

**MANDAN PLANNING AND ZONING COMMISSION**  
**MANDAN CITY HALL**  
**Monday, January 24, 2022**

The Planning and Zoning Commission of Mandan duly met in session in the Commission Meeting Room of the Mandan City Hall on January 24, 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: Mehlhoff, Horn, McLean, Frank, Camisa, Vayda, Robinson.

Commissioners Absent: Helbling, Liepitz, Otto

*Commissioner Camisa motioned to approve the December 27, 2021 minutes as presented. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.*

**PUBLIC HEARINGS**

***1. A request from the Mandan Park District and Kupper Properties LLC for consideration of a preliminary plat to be titled Old Red Trail Commercial 3<sup>rd</sup> Addition. Said property is Replat Lot 2, Block 1, Old Red Trail Commercial 2<sup>nd</sup> 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 8<sup>th</sup> Avenue NE.***

**A. Staff Report**

City Principal Planner Stromme presented.

Mandan Park District is requesting approval of a Preliminary Plat for a subdivision to be titled Old Red Trail Commercial 3<sup>rd</sup> 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 would create two lots from Lot 2, Block 1 in Old Red Trail Commercial 2<sup>nd</sup> Addition that was platted in 2018. To facilitate a land transfer, Auditor's lots were created for the properties and are shown on the plat. Lot 1, Block 1 will be retained by Mandan Parks District and Lot 2, Block 1 will be owned by Kupper Properties LLC. The Auditor's lot was created in 2021 to facilitate the ownership transfer and donation of land between those two entities. Exhibits have been provided in the meeting packets that indicate Old Red Trail Commercial 2<sup>nd</sup> Addition and the only change seen between the 2<sup>nd</sup> and 3<sup>rd</sup> Addition is that Lot 2 Block 1 in Old Red Trail Commercial 2<sup>nd</sup> has been split so in the 3<sup>rd</sup> Addition there are two lots in that area. Other items going on in this area include Lot 2, Block 1 is located in the Gateway Overlay District for proximity to Interstate 94: (i) Improvements to 16<sup>th</sup> Street NW are associated with this request that will connect Old Red Trail over to Mandan Avenue to the industrial park. Efforts are underway to put in a street in 2022 and that will provide another access to this area; and (ii) A Non-Access Line along Old Red Trail on Lot 1.

This matter has been reviewed with the city engineer process and it appears many of the components have been incorporated from the 2015 traffic study such as the 3-lane non-conversion, street lights, round-a-bouts and improved access to the freeway point. Staff has not received comments in opposition and there were four letters were sent out to neighboring properties within 500 feet of the property. Brad Krogstad, a representative for the applicant is available to answer questions.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Preliminary Plat for Old Red Trail Commercial 3<sup>rd</sup> 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 from the Mandan Park District and Kupper Properties LLC for consideration of a preliminary plat to be titled Old Red Trail Commercial 3<sup>rd</sup> Addition.

Brad Krogstad, from Kadrmas, Lee and Jackson (KLJ) came forward and stated that he does not have anything to add to Planner Stromme's presentation. He stated he is available to answer any questions regarding this matter.

Chair Robinson invited anyone in the room or on the phone to come forward to speak for or against the approval of the request from the Mandan Park District and Kupper Properties LLC for consideration of a preliminary plat to be titled Old Red Trail Commercial 3<sup>rd</sup> 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 from the Mandan Park District and Kupper Properties LLC for consideration of a preliminary plat to be titled Old Red Trail Commercial 3<sup>rd</sup> Addition. Hearing none, this portion of the public hearing was closed.

## **D. Commission Action**

*Commissioner Mehlhoff motioned to recommend approval of the preliminary plat for Old Red Trail Commercial 3<sup>rd</sup> Addition. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.*

***2. A request from Toby Severson for a Minor Plat and Special Use Permit to allow a drive through in the DF – Downtown Fringe Zoning District. Said property is Lots 16, 17, and 18, Block 1 in Mandan Proper Addition, Section 27, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located on the southeast corner of 5<sup>th</sup> Avenue NE and 1<sup>st</sup> Street NE.***

## A. Staff Report

City Principal Planner Stromme presented.

