

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
Monday, February 28, 2022

The Planning and Zoning Commission of Mandan duly met in session in the Commission Meeting Room of the Mandan City Hall on February 28, 2022, at 5:30 p.m. CST. City Hall will be open for this meeting. If attending via video or audio link, you are to provide your contact information to nmoser@cityofmandan.com. Some of the Planning & Zoning Commissioners may be attending this meeting remotely.

ROLL CALL

Commissioners Present: Leingang, Mehlhoff (virtual), Horn, Helbling, Liepitz (virtual), McLean (virtual), Frank (virtual), Otto (virtual), Robinson. Commissioners Absent: Camisa, Vayda.

Commissioner Helbling motioned to approve the January 24, 2022 minutes as presented. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

PUBLIC HEARINGS

1. A request from Mandan Park District for consideration of a final plat to be titled Old Red Trail Commercial 3rd Addition. Said property is Replat Lot 2, Block 1, Old Red Trail Commercial 2nd Addition in Section 22, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located south of Old Red Trail and west of 8th Avenue NE.

A. Staff Report

City Principal Planner Stromme presented.

Mandan Park District and Kupper Properties, LLC are requesting approval of a Final Plat for a subdivision to be titled Old Red Trail Commercial 3rd Addition. This property is located in north Mandan, south of Old Red Trail and east of the Starion Sports Complex. The subdivision is 11.44 acres in size and it would create two lots out of Lot 2, Block 1 in Old Red Trail Commercial 2nd Addition (Platted 12/2018). Lot 1, Block 1, would be retained by the Mandan Parks District and Lot 2, Block 1, would be owned by Kupper Properties LLC. Improvements to 16th Street NE are associated with the development of this subdivision.

Planner Stromme reported that there have not been any comments received on this item. A total of four (4) letters were sent to adjacent property owners. Lot 2, Block 1 is located in the Gateway Overlay District with proximity to Interstate 94. A Non-Access Line along Old Red Trail is shown on Lot 1 and 16th Street has been updated to show NE directional.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Final Plat to be titled Old Red Trail Commercial 3rd 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 in the room or on the phone to come forward to speak for or against the approval of the request of the Final Plat for Old Red Trail Commercial 3rd Addition.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the request of the Final Plat for Old Red Trail Commercial 3rd Addition. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner Mehlhoff motioned to recommend approval of the final plat for Old Red Trail Commercial 3rd Addition as presented. Commissioner Otto seconded the motion. Upon vote, the motion passed unanimously.

2. A request from Chris Schneider for consideration of a Special Use Permit for Motor Vehicle Sales in the DF – Downtown Fringe zoning district. Said property is Lease #547258 in the City of Mandan, Morton County, North Dakota. The property is located on the southeast corner of 6th Avenue SE and East Main Street.

A. Staff Report

City Principal Planner Stromme presented.

Chris Schneider, representing Hyundai of Mandan, is requesting a Special Use Permit for Motor Vehicle Sales in the DF-Downtown Fringe District. This project is located on the southeast corner of 6th Avenue SE and Main Street East in the Downtown Fringe. This property was previously used as a motor vehicle sales and service facility through 2021, but no Special Use Permit is on file for the property. The proposed use includes interior and exterior building remodeling and the addition of landscaping to the site. A special use permit is required for Retail Group B uses in the DF – Downtown Fringe per Section 105-4-2 – Downtown Districts of the City Code of Ordinances. This project received MARC approval on August 24, 2021 and November 23, 2021. The landscaping within the vehicle sales lot and along the sidewalk was added to satisfy goals of the downtown Mandan subarea study.

Planner Stromme reported that there have not been any comments received on this item. A total of 46 letters were sent to adjacent property owners.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Special Use Permit for Motor Vehicle Sales for Hyundai of Mandan on Lease #547258.

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

Commissioner Mehlhoff commented that there were two lots used by the previous tenant. Does the Special Use Permit encompass all that area? Planner Stromme replied that based on the planned use for both of the properties, the Special Use Permit is only required on one of the properties. The other property would get into the other use groups however, that would be a use that would not require a Special Use Permit in the Downtown Fringe. This is only applicable because it will be single property vehicle sales that will be taking place.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone on the phone or in the room to come forward or anyone calling in to speak for or against the request for approval of the Special Use Permit for Motor Vehicle Sales for Hyundai of Mandan on Lease #547258.

Chair Robinson inquired if there were any other questions or comments to be brought forward at this time.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request for approval of the Special Use Permit for Motor Vehicle Sales for Hyundai of Mandan on Lease #547258. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any other questions or comments from the Commission.

Commissioner Mehlhoff motioned to recommend approval of the Special Use Permit for Motor Vehicle Sales for Hyundai of Mandan on Lease #547258. Commissioner Frank seconded the motion. Upon vote, the motion passed unanimously.

3. A request from the Red Trail Holdings, LLC for consideration of a Final Plat to be titled Rock Prairie Estates Addition and an Annexation of the proposed subdivision plat. Said property is Auditor's Lot H & Part of the SW ¼, Section 7, Township 139N, Range 81W, 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.

Red Trail Holdings, LLC is requesting approval of a Final Plat and Annexation for a subdivision to be titled Rock Prairie Estates Addition. This property is located in northwest Mandan along Old Red Trail NW, west of 47th Avenue NW. The final plat consists of 30 lots within 4 blocks. The present land use is agricultural with a storm water detention pond in the southeast corner. The subdivision would contain 12 R7 – Residential lots, 12 R3.2 – Residential lots and 6 CB – Commercial lots. The existing stormwater pond on lot 6, Block 3

would remain and act as open space between existing RM – Residential lots to the east and Commercial lots within this subdivision. Access to this first phase of the subdivision would come from the east via Corvette Street NW. Additional streets planned for the subdivision include Rock Prairie Loop NW and Holocene Avenue NW. A future phase would include connections to Old Red Trail. The preliminary plat, a future land use plan amendment to allow for Commercial zoning and zone change were approved at the December 27, 2022 Planning and Zoning Commission meeting. Adjacent land uses include low-density residential to the east, undeveloped agricultural lands to the north, a platted commercial lot to the west, and Interstate 94 to the south.

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 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.

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

Planner Stromme reported that staff has received inquiries from adjacent owners related to this request regarding the status of the project and the allowed use within the subdivision. Following the Planned Use Amendment Planner Stromme informed the resident(s) of the ability to do commercial on this property with that buffer of the existing storm water pond. A total of 31 letters were sent to adjacent property owners. Planner Stromme provided the following notations:

- Old Red Trail is slated for improvements in this area in 2025. The project is planned to be a 3-lane urban reconstruct.
- The ROW for Corvette Street NW is less than the minimum required outlined in Section

109-3-2 (14) (e) and has previously been allowed with Engineering Staff approval. Staff recommended a review of City Ordinance to determine if allowance of 60' ROW should be adopted into the code.

