

**MANDAN PLANNING AND ZONING COMMISSION**  
**MANDAN CITY HALL**  
**Monday, January 22, 2024**

The Planning and Zoning Commission of Mandan met in session in the Commission Meeting Room of the Mandan City Hall on Monday, January 22, 2024, at 5:30 p.m. CST. Planning & Zoning Commission members may be attending this meeting remotely.

**ROLL CALL**

Chair Robinson called the meeting to order.

Commissioners Present: Leingang, Huber, Helbling, Horn, IntVeld, Buchmiller, Smith, Hammond, Gardner, Robinson. Commissioner Mehlhoff attempts to join the meeting via Zoom. Commissioners Absent: McLean. Chair Robinson welcomed Tanner Intveld as a new at-large member.

**MINUTES**

*Commissioner Smith motioned to approve the December 27, 2023 minutes as presented. Commissioner Hammond seconded the motion. Upon vote, the motion passed unanimously.*

**PUBLIC HEARINGS**

***1. A request from EB10 INC for a preliminary plat to be named Rockwood Second Addition. The request includes a zone change from AG (Agricultural) to R3.2 (Residential). Said property is Lot 3, Block 2, Rockwood First Addition in Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located on Beretta Street N.***

**A. Staff Report**

City Principal Planner Stromme presented.

EB10 Inc (Eric Belanger) requested consideration of a preliminary plat and zone change for a subdivision to be titled Rockwood Second Addition. The subject property is Lot 3, Block 2, Rockwood First Addition in Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota, located northeast of Mandan Middle School, east of 12th Avenue NW on the south side of Beretta Street NW having received initial approval in 2022 during its initial phase.

**Overview of Request**

This requested zone change and preliminary plat would permit the construction of six (6) single-family homes and one (1) twin-family home for eight (8) total units on a private drive connecting to Beretta Street NW in the Rockwood development.

**Preliminary Plat**

The preliminary plat is 5.56 acres in size and consists of nine (9) lots in one (1) block. Eight (8) lots are shown for immediate residential development with Lot 9, Block 1 being reserved for future development and likely being subject to future subdividing. Notable plat details include the common access easement, utility easements, and the Marathon Oil easement which is carried over from the original Rockwood Addition plat.

### **Requested Zone Change**

The proposed zone change from A – Agriculture to R3.2 – Residential aligns with the City’s Future Land Use Plan projections for 5 to 8 dwelling units per acre in the “near north” development area. The proposed plat would yield 5.6 dwelling units per acre in the portion to be developed.

### **Adjacent Properties Zoning, Land Use and Future Land Use**

Adjacent properties to the north are zoned R3.2 – Residential and are being developed as single and twin-family homes. To the east, properties are R3.2 – Residential and developing as single-family homes. To the south there is RM – Residential multifamily and to the west a mix of RM – Residential multifamily and R3.2 – Residential undeveloped lots. The future land use plan designates this area to be medium-density 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, 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.

### **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 is compatible with adjacent zoning;

5. The proposed zoning change would not adversely affect public health, safety and general welfare.

#### **Agency & Other Department Comments**

- Morton County Emergency Management has been provided potential names for the proposed private street (Cherry Lane). The Final Plat will be required to show a street name, and the developer will be required to install one that meets city specifications.
- The proposed development will be served by a privately maintained driveway and private utilities.

#### **Engineering & Planning Staff Comments**

- The proposed development will be subject to a Development Agreement detailing the ongoing maintenance responsibilities of the development such as common infrastructure and fire lanes. Per fire code the entire common driveway would need to be clear to maintain fire code development and signage as well as the private utilities that are in the development.
- The plat will be required to show access easements for City Public Works to access curb stops.
- The proposed development has been accounted for within development plans and infrastructure built for Rockwood.

Planner Stromme stated that staff recommended approval of the preliminary plat and the zone change from A – Agriculture to R3.2 – Residential for Rockwood Second Addition.

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

#### **B. Open Public Hearing**

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request from EB10 INC for a preliminary plat to be named Rockwood Second Addition. The request includes a zone change from A - Agricultural) to R3.2 - Residential for Rockwood Second Addition. A second invitation was given to come forward at this time to speak for or against this request.

#### **C. Close Public Hearing**

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

#### **D. Commission Action**

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

*Commissioner Huber motioned to approve the preliminary plat to be named Rockwood Second Addition and zone change from A - Agricultural to R3.2 Residential for Rockwood Second Addition. Commissioner Smith seconded. Upon vote, the motion passed unanimously.*

*2. A request from Monte & Lynette Gawryluk for consideration of a Special Use Permit for multi-use shops. Said property is Bridgeview Bay Addition, Lot 1, Block 1 in Section 6, Township 138N, Range 80W in City of Mandan, Morton County, North Dakota. The property is addressed 2600 Marina Road SE.*

## **A. Staff Report**

City Principal Planner Stromme presented.

Monte & Lynette Gawryluk requested consideration of a special use permit for Missouri Point Shop Condos, a proposed multi-use shop development in southeast Mandan's Bridgeview Bay area. The property is Lot 1, Block 1, Bridgeview Bay Addition Section 6, Township 138N, Range 80W, City of Mandan, Morton County, North Dakota, and is located along the Missouri River at the eastern terminus of McKenzie Drive SE.

### **Overview of Request**

This request would permit the construction of 25 multi-use shop or "shop condos" on the property for a mix of owner-occupied commercial and personal use.

### **Property History**

The property has not been developed in the past and the surrounding properties were developed in the late 1970s to the 1980s. The most recent re-platting occurred in 2004, and it has been in the CB – Commercial district zoning since 2000 (Ord. 909).