Toby Severson is requesting approval of a Minor Plat (Exhibit 4) and Special Use Permit for a drive-through on Lots 16, 17 & 18, Block 1, Mandan Proper. This property is located in greater downtown Mandan on the southeast corner of 5<sup>th</sup> Avenue NE and 1<sup>st</sup> Street NE. A Special Use Permit is required for a drive-through in the DF-Downtown Fringe per Section 105-4-2 (b). The proposed use, a coffee shop, is allowed by right with the zoning in place. That use would be located on Lot 1. Lot 2 may be used for future development purposes. Lot 3 will remain as overflow parking for A&B Pizza under ownership by Barth Revocable Living Trust with a pedestrian access and utility easement connecting to 5<sup>th</sup> Street NE through Lot 2. A site circulation plan shown in Exhibit 5 demonstrates how 6 vehicle stacking spaces and 6 parking spaces are to be accommodated on Lot 1. The city does not presently have minimum vehicle stacking requirements for drive-through uses. The off-street parking requirement for this use is one space for each four seats for patron use. On-street parking is available on 5<sup>th</sup> Avenue NE and 1<sup>st</sup> Street NE. It was noted that 5<sup>th</sup> Avenue NE is a local roadway and may be able to accommodate additional vehicles stacking with minimal impact on collector or arterial roadways. The driveway apron on 1<sup>st</sup> Street NE is located 70 feet from the intersection of 5<sup>th</sup> Avenue NE and 1<sup>st</sup> Street NE and will be for egress purposes only. The apron on 5<sup>th</sup> Avenue NE will be relocated to the area proposed on the site plan. Of note regarding access to Lot 3, Block 1, there are some concerns with primary alley access including addressing, parking, waste pickup and access to the street. Several lots in this district have alley access and concerns have been mitigated with this plat. This previous land use on this property is an ice cream parlor and more recently a hair salon. Adjacent uses include single-family homes and commercial uses. This property is not located within a parking exempt district and it is within the Renaissance Zone.

Planner Stromme reported that staff has received inquiries related to this item. A neighboring property owner requested the following which staff supports: Trash receptacles be located as far from a residential use as possible; drive-through speaker volume be restricted to prevent noise/sound from travelling onto the neighboring property; the vehicle barrier be strengthened or replaced to protect the adjacent property. There were 66 letters were sent to adjacent owners within 500 feet of the request.

Planner Stromme noted that staff recommended the following conditions be included upon approval:

- (i) Signage be added to alert drivers of possible pedestrian activity when exiting the drive through - Drainage to be evaluated by staff at site plan level;
- (ii) Greenspace be added between parking lot and sidewalk along 5<sup>th</sup> Street NE and 1<sup>st</sup> Avenue NE per Downtown Mandan Subarea Study (See: P. 14: Parking Policies and P. 80 Beautify Downtown);
- (iii) Drive-through menu board be non-illuminated outside of business hours and speaker volume to be capped;
- (iv) Trash receptacles be located on Lot 2, Block 1 until that lot is developed. Following development, the trash receptacle be located along the south property line of Lot 1;
- (v) Barricade along the east property line of Lot 1 be shored up/replaced to protect the adjacent property owner;

- (vi) Any on-site lighting to be downcast to avoid light spilling onto adjacent uses;
- (vii) If future development occurs on Lot 3, Block 1, water service lines must be bored within five feet (5') easement.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Minor Plat for Mandan Proper, A Replat of Lots 16, 17 & 18. Block 1 and Special Use Permit for a Drive Through on Lot 1, Block 1 with the conditions presented. The applicant, Mr. Severson and his engineer are both available to answer questions.

