

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
February 24, 2020

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on February 24, 2020, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Boehm, Klemisch, Knoll, Liepitz, Renner, Frank, Camisa, Vayda, Robinson

Commissioners Absent: Klein, Helbling, Leingang

Commissioner Vayda requests a correction to the spelling of Vayda in the January 27, 2020 minutes.

Commissioner Camisa motions to approve the January 27, 2020 minutes with the correction. Commissioner Vayda seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from Central Dakota Humane Society and Elmer & Alvina Madler for consideration of approval of an amendment to the City of Mandan's Land Use and Transportation Plan that serves as the City's Comprehensive Plan; a preliminary plat and zone change from A (Agricultural) and R7 (Single-Family Residential) to CB (Commercial) and A (Agricultural). Said property is all of Auditor's Lot A of the NE ¼ of Section 9 and Longhorn 1st Addition Replat (including Entzel Drive) of the NW ¼ of Section 10, Township 139N, Range 81W of Morton County, North Dakota.

A. Staff report

John Van Dyke, City Planner, presents.

The applicants seek to amend the land use and transportation plan of the City, rezone their property, and obtain approval for the preliminary plat of Longhorn 2nd Add.

Land Use and Transportation Amendment

The land use designation is currently rural residential. The applicant would like to amend the land use and transportation plan to accommodate the existing use of commercial and expand that to apply to adjoining property owned by Mr. and Mrs. Alvina which is presently a platted residential subdivision – Longhorn 1st Add. Replat (See Exhibit 2).

No roads were constructed to serve the platted subdivision and many of the lots created are encumbered by transmission line easements that would likely prohibit any future residential construction as it is platted currently.

The proposed land use amendment would keep the rural residential designation for any lands adjacent to the property subject to this application. Central Dakota Humane Society plans to

expand their operations in the coming years and this would allow them to grow in-place rather than move from the existing location.

There are presently industrial uses across 37th St. to the north. This land is located outside the extra-territorial area of the City. The applicants have consulted with P&Z Director Natalie Pierce who has informed the Morton County P&Z Commission of this application.

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The proposed land use aligns with the existing use in the area to the north and on part of the subject property.

Staff is recommending approval due to the existing character of area near the intersection of 37th St. and 1806 N., to establish a commercial node accessible by neighboring residents, and its adjacency along a future minor arterial. (A commercial node at this location would be similarly spaced as those planned for in other areas of the City/ETA). The rationale for the land use amendment is summarized in Exhibit 5.

Zone Change

The applicants seek to change the zoning from A-Agriculture and R-7 Residential to CB-Commercial and A-Agriculture (See Exhibit 3). The CB-Commercial zoning designation would accommodate the existing use of kennel and allow for the expansion onto adjoining land in the future. The CB-Commercial zoning district would apply to the same area that is being proposed through the amendment to the land use and transportation plan. The A-Agriculture zone would apply to the remainder of property and align with the neighboring land to the south. The applicant would like to preserve this land as A-agriculture at this time to ensure the ability to farm.

Staff is recommending approval of the rezone with RESTRICTIONS as follows:

CB-Commercial:

- Kennel

A-Agricultural:

- Field crop farming;
- Commercial flower growing;
- Fruit growing;
- Tree, shrub or plant nursery; and
- Livestock raising or feeding

Preliminary Plat

The preliminary plat shows two lots (See Exhibit 4). One lot will be served by a 40' access easement. No access lines have been required along 1806 N. and along 37th St. to ensure the same access point is utilized for both proposed lots.

Staff recommends approval of the preliminary plat as proposed in Exhibit 4 with the following requirements:

37th St. right-of-way will dedicate additional right-of-way as needed to meet arterial road width as planned for 37th St. in the future.

Ellen Huber, Communications and Business Development Director supports this request by the applicant.

Natalie Pierce, Morton County Planning and Zoning Director supports this request by the applicant.

The restriction on CB-Commercial is due to the amount of traffic that is currently and potentially generated as Central Dakota Humane Society expands. Other uses could trigger substantial traffic impacts to that intersection. Any rezone to remove the restrictions in the future could require a traffic impact study to determine the effects on the intersection of 37th and 1806 N. This restriction is necessary at this time. The restriction for A-Agriculture is to ensure that some of the uses that are allowed in the A-Agricultural zone are not conducted in close proximity to the R-7 Residential development across 1806 N. and agriculturally zoned, but rural residentially used properties to the south.

The Engineering and Planning Department recommend approval of the amendment to the land use and transportation plan as outlined in Exhibit 5, recommend approval to the change in zoning as outlined in Exhibit 6, and approve the preliminary plat presented in Exhibit 4 subject to the necessary dedication of right-of-way for the planned future arterial along 37th St.