- A future trail connection along Old Red Trail extending out to 56th Avenue NW is shown on the Bismarck-Mandan Bike and Pedestrian Study. Staff feels that adequate ROW is dedicated for this trail within Old Red Trail.
- Staff requests that buffer landscaping consisting of trees and shrubs be installed in the rear of lots 1- 5, Block 3 to provide screening from established residential areas.
- Sanitary Sewer will flow to the roughrider Lift Station at 56th Avenue NW and Old Red Trail.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Final Plat and Annexation of Rock Prairie Estates Addition and to enter into a Development Agreement with Red Trail Holdings LLC.

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

Chair Robinson inquired if the intent for the 3-lane project is to go to 56th Avenue? Planner Stromme said that when he reviewed the Bismarck-Mandan Metropolitan Transportation Planning (MTP) guide, it referenced the 3-lane construct from 40th Avenue Northwest to 56th Avenue.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room to come forward or anyone calling in or on-line to speak for or against the request for approval of the Final Plat and Annexation of Rock Prairie Estates Addition and to enter into a Development Agreement with Red Trail Holdings LLC.

Landon Niemiller with Swenson Hagen Engineering, representing Red Trail Holdings, came forward and stated that he did not have anything more to add to the project than what Planner Stromme outlined. He said he is available to answer questions.

Chair Robinson inquired if there were any questions at this time.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request for approval of the Final Plat and Annexation of Rock Prairie Estates Addition and to enter into a Development Agreement with Red Trail Holdings LLC. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner Frank motioned to recommend approval of the final plat and annexation of Rock Prairie Estates Addition and to enter into a Development Agreement with Red Trail

Holdings LLC. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

4. A request from EBCMGL 16 LLLP for consideration of a Preliminary Plat to be named Rockwood First Addition, and a Zone Change from A - Agriculture to RM – Residential Multifamily and R3.2 – Residential. Said property is, North ½ of the Southeast ¼ of Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located in north central Mandan, west of ND Highway 1806 and north of 31st Street NW.

A. Staff Report

City Principal Planner Stromme presented.

EMCMGL 16, LLP (Dr. Eric Belanger) is requesting approval of a Preliminary Plat and Zone Change for a subdivision to be titled Rockwood First Addition. This subdivision is located in north Mandan, north of 31st Street NW between 8th and 12th Avenue NW in the area of Mandan Middle School and the Cascade Apartments in north Mandan, near the Sunset Drive exit. The property is currently zoned Agriculture and is adjacent to some R3.2 zoning, RM and a little further away is CB Commercial. Dr. Belanger and EMCMGL are requesting approval of a Preliminary Plat, Zone Change, and Future Land Use Plan amendment for a previous iteration of Rockwood First Addition that were approved in 2020. The plan presented at the time was to construct 8 single-family homes was delayed due to limitations in sanitary sewer capacity in north Mandan, and that has been addressed. The city is actively constructing a new lift station on the corner of 37th and Highway 1806 which would allow more of north Mandan to develop. The previous plan to construct 8 single lots with additional utility capacity the plat can move forward with more lots in that first phase per the developers. The resubmittal reflects additional development capacity and includes 22 lots in 3 blocks closer to Beretta Street; the property owned by Nancy Wagner which was not included in Rockwood in the past and two lots where the Marathon Oil easement is located.

Planner Stromme stated that the request tonight is for a zoning easement to take the property from Agricultural and put it into a combination of R3.2 single family and RM which would allow for condo, town-home, and apartment uses. The developer may decide to keep properties that are not currently being developed in that Agricultural zoning district until such time that the property will be developed. This is a notice to this Board that may occur in the future in case that property goes into development and will need to be reviewed by this Board again. Per Exhibit 4, a potential build-out of this subdivision would result in one hundred and fifty-two (152) dwelling units, a mix of single-family, twin family, townhomes, condominiums and a 72-unit apartment building.

Easements

A 100 ft. Marathon Oil Pipeline easement crosses this property, and a water line easement exists within the Right of Way to be dedicated for 8th Avenue NW. The developer was able to get this down to the 100 feet. There is also a water line easement to be dedicated for 8th Avenue Northwest, as shown at Lot 18, Block 1.

Right of Way

Right of Ways shown on the plat include 8th Avenue NW, 12th Avenue NW, the north forty-foot (40') of 31st Street NW, and Beretta Street NW (formerly Broadstone Way). That will tie into the east of the property at Beretta Street NW shown to be sixty-foot wide (60') which is supported by Engineering and Planning Department provided that parking is limited to one side of the street.

Zoning

Proposed zoning is R3.2 – Residential for Lots 1-17, Block 1 and RM – Residential for Lots 18-19, Block 1, Lots 1 and 2, Block 2 and Lot 1, Block 3.

Adjacent Zoning and Land Use

Adjacent land uses include multifamily residential, low-density residential, un-platted agricultural land and Mandan Middle School. Adjacent zoning includes A – Agriculture, R7 – Residential and R3.2 – Residential.

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, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Planner Stromme stated that staff has not received comments related to this item. Eight (8) letters were sent to adjacent property owners. Planner Stromme reviewed the following:

- ~ The Development Agreement for this subdivision will be updated to reflect the Final Plat;
- ~ The plan will be to develop Beretta Street NW and 12th Avenue would be constructed;
- ~ Fire turnarounds are required to be established for any subdivision phasing;
- ~ The storm pond will be required to be held in undivided interest to ensure the city does not become the owner of or responsible for future maintenance;
- Non-access lines are shown in key locations to ensure orderly driveway locations.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Preliminary Plat and Zone Change from A - Agriculture to R3.2 – Residential and RM – Residential for Rockwood First 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 in the room to come forward or anyone calling in or on-line to speak for or against the approval of the Preliminary Plat and Zone Change from A - Agriculture to R3.2 – Residential and RM – Residential for Rockwood First Addition.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the Preliminary Plat and Zone Change from A - Agriculture to R3.2 – Residential and RM – Residential for Rockwood First Addition. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner Mehlhoff motioned to recommend approval for the Preliminary Plat and Zone Change from A - Agriculture to R3.2 – Residential and RM – Residential for Rockwood First Addition. Commissioner Frank seconded the motion. Upon vote, the motion passed unanimously.

5. A request from the Art Goldammer / TRX Developers LLC for consideration of an amendment to the City of Mandan's Land Use and Transportation Plan that serves as the City's Comprehensive Plan, a Masterplan and Preliminary Plat to be named Shores at Lakewood Addition, and a zone change from A (Agriculture) to PUD (Planned Unit Development). Said property is an un-platted portion of Out Lot A and Part of Lot 3 of Auditor's Lot A of Section 1, And Part of Lot A of Government Lot 2 and Part of Lot A of Government Lot 7 of Section 12, Township 138 North, Range 81 West of the Fifth Principal Meridian, Morton County, North Dakota. The property is located in southeast Mandan, west of 34th Avenue SE and east of the Lower Heart River.

