

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
Monday, February 27, 2023

The Planning and Zoning Commission of Mandan duly met in session in the Commission Meeting Room of the Mandan City Hall on Monday, February 27, 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: Leingang, Mehlhoff, Helbling, Horn, McLean, Smith, Vayda, Gardner, Robinson, Buchmiller and Nancy Moser, Secretary.
Commissioners Absent: Liepitz.

MINUTES

Commissioner Vayda motioned to approve the January 23, 2023 minutes as presented. Commissioner Buchmiller seconded the motion. Upon vote, the motion passed unanimously.

PUBLIC HEARINGS

1. A request from the City of Mandan for consideration of a Land Use and Transportation Plan Amendment in Northwest Mandan.

A. Staff Report

City Principal Planner Stromme presented.

The City of Mandan has initiated an amendment to the Future Land Use and Transportation Plan (PLAN) in northwest Mandan in Sections 7, 8, and 12 in Township 139N, Range 81W. The area of focus of this amendment is in the general area of Roughrider Subdivision.

Overview of Proposed Amendment

The land development in northwest Mandan has increased in recent years. The City of Mandan has reviewed and approved plans for continuous urban development from West Hills to Roughrider Subdivision along Old Red Trail NW. Due to the heightened emphasis on growth planning in this portion of the community, it is essential to introduce an amendment to the existing Future Land Use Plan. This amendment would modify the location of future arterial roads and adjacent future land use categories to better support the planned 56th Avenue Interchange for Interstate 94 access to NW Mandan. The Future Land Use Plan the City uses to guide land development was approved in 2015. Since then, new policies in transportation planning policy have been introduced which require increased spacing of signalized road intersections in areas leading up to planned interstate interchanges. The City's Future Land Use Plan recommends to continue designating Old Red Trail NW in its

current as-built alignment as the arterial roadway for east-west traffic. It was thought in 2015 that Old Red Trail and 56th Avenue NW would intersect directly north of a future interstate interchange, and south of Roughrider Subdivision.

The 2023 version of the North Dakota Department of Transportation Traffic Ops Manual has been published and contains guidance specific to future interchange planning. Several examples were provided of how these types of interchanges have been constructed in other areas in North Dakota, where the road runs parallel with the freeway, away from the freeway, to accommodate an interchange situation. Due to the location of Roughrider Subdivision, and the role the east-west arterial road must play in the orderly development of the community, It was recommended to look at adjusting the location of the first arterial road interchange north of Interstate 94 on 56th Avenue NW to be one-half mile north of the current location. That area would be in direct conflict with the Transportation Plan policy. An option would be to propose an amendment that would satisfactorily address the minimum guidance in the Traffic Ops Manual for future interchange planning. Traffic and land development would determine the timing of interchange construction. The 2045 Metropolitan Transportation Plan suggests this project could take place in year 2039 at a cost of \$50 million, possibly more. The plan is currently being updated and likely to be put towards the end of the list due to cost and that so many things to realize an interchange such as this are not there yet.

Planner Stromme stated that the request presented at this time is to adopt the resolution and amend the Land Use Plan as proposed to help set the city up for future infrastructure. The arterial network would be shifted from its alignment directly adjacent to I-94, one-half mile to the north to meet the local manual guide. The same would go for north Roughrider as it applies to low density residential. Areas 1 and 2 would change from commercial to medium density and areas 3 and 4, both residential, would be amended to be commercial interstate areas. Area 5 would be changed to residential from low density residential. The City of Mandan has committed to preserving the ability to have an interchange in this location. This commitment is indicated in the Beltway Study, Future Land Use Plan, Metropolitan Transportation Plan and other adopted study documents for this area.

Agency & Other Department Comments

- The Bismarck-Mandan Metropolitan Planning Organization has indicated support for this amendment.
- Morton County Planning and Zoning Director Pierce supports the amendment.
- Numerous comments have been received by City Staff

Planning Staff Comments

An example of a similar situation from eastern North Dakota was presented for review and discussion. Planning Staff recommended approval of the Land Use and Transportation Plan as presented and to move forward with the Public Hearing.

Chair Robinson inquired if anyone has questions for Planner Stromme.

Commissioner Gardner inquired if residents have been in contact with Planner Stromme over the last month regarding this. Planner Stromme stated that he has had three (3) separate parties contact him regarding this.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone to come forward to speak for or against the request from the City of Mandan for consideration of a Land Use and Transportation Plan Amendment in Northwest Mandan.

