

MANDAN PLANNING AND ZONING COMMISSION  
MANDAN CITY HALL BUILDING  
February 25, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on February 25, 2019, at 5:30 p.m. CDT.

**ROLL CALL**

Commissioners Present: Boehm, Knoll, Helbling, Leingang, Renner, Camisa, Robinson

Commissioners Absent: Klemisch, Klein, Laber, Liepitz, Frank

*Commissioner Knoll motions to approve the January 28, 2019 minutes. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

**PUBLIC HEARINGS**

**1. Consider an ordinance of the Mandan Municipal Code enacting guidelines and regulations regarding murals.**

**A. Staff report.**

John Van Dyke, City Planner, describes the request. An ordinance was requested by the community Beautification Committee (CBC) and the Mandan Architectural Review Commission (MARC). A mural application moratorium was established in the meantime to ensure future murals were placed in appropriate locations within the city.

The ordinance presented in Exhibit 1 outlines application, revocation, and appeal procedures. It also addresses vandalism and establishes standards. The original guidelines are provided in Exhibit 2.

The primary differences between the ordinance and original guidelines are as follows:

- Location is directed to area in downtown (See Exhibit 6)
- Limited to commercial structures
- Text as a dominant theme is removed
- Aligns restrictions on content (freedom of speech) to those allowable by law

Many art programs have their origins addressing specific community interests through creative means. A few examples include addressing vacancy by creating vibrancy, addressing graffiti, or holding unique events to promote downtown revitalization. These programs also share beginning in a specific location whether downtown or urban neighborhoods.

So many ideas have been incorporated into the guidelines that its purpose and direction were difficult to identify and follow by the time it was created.

The ordinance is underpinned by the existing guidance provided by way of the Downtown Mandan Subarea Study and Governor Bergum's Mainstreet Initiative. The Downtown Mandan Subarea Study specifically identifies using murals as a tool to enhance alleyways and draw pedestrian activity into these corridors for the purposes of downtown revitalization.

Governor Bergum's Mainstreet initiative is heavily oriented on downtowns, where "unique places and spaces become the differentiator..." that will help create the vibrancy that is necessary to attract a 21<sup>st</sup> century workforce. It's the creation of a sense of place that is the ultimate goal shared by these two studies. Exhibit 4 provides an illustration of the nuances that together create a sense of place.

Local artists were solicited for comment. The ordinance was then shared via Facebook to other artists in the area. It was amended to incorporate a larger area than originally identified to produce more opportunities for canvas in downtown (see Exhibit 5).

One of the primary reasons for reevaluating the guidelines was the mural that was approved on the side of a residential garage. While beautiful and tasteful, it certainly was not anticipated that this would be an application received by the MARC. That was approved by split decision with many commissioners stating that they felt the guidelines did not provide adequate means to deny despite feeling it may not have been the most appropriate location. These limitations will only allow murals to be placed on commercial structures or those with five (5) dwelling units or more.

Murals where the text is the primary structure has been removed after comment by Commissioner Larson (MARC and City Commissioner). Exhibit 3 shows three examples of murals that cities have produced where the dominant feature of the artwork is text itself. The primary concern with text initially was businesses using the mural as a means to advertise. This is addressed with the disallowance of the promotion of a business or product.

Prior guidelines overstepped the allowable suppression of free speech afforded by law. Obscene material, which are graphic sexual depictions, and inciting violence would need to be "where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

CBC Recommendation: Approve the ordinance as written, with the understanding that there are concerns over 1. Is the area too restrictive? 2. Should we allow them on the street-fronting sides of structures? If there are problems that arise from these two concerns we can address them in the future.

MARC Recommendation: Next meeting held February 26, 2019. Comment received thus far have been incorporated into the ordinance in Exhibit 1.

Business Development: Concerns aligned with CBC.

Building Department: Recommend approval as presented in Exhibit 1.

## **B. Open public discussion.**

Chair Robinson asks if a permit application would go to architectural review. John says it will go to MARC.

Commissioner Renner asks what repercussions are there if somebody changes the picture after MARC approval. John says it would be a zoning violation and possibly a fine. Code enforcement would send them a letter with a time period specified for correction. If not corrected within the time frame, further action can be taken.

Commissioner Camisa asks if there have been any interest outside of downtown. John says there has been. There has been discussion on that. Initially, John only had it allowed in the alleyways. After discussion with Melissa Gordon it was expanded to a roughly 14 block area downtown. John says the city does not have an art fund to create an art district.

John says the previous guidelines were insufficient in guiding MARC to make decisions on these applications.

Attorney Brown says the ordinance is better than guidelines.

**C. Close public discussion.**

**D. Commission's action.**

*Commissioner Leingang motions to approve the mural ordinance. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

**2. Consider an ordinance to amend and re-enact portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to Telecommunications Facilities (Small Cells).**

Chair Robinson says Commissioner Laber represented this commission at some of the meetings with telecommunication providers and city staff. She could not be here tonight and she asked if this item could be tabled until she could attend. Chair Robinson will be absent at the March meeting. He is open to tabling this until March or April.

**A. Staff report.**

John Van Dyke, City Planner, says because this was going to be tabled, he did not change this staff report and take out the R3.2, but it has been removed and in front of City Commission.

**B. Open public discussion.**

**C. Close public discussion.**

**D. Commission's action.**

*Commissioner Leingang motions to table the telecommunications hearing until the April Planning & Zoning meeting. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

*Commissioner Knoll motions to adjourn. Commissioner Camisa seconds. Motion passes unanimously.*

*Meeting adjourns at 5:53 p.m.*