A. Staff Report

City Principal Planner Stromme presented.

TRX Developers, LLC and Arthur Goldammer are requesting approval of an Amendment to the City of Mandan's Future Land Use Plan (FLUP), a Preliminary Plat, Masterplan, and Planned Unit Development (PUD) for a subdivision to be titled Shores at Lakewood Addition. The Future Land Use Plan will need to be amended which is why the application includes the Future Land Use Plan and amendment request. This proposed development is located in southeast Mandan, west of McKenzie Drive SE and 34th Avenue SE. A portion of the property is not annexed into the city limits. At a later phase the development within this scope of work would need to be done for that to move forward. Also shown on the Future Land Use Plan to call out would be the extension of McKenzie Drive Southeast. The Future Land Use Plan does call for a bridge crossing but in the short term, McKenzie Drive will get as close to the Heart River as possible.

Resubmittal

This is a resubmittal of a project that has previously been considered by the Planning and Zoning Commission and was tabled at the October 26, 2020 and February 22, 2021 Planning and Zoning Commission meetings. Concerns with this plat that have since been addressed or modified include: Street names, Right-of-Way widths, Curb design, Access restriction along McKenzie Drive, Name of the plat, Modifications to Heart River oxbow, Number of residential lots, Size of lots north of McKenzie Drive SE and a Development Agreement with Lower Heart River Water Resource District. An issue that is presently outstanding is a review of Section 408 by the US Army Corps of Engineers. That agency reviews projects in close adjacency to levee systems for possible impacts. It is not known when comments related to this project will be provided to Lower Heart River Water Resource District and the Developer.

Proposed Plan

The developer is proposing a four-phase subdivision which, at full build-out would contain 218 single and twin-family/town home residential lots and some restricted CB-Commercial - Limited properties surrounding a man-made lake and storm water retention area. The planned subdivision would be a Planned Unit Development, which allows for development-specific design and land use restrictions. The property has been annexed to the city, but has not been platted, assigned a zoning district and does not conform to our present Future Land Use Plan land use designation of greenway.

Preliminary Plat

The Preliminary Plat submitted is for Phase 1 of the Lakewood subdivision. This plat contains 40 residential lots and one park lot in two blocks. Planned Right-of-Ways are for McKenzie Drive SE (80') and Dutton Circle SE (66'). McKenzie Drive SE is designated as a future minor arterial roadway that in the future would cross the river. 166' of Right-of-Way is to be set aside for that infrastructure and levee access. A 50' levee and storm water easement runs parallel to the levee on Lots 1-7, Block 1. A storm water easement runs in the Heart River oxbow in the rear of Lots 14-21, Block 1, and a 14' utility easement lies within this area as well. A 20' access and storm water easement is between Lots 10 & 11, Block 2 to provide access from Dutton Circle SE to Lot 21, Block 2 (private park lot). A 20' storm

water easement is shown between Lots 7 & 8, Block 1. Standard 10' utility easements are shown throughout the subdivision. McKenzie Drive Southeast will be considered a future arterial roadway that will cross the river non access lines along McKenzie Drive to get greater control for that roadway to avoid vehicle conflict with a private park owned by the development. There is a 50-foot storm water easement that parallels the levy itself near Lots 1-7, Block 1 and there is a 75-foot storm water easement within the Lower Heart oxbow which would be in the rear of Lots 14-21, Block 1. There are standard easements throughout the plat for utilities as well as a storm and access easement that would provide access to the Prairie West Golf Course from the development between Lots 7 and 8, Block 1.

Zoning

This development will be based on R3.2 – Residential, R4 – Residential, R7 – Residential and CB – Commercial. All lots are proposed to follow a standard setback amount. There are 152 Single-family detached homes based on R7 – Residential and R4 – Residential districts; 66 Twin-family homes (33 structures) based on R3.2 – Residential; One Commercial lot based in CB – Commercial zoning (possible future subdividing at time of development). The Residential Setbacks will apply and they are Front Yard: 25'; Side Yard: 5'; Side Yard on Street: 15'; and Rear Yard: 20'.

Masterplan

The masterplan for the Shores at Lakewood subdivision would be built in four phases. The first phase is to extend McKenzie Drive SE and build Dutton Circle SE and would contain 42 residences and a private park lot. The following two phases would be to build the central pond and south residential loop, with a connection to Oxbow Trail SE in the second phase. The fourth phase would be the CB – Commercial lots at the south end of the plat. The previous master plan did not have that second access point included in phase two which was in conflict with the emergency access policy that requires a second means of egress into a subdivision. With that second phase, Oxbow will be constructed and the third phase would close out the loop and the properties encircling the storm pond. These are consistent with the Future Land Use Plan.

Access

This development will be accessed from the east by extending McKenzie Drive east to the Lower Heart River levee system. Residential lots will be located along a loop, around a retention pond, to the north and south of McKenzie Drive SE. Phase 2 of the development would include a connection on Oxbow Trail SE providing two points of access to the subdivision.

Future Land Use Plan

The Future Land Use Plan (FLUP) amendment is necessary because the proposed plan differs from the present planned designation as a “Greenway Corridor”. It is city staff's assumption that the reason that this present classification is due to its location within the 100-year floodplain. The proposed extension of McKenzie Drive SE is consistent with the Future Land Use Plan.

Floodplain Development

The dirt excavated from the pond will be used to raise the residential lot elevations above the 100-year flood elevation. The final building elevations will be reviewed during building

permit process. Proposed residences would be 2-feet over base flood elevation, which is in compliance with City Ordinances. Any basements would be of a flood-proofed design.

USACE Review

The developer is awaiting project approval from the US Army Corps of Engineers (USACE) related to the Section 408 permit that is required for projects in critical zones of levee operation and maintenance. Because of this, the levee sponsor, Lower Heart River Water Resource District cannot support the preliminary plat application due to uncertainty associated without having USACE approval of the project. The Developer has entered into a Development Agreement with Lower Heart River Water Resource District that touches on the following:

- Demarcation of the levee system ROW and upkeep of demarcations.
- Signage limiting access to LHRWRD property and maintenance of signage.
- An HOA appointment of liaison to delegate with LHRWRD and be available during high-water events.
- Restrictions added to Purchase Agreements prohibiting basements within 500 feet of levee centerline.
- Restrictions to require any basements in development (outside of 500 feet buffer) to be flood proofed.
- Easement for LHRWRD equipment to obtain access to levee through the development.
- HOA to provide notice annually to specify and remind homeowners of limitations within LHRWRD property and easements.
- Adjacent land uses to the proposed development include low-density residential, medium-density residential, institutional and recreational lands.