James Renner, a resident who lives in Roughrider came forward to speak. He inquired why the change from commercial to medium density in Areas 1 and 2 stating that the actual area looks different from the way it appears on paper. Many residents purchased the lot behind them because they were not going to build on them. He recommended the densities in those two areas be lowered because of the development that is mixed up. Residents who bought the adjacent lots did not develop those areas and it would be more attractive if the lots would stay low density. He said he is not against the project, but he would prefer that Areas 1 and 2 stay low residential.

Planner Stromme explained that the low density residential lots north of Roughrider Subdivision were recommended as medium or commercial because when medium density or commercial development, at the time of development is a higher likelihood that medium density residential or commercial development will have less of an alliance on the number of single access points to the public right of way that could produce conflict. The current version of the Land Use Plan – any development that is not industrial in nature would not conform to the Land Use Plan. A solution would be to put it in a residential district. Any development that would be proposed directly west of Roughrider Subdivision if it were to conform to the city's Land Use Plan today would have to be industrial in nature. In summary, the proposal would take a current designated industrial track and put it into a future Land Use designation of residential density. The justification is based on at the time of the development there is a parking lot that goes to one or two driveways versus 8 units with 8 driveways for 8 homes.

Alicia Doll came forward and stated that Planner Stromme discussed this matter with her (since the last meeting) including how it would affect going through people's property and where the off ramps would be. She appreciated the further clarification he provided that those are not actual off ramps, rather it's the area that is allotted for that. She said she is not against the project; however, she is not in favor of an intersection being located in that area but she understands the city's position to expand and grow. She extended a thank you to Planner Stromme for the time he spent with her reviewing 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

Commissioner Mehlhoff motioned to recommend approval of a Land Use and Transportation Plan Amendment in Northwest Mandan as presented. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

5. A request from Red Trail Holdings, LLC, for consideration of a preliminary plat to be named Rock Prairie Estates Addition. Said property is Auditor's Lot H & Part of the SW ¼, in Section 7, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located along Old Red Trail NW west of 47th Avenue NW.

A. Staff Report

City Principal Planner Stromme presented.

Project Description

Red Trail Holdings, LLC (Derek Zander) requested approval of a preliminary plat for a subdivision to be titled Rock Prairie Estates Addition. The property is located in northwest Mandan, north of Old Red Trail NW and west of 47th Avenue NW.

Project Overview

The applicant seeks to develop the property for a mix of uses including commercial adjacent to Old Red Trail and a transition of row-homes and twin-family residential leading to single-family residential. It is a new submittal for the proposed development, in response to the City's request to amend the Land Use Plan. The previous version of the development plan (Exhibit 6) was approved in the spring of 2022.

Preliminary Plat

The preliminary plat comprises 18.3 acres and contains 34 lots in five blocks. Right-of-Way dedications for future public streets to serve this subdivision are shown as well. Future phases, which requires additional City review (platting/zoning/annexation) are shown to contain 29 lots, a mixture of CB – Commercial, RM – Residential, R3.2 – Residential and R7 – Residential. The next phase would contain all of the discussed new alignment for the arterial road network in NW Mandan.

Approved Zone Change and Annexation

In 2022, the City approved the Final Plat annexation and zoning ordinances, bringing the property's zoning in line with the Future Land Use Plan (residential and commercial) and fully annexing it into the City's corporate boundary. Due to slight changes in the plat geometry and lot numbering these ordinances will be re-drafted prior to recording.

Adjacent Properties Use, Zoning and Future Land Use

Adjacent properties include RM – Residential zoned twin-family residential, A – Agriculture zoned undeveloped property and CB – Commercial retail and service group B (farm implement). The future land use plan for this area is residential and commercial.

Findings of Fact

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. 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;

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

Agency & Other Department Comments

- Fire code will limit/cap subdivision development to up to thirty single and twin-family residences until a secondary access point is constructed. In addition, turnarounds for emergency vehicles are required for this subdivision as proposed street lengths exceed the codes 150' maximum length.
- Morton County Emergency Management has reviewed proposed street names. No changes are required.

Engineering & Planning Staff Comments

~ 34 letters were sent to adjoining property owners notifying of the public hearing for this request. There have been no comments on the plat have been received.

~ City Engineering Staff await a petition to construct a forced main sewer in this area. Staff does not support additional lift station in this area.