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

Commissioner Frank inquired if this request had been made for this property in past years? Planner Stromme replied that from May (2021) until now, it has not been made. He is not aware of any previous requests. He offered to look into this property's history if requested. Commissioner Frank inquired if there has been any consideration given to forcing traffic on to 1<sup>st</sup> to turn right only? Planner Stromme replied that up until this point there has not been a conversation or requirement that has been discussed. He offered to discuss this with the city engineer who manages the traffic flow to see if that is something he would recommend. Commissioner Frank commented that this street can have heavy traffic, in particular, at times that a coffee shop would be frequented as people travel to work or school. Thus, if someone is waiting to turn left coming out of that drive-through could produce a wait time and would create back up or stacking. Planner Stromme stated he concurs with that scenario and he offered to review this with the applicant or, he would support it if that is a request that would be made part of a motion for the special use permit. Commissioner Frank inquired if this is a franchise and what type of volume is anticipated? Planner Stromme replied that was one of the questions he initially asked. He said it is not planned to be a national franchise and that Mr. Severson indicated it would be a local operation. In terms of stacking, the Mandan Code of Ordinances does not have a minimum stacking requirement for any drive-through use within the city of Mandan. It is common to establish a minimum for certain uses to avoid that situation where drive-through traffic stacks out to a public right of way. He stated that Bismarck goes up to ten (10) plus spots for a coffee shop. If it is the interest of this Commission, he stated that he would research what might feel right for the City of Mandan to have for a drive-through use. With the 6 parking spaces, he reported that he reviewed two drive-throughs that were recently constructed in Mandan, a coffee shop on Memorial Highway and one on Sunset Drive and they were in that 5-6 range. The coffee shop on Sunset Drive is closer to the 10-12 range, however Mandan does not have a minimum requirement they have to meet. For this request in the downtown fringe, it might be difficult to hold it to a car-oriented site thus, there is work in progress to find a happy-medium for this neighborhood that also provides a plan for the traffic flow.

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

## **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 from Toby Severson for a Minor Plat and Special Use Permit to allow a drive through in the DF – Downtown Fringe Zoning District.

Shauna Laber, 605 1<sup>st</sup> Street Northeast came forward and stated that is her property is an adjoining residential use to the drive-through. She stated she is always excited to welcome new businesses to Mandan. Because she lives in this neighborhood, she voiced concern about the speaker volume in the location that is proposed. Planner Stromme indicated he is researching possible decibel volume. Going forward she would like to be assured that the city is addressing any nuisance. The Nuisance Ordinance at Section 16.11 is clear prohibits neighbors that would cause a nuisance to another neighbor. She wanted to make sure consideration is given to the placement of the speaker system before approval of the request. Another item of concern is the barrier of the chain-link fence at A & B Pizza where another resident lives. It appears to be difficult to maintain a property fence in a residential manner with parking lot activities. She voiced concern to make sure what is already there is shored up so that use is proven time and time again not only with the pizza lot chain link fence, however in the past - that use had issues when parking was allowed adjacent to a residential fence. She requested that it be made very clear in the expectation of timing when passing the permit. She said she had a concern about the dumpster location; however, Planner Stromme has addressed that issue. Those are her concerns other than the school zone begins where this parking lot exit is proposed as Commissioner Frank suggested. That is where the sign is posted that indicates the beginning of the school zone. She pointed out it is a highly utilized pedestrian area due to the school location. She requested the Planning and Zoning Commission facilitate safety protocol in this area on behalf of the community.

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 from Toby Severson for a Minor Plat and Special Use Permit to allow a drive through in the DF – Downtown Fringe Zoning District. 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 Frank stated that her comments allude to what she asked previously and she voiced concern that this matter is addressed correctly during this first discussion so that it does not become an issue with backup traffic that becomes a frustration for neighbors and adjacent property owners and businesses including the coffee shop owner. She said she is interested in finding out more information about being intentional with the number of vehicles will require stacking to accommodate and also some further investigation as to whether or not it would be more appropriate to offer a right hand turn only. Planner Stromme explained that with that request in mind, if the city were to enact an ordinance it could possibly be an additional two (2) months before this use could move forward. For an evaluation he wanted to provide additional clarification stating that in the Downtown Fringe

he is not certain he would be making a recommendation to go much more than that six (6) amounts because of the size of the lots and the size of the neighborhood. He offered to research that if it is something this Commission would want brought back in the future or to send it with a recommendation to the City Commission in order to keep the applicant's request moving forward. Regarding the right turn, he indicated it may be possible to settle that issue between the applicant and the city engineering staff as part of the recommendation or condition of approval. He stated that 6<sup>th</sup> Avenue is a quiet street and he believes it may be possible to accommodate some additional stacking if needed on that property. The property owner applicant will own Lot 2 of this plat and if it were something he would choose to do, he would be able to do a minor plat and add additional drive-through stacking spaces on that property if it is approved.

