

MANDAN PLANNING AND ZONING COMMISSION

MANDAN CITY HALL

July 22, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on July 22, 2019, at 5:30 p.m. CDT.

**ROLL CALL**

Commissioners Present: Klein, Helbling, Leingang, Liepitz, Renner, Camisa, Robinson

Commissioners Absent: Boehm, Klemisch, Knoll, Frank

*Commissioner Camisa motions to approve the June 24, 2019 minutes. Commissioner Leingang seconds. Upon vote, the motion passes unanimously.*

The commission has an at large seat open. Letters of interest will be accepted until July 31, 2019. Appointee will fill the remainder of the term, ending in December 2022.

**PUBLIC HEARINGS**

**1. A request from Chris Houwman (E-C ND Investments, LLC) for a preliminary plat, final plat and zone change of Midway 14<sup>th</sup> First Replat. Said property is Lots 4-6, Block 1, Midway 14<sup>th</sup> Addition in Section 31, Township 139N, Range 80W, in the City of Mandan, Morton County, North Dakota. The property is located on 14<sup>th</sup> Street NW.**

**A. Staff report**

John Van Dyke, city planner, explains the request. The current restriction on the commercial zoning does not allow for a warehouse they want to build. A neighboring property had the restrictions removed in 2013. They are seeking a preliminary and final plat to combine the three lots into one for the expansion.

Commissioner Renner asks John about access. John says they currently have 3 driveways. If they are seeking 4, they need a variance. If the lots were to remain separate, they could technically have 2 driveways per lot making it 6 total. They are moving a fire hydrant.

There were no comments from other departments or entities. He is recommending approval.

**B. Open public hearing**

Chris Houwman, Malloy Electric, says the expansion is for a warehouse and support operations for the electrical repairs they do.

**C. Close public hearing**

**D. Commission action.**

*Commissioner Liepitz motions to approve the preliminary plat, final plat and zone change of Midway 14<sup>th</sup> First Replat from restricted CC (Commercial) to CC (Commercial with no restrictions). Commissioner Camisa seconds. The motion passes unanimously.*

**2. A request from Engage Church for a zone change of Lots 11-13, Block 1, Scott's Acres First Addition and Lot 1A of Lot 1, Block 2, Scott's Acres in Section 17, Township 139N, Range 81W, in the City of Mandan, Morton County, North Dakota. The request is for reconfiguration of MA (Industrial) and R7 (Single-Family Residential) zoning. The property is located at 4209 Old Red Trail.**

**A. Staff report**

John Van Dyke, city planner, explains the request. The applicant wishes to reconfigure the existing zone change to match a reconfiguration of the lot lines that will be done by a replat. The MA (Industrial) zoning will be applied to the lots on the west side and south side. The R7 (Single-Family Residential) will remain on the east lot. There is a church on this lot.

The proposed industrial zoning abuts one of Mandan's large industrial parks. The church provides a harmonious transition from more intense industrial to lesser intense uses to the north and east. The MA and R7 zoning already exist on the property in a different configuration. Staff recommends approval of the zoning amendment.

**B. Open public hearing**

No public comments.

**C. Close public hearing**

**D. Commission action**

*Commissioner Liepitz motions to approve the zone change. Commissioner Klein seconds. Upon vote, the motion passes unanimously.*

**3. A request from Powder River Development on behalf of AT&T for a setback variance. The request is to allow a shorter setback to the property line to the leading edge of a new 200' monopole communication tower. Said property is Lot 3, Block 1, Midway 14<sup>th</sup> Addition in Section 31, Township 139N, Range 80W, City of Mandan, Morton County, North Dakota. Located at 1450 Action Drive SE.**

**A. Staff report**

John Van Dyke, city planner, explains the request. The applicant is asking for a setback variance of 220' to 22' from property lines for a 200' tall communication tower. He is without certainty that a collapse would not infringe upon adjacent properties. A letter from the applicant does not provide comfort of a 200' fall. He thinks 110% of the height of the structure to the property line is appropriate. There does not appear to be any special circumstances or conditions that apply to the land or buildings which the variance is sought. The NDDOT, who is in fall distance with I947, does not have an issue with this. An adjacent property owner is opposed. John recommends denial. John thinks the applicant letter does not provide the comfort that the tower would not impede on surrounding properties if it fell.