~ Development of this subdivision is subject to a development agreement with the City of Mandan.

~ An easement for a future multi-use trail will be required along Old Red Trail. This has previously been depicted in development plans for this subdivision.

~ Portions of the development plan are in areas designated as wetlands on the National Wetlands Inventory.

~ The City has federal funds secured through MPO/DOT programs for improvements to Old Red Trail in 2025. The general scope of improvements would improve sight lines and widen the roadway to three lanes.

City policy requires storm water ponds to be held in undivided interest by a lot or lot(s) within the subdivision. The development team intends to have all commercial properties in the subdivision be responsible for storm water pond maintenance and ownership.

Planner Stromme stated that the Planning Department recommended approval of the preliminary plat for Rock Prairie Estates Addition. Members of the development team were present to answer questions.

Mayor Helbling inquired if the original plat included a cul de sac? Planner Stromme replied that the original plat did not have a cul de sac in the master plan, however, with the terrain in this area the development team proposed putting in a cul de sac on Corvette Drive and that has the added benefit of intersections with Old Red Trail. Mayor Helbling commented that he is not in favor of cul de sacs since they present a burden on the Public Works Department for snow removal.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the audience or calling in to come forward at this time to speak for or against the request from Red Trail Holdings, LLC, for consideration of a preliminary plat to be named Rock Prairie Estates Addition.

Landon Niemiller, an engineer from Swenson-Hagen Engineering came forward and stated he is representing Red Trail Holdings, LLC. He clarified that the future of the extension of Old Red Trail at the time when the additional access point will be determined – concurred that the plan is to limit the access points. The plan that has been submitted to the city for the commercial lots on the west end and on the east for the multi-family residential lots, will have shared access points; rather than each lot having an access point on Old Red Trail, they will be limited to 2 or 3 on the west side. As noted on the map, there are areas planned for storm water detention.

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 Gardner inquired if Old Red Trail Road will not have street parking along it, however there would be parking along streets R-7 and R-3.2? Planner Stromme replied that the Rock Prairie Estates loop would be local streets. Old Red Trail does not have any R7 or R-3.2 but it would likely be developed as an arterial road.

Commissioner Mehlhoff inquired that at the bottom of the map where Old Red Trail is curving up to the northwest – will there be a new road going to the west? Planner Stromme replied that access would be maintained on property west of Old Red Trail and it would likely be a dead end cul de sac and maintained as a local road with anticipation of receiving federal funds and at the appropriate time, a street name will be assigned.

Commissioner Leingang motioned to recommend approval of a preliminary plat to be named Rock Prairie Estates Addition. Commissioner Vayda seconded the motion. Upon vote, the motion passed with the following vote: Leingang-aye, Mehlhoff-aye, Horn-aye, McLean-aye, Buchmiller-aye, Smith-aye, Vayda-aye, Gardner-aye, Robinson-aye, Helbling-nay.

2. A request from Morton County Operating Property, Helfrich Worldwide LLC, Anklam LLP and Missouri West Water System for consideration of a preliminary plat to named Mandan Industrial Park 13th. Said property is Lot 2, Block 3, Mandan Industrial Park;

Lots 1-3, Block 3, in the Replat of Lot 3, Block 3, Mandan Industrial Park; Auditor's Lot "Block 2 in Scott's Acres" and vacated right-of-way in Section 17, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 2916 37th Street NW.

A. Staff Report

City Principal Planner Stromme presented.

Property owners in Mandan Industrial Park - Morton County Operating Property, Anklam LLP, Helfrich Worldwide LLC, and Missouri West Water System requested approval of a preliminary plat for Mandan Industrial Park 13th Addition. The properties are located in northwest Mandan in the Mandan Industrial Park, south of Old Red Trail on the north side of 37th Street NW and east of 30th Avenue NW.

Overview of request

This request would modify property lines to be more in alignment with existing features and how the properties are used. The applicants submitted a request to vacate a forty-foot (40 ft.) alley right-of-way in the Mandan Industrial Park plat. The right-of-way was never improved, but a public force main sewer is present underground. The vacated area would be returned to adjoining lots in the subdivision and the sewer would be placed in an easement for City access and maintenance.