Commissioner Camisa inquired as to what the proposed hours of the coffee shop will be? Planner Stromme stated he does not have that information at this time, and that is typically not reviewed such is done with the restaurant type group, however, he indicated the hours would most likely be from 5:00 or 6:00 a.m. to sometime in the afternoon.

Commissioner Frank stated that she usually is an advocate for expediting processes rather than interjecting to slow them down, however she said she is not familiar with the timeline scheduled for this project. She requested Planner Stromme to find out from the applicant if a delay in the decision until the next Planning and Zoning meeting would affect the timeline. She said she is not suggesting that there be a delay in order to enact an ordinance to determine the number of vehicles for stacking in order to get a better sense perhaps through studies from other communities who are in a similar scenario as far as location in the downtown area drive-through. She would prefer knowing that this number is accurate and requested Planner Stromme to find out what that would look like. The applicant could spend the next couple weeks getting that level of detail before a decision is made by this Commission.

Planner Stromme requested the applicant's representative Mark Isaacs from Independent Land Surveying and Engineering to provide clarification. Mr. Isaacs said that he is aware that the project timeline is sensitive due to the fact that Toby Severson is in contract to purchase this property from Barth Living Trust. Obviously, any delay may cause issues with that purchase. He said he is not aware if it is something that the Planning and Zoning Commission could the request and its motion be subject to getting those logistics worked out. If that could be done and then possibly be presented on February 15, 2022 at the City Commission meeting. Chair Robinson inquired that the information provided indicates that the coffee shop is not a franchise and it is independent? Mr. Isaacs replied that is correct and that it is something that Mr. Severson is pursuing individually. Commissioner Mehlhoff inquired if Mr. Severson is attempting to apply for Lot 1 and Lot 1, only? Mr. Isaacs clarified that it will be Lot 1 and Lot 2. Commissioner McLean inquired as to what is the closing date on the Purchase Agreement for those properties? Mr. Isaacs stated he did not have that information available stating he knows there is a deadline however, he did not know what that date is.

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

Commissioner Mehlhoff stated that the main points have been brought up with regard to the street, the dumpster, the nuisance of the speaker and the (fence) barrier. Those are items that are contained in the special use permit. As far as the left turn, organically that will figure itself out and he is not sure if that issue is something this Commission should wait on if vehicles are having trouble turning left on. He agreed those are valid concerns but he is not convinced it is enough of a problem to not approve the request as presented.

*Commissioner Mehlhoff motioned to recommend approval of the minor plat for Mandan Proper, a replat of Lots 16, 17 & 18, Block 1 and a Special Use Permit for a drive through on Lot 1, with the conditions presented. Commissioner Frank seconded the motion.*

Chair Robinson stated there is a motion by Commissioner Mehlhoff to approve a minor plat for Mandan Proper, a replat of Lots 16, 17 & 18, Block 1 and a Special Use Permit for a drive through on Lot 1, with the conditions presented and a second by Commissioner Frank.

Planner Stromme interjected and clarified that in order to get the conditions right for the City Commission – it will be what was presented with more specificity to the barrier, a little more detail on the orientation on the speaker of volume or decibel levels.

Chair Robinson called for a roll call vote. *Upon vote, the motion passed unanimously.*

**3. A request from Josh Gendron for consideration of a zone change from CA (Commercial) to PUD (Planned Unit Development). Said property is located at 1300 Collins Avenue and is described as Lot 2 (less S 125'), Block 1, Highland 2<sup>nd</sup> Replat, Section 22, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota.**

#### **A. Staff Report**

City Principal Planner Stromme presented.

Josh Gendron is requesting approval of a zone change from CA – Commercial to PUD – Planned Unit Development for Highland 2<sup>nd</sup> Replat, Lot 2 (Less S. 125'), Block 1. This property is located in north central Mandan on the east side of Collins Avenue near 12<sup>th</sup> Street NW. The PUD Zoning would allow the applicant to construct and operate a vehicle repair business, a use not presently permitted with the current CA – Commercial zoning in place. This matter was before this Commission at the December 27, 2021 meeting however it was tabled due to an outstanding item on the PUD.