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 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, 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, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Planner Stromme reported that his office has received two inquiries related to this project from adjacent property owners. A total of 84 letters were sent. Inquiries received have been forwarded to Planning and Zoning Commission members with the agenda packet.

- Mandan School District did not provide comments on the Masterplan.
- Mandan Parks District supports access to Prairie West Golf Course between Lots 7 and 8, Block 1.
- MDU Requested that a few easements be added to the plat.
- Lower Heart Water Resource District provided comment to City Planning Staff stating an inability to support the project due to current review status with USACE.

The development proposed with the application narrative and other documents is consistent with the goals and objectives spelled out in the Comprehensive Plan. The land uses proposed with this Planned Unit Development (PUD) application are similar to neighboring developments and should not have any long-term negative effects. The final plat must include language speaking to the ownership and maintenance of Lot 21, Block 2. Exhibits 9 and 10 provide information from previous discussions related to this project.

Planner Stromme stated that the Planning and Engineering staff recommended approval of of the Preliminary Plat, Masterplan, Future Land Use Plan Amendment and Zone Change from A – Agriculture to PUD – Planned Unit Development for the Shores at Lakewood Addition with the condition that USACE review Section 408 prior to approval and is received prior to Final Plat submittal. Any comments or modifications to the desired plan be incorporated into that final plat prior to submission.

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

Commissioner Mehlhoff inquired of Block 5, Lots 1–15 that go more east-west than the other lots – what is intended for those lots and what is the access? Planner Stromme replied that Lots 1-15, Block 5, will be in Phase 2 of the subdivision and all the access to that will come off of Grotto Loop Southeast because of the non-access line on McKenzie Drive the front of all these homes will be on a private drive which is a common development model that the proposed development will follow. The developer has created a number of these throughout the community. All access will be from a private drive access at Grotto Loop Southeast.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room to come forward or anyone calling in or on-line to speak for or against the approval of the Preliminary Plat, Masterplan, Future Land Use Plan Amendment and Zone Change from A – Agriculture to PUD – Planned Unit Development for the Shores at Lakewood Addition with the condition that USACE review Section 8 prior to approval of the Final Plat submittal.

Arthur Goldhammer, TRX Developers LLC, came forward and clarified comments with regard to the USACE. Currently under a technical review, he said they in the 4th review of that with the USACE and they have met their conditions. July 14, 2021 was the last official memorandum from the USACE that stated at No. 5 “That the comments have been addressed and incorporated.” The subject modifications acceptable contingent on the resolution of the following two items and there are some comments on the plat. The final construction plans to be submitted to the USACE along with coordination of the project sponsor who is Lower Heart Water Resource District. Those plans were resubmitted and the only comments that came back from that were: (1) To identify the levy on certain sheet on the masterplan, which has been done; and (2) To finalize the coordination with the project sponsor on building the right of way on the Lower Heart and that has been done. Mr. Goldhammer stated that he does support the suggested motion and he believes it would be prudent for the city to acknowledge what the Lower Heart’s concerns are to make sure that final review is complete. He requested this Board to move forward with the first part of this project. He stated they hosted a neighborhood input meeting on February 22, 2022 at Lucky 13 Restaurant and they also sent out letters and that they received good feedback in return. He stated that the final goal is to develop this property. He stated that he received an email from Police Chief Ziegler who heard from the USACE and said that he would be reviewing this but the formal memorandum has not come out yet. He concurred with the proposed condition as stated that USACE review Section 8 prior to approval of the Final Plat submittal.

Chair Robinson again inquired if there were any comments or questions.

Konrad Crockford, a resident from Genoa Court, which is a cul de sac that comes up in front of his property and goes into the Heart River oxbow. He said that he reviewed the new development plan presented by Mr. Goldammer and he did attend the neighborhood input meeting on February 22, 2022. He said that he appreciated some of the changes made to these plans; however, he said that he believes this development is not necessary. He outlined some of the reasons that were pointed out at a meeting held in January 2019, and said that they have not yet been addressed with this development. He stated that in April 2021, he sent a letter to the city, to Justin Froseth, Engineering and Planning Department, stating these reasons: LeRoy Mitzel’s development was denied in January 2019 and there were five citing’s by the Commission stating that development did not meet requirements and requested information on how the shore to lake didn’t meet requirements. He said some of the Board members may remember an email that he sent in April 2021. He extended a thank you to Planner Stromme for his response provided today commenting that today was the first day that he received feedback on the letter he sent in April 2021. He said that as a citizen involved in this project, he has felt disenfranchised on the fact that he never heard anything back from his email. He said when he seen this item on the agenda for today, he sent another email about 2 weeks ago. He said that the five reasons that development was designed is

very similar to this development in scope and shape: (1) The proposed Masterplan subdivision did not align with Future Land Use map for open space; (2) The proposed subdivision plan did not align with the Goal 1, Policy 4 specifically related to the protection of sensitive natural features; (3) The proposed master plan and area includes property that is subject to mapping efforts and processes by FEMA and the State Water Commission which may have significant impact on how the property can and should be developed, if at all; (4) It include property affected by the USACE levy recertification which may have significant impact on how the property can or should be developed, if at all; and (5) The city of Mandan's construction standards that apply following removal from the flood plain based on fill do not adequately address space construction and create the potential for increased loss of life and property and therefore more intense involvement is appropriate until changes of the flood plan ordinance have been adopted. He wanted to highlight the direct quotes from the Planning and Zoning meeting minutes from January 2019. The only item on this list that may have been addressed is the item regarding the basin construction. He said it comes back to the pivotal question, should this area be developed? He believes the answer was given within the 2015 Mandan Land Use and Transportation Plan that was adopted noting that many of the city staff worked hard on the development of that plan. This was a guide put together by the city to obtain a sustainable efficient growth. During the January 2019 meeting, when Mr. Mitzel's development proposal was denied by the Planning and Zoning Commission, Mayor Helbling stated (from the minutes): "I was around when Mitzel purchased this property and Mitzel was made aware that the city did not want this area developed." It was discussed heavily. The Land Use Plan is a tool to help guide decision making, so it should be used. The city drives development, not developers. This guide was developed because of the 2011 flood. Fortunately, and unfortunately, it is getting further into the past and it seems some of the same decisions might be being made. If there is still interest in developing this, then he believes the answer is to "wait". The Lower Heart levee has been de-credited by FEMA since 2012. The Lower Heart Resource District is in the process of having repairs made to the levee and those repairs have not started yet and it is anticipated to be a 2-year project. The most current flood maps on FEMA's website are from 2005. He said that the best information he can obtain from FEMA was from 2005. There was a major flood in 2011 and these maps do not account for anything. That is important because those maps determine the base of elevation, which determines how much fill, how much to bring properties out of the 100-year flood plain. He asked why not wait until repairs are completed and the levee system is reaccredited by FEMA because by that time there should be current flood maps that can inform the citizens if the base flood elevation has changed. Then based on that, decisions can be made to develop, or not. The developer does not make these decisions unless they understand current labor costs, market costs and housing market trends, etc. As a city, why should the decisions be based from data that is outdated, having not been updated in 18 years, when we know that within the next 2-3 years there will be accurate data available to make a better-informed decision. What if it is determined that the levee needs to be wider? There are still many things that need to happen with the levee. As a resident who relies on protection of that levee, he said he wants to make sure that the repairs are done correctly and as quickly as possible. After the 2011 flood, the cities of Minot and Grand Forks had to buy out properties along their rivers to expand their flood protection. Taxpayer dollars were used for those buy outs. This is Mandan's opportunity to avoid a lot of problems if the city makes sure the levee's repairs are done correctly. There is a presumption that if a resident can build or buy a home somewhere that it is safe because the city allows homes to be built near a levee. He said when he purchased