Preliminary Plat

The preliminary plat is 23.27 acres in size and consists of four lots in one block. Utility easements and previously-vacated Rights-of-Way are depicted in addition to the proposed property lines. A breakout of lots is listed below:

- Lot 1, Block 1: 1.86ac (*Helfrich*)
- Lot 2, Block 1: 17.16ac (*County*)
- Lot 3, Block 1: 2.24ac (*Missouri West*)
- Lot 4, Block 1: 2.01ac (*Anklam*)

Right-of-Way Vacation

The Board of City Commissioners considered this request and has scheduled a public hearing for April 4, 2023 to act on the right-of-way vacation. Any motions to approve the plat should be contingent on the right-of-way being successfully vacated at that meeting.

Property Conditions

The properties included in this plat are developed with structures. The sites are generally flat with a slight slope from the northeast to southwest. The Morton County Shop yard is surrounded by a mature landscape screening. A telecommunications tower is sited on Lot 1, Block 1.

Adjacent Properties, Zoning, and Future Land Use

Adjacent properties include MA – Industrial parcels in Mandan Industrial Park, an A – Agriculture parcel (Railroad Museum) and R7 – Residential (homes in Scott's Acres)

Addition along Old Red Trail NW). The future land use designation for this property is industrial.

Findings of Fact

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. 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;
3. 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;
4. 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;
5. The proposed subdivision is not located in the Special Flood Hazard Area, and therefore the proposed development should not adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed subdivision is consistent with the Comprehensive Plan, the Future Land Use Plan, other plans and studies, policies and accepted planning practice;
8. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Agency & Other Department Comments

- Public Works Staff support the plan to vacate the Right-of-Way provided that the area be re-dedicated as a utility easement, similar to previous vacations in this area.
- An opinion obtained by the applicants supports the return of right-of-way vacated solely to lots within the Mandan Industrial Park 13th Addition plat.

Planner Stromme stated that the surveyor working on this project and provided an opinion that was received from the State's attorney that mentions because the right of way to be vacated is contained in this subdivision that was not planned or thought to be construed for any other subdivision that any right of way vacated would come back to this subdivision to owners of the industrial park.

Engineering & Planning Staff Comments

~ 75 letters were sent to adjoining property owners notifying of this public hearing. Two inquiries regarding this item were received, however no formal objections have been received.

~ Engineering and Public Works staff request a forty-foot easement for the city force main.

~ This subdivision may be subject to a development agreement at the final plat stage.

Planner Stromme stated that the Planning Department recommended approval of the preliminary plat for Mandan Industrial Park 13th Addition contingent upon future right-of-way vacation approval and depiction of an easement for the city force main sewer.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the audience or calling in to come forward at this time to speak for or against the request from Morton County Operating Property, Helfrich Worldwide LLC, Anklam LLP and Missouri West Water System for consideration of a preliminary plat to named Mandan Industrial Park 13th.

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 Helbling motioned to recommend approval of a preliminary plat to be named Mandan Industrial Park 13th Addition contingent upon future right of way vacation approval and depiction of an easement for the City of Mandan force main sewer. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

3. A request from VE Land Company, LLC, for consideration of a preliminary plat to be named Cove at Lakewood and the amendment of a Planned Unit Development (PUD) Ordinance. Said property is Lakewood 9th Second Replat of Lot 1, Block 4. Said property is in Section 1, Township 138N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 3907 21st Street SE.

A. Staff Report

City Principal Planner Stromme presented.

V.E. Land Company, LLC request consideration of a preliminary plat and Planned Unit Development (PUD) Amendment for a subdivision to be titled Cove at Lakewood Addition. The property is located in southeast Mandan, west of 46th Avenue SE on the south side of 21st Street SE.

Property History

The property was agricultural until it was platted as Lakewood 9th Addition in 2015, but remains undeveloped today. In 2020, portions of the oversized storm water pond were platted as lots for development, and while grading and fill work has since taken place, no utility or structural improvements have been made. A Planned Unit Development (PUD) ordinance was approved for the property in 2020 (Ord. 1355 – Exhibit 6), allowing for site-specific use and development regulations.

Preliminary Plat

The preliminary plat comprises 10.83 acres and contains three lots in one block. The proposed development will take place on Lots 1 and 2, while Lot 3 is reserved for an existing storm water/pond amenity that is necessary for managing storm water. As part of the proposed preliminary plat, the approved property lines on the 2020 plat would be altered. The

number of lots would be decreased from four (4) to three (3) and property lines would be situated at the point where the filled-in property slopes meet the storm water pond. The plat also includes access and utility, as well as sanitary sewer and water main easement to facilitate utility connections and access to the proposed structures.

