

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
Monday, August 28, 2023

The Planning and Zoning Commission of Mandan met in session in the Commission Meeting Room of the Mandan City Hall on Monday, August 28, 2023, at 5:30 p.m. CST. City Hall will be open for this meeting. If you would prefer to appear via video or audio link, please provide your contact information to andrew.stromme@cityofmandan.com. Planning & Zoning Commission members may be attending this meeting remotely.

ROLL CALL

Chair Robinson called the meeting to order.

Commissioners Present: Huber, Helbling, Liepitz, McLean, Buchmiller, Hammond, Robinson. Commissioners Absent: Leingang, Mehlhoff, Horn, Smith, Gardner.

MINUTES

Commissioner McLean motioned to approve the July 24, 2023 minutes as presented. Commissioner Buchmiller seconded the motion. Upon vote, the motion passed unanimously.

PUBLIC HEARINGS

1. A request from Casey and Brooke Breuer for a preliminary plat to be named Cat Creek Addition. Said property is Auditor's Lot A and part of the NE ¼ of Section 13, Township 139N, Range 82W, Morton County, North Dakota. The property is located at 2420 County Road 139A.

A. Staff Report

City Principal Planner Stromme presented.

Casey and Brooke Breuer requested consideration of a preliminary plat for a subdivision to be titled Cat Creek Addition. The property is located west of Mandan in the extraterritorial area south of Roughrider Subdivision near Old Red Trail and 56th Avenue NW.

Overview of Request

The proposed preliminary plat contains two lots for residential purposes. One of the lots to be platted is an existing auditor's lot (Lot A of the SW ¼ of the NE ¼) containing a residential structure and the other would be a home site for a new residence. There will be two (2) homes located in this addition.

Proposed Preliminary Plat

The proposed plat covers a total of twelve (12) acres and contains two lots in one block. Each of the lots are six (6) acres in size. The plat includes a forty-foot (40') access easement to provide access to the proposed subdivision through neighboring parcel described as the North ½ of the NE ¼ of Section 13, Township 139N, Range 81W to Old Red Trail through a

culvert under Interstate 94.

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent properties are zoned A – Agriculture. Uses include Agricultural and Rural Residential. The Future Land Use Plan identifies this property as low density residential and high density residential. Agricultural zoning permits low-density, rural residential uses.

Findings of Fact

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed plat generally conforms to the 2014 Fringe Area Road Master Plan;
3. The proposed subdivision would likely not have substantial effects on the safety and circulation of public roadways in the vicinity, and therefore no traffic impact study is required;
4. The proposed plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.

The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the proposed subdivision at the time of development;

1. The proposed subdivision is not located in the Special Flood Hazard Area, an area where the proposed developer would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
2. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
3. The proposed subdivision is generally consistent with the Comprehensive Plan, other plans and studies, policies and accepted planning practice; and an amendment to the Future Land Use Plan is underway, and;
4. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Agency & Other Department Comments

- Seven (7) letters were sent to adjacent property owners. There has been no opposition and no comments have been received from adjacent property owners.
- The North Dakota Department of Transportation has reviewed this request and commented that no permits or further review are required for the lot(s) to be accessed through the Interstate 94 right-of-way.

Engineering & Planning Staff Comments

- ~ The home to be constructed is planned to be served with septic and rural water. At a point in the future where development and infrastructure are closer to the subject property, it will be required to switch to municipal water and sewer.
- ~ The 2018 Land Use and Transportation Plan recommends low and high density residential (3-15 dwelling units per acre) for this property. There are challenges, in terms of necessary infrastructure for this density exist. The proposed minimal footprint development allows for potential future subdivision and growth in this area. Portions of the property characterized by steep slopes and coulees/ravines are shown to be greenways in the land use plan.

- ~ City staff's preference is for the home on Lot 1 to be sited as much as possible in the area reserved for low-density residential in the land use plan (south third of the lot).
- ~ The applicants do not plan to develop this property in phases, and due to adjacent lands being undeveloped, a master-plan is not required for this subdivision.
- ~ The 2018 Land Use and Transportation Plan and Fringe Area Road Masterplan identify an interchange and east-west minor arterial facility to be located in the vicinity of this project. The estimated construction of the interchange is at least sixteen (16) years out according to planning documents.
- ~ The applicants must work with Western Plains Public Health and Missouri West Water Systems for water and septic permitting.

Engineering & Planning Recommendation

Planner Stromme stated that the Planning Department recommended approval of the preliminary plat for Cat Creek Addition.

Chair Robinson inquired if there were any questions for Planner Stromme.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for approval of the preliminary plat for Cat Creek Addition. A second invitation was given to come forward at this time to speak for or against this project.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any further comments or questions from members of the Planning and Zoning Commission.

Commissioner Huber motioned to recommend approval of the preliminary plat for Cat Creek Addition. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

2. A request from the Mandan School District for a final plat to be named Heck Second Addition. Said property is Lots 4 & 5, Block 3, Heck Addition and Auditor's Lot C in the NW ¼ of Section 22, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 2112 4th Avenue NW.