Commissioner Liepitz thinks the current setback requirement is for safety and aesthetics.

**B. Open public hearing**

Guy Halvorson, is a co-owner of the property to the west. He is not in favor due to the safety factor and the aesthetic.

Another nearby property owner is also not in support.

**C. Close public hearing**

**D. Commission action**

*Commissioner Leingang motions to deny the variance. Commissioner Renner seconds. Upon vote, the motion passes unanimously.*

**4-6. A request from WW Ranch, a Limited Partnership, for preliminary plat and zone change of Meadow Ridge 4<sup>th</sup> Addition. The request is to change the zoning from MC (Industrial) to RM (Multi-Family Residential). Said addition is part of Lot 44, Pioneer Park 1<sup>st</sup> & part of the NW ¼ of Section 22, Township 139N, Range 80W, City of Mandan, Morton County, North Dakota. The property is located at 24<sup>th</sup> St. NW and 6<sup>th</sup> Ave. NW.**

**A. Staff report**

John Van Dyke, city planner, explains the request.

Mike Wachter on behalf of WW Ranch, a Limited Partnership is seeking a rezone of a portion of his property to RM-Residential (Multi-family). These two zoning requests apply to the two preliminary plats - Meadow Ridge 4<sup>th</sup> Addition and Meadow Ridge 5<sup>th</sup> Addition. The applicant is also seeking approval of the overall Meadow Ridge Masterplan.

While staff is providing a single staff report. These are three separate applications and should be evaluated individually. Any issues in one should not automatically hold up the other. The purpose for the individual applications is that Mr. Wachter has Meadow Ridge 4<sup>th</sup> Addition under contract and wanted to take care that any issues that might arise from Meadow Ridge 5<sup>th</sup> and the Meadow Ridge Masterplan would not incur any delays.

Comments from a pre-application meeting held on July 12 are found in Exhibit 1. All recommendations for approval by staff are subject to the comments contained therein. A site visit was performed on July 17 and the photos may be found in Exhibit 5.

The Meadow Ridge Masterplan generally conforms to the existing Future Land Use Map.

Staff recommends approval of the Meadow Ridge Masterplan.

Meadow Ridge 4<sup>th</sup> Addition

The applicant is requesting approval for a rezone from MC-Industrial to RM-Residential and a preliminary plat to create four new lots. Each lot is planned to be further subdivided in the future once a specific placement for a twin-home has been determined. The lot line would then divide the shared wall so that each side of the structure could be owned independently. Exhibit 3 contains the preliminary plat for Meadow Ridge 4<sup>th</sup> Addition.

Staff recommends approval of Meadow Ridge 4<sup>th</sup> Addition.

### Meadow Ridge 5<sup>th</sup> Addition

The applicant is requesting approval for a rezone from MC-Industrial to RM-Residential and a preliminary plat to create eight new lots. As with Meadow Ridge 4<sup>th</sup>, each lot is planned to be further subdivided for the same purposes as noted above. Exhibit 4 contains the preliminary plat for Meadow Ridge 4<sup>th</sup> Addition.

Staff recommends approval of Meadow Ridge 5<sup>th</sup> Addition.

Commissioner Renner asks if the retention ponds are large enough to be able to handle the additional runoff. John says they did submit a storm water plan and intend to tie into existing ponds.

Chair Robinson asks what trigger a storm water survey. John says a building permit. Justin Froseth, City Engineer, says an in depth hydraulic analysis has to be approved before any grading can start.