Commissioner Renner wants to make sure no fireworks stands are allowed.

Commissioner Frank asks if vet services or boarding would be allowed. She would like to see it included.

B. Open public hearing

Terry Kenneth, President of the Central Dakota Humane Society. At one point they were going to move to Bismarck. Because this land became available they want to stay in Mandan. They have been here for sixty years. They want to use the land for walking trails for the animals they have and for the public if they want to bring their pets out for a walk. Someday, depending on donations, they would like to expand their facilities to house more animals. It would be nice to someday have a vet on the staff to do spays and neuters.

Commissioner Camisa asks if vet services can be allowed now to avoid them having to come back in the future.

C. Close public hearing

D. Commission action.

Commissioner Frank motions to recommend approval of the amendment to the City of Mandan's Land Use and Transportation Plan outlined in Exhibit 5 that serves as the City's Comprehensive Plan; a preliminary plat as presented in Exhibit 4 subject to the dedication of right-of-way; and zone change from A (Agricultural) and R7 (Single-Family Residential) to CB (Commercial) and A (Agricultural); as outlined in Exhibit 6. Adding vet and boarding services as an allowed use. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

2. A request from VE Land Company, LLC, for consideration of approval of a preliminary plat. Said property is Lot 1, Block 4, Lakewood 9th Addition of Section 1, Township 138N; Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 3901 21st St. SE.

A. Staff report

John Van Dyke, City Planner, presents.

Art Goldhammer, on behalf of the VE Land Company, seeks approval for a preliminary plat of Lot 1, Block 4, Lakewood 9th Add.

The property is currently a stormwater retention pond that was over built as the surrounding developments utilized the dirt from this lot to fill and elevate out of the floodplain. Due to the stormwater pond being developed over capacity, there is potential for the lot to be partially filled and elevated thereby creating four new lots (See Exhibit 2). Three of the lots will have street frontage along 21st St. SE. The lot in the rear will continue to function to facilitate stormwater flows and be held in common ownership by the three street-fronting lots proposed.

The property is zoned PUD, where these lots will continue to be restricted to limited uses in the CB-Commercial District.

Staff received two calls from neighboring property owners. One neighbor indicated that he was happy to hear that the lot abutting their property would still function as a stormwater pond and provide a buffer to the development near 21st. The other property owner was just curious what was being proposed.

Staff is recommending approval of the preliminary plat subject to a few conditions already shared with the applicant (See Exhibit 3). The applicant indicated they were amenable to the conditions.

Natalie Pierce, Morton County Planning and Zoning Director indicated concerns about the size and maintenance of the stormwater facility moving forward.

Comments/Concerns are included in the “Conditions of Approval” contained in Exhibit 3.

Engineering and Planning recommend approval of the preliminary plat as presented in Exhibit 2 subject to the conditions of approval contained in Exhibit 3.

B. Open public hearing

Art Goldhammer, Developer, says the intended use right now is for Furry Friends on Lot 1. There are no plans for the other lots at this time.

Richard Lang, 3818 Gale Circle, asks if there are any plans to have trees planted around these buildings or plans to keep the shoreline up to date. John says we expect property owners to take care of their property.

C. Close public hearing

Commissioner Camisa asks where the 40’ access easement connect to. How does Lot 1A get legal access? Art says if the commission wants an access he can that on the next version. The 40’ is for the abutting lots access to maintain their property all the way down to the water.

D. Commission action.

Commissioner Liepitz motions to recommend approval of the preliminary plat as presented in Exhibit 2 subject to the approval of the conditions contained in Exhibit 3. Commissioner Klemisch seconds. Upon vote, the motion passes unanimously.

3. A request from Cloverdale Foods Co. to consider approval of a preliminary plat, final plat, setback variance and variance to non-zoning/non-subdivision regulations (number of approaches). Said property is a replat of Lots 1 & 2, Block 1, Mandan Industrial Park of the SE ¼ of Section 17, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 3015 & 3017 34th Street NW.

A. Staff report

John Van Dyke, City Planner, presents.

Preliminary/Final Plat

The applicant is seeking to combine two industrial lots into one for the purposes of building expansion (See Exhibit 1). Generally, we require a subdivision grading/storm water plan to be submitted in tandem prior to the final plat approval. However, these plans will be required for any commercial/industrial building permits and therefore will be addressed at the building permit phase of the applicant's development. In addition, this plat is more simple than others, as it seeks to dissolve the property line that exists between the two lots to create one, large industrial lot.

Staff is recommending approval of the preliminary and final plats as presented in Exhibits 2 and 3.