Planned Unit Development (PUD) Ordinance Amendment

There are no uses proposed as part of this development that were not approved in the 2020 Ordinance. Specific standards requested by the applicant to be added that were not adopted into the PUD Ordinance in 2020 relate to parking and setbacks. The general intent of the amendment is to update legal descriptions (lot numbers) to match the PUD. Uses included in the Planned Unit Development Ordinance include:

- Multi-family
- Retail group A
- Office-bank group
- Service group A
- Service group B
- Health-medical group
- Education group

Elevations and renderings of the proposed structures to be developed on this property are included as Exhibit 4. A draft of the PUD Amendment Ordinance was included as Exhibit 5.

Adjacent Zoning and Land Use

Adjacent properties are zoned PUD (Ords. 1216, 1250, 1355) and have been developed with low-density residential, high-density residential, and multi-use shops. Although the 2015 Future Land Use Plan recommend industrial uses on this property, Staff would not support that due to the character of development in the area of the proposed development.

Findings of Fact

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. 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;
3. 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;
4. 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;
5. Portions of the property are located in the Special Flood Hazard area; however the subdivision is proposed to be developed according to the existing ordinance requirements pertaining to Floodplain Development and therefore, the proposed development should not adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;

7. The proposed subdivision is consistent with the Comprehensive Plan, the Future Land Use Plan and other plans and studies, policies and accepted planning practice;
8. The proposed subdivision would not adversely affect the public health, safety and general welfare.

PUD Amendment

1. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this PUD Amendment;
2. The proposed PUD Amendment is consistent with the general intent and purpose of the zoning ordinance;
3. The proposed PUD Amendment is consistent with the Future Land Use Plan, other adopted plans and policies, and accepted planning practice;
4. The proposed PUD Amendment would not adversely affect public health, safety and general welfare.

Planner Stromme summarized that the proposed Cove at Lakewood Addition would take the 2020 approval from four (4) lots to three (3) lots and it would bump out where lot lines are to be where the extent of grading is approved for this subdivision. The subdivision Lakewood 9th Addition was platted in 2015 and as part of that an oversized storm water pond was constructed for this area as an amenity feature. Because it is oversized, it is not necessary for storm water detention ordinance compliance etc. and can be changed. The developer has begun bringing in fill to restore this area. The lot lines are bumped out further than they were in the 2020 plat, however, the type of development would not change. Since it is a PUD, in addition to the plat, it shows access and easements and utility easements that extend to the structures proposed. An amended ordinance has been submitted that reflects the intent to combine references to a new Lot 2 and Lot 3 would be the storm water pond whereas in the previous ordinance it was Lot 4. They did add the parking for this development that is in line with the city's parking requirements. They are requesting going from a 15 ft. front yard setback to a 10 ft. setback for the 21st Street side. He requested the developer to explain what that would entail going down to the 10 ft. instead of the 15 ft. The CB district ordinance this is based in has no front yard setback requirement. The 10 ft. or 15 ft. would be in addition to what that district requires for setback. The amended PUD Ordinance is based on this site plan where individual business condo units are depicted arranged around the drive and parking lanes. These structure designs are those that the city would approve to be developed in this property through the PUD Ordinance and are options for commercial development. The ordinance that was drafted based on the developer's request is a simple amendment to Ordinance 1355 and the approval of that ordinance has a reduction in the number of lots wherein there is no reference to Lot 4 in this ordinance however the uses drafted based on the request are the same as those that were in the previous Ordinance 1355. The change that restricted services that was shown on Ordinance 1355 was thought not to be necessary as the development plans slightly changed with the buffer that lot restriction provided was thought to be necessary. The nature of the change is to better conform with some of the codes that require additional space in between buildings and lot lines and is not affected by the

recommendation Planner Stromme provided since those codes are handled by different departments within the city.

Agency & Other Department Comments

The City Building Inspections Department advised the applicant on steps necessary to develop in accordance with the City Floodplain Development Ordinance which will involve a LOMR-F.

Engineering & Planning Staff Comments

~ 162 letters were sent to adjoining property owners notifying of this request.

Statements in objection to the proposed development have been received and forwarded to committee members.

~ Development on this property will be subject to a Development Agreement with the City of Mandan.

~ A sidewalk and boulevard trees will be required along 21st Street SE.

~ Lot 3, Block 1 (storm water lot) will need to be held in undivided interest by the developable lots in this subdivision plat.

