

MANDAN PLANNING AND ZONING COMMISSION

MANDAN CITY HALL

July 27, 2020

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on July 27, 2020, at 5:30 p.m. CDT. Due to the coronavirus situation, this meeting was held virtually on Zoom.

ROLL CALL

Commissioners Present: Boehm, Klein, Helbling, Liepitz, Renner, Camisa, Vayda, Mehlhoff

Commissioners Absent: Leingang, Frank, Robinson

Commissioner Mehlhoff motions to approve the June 22, 2020 minutes. Commissioner Klein seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from VE Land Company, LLC, for approval of a final plat to be named Lakewood 9th Addition Replat of Lot 1, Block 4. Said property is Lot 1, Block 4, Lakewood 9th Addition in Section 1, Township 138N, Range 81W; in the City of Mandan, Morton County, North Dakota.

A. Staff report

John Van Dyke, City Planner, presents.

Art Goldhammer, on behalf of the VE Land Company, seeks approval for a final plat for the replat of Lot 1, Block 4, Lakewood 9th Add (See Exhibit 1).

The property is currently a storm water retention pond that was overbuilt as the surrounding developments utilized the dirt from this lot to fill and elevate out of the floodplain. Due to the storm water pond being developed over capacity, there is potential for the lot to be partially filled and elevated thereby creating four new lots. Three of the lots will have street frontage along 21st St. SE. The lot in the rear will continue to function to facilitate storm water flows and be held in common ownership by the three street-fronting lots proposed.

The preliminary plat was approved in a 3-2 decision subject to conditions that are provided for reference in Exhibit 2 at the March 17, 2020 public hearing before the Board of City Commissioners. Some of these requirements have been met; others are in-process of being reviewed or have yet to be completed. Staff believes the applicant is capable of addressing these concerns prior to presentation to the Board of City Commissioners at the August 4 meeting.

Staff did not receive comments from the public regarding this application at the time of writing this staff report.

Staff is recommending approval of the final plat subject to conditions included in Exhibit 3. These conditions provide opportunity for the applicant to make the necessary changes to the plat prior to presentation to the Board and to determine whether or not to pursue a LOMR-F prior to recordation of the plat or amend the final plat to include the necessary information per Section 109-2-6 (c) o.

Approval of the storm water plan will be required prior to obtaining signature from the City Engineer on the final plat.

Engineering and Planning recommends approval of the final plat in Exhibit 1 subject to the conditions provided in Exhibit 3.

Commissioner Renner asks if the lots are listed on the plat incorrectly. John says they are and they will need to be renumbered.

Commissioner Renner wants to know how there will be access to the storm water retention pond. John says a 30' access easement has been added to the plat.

Commissioner Camisa asks how the access easement is being created. He doesn't see any dedication language on the plat. Or will it be in a separate agreement? John shows the dedication language in Exhibit 3. John says if he would like to see additional language, he would like to work with the commissioner on that.

Commissioner Mehlhoff asks if the CORPS would have any permitting needs on this. John says it will require either a LOMRF reference number on the plat or show floodplain on the plat. The developer will work with Shawn Ouradnik, Building Official, who acts as flood plain manager. Commissioner says he doesn't know if it is a federal wetland, but there are geese and cattails in there.

B. Open public hearing

Art Goldhammer, developer, is attending via zoom. He is in agreement with everything so far.

C. Close public hearing

D. Commission action.

Commissioner Camisa motions to recommend approval of the final plat in Exhibit 1 subject to the conditions provided in Exhibit 3. Commissioner Mehlhoff seconds. Upon vote, the motion passes unanimously.

2. A request from Eric Seefeldt for approval of a setback variance at 1614 Heart River Dr. S. The request is for a variance to the rear setback of 5' instead of 20' required in R3.2 (Two-Family Residential) zoning. Said property is the South ½ of Lot 5 of Lot 1 of Lot 9 of Auditor's Lot C in Section 28, Township 139N, Range 81W; in the City of Mandan, Morton County, North Dakota.

A. Staff report

John Van Dyke, City Planner, presents.

Eric Seefeldt is seeking a variance to the rear setback from twenty (20) feet to five (5) feet for the construction of a dwelling.

The property up until recently maintained a home onsite. It was in disrepair and needed to be demolished. The previous dwelling was located such that it was five (5) feet from the rear setback.

Variance may be granted upon finding per Sec. 105-1-13 (e) (6) that:

- a. There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter, or not;

The lot was established under previously adopted code and cannot be enlarged to create the desired space necessary to accommodate the home that the property owner's desire without encroaching closer to the access road/easement which serves the dwellings. Even so, the a home that meets the setbacks of eight (8) feet in front and twenty (20) feet in the rear would be restricted to a home twenty-two (22) feet in depth due to the limited lot depth of fifty (50) feet.

The previous home did not produce any issues with neighboring property owners to the knowledge of staff at the time of application. Per the applicant in Exhibit 1, the neighboring property owner to the west would have no concerns. Staff did not hear directly from the neighboring property owners and notifications were sent to all property owners within one-hundred-fifty (150) feet per as required.