his home on Genoa Court, he was not aware that the levee had not been accredited since 2012. He suggested that everyone needs to be aware that the Land Use Transportation Plan designated in this area as open space with the goal to protect the natural features. Open space is good and a smart use of land and the city should keep it natural in high-risk areas. Denial of this application will not deter companies to develop here but it will show that the city community guide where the development should occur. Ultimately, the city will make a decision on this development and if there is a flood event, the city will be forced to pay for damages, which means that the residents will be the ones paying for it through tax assessments. If all this fails to deter the direction of this development, he requested that the Board wait until the USACE summation comes back. This topic was tabled in February 2021 due to not hearing back from the USACE.

Jason Meidinger came forward and stated that he lives in the Genoa Court area and Lakewood 7th Development. His property backs up to the proposed extension of McKenzie Drive. He stated that it is his opinion that putting a residential development on this property is not a prudent idea. It was brought up at the beginning of the meeting that this matter has been before the Commission twice, however, he believes it has been before the Commission on three separate occasions. The first time was a request for zoning by Mitzel Builders. He did not go through the reasons why that was denied at that time but he still thinks that those decisions were made with intelligence. His concerns with this development, as previously mentioned, this land is still listed as greenspace on the Mandan Future Land Use and Transportation Plan. That was in place when he built his home in 2015, and the term open space was mentioned over fifty (50) times in that document. Goal 1, Policy 4 from that document is to identify, prioritize and protect sensitive natural features such as rivers, streams, wetlands, natural open space and local parks as development proceeds. We are disturbing soil in the 100-year flood plain in order to accommodate this proposed development. FEMA and the State Water Commission both advise that you don't mess with natural flood plain unless it is necessary and it should be left as natural open space. The pond/bar will provide fill to the site to bring it out of the 100-year flood plain and he said he has concerns with this. Does this mean that no additional fill will be brought in from outside and placed in the 100-year flood plain? He asks that question because if additional fill is brought in, is there a risk that is posed to existing properties? Fill that is brought in will displace water that could be currently handled by the flood plain. How will altering this affect runoff absorption and other hydraulic qualities of land in the 100-year flood plain? FEMA and the State Water Commission say placing fill in flood plains worsens future flooding. Flood plains are supposed to be there to store flood water. Dirt cannot be removed within 500 feet of the levee. The preliminary plat shows this previously mentioned upon 1,000 feet east of the levee. That falls within the rules but just because it can be dug that close doesn't mean it should be. Construction and maintenance of the Heart levee still has to happen and how it affects access. It was previously mentioned that the HOA would have to be responsible for reminding homeowners every year to keep the easements open so the levees can be accessed. He said he has concerns about how much thought has been given to other stakeholder's concerns, such as the complaints about the fragrance of the water treatment plant or Kist Livestock. He said he has concerns about the McKenzie Drive crossing of the dead Heart oxbow directly behind his property. After a review of the drawings, he said he did not see any culverts or methods to keep the fill from affecting the water retention capacity. In the event of a flood this would affect his property directly since he has the largest footage of land adjacent to McKenzie Drive in Lakewood 7th Development.

McKenzie Drive is in the Future Land Use and Transportation Plan as a minor arterial road which by definition should not penetrate the neighborhood. The preliminary plat shows McKenzie Drive going through the center of this development right between Phase 1 and Phase 2. What does this mean for the neighborhood if the bridge connecting McKenzie Drive and 1806 and how would that increase in traffic affect the residents of this area? Another concern he has involves Dakota Speedway. He stated that he is not here as a representative of the Dakota Speedway however, he did serve two previous terms as a director on the Board of Directors for the Bismarck-Mandan Stockcar Racing Association, who runs that club. At the Dakota Centennial Park, there is an oval racetrack that operates roughly 25 nights per year and it is run by the not-for-profit club Bismarck-Mandan Stockcar Racing Association. That track has been there for over thirty (30) years. Phase 1 is directly on the other side of that park area from Prairie Rose Golf Course. He said he has concerns if more properties are developed in that area, the noise complaints will increase that the commission and mayor will receive and this could potentially drive the track out of town. If that happens, the track would have to move to either the west of Mandan or to the east of Bismarck and that would economically affect all the businesses on the strip. The Park Board would also lose roughly \$30,000 annually that the Bismarck-Mandan Stockcar Association pays for its lease at Dakota Centennial Park and the Park District would also have to buy out any capital expenditures in the facility that Stockcar Association has made, such as the grandstand, concessions or the building. In conclusion, Mr. Meidinger asked what has changed since January 28, 2019, when the Commission decided that this was not a prudent area to develop a residential area? He stated that as of today, the property is still in the Future Land Use Transportation plan as a greenspace and it is still zoned Agriculture even after the previous attempts to rezone. He asked why the Future Land Use Transportation Plan should be changed as required to accommodate this development? He asked what risks would be taken on by interfering with a natural 100-year flood plain area against the best practice recommendation from FEMA and the State Water Commission? What would this development add to the Lakewood area that it does not already have? Having concerns about placing a development on top of a planned arterial street been addressed and finally, have all of the stakeholder's claims, including but not limited to the Waste Water Treatment Plant, Kist Livestock and the Dakota Speedway been addressed?