Commissioner Liepitz asks if RM uses are allowed in the current MC district. John says no residential is allowed.

The consultant engineer and applicant are working together on the street naming.

WBI Energy has an easement on the property. There is a gas line to the south. Almost running along Old Red Trail. Justin says there is also a gas line that runs on the east side of 8<sup>th</sup> Avenue.

### **B. Open public hearing**

Abe Ulmer, Toman Engineering. Meadow Ridge 4<sup>th</sup> encompassed a paved street and infrastructure already. There are dual water and sewer services there now. They built a street and did not plat previously because they wanted a second way in/out at that time. They separated the two plats in case there were any hiccups they didn't want 4<sup>th</sup> to be held up. Meadow Ridge 5<sup>th</sup> has no infrastructure at this time. There are currently 3 storm water ponds. With this platting, they had to take the water shed the natural way towards those ponds in the NW corner. There is another pond planned in the NE corner of Meadow Ridge 5<sup>th</sup>. WBI does have a gas line on the south end and the west side there is a 35'-40' wide strip.

Barbara Ziegler, 7<sup>th</sup> Ave NW, "We live in a twin home. We love the neighborhood. We're wondering about this multi-family. What does that mean in your world? Can it be rental units? Then I'm opposed to it. There are some rental units in the north part. Whoever is the owner is a very poor caretaker. Is there any way to differentiate between the twin home and multi-family and stop rental units?"

Commissioner Leingang tells her right now it is zoned commercial/industrial.

David Jundahl, 7<sup>th</sup> Ave NW, "I do live in a twin home. What I don't like about it is we have apartments now on two sides of our development. On the east side there's a huge apartment. On the north side there's apartments and now, if apartments go there, our little area there will be surrounded by nothing but apartments. The other thing is there are no street lights out there in our whole development. With this proposal, will street lights go up?"

Justin Froseth, City Engineer, says the previous Meadow Ridge developments were allowed without street lights. At the pre application meeting he said to support an assessment district for the creation of streets we would insist that street lights be incorporated for the whole development as part of the contract. This would be for the public street in the whole development.

Andy Zachmeier, Morton County Commission, “One of my portfolios is the Morton County Water Board. I know this might be preliminary because there’s no storm water management plan yet shown on this project and I’m just looking at the topography map. What appears to me by the topography map is that eventually water would have to be pushed to 1806 and eventually would go across to the refinery property. Mandan refinery has been to the Morton County Water Board several times concerned about storm water that is breaking out across their property and the amount of water that is running down 1806, and then eventually goes under the refinery property in another location. I would strongly urge that the Morton County Water Board be consulted on the storm water management plan for this project because they have great concerns about the amount of water being toward 1806 from this general vicinity. The second thing is just a general comment. Right now the property is zoned industrial. The area of that property is changing. It’s becoming more residential. The biggest concern coming from the County Planning & Zoning side and the County Commission is industrial development and what property will be there for industrial development or even job creation. Now there’s a fine line on this property you have the owner’s property rights and what their asking appears to be reasonable in changing the neighborhood and the masterplan of the city. But, it is industrial and it’s going to change. If there’s no place for job development or business development in this general vicinity, I don’t think that would be good for the city or county. If it all goes to residential, eventually, where is business going to go? One of the complaints I have heard is everybody enjoys the new football stadium and hockey arena, but there’s no place to eat and the vast majority of the people that come for the events it’s too easy to get on the interstate and go to Bismarck and do their shopping there. There’s some area where I think business interest and commercial development should still be protected or at least be considered and not totally pushed out.”

Chair Robinson asks Andy if there is regulatory concern about the water coming across the refinery property. Andy says that was his understanding that they could still be held responsible for water leaving their property and entering the Missouri. Commissioners Leingang and Renner ask Andy if residential would benefit the refinery then versus industrial. Looking at the topography map, Andy disagrees. Residential is more polluting because it is never regulated.