A. Staff Report

City Principal Planner Stromme presented.

Mandan School District #1 requested consideration of a final plat for a subdivision to be titled Heck Second Addition. The property is located in north central Mandan, north of Old Red Trail and west of ND Hwy 1806 in the area near the new Mandan High School.

Overview of Request

This request is part of a two-step process of platting and zoning to prepare outlots in the Heck Addition development for commercial development. The preliminary plat and Ordinance No. 1431, a zone change from A - Agriculture to CC – Commercial with restrictions was recommended for approval by the Planning & Zoning Commission on July 24, 2023 and approved on August 15, 2023 by the City Commission.

Proposed Final Plat

The proposed plat covers a total of 5.29 acres and includes two lots in one block. Lot 1 is 1.69 acres in size and Lot 2 occupies the remaining 3.60 acres. The plat includes easements for utility installation and a thirty-foot access and utility easement connects Auditors Lot E to 4th Avenue NW to provide access to that lot when redeveloped in the future. Consistent with the Heck Addition Development, non-access lines will be placed along Hwy. 1806 on the east property line of Lot 2. This is necessary because direct access to ND Hwy 1806 is not feasible in this location.

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent properties are zoned CC – Commercial restricted, CB – Commercial, A – Agriculture and Industrial – Morton County. Uses include rural residential to the immediate north, undeveloped commercial land to the north and west, a telecommunications tower to the west, a petroleum trucking facility to the south across Old Red Trail NW, and the refinery to the east across ND Hwy 1806. The Future Land Use Plan identifies this property as commercial.

Findings of Fact

Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms with the Future Land Use Plan designation of Commercial and other plans and studies;
4. The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
5. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
6. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
7. The proposed subdivision would not adversely affect the public health, safety, and general welfare.

Agency & Other Department Comments

Nine (9) letters were sent to adjacent property owners. There has been no opposition and no comments have been received from adjacent property owners.

Engineering & Planning Staff Comments

- ~ Development is subject to an Agreement with the City of Mandan.
- ~ Zone Change Ordinance 1431 will be recorded following the final plat.
- ~ A Storm Water Management Plan was approved for Heck Addition.
- ~ Commercial building plans are subject to Mandan Architecture Review for conformance with the Gateway Overlay.
- ~The traffic study done for Heck Addition accounted for commercial development in association with the development.

Engineering & Planning Recommendation

Planner Stromme stated that the Planning Department recommended approval of the final plat for Heck Second Addition.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for approval of the final plat for Heck Second Addition. A second invitation was given to come forward at this time to speak for or against this project.

Chair Robinson inquired if there were any questions.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner McLean motioned to recommend approval of the final plat for Heck Second Addition. Commissioner Buchmiller seconded the motion. Upon vote, the motion passed unanimously.

3. A request from David & Alexandria Weinreis for a final plat to be named Schaff Estates 2nd Addition. Said property is Lot 1, Block 1, Schaff Estates, Part of the E1/2 of Government Lot 1 all in Section 7, Township 139N, Range 81W, Morton County, North Dakota. The property is located at 2392 37th Street.

A. Staff Report

City Principal Planner Stromme presented.

Project Description

David and Alexandria Weinreis requested consideration of a final plat for a subdivision to be titled Schaff Estates 2nd Addition. The property is located in the Extraterritorial Area northwest of Mandan, on the southeast corner of 56th Avenue NW and 37th Street.

Overview of Request

This request would combine Lot 1, Block 1 of Schaff Estates with a .67-acre strip of land located west of the property. The property, once combined will be a 9.17-acre lot.

The preliminary plat was recommended for approval at the May 22, 2023 Planning & Zoning Commission meeting and was approved by City Commission on June 20, 2023.

Proposed Final Plat

The 9.17-acre final plat features one lot and includes utility and access easements. It designates a 100-foot right of way from the centerline of 56th and 37th for the Beltway Study, and 10-foot utility easements along 56th Avenue NW and 37th Street. Additionally, a 30-foot utility easement traverses the subdivision.

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent properties are all zoned A – Agriculture and used for agricultural and rural residential purposes. The future land use plan designates this property to be commercial in nature with adjacent properties commercial and residential of varying density. The regional beltway study and northern bridge corridor are identified for this property and right-of-way has been dedicated in the event that plan materializes.

Findings of Fact

Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was approved by the Planning and Zoning Commission;
3. The proposed subdivision, as controlled by the development agreement and ghost platting exhibit, generally conforms with the Future Land Use Plan and other plans and studies;

The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development,

1. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
3. The proposed subdivision would not adversely affect the public health, safety, and general welfare.

Agency & Other Department Comments

~ Thirteen (13) letters were sent to adjacent property owners. There has been no opposition and no comments have been received from adjacent property owners.