Variance

The applicant is also seeking a variance to the Gateway Overlay District setback to I-94 from forty-five (45) feet to twenty (20) feet for the existing structure and from forty-five (45) feet to forty (40) feet for the building expansion.

Below are the requirements under the Mandan Code of Ordinances in granting a variance.

Variance may be granted under the following circumstances (See Sec. 105-1-12):

1. There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not;

The existing building was constructed long before the establishment of the 45' Gateway Overlay setback requirement. The building currently encroaches 25' into the setback (See Exhibit X). The proposed addition is seeking to encroach 5' into this setback. Building expansion options are limited due to the existing building's placement and functionality. Adding square footage to another portion of the building would provide the space but not where the space is needed to work with the layout of the existing facility.

If this was an entirely new building then it would be easier to design and construct without encroachment into the setback.

The existing building creates circumstances that are peculiar to any building addition.

2. For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant;

The findings for granting a variance are as follows:

- The existing building was constructed prior to the establishment of the forty-five (45) foot Gateway Overlay District setback requirements.

- The existing structure already encroaches into the setback by twenty-five (25) feet.
- The proposed addition would encroach into the setback by five (5) feet.
- Applying the strict application of the setback requirements would deprive the applicant of the ability to expand the structure as needed to function seamlessly with the existing structure.
- The applicant has designed the facility expansion so as to minimize encroachment into the setback.

3. The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The granting of the variance will be in harmony with the general purposes and intent of this chapter and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Improvement District should be looked at due to additional approaches and impact on already poor roadway condition as trucks back up into Cloverdale property. Note – discussions are underway and an improvement district is being evaluated.

Engineering and Planning recommend to approve the preliminary plat as presented in Exhibit 2, the final plat in Exhibit 3, and the variance to the Gateway Overlay District I-94 Setback as presented in Exhibit 4 based on the findings in Exhibit 5.

B. Open public hearing

Abe Ulmer, Toman Engineering, is working with Cloverdale. Their representatives could not make it.

John says the number of approaches are not being considered tonight. The gateway overlay district setback requirement is for landscaping/aesthetics probably. He thinks there are possibly more encroachments along this gateway.

C. Close public hearing

D. Commission action.

Commissioner Camisa motions to recommend approval of the preliminary plat as presented in Exhibit 2, the final plat as presented in Exhibit 3, and variance to the gateway overlay district I94 setback as presented in Exhibit 4 based on the findings in Exhibit 5.

Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

4. A request from Dr. Eric Belanger for approval of a preliminary plat and zone change from A (Agricultural) to RM (Multi-Family Residential). Said property is part of the north half of the SE ¼ of Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota.

A. Staff report

John Van Dyke, City Planner, presents.

Dr. Belanger requests a zone change from A-Agricultural to RM-Multi-family and a preliminary plat as presented in Exhibit 2.

Staff is supportive of the zone change and preliminary plat as presented. However, new information surrounding the easement labeled “40’ WBI Pipeline Easement” on the preliminary plat in Exhibit 2 has been provided by Marathon Petroleum on February 18, 2020. The information indicates the easement is a blanket easement that covers the entirety of the subject property (See Exhibit 3).

In addition, the applicant has indicated potential interest in phasing this plat, which would require a masterplan and a revised preliminary plat to include the first phase.

At the time of writing this staff report, staff did not have any documentation to dispute this easement and is therefore recommending tabling this item until the issue is resolved and a revised, corrected preliminary plat can be evaluated by City departments and external agencies. This will also give the applicant time to determine a phasing plan, if one is desired.

Natalie Pierce, Morton County Planning Director has indicated concern over the use of private infrastructure.

Engineering/Planning comments are contained within this staff report. Principal Planner John Van Dyke shares Natalie Pierce’s concerns with the use of private infrastructure but understands there is no policy on the use of private infrastructure at this time. This should be evaluated independently in the short-term apart from this application.

Engineering and Planning recommend tabling the item until the easement issue is resolved and the applicant determines whether or not phasing is desired.

Tabling the item will give the applicant to work with Marathon and develop a phasing plan. The client has indicated they may want to phase this development so as not to flood the market or install substantial infrastructure.

Chair Robinson asks if the applicant is ok with the recommendation. Dr. Belanger, Developer, says they are surprised Marathon Petroleum has requested a 100’ easement, while pretty much everywhere along the pipeline there are already houses with a 25’ easement. He provides a document signed in 1953 that does not say 100’ easement.

B. Open public hearing

C. Close public hearing

D. Commission action.

Commissioner Frank motions to recommend tabling the item until the issue is resolved. Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

Commissioner Frank excuses herself and leaves the meeting at 6:35.

5. Presentation by the Bismarck-Mandan MPO for consideration and potential approval of Arrive 2045, Metropolitan Transportation Plan.