Brian Zuroff, a civil engineer with Mountain Plains came forward and stated he is part of the engineering team working with Mr. Goldammer/TRX Developers and Mr. Mitzel. He provided the following information with regard to technical aspects of the changes and modifications regarding this development since the original submittal in January 2019. He said they went from about 410 proposed lots down to the now proposed 280 lots. That was facilitated because of the inclusion of the proposed lake recreation area within Block 3, is the area they will be pulling additional fill from. The addition of that area never has reduced the overall housing in that area by over 100 doorsteps. Regarding the additional fill, for this project, in its entirety, they are not anticipating bringing in any additional fill. They are excavating a pond over 16 feet in numerous areas to pull that additional fill material out. In doing so, they are actually increasing the overall storm water and water detention in that area by over 50% of what it currently has. That's being done through reworking and regrading of the area of that oxbow of the Lower Heart. Regarding the flood plain mapping through this area was re-done in 2014 and updated everything since the 2011 flood which is what spurred FEMA to go through and do re-mappings of the Memorial Highway area. All the design and basin elevations, the roadway designs and housing developments are all based on post-2011

evaluations. In addition, in 2014 the rainfall totals were updated for specific 2-4-5 year, etc., events. All the storm water design does is take that most recent up-to-date information which is currently utilizing sound engineering design into consideration. The Storm Water Management Plan has been submitted for this area and is currently under review and that goes along with any development application that is required. He said they do meet all of the storm and water flow criteria up through a 500-year event. In addition to the flood plain mapping, post construction on this and prior to houses being built in this area, because of the location of where its at, will need to be re-certified and will be done at developer cost through the FEMA process that's in place. That's the same process that all of the Lakewood area has gone through since the initial construction began in the 1990's. Regarding the Heart River crossing and putting a bridge over the Heart River connecting the lower southwest to the lower southeast part of Mandan of the Long-Range Transportation Plan dates back as far as he is able to find, through the NDDOT, Morton County or City of Mandan, goes back to about the 1990's. Having the Heart River crossing connect those two areas is consistently shown throughout the plan and is always noted as long-range that is looked at and needed to accommodate emergency services. Regarding the overall traffic concern as Planner Stromme mentioned, McKenzie Drive is considered an arterial all the way through the Lower Heart River. The current traffic there is only a fraction of what the roadway actually is designed for and what is anticipated by the City of Mandan, the Bismarck Mandan MPO and all the traffic planning organizations. It is only at about one-third capacity of what that roadway is capable of handling. The infrastructure is in place to handle any additional growth.

Commissioner Mehlhoff commented in regard to the residents from Genoa Court who made reference to areas in the flood zone and removing greenspace – those things could be said for all of Lakewood that were all in the flood area and greenspace prior to expanding Mandan in that direction. He pointed out that most people agree that was a good thing for Mandan as far as gaining new residents in a different type of area and adding property tax to the city. They are all valid concerns and this is not anything that hasn't occurred numerous times as they expanded those areas down there.

Commissioner Frank pointed out that this project is a scenario where the Commission needs to lean into the expertise that staff provides and to ensure that the applicants are following the checklists that are provided. It's really easy to go down a path where we begin to inject opinions on whether or not we believe that certain area should or should not be developed. It is important with this request that the Commission looks to whether or not all the considerations have been met. The Commission is responsible for just one development and there are other checks and balances that are put in place by other entities to ensure they are also being abided to. In this case, whether it should be greenspace developed or whether or not we should build in a 100-year flood zone or not, is really not the Commission's place, rather those types of responses are necessary to come from the appropriate places. When it comes to the USACE, is this meeting their requirements for development and when it comes to the city's requirements and is it meeting those? She believes one of the best resources is that the Commission was provided at this meeting, the agenda document that points out the Findings of Fact that Planner Stromme developed and based on those Findings of Fact, it seems like it does support what staff's proposal is to follow through and prove this contingent on some of those outstanding areas that the Commission does not have answers to, but yet, are not the Commission's responsibility to provide the answers. That place in the agenda document has proven to be helpful for her.

Mayor Helbling commented that regarding the actions from 2019, which was an observation made by one of the residents, is that you have to make decisions based on the current data. He stated that circumstances have changed a lot since that development was started when Mr. Mitzel originally presented it. He said he was initially concerned about the odors coming off the water treatment plant and thought that was going to be a huge deterrent to people living there in that the people would try to get the city to cover the water treatment plant, however, that has not been the case. With the homes being built next to the water treatment plant, it is obvious that people want to live in that area. He said at that time he wanted it made clear to Mr. Mitzel that the city had no intention to cover the water treatment plant and if there were odor problems, that area of town would have to cover the costs associated with it. That has not happened. When Mr. Mitzel brought that property in, he wanted to bring it in as a mobile home development and he did not think a mobile home development in that section of town was the proper thing to do with what was happening in that area at the time. The situation of this area is different today than it was 5-10 years ago. The area is developing and people want to live there. He recommended looking at the current data. The levee system being dealt with here has to do with the Heart River and has nothing to do with the Missouri River. In fact, it could probably hold some water from the Missouri River and he does not recall the Lakewood area ever having flooding problems from the Heart River. Chair Robinson said there were some issues in 1950 when the area was constructed. Mayor Helbling stated that re-certification of the Heart River levee, looking at 6-18 inches of fill is all it is wherein the levee would be breached. There are no major problems with it. The biggest driving factor is the flood insurance for all the people in this area. He did not know if the city or Lower Heart would be pushing to recertify the levee if it wasn't for the flood insurance factor. If the levee is not recertified the majority of the people that owns homes there would be required to get flood insurance. He does not believe there is any risk on the city's part nor did he have any knowledge from the Lower Heart that the levee would breach any real danger with it. Circumstances change and people's opinions change and he believes the city needs to look at the most current data and sometimes that is a change. Chair Robinson commented he has been a member of the Lower Heart Board for @ 25 years, and he recalls that the McKenzie Drive extension was part of a conversation during the very first meeting he was on the Board. He was around when Mr. Mitzel announced his masterplan and all of these plans were in there. McKenzie Drive and the development of this area, thus none of it is a surprise. This was all part of the plan presented 25 years ago. Regarding the flood side, the structure itself, the work will get done and it should not change the base flood elevation numbers that is being worked with today with the intent to keep them where they're at. Commissioner Mehlhoff touched on what you will see with this plat. It's what has been happening in the Lakewood area since the first subdivision was presented. As a member of the Lower Heart, as long as there is a stop gap before the final review is complete with the USACE, which is a big factor with the Lower Heart. The developer is willing to do that and that is a major piece to be considered. Mayor Helbling stated he agreed 100% with Chair Robinson and if the USACE does not sign off then this project should not go forward. If the USACE does sign off, there is no real good reason to stop the project.

Derek Schwinkendorf, a resident who lives in Genoa Court, came forward to speak. He said he agreed with the concerns that Conrad and Jason brought up. Regarding the infrastructure, there's going to be a school down there. While all of this developing is going on, the school will be built, not to mention how many people have a road that runs through the back of their

yard. McKenzie will go directly behind 4 or 5 lots where children live. Assuming this is going to be developed, he asked why McKenzie has to be developed going through people's backyards? He stated he is in strong opposition to this.

Konrad returned to the podium again and commented with regard to a statement made earlier, in particular, "what staff has gone through" – he stated he appreciates all the work that has been done thus far. One thing that is absent from this conversation was that in 2019 when the Mitzel development was being proposed, the Planning and Zoning staff reached out to entities like the State Water Commission to talk to them and to FEMA to get their buy-in's regarding this project. He said he has spoken to the State Water Commission and there are a lot of resources in this state that don't seem to have been contacted about that discussion so he just wanted to address that. Chair Robinson stated that he recalls seeing an email that went to the prior City Planner after Mr. Goldammer's first presentation, thus the State Water Commission did provide input.