~ Morton County Tax Equalization Office indicated that rezoning the property to CB – Commercial would not likely affect the tax collected from the property until a point in the future where it is closer to urban development.

Engineering & Planning Staff Comments

~ A 2020 Development Agreement permits residential development within specific areas of the subdivision.

~ City staff has identified no documentation regarding mixed development of commercial and residential on this parcel.

~ City staff is unsupportive of splitting the residential and commercial components of this request into separate lots and zoning districts due to residential conflicting with the land use plan designation.

~ The development refers to a "ghost plat" to allocate space for future uses by dedicating lots for immediate development and reserving future development zones.

~ This ghost plat has been updated based on the new plan.

~ Non-access lines should be shown along the entirety of 56th Avenue NW and 37th Street NW outside of the forty-foot access easement to lot 1. This will reinforce access management. At the time the Beltway System is developed, access management will be critical to ensure the functionality of the arterial road network.

~ Following the May Planning and Zoning Commission meeting, staff was instructed to assess the existing land use against A – Agriculture zoning. Current usage involves a shop and agricultural trucking with one semi. It's important to note the semi truck is used for transporting goods not associated with the land/this property.

~ Staff recommended rezoning to CB – Commercial to allow residence and commercial use, aligning with the land use plan.

~ The present shop violates required front-yard setbacks for A – Agriculture zoning, and the preliminary plat places a septic facility in the right-of-way for 37th Street NW.

~ There are violations of zoning and the Development Agreement.

~ Without rezoning to commercial, the current trucking business remains a nonconforming use. City staff is not aware of an A – Agricultural zoned parcel accommodating a mix of commercial trucking and residential.

~ City staff is aware of instances where a rural residential use exists on the same A – Agriculture zoned lot as a permitted agricultural use requiring semi-trucks, for example, an apiary.

Engineering & Planning Recommendation

Planner Stromme stated that the Planning Department had two recommendations for the Board to consider:

1. Approval of the final plat for Schaff Estates 2nd Addition contingent upon a rezone to CB – Commercial.
2. Approval of the final plat for Schaff Estates 2nd Addition without a re-zoning.

Chair Robinson inquired if there were any questions.

Commissioner McLean inquired about the first lot, which has been reviewed and approved by the City Commission without this rezoning? Of the two recommended motions, what is

the preference? Planner Stromme stated that it is his recommendation to approve the rezone because the rezoning allows what they have and what they want to do and that does conform with the city's Land Use Plan. In further researching, it was mentioned that the value that Morton County would consider will not likely be affected until a time when there is more development in the area and that's when other residents in the area would see property value go up.

Mayor Helbling inquired what the fees would be if they were to rezone? Planner Stromme stated that a rezone application is \$600 and that would include publication and staff time involved. Mayor Helbling inquired if this Board could make a recommendation to the City Commission should the Board wish to have it rezoned and waive the fees? That would accomplish what the city's intention would be and it would help the property owner at the same time. Planner Stromme replied that he understands the City Commission would have authority to waive the fees. There has been a prior scenario wherein a fee has been waived and then collected and then upon the Board decision, the fee would be issued as a refund. From a legal standpoint, it is his understanding that an ordinance would have to be prepared to be presented to the City Commission. A rezone request would have to come from the P & Z Commission and the presented to the City Commission for consideration and/or approval. With regard to the fee waiver, a prior example was for a variance and it was waived by the City Commission. The Planning Department does not have any direction as to authority to administratively waive an application fee. Commissioner McLean suggested that if there is a motion, then, after that motion, there could be a recommendation for the City Commission to consider waiving the fee.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request of the approval of the final plat for Schaff Estates 2nd Addition contingent upon a rezone to CB – Commercial and waiver of a zone change fee.

Alexandria Weinreis came forward and stated that she is one of the owners of the project being discussed. She stated the main purpose of the shop is to park their semi's. There is no business run out of the shop. There are campers and 4-wheelers parked in the shop space. The plan is to build a house on the property sometime in the future.

Chair Robinson provided a second invitation to come forward to speak for or against this project.

Chair Robinson inquired if there were any further questions.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Mayor Helbling commented that it will be to the advantage of the applicant if the property is rezoned at this time in case a developer comes in and puts in a housing development and they want it as commercial.

Commissioner McLean motioned to recommend approval of the final plat for Schaff Estates 2nd Addition contingent upon a rezone to CB – Commercial; with a recommendation that the City Commission waive the rezoning change fee. Commissioner Hammond seconded the motion. Upon vote, the motion passed unanimously.

OTHER BUSINESS

City Planner Stromme introduced Assistant City Engineer Jarek Wigness, PE, who has been promoted to City Engineer due to the resignation of Justin Froseth, effective August 11, 2023.

ADJOURNMENT

There being no further business to discuss or come before the Board, Commissioner McLean motioned to adjourn the meeting. Commissioner Hammond seconded the motion. Upon vote, the motion passed unanimously.

The meeting adjourned at 5:58 p.m.