Commissioner Liepitz asks John to pull up the current zoning map and asks about R3.2. John explains the requested zoning. Abe Ulmer says the request for RM is to keep options open. There has been some interest in a 3 or 4 plex. Once lots are sold they are not in control of what is built.

There is a suggestion to put a restriction on the RM zoning for Meadow Ridge 4<sup>th</sup> restricted to twin homes. Mike Wachter, the developer, says the infrastructure is already in on Meadow Ridge 4<sup>th</sup>. There are 2 lines that are set up just for twin homes. In the previous development they limited it to two stories. That was part of the covenants. He encourages the home owners in Meadow Ridge 3<sup>rd</sup> to form a homeowners association to put pressure on those who aren’t compliant. There were supposed to have sprinklers.

Barbara Ziegler says she doesn't see why they would have to form a homeowners association to take care of weeds when the city notices weed cutting and spraying in the Mandan Messenger. Commissioner Camisa says the city's weed ordinance applies to noxious weeds and height of grass. The state controls the noxious weed list. There are currently 10 or 11 weeds on the list. If there are noxious weeds, which do not include dandelions, or the grass is over 6 inches, the city can enforce.

Abe Ulmer reminds everybody that a storm water report has to be approved before they can start developing. Justin adds that he can forward the report to Morton County for review.

Commissioner Leingang asks why a restriction on the RM instead of R3.2. John says the RM aligns with the future land use plan. R3.2 would be pocket zoning. The RM is consistent with what is there.

**C. Close public hearing**

**D. Commission action**

*Item #4 - Commissioner Renner motions to approve Meadow Ridge 4<sup>th</sup> with the zone change restricted to single and two-family residential. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

*Item #5 - Commissioner Liepitz motions to approve Meadow Ridge 5<sup>th</sup> with the zone change to RM. Commissioner Klein seconds. Upon vote, the motion passes unanimously.*

*Item #6 – Commissioner Camisa motions to approve Meadow Ridge Masterplan. Commissioner Renner seconds. Upon vote, the motion passes unanimously.*

**7. Consider a zoning ordinance amendment and re-enact portions of Section 101-1-3 and 105-3-14(2), 105-3-15(2), and remove Section 105-1-5(k) of the Mandan Municipal Code related to Cremation Facilities.**

**A. Staff report**

John Van Dyke, city planner, explains the request. An ordinance was recently adopted that would restrict crematoriums to within the Mandan Union Cemetery. The City Commission directed staff to reevaluate the ordinance following a request by David Wise. John provides an alternative staff recommendations: a crematorium be placed in an industrial zoning district with a 50' setback from the property line. A 350' setback applies to existing dwellings at the time of building permit issuance. Further, staff is recommending that these standards apply to the use and that no special use permit be required.

**B. Open public hearing**

There are no public comments.

**C. Close public hearing**

**D. Commission action**

*Commissioner Camisa motions to approve the zoning ordinance amendment as presented. Commissioner Liepitz seconds. Upon vote, the motion passes unanimously.*

David Wise thanks everybody for the amendment and making it fair for everyone.

**8. A request from John McCreary for McCreary Master Plan Subdivision. The property is parts of Sections 17, 18 & 20; Township 139N; Range 81W; City of Mandan, Morton County, North Dakota. The land is located west of Mandan.**

**A. Staff report**

John Van Dyke, city planner, presents. Jon McCreary has submitted an application for a masterplan subdivision for approximately 1,000 acres west of Boundary Street NW. Staff may end up bringing this item back to planning & zoning at the next meeting, depending on the city attorney's advice regarding processing a comprehensive plan map amendment. The city right now does not have an application process for that. The closest is a masterplan process. This is new to staff and the city.

City staff from multiple departments met with the applicant or the applicant's representative Scott Harmstead on a number of occasions to address concerns or issues that needed to be addressed in order to provide a recommendation of approval to this Commission.