A. Staff report

Rachel Drewlow, MPO.

Arrive2045 is the Metropolitan Transportation Plan (MTP) for the Bismarck-Mandan Metropolitan Planning Organization (BMMPO), which encompasses the City of Bismarck, City of Mandan, City of Lincoln, and portions of Burleigh County and Morton County. The MPT is a long-range transportation planning tool and covers a planning horizon for the future 25 years. As a master document, it will help shape federal transportation spending for the next 5 years. Likewise, it must be presented to the governing boards of all BMMPO jurisdictions for their review and approval.

The Bis-Man MPO, and their consultant KLJ, request a public hearing and the opportunity to present the final Arrive 2045 MTP to the Mandan Planning and Zoning Commission at their February 24, 2020 meeting. Wade Kline, of KLJ, will provide the presentation by phone, and Rachel Drewlow, of the BMMPO, will attend in person to assist. The presentation will last approximately 15-20 minutes followed by a time for questions.

City of Mandan staff have been involved with the Arrive 2045 effort throughout its development, from its beginning RFP to the final document review. The process included multiple steering committee meetings, three public meetings, a study website, input/review by local, state and federal partners, and monthly progress updates to the BMMPO Technical Advisory Committee and Policy Boards. Please see the cover letter and executive summary provided by the Bis-Man MPO for more details.

Wade Kline, KLJ, gives the presentation.

This is the first MTP plan that is performance based. It takes a look at how things have performed in the past, current, and what we want it to look like in the future. A lot of the heavy lifting for this plan was done with the NDDOT. The NDDOT and USDOT do a lot of performance based planning measuring system success or areas of improvement for bridges and infrastructure conditions, safety, congestion reduction, alternative transportation, etc.

There were 3 rounds of public involvement. The public was helpful in identifying where they thought improvements could be made. The desired plans were then integrated with plans that are in place and matched with what was already being implemented. The study then delved into smart cities and traffic technology.

One example of the study is a cost benefit analysis of a future north bridge vs. a south bridge. A north bridge corridor is not affordable in this current plan, but it still provides a reasonable cost benefit. The south bridge comparison with the extension of McKenzie Dr. to 1806 and possibly someday ND6 had a high cost benefit to the overall transportation system.

The public helped them evaluate projects based on what they thought was important. That and technical analysis formed a list of projects.

Short-range and long-range interstate improvements were looked at as well.

A project prioritization plan and financial plan was developed. This helps staff in the short range to know which projects to go for in finding funding.

Commissioner Camisa asks how the steering committee was selected. Rachel says the steering committee was comprised of representatives from all 5 of their jurisdictions, as well as community members they work with throughout the MPO planning process. Invitations are extended to Police and Fire, and it just depends on whether they have a person on staff who would be a good fit for that role. The planning process lasts almost 2 years, so it can be a long range commitment. The core steering committee focuses on project specific elements and is comprised of jurisdiction representatives.

B. Open public hearing

C. Close public hearing

D. Commission action.

Commissioner Liepitz motions to recommend approval of the Arrive 2045 MTP. Commissioner Klemisch seconds. Upon vote, the motion passes unanimously.

OTHER BUSINESS

Commissioner Liepitz says the commission voted on an item at the last meeting, and that item was short on votes. The applicant is here.

John says the ND Century Code requires 2/3 of the entire Planning & Zoning Commission to approve land use masterplan amendments. At that meeting, six were in favor and two were opposed. Of those eight, all were needed in favor to approve the item. The meeting ended thinking it was approved, and usually all other applications that would have been the case, but in this case it was not. John asks the two that were opposed if they would reconsider.

Malcolm Brown, City Attorney, says Commissioner Liepitz or Vayda (the two opposing commissioners) would have to reconsider an amendment and it would require another public hearing. If they want to approve it as it was submitted, they can do that, but if any changes were made, it would have to go to another public hearing.

Commissioner Liepitz does not plan on changing his vote. If the land use amendment was changed, he would reconsider. Attorney Brown says it would be up to the applicant to make amendments to his plan.

Commissioner Vayda says she would like to see a change to the triangle parcel from medium density residential to low density residential. Commissioner Liepitz would also like to see that change.

Dr. Belanger says it is not a problem to rezone that.

Commissioner Liepitz motions to reconsider Sunset Ave New land use amendment with revisions to said parcel to low density residential and any other revisions the applicant wants

to make, and to be presented at the next public hearing. Commissioner Klemisch seconds. Upon vote, the motion passes unanimously.

Commissioner Boehm motions to adjourn. Commissioner Knoll seconds. Motion passes unanimously.

Meeting adjourns at 7:02 p.m.