Brian Zuroff returned to the podium again and clarified that all of the pertinent jurisdictional entities that have any stake in this matter have been contacted.

Pat Sitter, a resident who lives on Genoa Court came forward and stated that while he has always been an advocate for growth in Mandan, he always wants to make sure it is done for the right reason. He said it seems the information that still is necessary from the USACE would save not only Mr. Goldammer's money but also the city's money, thus he does not know why this matter would not wait until that response comes through from the USACE before the development approval goes into effect. He said he was discouraged when the note came out, there was no date on it when the open public meeting would occur and it also did not have the attachment that it said there was, with the letter. When he called the office for that, the gal mentioned that it was a mistake they didn't put it in there. When he asked about the attachment, she said that's only going to be available at the meeting. He asked why it wasn't with the letter and she told him they are not doing that. He said this is the first time he had a chance to see what impact that has on his property. He believes the city is not being prudent in making sure that the ducks are in order to make that approval. He requested the Commission to think of that first before decisions are made. He agreed that things do change, flooding happens. The water came very high to the bank of where its sitting right now and the reason that it started going down the one year was because it was starting to flood the golf course. He thinks there is a shut off valve there. He inquired if that is the case, what happens if there is another event like that? What are the options of things that will be done to make sure that doesn't occur, and where does the water flow to? He asks the city to be prudent in its decisions so that the taxpayers will not have to pay more taxes in the future.

Chair Robinson again inquired if there were any comments or questions.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request for approval of the Preliminary Plat, Masterplan, Future Land Use Plan Amendment and Zone Change from A – Agriculture to PUD – Planned Unit Development for the Shores at Lakewood Addition with the condition that USACE Approval is received prior to Final Plat submittal.

Hearing none, this portion of the public hearing was closed.

Commissioner Otto inquired of Planner Stromme if there is a reason for trying to get the preliminary approved before receiving approval from the USACE? Is there any pre-planning or assistance by the developer before moving forward with the preliminary approval? Planner Stromme replied that when addressing a development in a community, specifically in North Dakota, timing is everything. The P & Z Committee meets once a month so a conditional motion based on the USACE review being incomplete could possibly allow the developer to submit the final plat for the first phase of Shores at Lakewood on a timeline that a table or a denial of the plat would not allow for, thus, obviously trying to find a way for development to move forward but also to have time for other agencies to provide input on how a request might look going forward. The city was under the understanding that the last aspect for the local sponsor to provide support for this project was for the Development Agreement to be entered into. The final thing that needed to be done in the last week, he said he received notification from Lower Heart that they were going to hold off on support until receipt of the USACE review. Following the Development Agreement being applied for and following the item being noticed, and the City Planner Report being published – he had received the updated comment from Lower Heart which is why there is a double-recommended motion provided in the packet.

Planner Stromme stated there were a number of points brought up and if requested, he would address each specifically, if requested. He expressed gratitude to Mr. Crawford and apologized for the delay in responding to his email and that in the future, he will assure a response will be provided in a timely fashion.

D. Commission Action

Commissioner Frank motioned to approve the Preliminary Plat, Masterplan, Future Land Use Plan, Amendment and zone change from A- Agriculture to PUD for Shores at Lakewood Addition, with the condition that the USACE review is complete prior to final plat submittal. Commissioner Otto seconded the motion.

Lucy Snowden of the Lower Heart came forward and inquired: “Does that motion allow for the Army Corp to deny? How would that work? If they complete the review which is the specified language come back as negative does that still move forward to final?” Planner Stromme responded and recommended modifying the motion to state that the review is complete and the findings are satisfactory related to the development plan for it to move forward and it cannot be completed if not satisfactory.

Chair Robinson explained that the motion would be to include that the USACE review is to their satisfaction. The Lower Heart would be subject to the USACE (they are joined at the hip). If the USACE’s review is satisfactory, the Lower Heart will follow. Commissioner Frank inquired, if that is the case, is that necessary so the USACE is approving the plan, then consequently the Lower Heart Committee would be approving it? She said she does not want this matter to get hung up with the Lower Heart not approving what the USACE already said is okay. Chair Robinson said the USACE’s letter is going to provide information, however, in the end they are going to say it is up to the sponsor, which is Lower Heart. Mayor Helbling added that the goal is to provide flexibility if the USACE would come back

and say they agree with the plan as presented, except for – (example) an item “A”, which may be to move something two feet – and that gives the ability to remedy. Chair Robinson commented that Lucy Snowden’s question is relative that if it is a straight denial, which it is not expected, but that the USACE has not looked at it for a couple years. That would have been exposed if that’s what is coming, however, that’s not known. He clarified that the P & Z Commission is looking for flexibility for some remedies to occur before presentation of final plat.

Commissioner Frank amended the motion to include that this can be a process that moves forward based on the recommendations coming from those organizations that have a vested interest without creating unnecessary road blocks or extending the timeline unnecessarily for the developer. To the extent that you offered up the amendment, if that’s clear, and achieves those goals, she would add it to the motion. Commissioner Otto seconded the amended motion.

Chair Robinson clarified that the language change will occur at the point of the condition that the USACE review is complete and if there is any remedy that is required, they are satisfied prior to final plat approval. Commissioner Frank and Commissioner Otto both agreed to the clarification provided by Chair Robinson as interpretation of the amended motion.

Commissioner McLean requested a reading of the amended motion.

Chair Robinson stated that the Amended Motion is to approve the preliminary plat, Masterplan, Future Land Use Plan Amendment and zone change from A- Agriculture to PUD for Shores at Lakewood Addition, with the condition that the USACE review is complete and should any remedies be required they are complete prior to final plat submittal which would be to the satisfaction of Lower Heart.

Commissioner Liepitz recommended that it may be appropriate to vote on the amendment to the motion and if that passes, then have a vote on the motion as amended.

Chair Robinson called for a roll call vote on the amendment.

Commissioner Leingang: Yes; Commissioner Mehlhoff: Yes; Commissioner Horn: Yes; Mayor Helbling: Yes; Commissioner Liepitz: Yes; Commissioner McLean: Yes; Commissioner Frank: Yes; Commissioner Otto: Yes; Chair Robinson: No (on behalf of the Board as the Lower Heart recommended to wait). The motion passed.

Chair Robinson called for a roll call vote on the amended motion.

Commissioner Leingang: Yes; Commissioner Mehlhoff: Yes; Commissioner Horn: Yes; Mayor Helbling: Yes; Commissioner Liepitz: Yes; Commissioner McLean: Yes; Commissioner Frank: Yes; Commissioner Otto: Yes; Chair Robinson: No. The motion passed.