Planner Stromme stated that the Planning Department recommended approval of Ordinance 1424, a Planned Unit Development (PUD) Ordinance Amendment and the preliminary plat for Cove at Lakewood Addition.

Mayor Helbling inquired how maintenance for Lot 3 is tied in with the other lots? Is it addressed in an agreement so that the water area does not become a burden on the city or other residents? Planner Stromme replied that under bullet #4 Common Area Maintenance references how Lot 3 will be maintained and that is, that the Shop Condo Development, as a lot within that subdivision. It is a storm water pond in this subdivision that includes standard language in a plat that addresses maintenance costs allocation and who is going to be the undivided owner of that property.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the audience or calling in to come forward at this time to speak for or against the request from VE Land Company, LLC, for consideration of a preliminary plat to be named Cove at Lakewood and the amendment of a Planned Unit Development (PUD) Ordinance.

Susan Adams came forward and stated she lives across the pond currently zoned PUD. She voiced concern about zoning in the future land use they want to rezone her residential area as industrial. She stated she is opposed to that rezoning because she believes that would open up areas that are going to be developing for uses that would be permitted in an industrial zone. In the area of the pet rescue, she said they can get very noisy and she stated that interferes with her ability to live in her neighborhood and enjoy peace and quiet. She requested the committee to re-evaluate approving a pet rescue in this residential area. She said she is not

opposed to the development of houses and condos but she is concerned about the (dog barking) noise.

Landon Niemiller an engineer from Swensen-Hagen Engineering came forward and stated he is representing the applicant in this matter. He reported that when this process started the intent was to bump the lot lines out and to incorporate buildable grading into the lots. By doing that it eliminates one lot line that was in place and was not a problem for zoning, but it becomes a problem for building setbacks. He provided a statement from Furry Friends who stated they are working with the Adult Abuse Center: *This building will house 1 to 2 dogs, a hamster, a pig. These people are victims and animals help the healing process. There will be no more than 5 to 10 dogs at any time, all of which are housed inside. There will be an indoor run for the dogs and rarely will they be outside for more than one-half hour due to the fact that this is solely a volunteer run operation. This is foster based rescue. The dogs and cats are cared for by volunteers in the community.*

Niemiller also commented on Planner Stromme's statement about the yard setback. The majority of this is based on CB Commercial zoning with the setback at zero, which is common in Mandan. Currently the PUD states a 15 ft. setback for 21st Street, they will be asking for a 10 ft. yard setback. These would not be accessed on to 21st, the driveway there would be the back of their units on 21st.

Jane Zahn came forward and stated she resides at Roughriders. She stated she agrees with the comments brought up by Susan Adams.

Commissioner Smith commented that the plan for the pet rescue is a fully enclosed facility. Other cities distinguish between a fully enclosed pet rescue versus one that has an outdoor run. He stated he is in favor of this contingent upon the pet rescue being fully enclosed. Through the building permit process, they would have to comply with city ordinances. Also, through the building permit process they will be able to control how the building is constructed for proper sound proofing.

Commissioner Gardner inquired if the pet rescue is a major part of this building project proposal? Planner Stromme replied that he understands that a portion is "riding" on the pet rescue part of the project. He deferred to the developer to provide plans for it and it has been identified on the property since the 2020 approval went through.

Commissioner Gardner stated that the building appears to be a substantial part of it for the pet rescue.

Blake Seago, the developer from Verity Homes came forward and stated that there will only be 5 to 10 dogs at a time. He stated that the pet rescue building is the foundation for the whole development. Once a year they do a basic charity home project from proceeds from projects. The sole intent is to foster the dogs for no more than a couple months at a time. That's why they limit the numbers at 5 to 10 dogs at a time. The dogs will be allowed outside and they are planning for a timeframe of 20-30 minutes per time, however, he does not know how many times a day that will occur. The dogs will not be housed outside. He said he assumes there will be some kind of fencing for the dogs. He said they are building an entire dog run on the inside of the building. There will be a vet clinic going in that will add

jobs to the community. The Adult Abused Center people will be coming to the pet rescue center to help out as therapy for clients and volunteering services to help with the dogs. The pond will be cleaned up and landscaped around that area.

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 Gardner inquired of the residents who testified, if they are satisfied with the information about the building enclosure that was provided by Mr. Seago, the developer?

Susan Adams stated that she believes the pet rescue should be located outside city limits and not in city limits.