The current land use designations for this area call for low density residential throughout the majority of the land south of I-94. An open space buffer separates a mix of medium and high-density residential and commercial from the Interstate.

Exhibit 1 contains the application documents and corresponding maps. The proposed plan adjusts the location of roads, provides a mix of industrial, neighborhood commercial, and commercial closer to the interstate, and delineates open space on those areas of steep terrain and which provide natural conveyance of water.

If approved, this masterplan would replace the future uses presently planned for the area.

Staff asks the Planning and Zoning Commission to focus on the uses which may be inherent in each of these proposed designations and their spatial relationship to one-another and determine if this plan is superior than the one presently adopted by this Commission for this 1,000 acres.

The Engineering and Planning Department recommend approval of the McCreary Masterplan as presented in Exhibit 1.

Commissioner Leingang asks what the chances are an interchange would go in there at I94. The mayor says development would have to come first and there was discussion on an underpass there to connect to Old Red Trail. Justin Froseth, City Engineer, says the MPO and DOT is leaning to an interchange at 56<sup>th</sup> Avenue.

Commissioner Renner says infrastructure there is a challenge. Can there be a single point of access (Boundary) point when development starts?

Scott Harmstead, SRF Consulting Group, says Lohstreter would be second point of access. He gives a presentation.

Scott, “Thank you John for emphasizing the fact we’re focusing on the city’s comprehensive plan. The actual document says Land Use and Transportation Plan. Century Code also, in section 40-48, actually refers to it as a master plan. It’s really interchangeable. Comprehensive plan is the proposed amendment. Because it is 1,000 acres. That is why we have met with the city six times already.”

Scott shows the existing Future Land Use Map. There is a 250’ buffer space on the south side of I94. He is not sure why that is there. In their opinion, that area is suited well for light industrial rather than open space. Commercial would then buffer against that. The coulees are very significant. There is a 200’ drop from north to south towards the Heart River. All the green on their map is because of topography and water retention. The purple is possible school property. They have presented it to the school board. There are no commitments from them at this time. The rest of the plan is for multi-family and single-family residential. Scott says the city’s Functional Classification Map from the comprehensive plan is very similar. It shows Boundary extended to the west and an arterial running north/south through the site. What it doesn’t show clearly is Lohstreter, although future plans show it continuing north. This is a very long term vision. The interchange would be many years from now. They have been meeting with stakeholders and also met with the Governor to discuss the Main Street initiative. They are looking to working with the city on a development agreement. He says John mentioned potentially bringing this back as a comprehensive plan amendment, depending on legal directive. Scott suggests taking it to city commission as a recommendation to amend the comprehensive plan and let them make the final decision.

Commissioner Liepitz asks Scott to walk through the changes on page 5 and asks to explain what the neighborhood commercial would be. Scott says the pink neighborhood commercial is meant for service station/convenience store. To the south of that is islands of multi-family because of the terrain.

Chair Robinson asks John if he has layed out previous plans next to this. John says an adjacent property owner was once the owner of this property and had brought in a masterplan. They both have been communicating.

Commissioner Liepitz asks if extended trails from current park trails will be represented on this plan, as well as parks or playgrounds. John says that would be looked at more during the platting phase. The parks do not want to commit to a specific area at this time.

Commissioner Renner asks John to explain how the chain of events on this master plan is going to work. John says when a zone change or plat application is submitted it will be looked at to see if it aligns with the future land use map.

## **B. Open public hearing**

Lee Froehlich, lives toward the end of Lohstreter Road. His property is currently county. Nobody has talked to him regarding this development. Is there a gas line there that has been addressed? The line is not very deep. What is the development going to do to the watershed? He has been there 15 years and nobody has approached him. Currently, there is one way in and out, Lohstreter Road. A lot of traffic would be going through here. There is also a cemetery located on the south side of this property.