#### **Property History**

This property was first platted into Highland 2<sup>nd</sup> Addition in 1986 as residential cul-de-sacs aligning with adjacent 12<sup>th</sup> and 13<sup>th</sup> Streets. Shortly thereafter the land was re-platted into Highland 2<sup>nd</sup> Replat and the property remains undeveloped and has been vacant since being platted in the 1980's. The property is located at Collins and 12<sup>th</sup> Street NW.

**The current zoning on the property allows neighborhood commercial uses: (Sec. 105-3-11 – (2) – CA – Commercial; Uses Permitted)**

- a. Single-family dwelling
- b. Two-family dwelling

- c. Multifamily dwelling
- d. Group dwelling
- e. Retail group A
- f. Service group A
- g. Filling station
- h. Office-bank group
- i. Health-medical group
- j. Utility service group
- k. Bed and Breakfast

In 2015 the City received a request to re-zone the property to CC – Commercial to allow a car wash and storage units on the property. That request was denied based on the following findings: (i) Car Wash being too loud for the neighborhood (dryers); (ii) Traffic backups at 4-way stop of Collins Avenue and Old Red Trail; (iii) The Planner at the time would have preferred it be a PUD rather than straight CC – Commercial.

**Current Proposal:**

The request to rezone to PUD allows more City input on the site development. In accordance with Sec. 105-4-3, the Applicant has provided the city with a written narrative, Renderings and Elevations and a site/landscaping plan and the building itself.

Based on the written narrative, the proposed use would not operate in the evening after 5:30 p.m. or on weekends and City approval through this Board and City Commissioners would be necessary to modify hours of operation (PUD Amendment). The attached Zone Change Ordinance is written similar to a CC-Commercial Restricted District to allow all uses previously allowed in the CA – Commercial District as well as Service Group B.

The site plan shows the addition of boulevard tree plantings, shrubs on the front property line, a buffer of pine trees along the east property line, an access gate to the alley, and a rear fenced in area for parts and equipment storage. This proposal has not been evaluated by MARC but would be conditional on approval from that Board.

This request was introduced at the December 27, 2021 Planning and Zoning Commission meeting. The item was tabled due to a need for confirmation of a PUD requirement.

**Findings of Fact Zone Change to PUD**

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.

Planner Stromme said that staff has received comments from neighboring residents on this item in objection to the request. All comments received by the publication of this packet have



been forwarded to Commissioners for review. There were 47 letters sent out to neighbors. With regard to the last discussion on this matter, the following have been addressed:

- The rear Landscaping Buffer has been requested to provide additional separation between the proposed use and established residential uses to the east.
- Service Group B (vehicle sales) is a use allowed by right in DC, DF, and CB zoning districts, all which permit commercial and residential uses.
- Stormwater detention needs would be evaluated as the site development process moves forward and prior to any land disturbing activity.
- Staff recommended deferring aesthetic elements (renderings, landscaping) to MARC for their review and approval.
- Staff recommended that all vehicles parked and parts for vehicle repair be stored in the fenced in area and not be viewable from the street.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the zone change from CA – Commercial to PUD – Planned Unit Development for Highland 2nd Replat, Lot 2 (Less S. 125’), Block 1 subject to MARC Approval of Site and Building Plans and all restrictions in the PUD. The applicant and the property owner are present to answer questions.

Chair Robinson inquired if there were any questions or comments 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 application request from Josh Gendron for consideration of a zone change from CA (Commercial) to PUD (Planned Unit Development).

Allen Shreve, 1305 1<sup>st</sup> Avenue NE, came forward and stated that his neighbors, the Long’s could not be here tonight due to illness nor the Nelmer’s who reside to the south of him since they are returning from their son’s wedding. He stated that he and his wife have resided at 1305 1<sup>st</sup> Avenue NE since 1980. He believes the zoning change may affect the neighborhood and upset some of the families. He provided a letter and photos that have been forwarded to the Commission members. He indicated there are a lot of vehicles both inside and outside the fenced area. He said his concern is that does not happen here, in particular, he does not want it to look like a used car lot. He said he is concerned about the type of fence that would be used and the security of the location of the fenced area; what will be stored there. His concern is that it will be 350 per month. He voiced concern for the Lewis and Clark School to the west, and the kids walking to and from school and how that traffic might affect their getting to school safely. He voiced concern about this area being an area for theft and vandalism and how that can affect the neighborhood. He said he appreciates the trees that have been planted. Lastly, in regard to the construction material, stating he hopes it will be cleaned up with the project is done. He said there are still ongoing issues with the Dakota Traveling Nurse group not cleaning up their construction material noting that the city public works department has been contacted several times about that. He said that he strongly opposes this change, however if it goes through, he will welcome the business. He stated he believes there could be a better business put in that location than a car repair shop.