Mayor Helbling commented that if this zoning was already approved by the Planning and Zoning Commission, and if it goes through today, it will go to the City Commission, correct?

Planner Stromme stated that with the approval in Ordinance 1355 the zoning is there for this project to move forward. Opportunity does exist for the city to enter into a Development Agreement with the lot owner and the lot developer that speaks to any additional regulation on the property. He said he would not feel comfortable placing restrictions now, without the manager/owner of the pet rescue being part of the discussion, however he requested authorization to meet with them and staff in order to feel comfortable that they need to follow the city code and developing standards and present those to the City Commission if this committee takes action. He suggested working with staff and the pet rescue owner over the next few weeks to establish standards. Regarding the setback, he requested the Commission to authorize a 10 ft. setback however he requested additional time to review that to assure that is the right thing to do on this street.

Planner Stromme's recommendation that if this project were to move forward would be to approve the project and to allow authorization to clarify some items into a Development Agreement in conjunction with Ordinance 1355 before presentation to the City Commission.

Commissioner Buchmiller motioned to recommend approval of a preliminary plat to be named Cove at Lakewood and the amendment of a Planned Unit Development (PUD) Ordinance 1424 amendment with the setback at 10 ft. if deemed to be appropriate by Planner Stromme and also contingent upon including standards being established pursuant to the discussion into a Development Agreement for the pet rescue. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

4. A request from Val Renner for consideration of an annexation, a special use permit and a zone change from Ag (Agricultural) to R7 (Single-Family Residential) and CA (Commercial) and a preliminary plat to be named Evergreen Heights 4th Addition. Said property is Lot 1 of Lot B1 of Lot B of Auditor's Subdivision and Part of SW ¼ Section 35,

Township 139N, Range 81W, Morton County, North Dakota. The property is located at 1607 Highway 1806 S.

A. Staff Report

City Principal Planner Stromme presented.

Val Renner requested consideration of a preliminary plat, zone change, annexation and special use permit for multi-use shops for Evergreen Heights 4th Addition. The property is located in south Mandan, west of ND Hwy 1806 and north of 19th Street SE.

Project Overview

The applicant requested to develop the property with multi-use shops or "Shop-Condos" and has requested to rezone one lot as CA – Commercial and another as R7 – Residential to align with the Future Land Use Plan. The plan preserves an area for future single-family home construction between established residential neighborhoods and the proposed multi-use shops. The request also includes annexation to the City of Mandan Corporate Limits and creation of lots and public right-of-way through a plat to be dedicated for future street construction.

Preliminary Plat

Evergreen Heights 4th Addition's preliminary plat comprises 5.55 acres with two lots in two blocks. Lot 1, Block 1 is 2.15 acres and will be required to be divided into eight residential lots by a developer in the future to better conform with the City's Future Land Use Plan. Lot 1, Block 2 is 2.42 acres and will house multi-use shops. Public streets, Living Water Drive and 16th Street SE, will be extended to complete a grid between these lots. Non-access lines will confine shop condo traffic to the singular existing access point to ND Hwy 1806. Lot 1, Block 2 contains a 40-foot water main easement and a storm sewer/storm water easement. The access will be from commercial, not from residential. The plat would have language on it that would prevent it from being developed until it is further subdivided. The city typically does not see a 2.5 or 2.1 acre residential lot however, it was determined to be important to make sure that the property was zoned in a district that provides a buffer between the existing residential and the proposed commercial. Previous efforts to develop this property have determined that R7 would be supported by the residents in the neighborhood.

Zone Change and Annexation

The proposed zone change would classify Lot 1, Block 1 as R7 – Residential, allowing single-family residential uses. Lot 1, Block 2 would be zoned CA – Commercial for small-scale commercial uses. Annexing the property into the City of Mandan's corporate limits would enable municipal services to be extended to the property.

Special Use Permit

The multi-use shops or shop condos are a special use in Mandan, which allows city staff from numerous departments time to review the details of the proposed uses and utility connections. In total 19 units in three structures are planned for Lot 1, Block 2. Initial construction would take place only on one structure containing 6 units. The twelve (12) units that Val Renner requested is for consideration of a preliminary plat, zone change, annexation

and special use permit for multi-use shops for Evergreen Heights 4th Addition. The property is located in south Mandan.

Adjacent Property Land Use, Zoning and Future Land Use Designations

Adjacent properties are zoned CB – Commercial, CA – Commercial, R7 – Residential and R3.2 – Residential. Uses include a religious institution, platted/undeveloped commercial land, developed single-family residential and multi-use shops. The future land use designation for this property is commercial.