### **Special Use Permit**

Mandan has required special use permits for multi-use shop development since 2019. The purpose of these permits is to evaluate potential impacts arising from proposed developments, taking into account factors such as traffic, usage patterns, architectural form, adherence to plans and studies, and other relevant considerations. The applicant has submitted an overview of the intended development along with responses to standard questions related to special use permits in Exhibit 2. A detailed breakdown of the review process for this development is provided in Exhibit 6. The development would include a central drive lane flanked by two east-to-west-oriented buildings and one situated at the terminus, on the east end of the lot oriented along the Missouri River bank. The condominium units, measuring approximately 50 ft. x 25 ft. would reach a height of approximately 25 ft.

### **Adjacent Properties Zoning, Land Use and Future Land Use**

Adjacent properties to the north are zoned RM – Residential and CB – Commercial and consist of a marina and restaurant. To the west the property is a CB – Commercial zoned marine sales dealership and to the southwest an RM – Residential zoned multifamily residential development. To the south, there are single-family homes zoned R7 – Residential. The property is immediately on the west bank of the Missouri River. The City's Future Land Use Plan recommends commercial development on this property.

### **Agency & Other Department Comments**

- City Building Inspections and Fire Departments are in contact with the applicants regarding fire code requirements.

- Development on this property is subject to Mandan Architecture Review Commission review and approval.

### **Engineering & Planning Staff Comments**

- The form and intended use of this project conflict with the goals identified City's Future Land Use Plan. It is not likely that a project of this character is supported by the plan on this property, however consideration will be given to alternative proposals in the future.
- The property is located within Mandan's Gateway Overlay District, which is designated for high-visibility or high-traffic areas in the community. This classification triggers specific site design criteria, including landscaping, buffering/screening, and restrictions on building materials. A plan demonstrating compliance with Gateway Ordinance Requirements has not been submitted for review.
- The parking plan for the proposed development is to designate the area in front of the shop units for the unit's parking and to possibly consider spaces within the units themselves, too. Staff does not support this plan and suggests that additional off-street parking, arranged in a more conventional parking lot configuration, as a more effective solution.
- The proposed development may be impacted by Corps of Engineers easements along the Missouri River. This potential influence could affect how closely buildings can be positioned to the rear/river side of the property, and confirmation of this aspect should be provided.
- Staff met with the applicant's representatives and decided to postpone the approval process. The recommendations by staff reflect this meeting.

### **Engineering & Planning Recommendation**

Planner Stromme stated that based on the comments provided above and as outlined in Exhibit 5, staff recommended postponing consideration of this request to a future meeting of the Planning and Zoning Commission, subject to applicable noticing requirements.

If the Board does not feel that there is a form that multi-use shops can take on this property, this request should be denied.

Planner Stromme explained that if this project were to move forward, the Building and Inspections and Fire Departments have requested reviewing the project further regarding fire code and issues of that nature relative to the permitted uses. Any development would require the MARC's review and recommendation for approval. It is staff's opinion that this property is not designed for multi-use shops in alliance with the city's land use plan. There are certain criteria for land uses to meet the community's needs, adequate services and access. See Exhibit 6. Further, if the Board determines a potential for the items needing to be addressed for this project the Planning Department would recommend this item be postponed for future consideration. If the Board does not see alignment with the city's land use plan and does not see potential for this project to move forward, the request should be denied.

### **B. Open Public Hearing**

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request from Monte & Lynette Gawryluk for

consideration of a Special Use Permit for multi-use shops. A second invitation was given to come forward at this time to speak for or against this request.

### **C. Close Public Hearing**

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

### **D. Commission Action**

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

Planner Stromme reported there were issues with the recording of his presentation, and he stated he was not sure how much of the presentation was heard by the applicant. He stated that the applicant and his representative are currently present via on-line, however, he believes they did not hear any of the presentation due to technical difficulties.

Chair Robinson stated that based on the recommendation by Planner Stromme and that the applicant did not hear the presentation given due to technical problems, he recommended postponing this matter.

Commissioner Huber extended a thank you to the Gawryluk's for their interest in setting up their business in Mandan and said it was unfortunate they were not able to hear the presentation via Zoom. She concurred that additional information about putting multi-use condo shops on this property is necessary before making any decision at this time. She stated that the chosen location is not optimal for a business of this nature and she would support denying the request.

Commissioner Smith stated that he would agree that having this business located off of Expressway Road is not the best location. He said he was surprised that this matter has been sitting inactive for a long time. He inquired if there were any problems with the land explaining why it has not been developed? Planner Stromme stated that he is not aware of any conditions or problems with the property that would warrant it being treated any differently than other properties within the community. The applicant acquired the property in December 2023. Commissioner Helbling stated that without the applicant participating in the meeting, he did not think it would be a fair process noting that it is not the applicant's problem that the audio portion on their end (Zoom) did not work properly. He recommended postponing this matter until the applicant is present or can hear the presentation if he chooses to participate via on-line.

Chair Robinson concurred with the comments. The fact that the applicants are attempting to participate via Zoom, and due to technical difficulties prohibiting them from doing so, he recommended this item be postponed until a later time.

*Commissioner Smith motioned to postpone the request from Monte & Lynette Gawryluk for consideration of a Special Use Permit for multi-use shops subject to applicable noticing*

*requirements. Commissioner Buchmiller seconded. Upon vote, the motion passed unanimously.*

## **OTHER BUSINESS**

### **ADJOURNMENT**

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

*The meeting adjourned at 6:00 p.m.*