Josh Gendron came forward and stated that what he outlined previously regarding his standards and plans for his business, remain as stated. He believes his word is good and he will stand behind what he said. If anyone would like to contact him, he willingly will sit down and talk with anyone who has questions or concerns. He said the business is very busy but they are having problems getting parts. If they weren't so busy, he would not be opening a second location for this business. He is available to answer questions at this time.

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

Commissioner Mehlhoff pointed out that as noted in the packets, this parcel was brought up in 2015 at the time the property owner wanted to put a car wash in this location and the City Planner at the time had explained to the Commission that a car wash was more of a regional and not a neighborhood business and that was taken into account with the Commission who elected not to green-light that change for a car wash and that sense remains a concern. There is nothing like a car repair shop around there – is one needed in the neighborhood? Are those residents directly to the east – will the neighborhood use this business to get their cars fixed? It seems it would be a better fit somewhere else in the community. When reviewing the existing uses that are currently allowed there for a CA (Commercial) they all fit with what's going on such as Dakota Travel Nurses and the other medical facility, the church, the Eagles Club. The current zoning fits. He said he is torn on making a decision on this matter having known that this property owner has been trying to set up a business in Mandan and he tried once with a car wash that failed. He's been proactive trying to find a business that would fit in on this lot and on the other hand this business does not seem to fit this location.

Commissioner Frank inquired about the Future Land Use Plan provided in the packet that demonstrates the existing uses and existing zoning and references what the future land use was and it appears that the going recommendation for Future Land Use was a transition from neighborhood commercial to commercial and it looks like neighborhood commercial is not even a zoning option in the future anyway. She inquired if this use would be permitted if it were already zoned commercial? Planner Stromme explained that it is in CA which is neighborhood commercial district. The Future Land Use Plan has one designation for commercial (shaded in red on the zoning map). With the residential there is low, medium, high but with commercial its just red commercial. Commissioner Frank stated that with that explanation she believes this is a rare position wherein there is a parcel that is in the middle of the community that hasn't been developed. It seems that many times there is a parcel that is located in the middle of the community that was developed some time ago and its use became out of sync because of its surroundings. Based on that, the fact that it's just one commercial designation of Future Land Use map, is it customary to have this type of use in the center of a city? Planner Stromme stated there are a number of Service Group B uses throughout the city. Examples in the downtown area with the vehicle repair shop along Main Street, First Avenue, Mandan Avenue, Old Red Trail are examples of Service Group B throughout the city including parts of south Mandan, Memorial Highway or the strip. Commissioner Frank said that she is referencing those uses where they coincide with the development around it.

Commissioner Vayda stated that she agreed with Commissioner Mehlhoff that a car repair shop is not a good fit for this location.

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

### **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 the zone change from CA (Commercial) to PUD (Planned Unit Development).

### **D. Commission Action**

Commissioner Frank stated she has concerns with putting this type of use into the neighborhood that currently exists. It is a rare opportunity that this Commission has to influence the continuation or continuity of an existing phase. She commented it would have been helpful if there was a Plan B presented for this request rather than saying “no” to a business that is considering locating in the community, however, she thinks that it is not in the best interests of the surrounding properties for this particular use.

*Commissioner Frank motioned to deny the zone change from CA (Commercial) to PUD (Planned Unit Development). Commissioner Vayda seconded. Upon vote, the motion passed unanimously.*

## **OTHER BUSINESS**

### ***1. Requests from Mandan Residents to review Code Sections 105-3-11 – CA Commercial District and 105-4-2 – Downtown districts.***

Planner Stromme reported that he has been contacted by Mandan residents related to a couple sections of the code that they would like reviewed:

*(i) Sections 105-3-11 – CA Commercial District.* Currently in the Code of Ordinances, an individual interested in developing a vacant CA owned property is capped at developing one-quarter or 25% of that lot. The area ratio prescribed in the ordinance states that you may not build more than 25% of the lot unless you have two-stories and you can build on .35 of the lot. That creates a situation as discussed in Public Hearing #3 wherein the CA lots per the Ordinance are difficult to develop because of either a set back or a ratio. The CA district has not been used very much lately as there are only two areas of it on the east end of Main Street at Twin City Drive and on Collins Avenue as discussed tonight. He believes that what is in the Ordinance for CA is highly restrictive. He has checked with other cities in the state as to what they do with commercial and he found that some are in the 50%-80% range of what they allow to develop on the property. Some have a smaller set back. Mandan is currently at 25 feet in the front yard to have more of a use focus from the street and parking in the rear without saying there is a need to have parking in front at every single building, and it can be accommodated elsewhere on the site possibly in order to allow a more traditional look. He said he wanted to introduce that first for the CA district and for support from the Board to look at it to make it more amenable for development. He said he would feel more comfortable recommending CA for some of the new commercial particularly in residential areas if it is determined that developable parcels would be created. With what is currently in place people are being told they can buy the property but they cannot do very much with it. Requests can be made for one property to solve one problem or the city can make this change to CA as more of a development friendly atmosphere and allow more of the lot to be used.

Some other cities only allow 25% to be used so he recommended that Mandan move away from that text amendment. Planner Stromme requested the Board support regarding this in order to use his time to develop changes that can be brought back in the future for consideration. Commissioner Camisa stated that he thinks there are many provisions in the code that are problematic. He believes time dedicated to reviewing the code and finding areas that can make it more flexible will eliminate some of the spot problems. He said he would support Planner Stromme's request as presented.

Planner Stromme said that the next request is regarding the Downtown Fringe, or possibly city-wide. He said that he was contacted by a resident who heard a rumor that a car wash might be going up in his neighborhood. He pointed out there is a conflict in the code that says that Service Group B, car washes are permitted by right, in the Downtown Core and the Downtown Fringe. A new car wash came to Mandan about a year ago, but, in the same code it says that special use permits for any drive-through use for the Downtown Core or the Downtown Fringe. He said that because of that confusion the city did not do a special use permit for that newer car wash that came in to the Downtown Fringe last year – he suggested looking at that process and to clear that up. There are concerns with car washes with regard to the hours of operation for the dryers if they are going to be near residential use. The same would pertain to the drive-through use if there would be vehicle stacking that could happen as people are waiting to get into that facility. Regarding the one that was recently approved, there was not any stacking wherein there was only one space for that plan. His thought is to find something that would allow it to have something in place to outline what the city really wants these drive-through uses to look like in the community. Having a minimum number would be helpful in order to outline the criteria for a special use. Those are the two sections that residents have concerns with that the city could review for those types of uses among others that would have a drive-through component. In summary, if CA Commercial and drive-through could possibly have stacking requirements or conditions on hours of operation, etc.

## ***2. Update on Mandan Brownfields Assessment Grant.***

Planner Stromme reported that the city received a Brownfield grant for EPA of \$300,000 to utilize for Phase I and Phase II of assessments. A Phase I assessment is usually the first one done on behalf of a property owner whether it is part of a transaction when preparing for redevelopment such as a historical assessment done on their building wherein it was possible when the permit was issued to have lead-based paint or something like that. This is not for mediation rather it is for building materials and storage tanks, etc. When a Phase I research assessment comes back there should be some testing or sampling done on the property and the city would be able to do a Phase II assessment. That would entail having a contractor go out and get borings and samples from the property to determine what is really on the land. He stated the city has funds available for the next three years to cover all the Phase I and Phase II for a number of properties to be allotted on a first-come-first-serve basis and the application meets the criteria. For more information, please contact Planner Stromme for an appointment with Stantec Consulting partners.

## ***3. Opportunities on Mandan Boards and Committees.***

Planner Stromme announced there will be two seats available on the Mandan City Commission coming up in June 2022. The Mandan Architectural Committee is looking for committee members. The Code Enforcement, the Park District and the Mandan School

Board are looking for new members. Information on committee membership and the application process can be found at the [cityofmandan.com/election](http://cityofmandan.com/election) website.

### **ADJOURNMENT**

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

The meeting adjourned at 6:43 p.m.