6. A request from Arthur Goldammer / Dakota Pioneer Land Company LLC, for consideration of a Preliminary Plat to be named Heart River Villas Addition, and a Zone Change from RM – Residential Multifamily to PUD – Planned Unit Development. Said property is a Replat of Lot 1, Block 2, School District 7th Addition, Section 20, Township 139 North, Range 80 West, City of Mandan, Morton County, North Dakota. The property

is located in southeast Mandan, west of 40th Avenue SE and north of McKenzie Drive SE.

A. Staff Report

City Principal Planner Stromme presented.

Arthur Goldammer and Dakota Pioneer Land Company, LLC, are requesting approval of a Preliminary Plat and Zone Change from RM – Residential Multifamily to PUD – Planned Unit Development for Heart River Villas Addition. This property is located in southeast Mandan, west of 40th Avenue SE and north of McKenzie Drive SE. The property is currently owned by Mandan School District. It is currently zoned RM and is to be placed into a development in order to move forward. Future Land Use is for high density residential.

Overview

The preliminary plat includes 66 single and twin-family lots in one block. The developer is proposing private streets and utilities for this subdivision and a PUD to allow for guidelines specific to this development. There will not be any public utilities going into the site. All lots are to be accessed from an internal private street network via 38th Avenue SE, and properties on 34th Avenue SE would access from that corridor. There is an exhibit showing water and sanitary sewer utilities and that includes the footprint for the homes. A public street planned to be constructed in 2022. The developer is proposing 20' private drives throughout the subdivision.

Zoning

The PUD Narrative (Exhibit 4) would be based on the R3.2 and R-4 Residential Districts for the single and twin-family lots. Proposed home elevations are included in Exhibit 6. The proposed development would be constructed in one phase with home construction to follow underground and aboveground street and utility installation.

All residential lots would have consistent setback requirements. These are proposed as follows:

- Front Yard: 25' from public street (garage access)
- Front Yard: 15' from public street (alley load garage access)
- Side Yard: 5'
- Street Side Yard: 15'
- Rear Yard: 20'

Adjacent Land Use

Adjacent land uses include a mix of low, medium and high-density residential and institutional with the Mandan Schools. Adjacent zoning is R3.2, PUD, RM and CB. There is a notarized statement from the School District to permit Mr. Goldammer and Dakota Pioneer Land Company to apply for this request.

There are a number of similar developments in the Lakewood area, this would be the largest of the private street developments however there are a number of other developments where the city has done the private street sewer, water, and other utilities on a narrower easement that would be allowed if it were to go to a public street at 60' or 66' for the streets and

possibly not allowed for a development model to move forward efficiently on this piece of land.

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 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 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 if amended, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Staff has not received any comments from adjacent property owners related to this request. A total of 64 letters were sent to adjacent property owners. The Fire Department has reviewed proposed access lane widths and turnarounds. The Fire code will require that the access lane is 26' wide near fire hydrants. The Special Assessment allocation for construction of 38th Avenue SE is actively being discussed amongst benefitting landowners.

Staff requests included:

- ~ An interior sidewalk network be added to the plat to promote interconnectivity within the development and the broader neighborhood.
- ~ Street names must be added to the Final Plat.
- ~ A Developer's Agreement will be drafted for this subdivision.

- ~ Maintenance of streets and other utilities is to be the responsibility of the Development / HOA.
- ~ Internal development illumination will be motion sensor activated lighting on the residences.
- ~ There are 10 parking spaces shown on the plat and are intended to be for visitors or delivery couriers.
- The subdivision is located in the floodplain but is would be developed in accordance with the Floodplain Development Ordinance (finished floor elevation to be 2ft above base flood elevation).
- Staff requested that boulevard street trees be installed along McKenzie Drive SE, 38th Avenue SE and 24th Street SE.

Planner Stromme stated that the Planning and Engineering staff recommended approval of a Preliminary Plat to be named Heart River Villas Addition, and a Zone Change from RM – Residential Multifamily to PUD – Planned Unit Development.

Mayor Helbling inquired if any of the neighbors from the last proposal expressed any comments to this proposal? This mirrors the other proposal and one would think if they were opposed to what was truly happening on the other one, they would be opposed to the School District and this site being developed. Planner Stromme stated that he did not receive any comments from the residents that provided feedback on the Shores at Lakewood. However, it is notable that the adjacent property owners may not have included their properties they have been notified of their request with a letter to their home.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room to come forward or anyone calling in or on-line to speak for or against the approval of a Preliminary Plat to be named Heart River Villas Addition, and a Zone Change from RM – Residential Multifamily to PUD – Planned Unit Development.

Clara Mudder, a resident who lives on Genoa Court came forward and stated that she did not receive notice of this development until they saw the packet for tonight’s meeting. She stated that she works for the state and she is aware there is a need for affordable housing in the community. She stated she is concerned about the density of this development after seeing some interior lots are only 3300 sq. ft. noting a concern that some of these may be rental units that would be sold and then as the property deteriorates it becomes less desirable for the next person. Putting 66 units on 7 acres of land, that will be housing units and not apartments, however, she would like to see more space there. Maybe if there were row homes the residents could have bigger yards or something that will make it more family-friendly over the long term.

Landon Niemiller, Swenson-Hagen Engineering came forward and stated that the lots are zoned multi-family residentials so the zoning district is a little under 10 units per acre and typically in an RM zoning lot, you could eliminate all the lot lines and the easements and

allow the units to develop as shown. However, multi-units are a much easier process for first time home buyers to get financing and they will actually own the lot.

Chair Robinson again inquired if there were any comments or questions.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request for approval of a Preliminary Plat to be named Heart River Villas Addition, and a Zone Change from RM – Residential Multifamily to PUD – Planned Unit Development. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner Frank motioned to recommend approval of a Preliminary Plat and zone change from RM - Residential Multifamily to PUD - Planned Unit Development for the Heart River Villas Addition. Commissioner Mehlhoff seconded the motion. Upon vote, the motion passed unanimously.

OTHER BUSINESS

1. *Introduction of New Planning and Zoning Commission Board Member:* Russ Leingang, representing the ETA was welcomed to the Board by Chairman Robinson. Russ represents the Riverbend Addition. Planner Stromme stated there is still room for one more position to be filled from the ETA, Morton County. If anyone is interested, please contact him for more information.

2. *Introduction of Zoning Ordinance Text Amendment for the Downtown Fringe and CA.* Planner Stromme stated that with the large number of requests on the agenda tonight, he said he has not been able to get as far as he planned to with recommendations for this Board to consider. As time permits, he will plan to present them at the next meeting. Questions, comments and recommendations can be submitted to Planner Stromme.

ADJOURNMENT

A motion to adjourn the meeting was made and seconded. Upon vote, the motion passed unanimously.

The meeting adjourned at 7:40 p.m.