Findings of Fact

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. 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;
3. 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;
4. 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;
5. The proposed subdivision is not located in the Special Flood Hazard Area; however, the subdivision is proposed to be developed according to the existing ordinance requirements pertaining to Stormwater Detention and therefore, the proposed development should not adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development,
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed subdivision is consistent with the Comprehensive Plan, the Future Land Use Plan if amended and other plans and studies, policies and accepted planning practice;
8. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Zone Change

1. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this zone change;
2. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
3. The proposed zoning change is consistent with the Future Land Use Plan and other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Annexation

1. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this annexation;
2. The proposed annexation is a contiguous extension of the current limits of the City of Mandan;

3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the Future Land Use Plan, other adopted plans and policies, and accepted planning practice;
5. The proposed annexation would not adversely affect public health, safety and general welfare.

Agency and Other Department Comments

- City Fire Department will continue to review the site plan for conformance with Fire Code.
- ND State Historic Preservation Office has consulted the applicant on the development of this site.

Engineering & Planning Staff Comments

~ 75 letters were sent to adjacent property owners notifying of the request. As of the writing of this staff report no comments have been received.

~ A storm water management plan will be required prior to site development.

~ A landscape screening area is required to be established upon site development of Lot 1, Block 2. The purpose of this is to ensure a buffer is established between existing and proposed development.

~ This subdivision will be subject to a development agreement with the City of Mandan.

~ City Engineering Staff is reviewing a utility servicing plan for wastewater for the proposed development.

Planner Stromme stated that the Planning Department staff recommended approval of the preliminary plat, zone change, annexation and special use permit for shop condos at Evergreen Heights 4th Addition. The applicant and development team were available to answer questions.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the audience or calling in to come forward at this time to speak for or against the request for an annexation, a special use permit and a zone change from Ag (Agricultural) to R7 (Single-Family Residential) and CA (Commercial) and a preliminary plat to be named Evergreen Heights 4th Addition.

Greg Feser with Feser Engineering came forward and stated he is representing the applicant. He concurred with the presentation of the plans for this project by Planner Stromme. The biggest concern from the previous project done in 2020 was how the property would abut to R7 Residential to the west. That's the purpose of assigning R7 to the first group of property lots. The applicant does not have any interest in selling or developing those lots; however, since it will be one lot, it could be replatted sometime in the future.

C. Close Public Hearing

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

Commissioner Mehlhoff inquired about access to Lot 1, commercial lot for shop condos – is the primary access planned for coming off of Living Water Drive or off of 1806 and was there an existing driveway there? Planner Stromme replied that the proposal is to contain all traffic through the existing driveways to Hwy 1806. No new approaches would be placed onto Hwy 1806.

Commissioner Mehlhoff commented there is a non-access line for that commercial lot on Living Water Drive but not any existing for onto Hwy 1806. He inquired if there should be one added to Hwy 1806? Planner Stromme stated he did not believe there would be any issues adding non access lines in that area and it is very unlikely the state would authorize that access but it is good practice. He said he will work with the development team to clarify that prior to taking this to the City Commission for consideration. Planner Stromme stated that because there is no need to add access to the commercial lot from Living Water Drive, the city is not anticipating any plans to construct from Living Water Drive. That request may come in when the R7 lot is subdivided in the future.

D. Commission Action

Commissioner Gardner motioned to recommend approval of the preliminary plat, zone change and annexation ordinance 1423 and special use permit for Evergreen Heights 4th Addition. Commissioner Mehlhoff seconded the motion. Upon vote, the motion passed unanimously.

UPCOMING EVENTS

Planner Stromme encouraged P & Z members and Mandan residents to attend these events:

Thursday, March 9, 2023 from 5:00 to 7:00 p.m. at the Mandan High School Auditorium. there will be a public input meeting held regarding the Sunset Drive corridor study in conjunction with the Mandan MPO.

Tuesday, March 28, 2023 from 6:00 to 8:00 p.m. at the Mandan High School Gymnasium there will be a kickoff for a planning study for the existing Mandan High School property located on Sunset Drive. With the new high school scheduled to open in 2024, there is an opportunity to determine what to do with the old building,

ADJOURNMENT

Commissioner McLean motioned to adjourn the meeting. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

The meeting adjourned at 7:25 p.m.