Moving the home further than the eight (8) feet from the front setback would add an element of safety. The roadway is a rural gravel road in a residential enclave that preceded today's platting requirements and therefore does not have the benefit of paved roads with curb.

Finally, accessing the home from the south does not appear to be possible for a few reasons. First, the road running to the south appears to be contained within the BNSF right-of-way and whether the property owner is able to access his property is indeterminate at this time. Second, it is unclear where the septic system is located. Given the size of the lot, it is very likely in the south part of the property. If so, a southern access would not be possible, as the property owner would be crossing the septic field to park near the home location.

- b. For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant; and

Findings are provided in Exhibit 2 summarizing the points indicated on page 1 of this report.

- c. The grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The grant of the variance will be in harmony with the general purposes and intent of this chapter and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The property will require platting in order to obtain a building permit for a residential dwelling. The grant of a variance does not guarantee that a plat will be approved, but that if approved, a dwelling may be located five (5) feet from the rear setback, if approved by the Board of City Commissioners.

Engineering and Planning recommends approval of the variance of the rear setback from twenty (20) feet to five (5) feet based on the findings provided in Exhibit 2.

Commissioner Mehlhoff talked to the landowners to the west and they have no problems with the request. There are materials and trailers that have been stored there and this may help clean that up.

Commissioner Renner asks if there is usable septic there now and how far from the property lines will the structure be. The applicant is not asking for any variance on the front, so they must be within the setbacks allowed in the front. The septic issue is completely separate from this request. Septic will require approval before they can take out a building permit.

B. Open public hearing

Eric Seefeldt, applicant, asks commissioners if they have any questions for him. There are none at this time.

C. Close public hearing

D. Commission action.

Commissioner Mehlhoff motions to recommend approval of the variance of the rear setback from twenty (20) feet to five (5) feet based on the findings provided in Exhibit 2.

Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

3. A request from Dr. Eric Belanger for approval of a Planned Unit Development (PUD) applied to a plat considered to be named Sunset AveNew 1st Addition. Said property is part of the North ½ of the SE ¼ in Section 16, Township 139N, Range 81W; in the City of Mandan, Morton County, North Dakota.

A. Staff Report

John Van Dyke, City Planner, presents.

Dr. Belanger requests a zone change from A-Agricultural to PUD-Planned unit development (See application in Exhibit 1).

The PUD will apply to the first phase of the Sunset Ave. 1st which was presented to P&Z on June 22, 2020. The first phase of Sunset Ave. 1st contains eight (8) lots located in the northwest of the subdivision.

The purpose for the PUD designation is to allow for the flexibility of the developer to construct single-family residential on reduced sized lots that have less restrictive setbacks than RM Residential. The developer also desires to have the flexibility to construct single, twin-home, and/or ROW homes as needed and desired by the market. However, the lot width and setbacks are less accommodating for this mix of residential development primarily due to lot frontage requirements (see below).

Setback	RM Residential	R-4 Residential
Front	15'	10' (local)
Side	5' (minimum)	5'
Rear	10'	20'

R-4 Lot Frontage = 20'

RM Lot Frontage = 40'

R-4 Minimum Lot Size – 4,000 sq. ft.

RM Minimum Lot Size – 4,000 sq. ft.

Staff is supportive of the amendment of the PUD and will place a requirement within the DRAFT development agreement that each subsequent phase will include a zoning amendment to PUD to declare the specific underlying zone on each lot, whether single-family, twin-home, or row home construction.

I've included a copy of the revised DRAFT development agreement in Exhibit 2.

Engineering and Planning recommend approval of rezone from A-Agriculture (RM Residential rezone in-progress) to PUD to accommodate reduced lot width's afforded by the R-4 Residential zoning district.

Commissioner Renner asks about Exhibit 2 that says an additional 3 lots to be developed in the future. He asks John to point out these 3 lots. John says the Developer's Agreement will have to be updated because this has been slightly amended. He points out lots 1-8 and a large lot 9. Those lots are phase 1. The remaining 2 lots will be developed at a later date and will have to have their own PUD ordinance approved.

E. Open public hearing

Commissioner Renner asks how the 3 way agreement will work. John says the 3 involved in the 3 way agreement is the city, the property owner, and the contractor who is hired to do the work for the developer.

F. Close public hearing

G. Commission action.

Commissioner Renner motions to recommend approval of the rezone from A-Agriculture (RM Residential rezone in-progress) to PUD to accommodate reduced lot width's afforded by the R-4 Residential zoning district. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

Other Business

John asks the commissioners if they would be open to a special meeting on August 10, 2020, to accommodate an application for somebody who is in a time crunch.

Nancy does a roll call vote of who would be able to make it. All commissioners present say they would be available.

Commissioner Camisa motions to adjourn. Commissioner Klein seconds. Vote passes unanimously.

The meeting adjourns at 6:22 p.m.