storage units because there is an overabundance of them that has been built in this area recently. There is a lot of residential on Collins and it is not a real wide street. The stop sign at Old Red Trail and Collins backs up heavily. A traffic light is several years away. There is water and electrical transmission lines running through this property and access to them would have to be continued. The lot is steep and stormwater management would have to be carefully done.

Commissioner Leingang mentions a service station (used to be a butcher shop) where a car wash was rejected. This property is probably a worse place for a car wash. Bob thinks the service station is in a neighborhood oriented business.

Bob says the Eagles are on the north side of this property and on the south side what used to be a daycare is a nursing facility/offices.

Commissioner Mehlhoff lives up north and if he wants to use a car wash he has to travel to downtown using Collins Avenue. He is not sure it would increase traffic.

Commissioner Knoll is not so much against the car wash, but does not like the storage units there.

Commissioner Liepitz asks what kind of residential is backed up to this property. Bob says single family or maybe a few twin homes. The area to the east is zoned R3.2.

Allen Shreve, 1305 1st Avenue NE, "We've lived there thirty plus years. Great neighborhood. A lot of families raised their kids there. We have concerns. I'm an educator of forty plus years in Mandan. I have a concern about kids, of course. Our concern is with traffic. If it's a heavy use facility, what time of day is the heavy use going to be? We have kids walking to and from school. That's always been a concern. Even when the Eagles was built. That was a concern of the neighborhood. Do they have to have a buffer zone? That's the question I want to know I have an answer to. Eagles never finished their buffer zone. We have concerns with noise at night. There are nights when the Eagles have a wedding dance that our windows are rattling from the bass of the cars I from the kids playing and we have to call the authorities. So we have concerns about our neighborhood being a peaceful, safe neighborhood. With the addition of the storage units, which we didn't know of, we just have concerns."

Don Lafleur, 101 11th St NE, "Same concerns as Mr. Shreve. I'm a father of small children. This is basically in our backyard. There's that alleyway running through there which does not get a whole lot of traffic right now. Mostly it's to the Eagles Club, which is right outside our fence. I'm concerned if they do develop that into a car wash, you'll see a lot more traffic up that alleyway and my kids occasionally will go out there. We have a fence but sometimes they go out there there's a lot they go play in. I'm also concerned about the noise. Car washes generate a lot of noise and to have that right in our back yard's like Allen said at night it keeps us awake."

Bernice Hilfer, 104 12th Street, "We live on the other side of Collins Avenue. Those are all starter family type homes. We've lived up there for forty years and we raised our family up there and when I look out my picture window I see the nursing education facility that's there now. That used to be the daycare. So am I going to look out and see this storage shed and this car wash? Thirty-six storage sheds? They can't put a buffer there, so that I wouldn't see it."

Dave Patience says the reason the developer chose this site is because Mandan Ave has 4000 cars a day traveling on it. This site 5000 a day. Sunset Drive 7000. He thought with that much traffic it would be a perfect place, so nobody had to drive all the way to downtown to get to the car wash.

Commissioner Laber doesn't really like the CC. She thinks CA is more appropriate. Dave says the client builds car washes. A site plan has been turned into the city. CA allows filling stations but excludes car wash. Commissioner Fleischer thinks CC is out of place there.

Commissioner Leingang motions to deny the zone change. Commissioner Fleischer seconds. Upon vote, the motion passes unanimously.

3. A request from Meadowlands Development LLC for a preliminary plat and a change in zoning. The request is to change the zoning of Lots 17-20 and parts of the South ½ of Section 26, Township 139N, Range 81W from RM (Multi-Family Residential) and MB (Heavy Commercial) and CC (Heavy Commercial) to RMH (Residential Mobile Home), CB (Heavy Commercial) and CC (Heavy Commercial). The property is located southeast of Frontier Mobile Home Development and north of 3rd Street SE.

Bob Decker, City Planner, describes and identifies the area. The property is low, but out of the floodplain. There is a dike on the south and east sides. The proposal shows different types of development. The west side shows a newer style manufactured home court. Different types of residential uses will be along the east and south boundaries. A street will have to go around a master lift sewer station on the west side. The primary road would be a north/south alignment connecting to Memorial Highway. That portion of Memorial has a median, so it would be a right in/right out only. There would be no left turns there. The DOT would have to be involved in the traffic flow and access there. Memorial Highway and 3rd Street by McDonalds is going to be impacted. That intersection is close to needing signal lights. There are details to work out, but staff supports the concept. The city needs adequate access along the dike.

Commissioner Leingang asks why they don't show what the areas are going to be zoned. Bob says the plan is a moving target. They are looking at commercial, mobile homes and multi-family. A detention area is going to be needed along the dike.

The property boundaries for the existing mobile home court don't match this survey. There is some discrepancy. The owner of that court and this developer are brothers and they are working together on some of these issues.

The new court has a combination of single and double wide homes. A final will come back to the commission. Bob expects a master concept plan, a developers agreement, traffic study and sign offs from other groups. He is recommending the commission approve the preliminary.

Commissioner Zachmeier asks if the Lower Heart Water District is involved. Harvey with Toman Engineering is checking on these water issues, including Fema. There is a stormwater pumping station to the west of this property.

Commissioner Laber is concerned with the traffic flow and wants to make sure the traffic study looks at the flow within the development.

Steve Thilmoney owns the dike to the east. He says it is no longer needed for flood control. He would ok an easement to Riverwood Ave SE. Bob says there is a flood gate near there for Memorial Highway.

Commissioner Leingang motions to approve the preliminary plat with recommended conditions (masterplan, developers agreement, stormwater, traffic study and sign offs on various other groups). Commissioner Mehlhoff seconds. Upon vote, the motion passes unanimously.

Commissioner Liepitz motions to adjourn. Commissioner Mehlhoff seconds. Motion passes unanimously. Meeting adjourns at 6:25 p.m.