Denae Kautzmann, “I am not an adjacent land owner, but I’m next to Christianson property. I and my family own the property immediately west of the high school. We have not talked to

anyone about this development either. I believe this is not the strategy of the city. This does not meet with what the community wants, it does not meet with what the city land use and transportation comprehensive plan and I think if it's going to be amended, it needs to be publically noticed so members of the community have an opportunity to comment. As far as the proposed development, I'm not in favor of it, because basically it is landlocked. There are no streets right now to that property. The city's going to be forced to put streets in, or the developer. They are going to have to pay for the streets. It's also not a good or wise use of the community's resources at this point. I say that because I want you to think about the long term consequences are going to be. Think about police protection. Think about fire protection. We don't have a north side station. We have storm water issues. That's going to affect the property that my family and I own. I'm concerned about that as to how all that is going to be addressed. That sewer system is overtaxed right now. So, what are you going to do, put in a new trunk line in front of the high school and rip up Sunset Drive again? How are we going to address that? You also have public transportation issues. You're going to have busing to the school issues. I think this is going to add another mile to school busing system. I would ask that this not be approved. If you wish to amend the comprehensive plan, that you put it out for public hearing."

Scott Harmstead says the WBI gas line does bisect this property. They provided a buffer on either side with no development. They did a traffic assessment. He says this is a public hearing on a master plan that was noticed. They provided an analysis on the sewer as well. He recommends that City Commission have a public hearing on the comprehensive plan amendment.

Pat McGarry, Development Manager, "We put a lot of thought into this. I understand that there is a lot of concerns...infrastructures a big one with us. It's something I've been stressing since the very beginning. The connection to Boundary Street is a big deal. We have spent a lot of time working with the DOT, the MPO, we've also contacted the FEDs. I spoke to Kevin Kramer's office at length about this and about getting additional funding from them for a project of this nature. The school district going in is also a big part of this. School needs and is actively looking for a new high school site and they have spoken very favorably of this site. They have not made a motion to that effect. Regarding a fire station, we think a commercial zone at the very top of the property will fit that very very well. The interconnecting trails we see them connecting all the way through all these coulees. At such time when we sell off some of these larger parcels to other builders and developers, that that would be part of their plan in accordance with your ordinances that you have small parks within those master lots that we would encourage them to subdivide to single family homes. So, we know this is a lot to come forward with. We feel we've done a lot of research and we're working very closely with all departments to try to come up with solutions. The sewer. I know that that is a big deal. We have some alternate solutions. In the meantime, while the city system gets upgraded in the future or for that matter we could actually do a completely independent system so it wouldn't tax your sewer system. We looked into the water situation. We would build a tower at the top of the property that would allow more water pressure. I know water is an issue on the north side of the highway. We have put a lot of thought into this. We would ask for a favorable motion tonight for an approval of the masterplan and comprehensive plan amendment. They kind of go hand in hand. Then we would take this forward to another public hearing in front of the city commission at the next appropriate time."

Nate Vollmuth, Mandan Development Company, "I didn't come tonight to speak for or against the plan. I came to listen and just make sure our interests were spoken to if it needed

to be. We don't want to stand in the way of this development moving forward. We obviously came forward with a plan probably 4 or 5 years ago now and it just didn't pencil out at the time. We don't want to stand in the way. We encourage yourselves and the developer to continue to look at ways to have some activity out here. The one thing we struggled with as well is the absorption rate to try and fund that road is the biggest thing we had issues with."

Randy Bakke, he is partner owner of over 600 acres to the west, says it looks like a great plan to him. This would be good for Mandan.

Commissioner Renner thinks development would have to move west of town. Development is going north and south all the time. Mayor Helbling and Commissioner Camisa agree.

**C. Close public hearing**

**D. Commission action**

*Commissioner Liepitz motions to approve the zone change. Commissioner Klein seconds. Upon vote, the motion passes unanimously.*

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

*Meeting adjourns at 7:48 p.m.*