

**MANDAN PLANNING AND ZONING COMMISSION**  
**MANDAN CITY HALL**  
**Monday, June 26, 2023**

The Planning and Zoning Commission of Mandan met in session in the Commission Meeting Room of the Mandan City Hall on Monday, June 26, 2023, at 5:30 p.m. CST. City Hall will be open for this meeting. If you would prefer to appear via video or audio link, please provide your contact information to [andrew.stromme@cityofmandan.com](mailto:andrew.stromme@cityofmandan.com). Planning & Zoning Commission members may be attending this meeting remotely.

**ROLL CALL**

Chair Robinson called the meeting to order.

Commissioners Present: Leingang, Huber, Mehlhoff, Horn, Liepitz, McLean, Gardner, Smith, Hammond, Robinson and Buchmiller. Commissioners Absent: Helbling, Liepitz.

**MINUTES**

Commissioner McLean motioned to approve the May 22, 2023 minutes as presented. Commissioner Buchmiller seconded the motion. Upon vote, the motion passed unanimously.

**PUBLIC HEARINGS**

*1. A request from Randy Monzelowsky, JR5 Properties, for consideration of a zone change from RM (Multi-Family Residential) to MA (Industrial). Said property is Lot 9, Block 2, Hoovestal Subdivision in Section 26, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota.*

**A. Staff Report**

City Principal Planner Stromme presented.

Randy Monzelowsky requested consideration of a zone change from RM – Residential to MA – Industrial for Lot 9, Block 2, Hoovestal Subdivision. The property is located in central Mandan, east of 6<sup>th</sup> Avenue SE and east of Adobe Trail SE. (Exhibit 4)

**Project Overview**

The requested rezone was initiated upon the request of city staff while reviewing development applications within the vicinity. The existing land use on the subject lot aligns with that of MA – Industrial and would bring all of the properties used by the owner into one zoning district.

**Property History**

City data indicates that the buildings associated with the light-industrial business on the property were constructed starting in 1975. It is believed that the use has been light industrial since that time. Uses prior to building construction appear to be residential and agricultural,

## **Requested Zone Change**

The requested rezone would bring the existing land use on the property into compliance with zoning. Permitted land uses in the MA – Industrial district include contractors such as the existing businesses (Dakota Caulking and Lots and Lines). An overview of permitted uses in the MA – Industrial District is listed below. Uses which Staff recommends not permitting are in strikethrough.

- Retail group A.
- Retail group B.
- Service group A.
- Service group B.
- Filling station.
- ~~Wholesale group.~~
- Fire station.
- ~~Truck terminal.~~
- ~~Railroad line trackage.~~
- ~~Railroad spur trackage.~~
- ~~Railroad freight station.~~
- Utility service group.
- Industrial group A.
- Animal hospital.
- Radio or television transmitting station.
- ~~Crematorium.~~
- Microbrew pubs.
- Brewer taprooms.
- Domestic distilleries.
- Wineries.

### ~~Railroad or bus passenger station~~

The existing use aligns with that of Industrial Group A, which includes general light manufacturing and product assembly. A contractor's equipment storage yard is a permitted use provided the use is screened on all sides.

## **Adjacent Properties and Land Use**

Adjacent properties are zoned RM – Residential, CB – Commercial and MA – Industrial and include a mix of multi-family residential, multi-use shops, low-density residential and light industrial.

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

## **Agency & Other Department Comments**

Sixteen (16) letters were sent to adjoining property owners notifying of the request. As of today, no comments have been received.

## **Engineering & Planning Staff Comments**

Although the land use plan at a high-level indicates the future use of this property to be medium-density residential, site-level analysis determines that the existing MA – Industrial use is taking place on the RM – Residential lot. With developments approved in the vicinity it would be appropriate to remove the single RM – Residential zoned parcel to prohibit a dwelling from being constructed in the future. Staff feels the restrictions of use contained in an MA – District presently and as changed in the future under the code rewrite prevent negative externalities from extending off the property to nearby residential uses. The property owner will be responsible to provide green space areas.

### **Engineering & Planning Recommendation**

Planning Staff recommended approval of the zone change from RM – Residential to MA – Industrial with the uses restricted to those listed pursuant to the ordinance.

### **Proposed Motion**

Planner Stromme recommended approval of the zone change from RM – Residential to MA – Industrial as restricted to those listed on the ordinance and contingent that the applicant explore the timeline for screening being installed around the property.

Chair Robinson inquired if there were any 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 for a zone change from RM (Multi-Family Residential) to MA (Industrial). Said property is Lot 9, Block 2, Hoovestal Subdivision. A second invitation was given to come forward at this time.

### **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**

Commissioner Gardner inquired if the request is to extend this land to become a commercial property zoning? Planner Stromme stated that the current land use is light industrial. The requested reason would adjust the zoning map coloring on this parcel from being the (gold/yellow color) RM-Residential to being the (pink color) MA-Industrial. However, due to the existing land use of MA-Industrial, it was felt this would not introduce any new land uses into the neighborhood, rather it would bring existing land uses into compliance.

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

*Commissioner McLean motioned to recommend approval of the zone change from RM – Residential to MA – Industrial as restricted with a contingency that a screening be installed around the yard. Commissioner Gardner seconded the motion. Upon vote, the motion passed unanimously.*

**2. A request from Joe Glass for consideration of a variance to Section 105-3-13(5) of the City Code of Ordinances related to the CC – Commercial district front yard setback. Said property is Mandan Proper Replat Lots 16-18, Block 1 in Section 35, Township 139, Range 81 in City of Mandan, Morton County, North Dakota.**

### **A. Staff Report**

City Principal Planner Stromme presented.

Property owner Joe Glass requested consideration of a zoning variance from Sec. 105 3-13 (6) of the City Code of Ordinances related to CC – Commercial, front yard setback on all buildings to be 35 ft. on the front property line wherein this building was built the 35 ft. out. The applicant is requesting the ability to install a projecting overhang (Exhibits 3 and 4). The property is located in central Mandan, on the south side of 3<sup>rd</sup> Street SE between Riverwood Avenue SE and 24<sup>th</sup> Avenue SE near the auto auction business property and the Trolley.

### **Project Overview**

The request is to vary from the front yard setback requirements in Section 105-3-13 (6) of the City Code of ordinances would permit the construction of a roofed entrance to be constructed on the north side of the building along 3<sup>rd</sup> Street Southeast.

### **Property History**

The existing structure on the property is 3,360 sf in size and was constructed in 1993. The lot is 18,027 sf in size.

### **Variance Request**

The requested variance would be to permit the construction of roofed entrance (Exhibit 3) which would project a total of 5 to 6 feet into the required front yard setback for the CC – Commercial zoning district which is 35 feet from the front property line. The applicant is requesting the ability to install a projecting overhang (Exhibits 3 and 4). A statement of hardship submitted by the applicant related to this request was provided along with a variance request (Exhibit 2). The applicant clarified it should be 6 feet so it will go from 35 feet to 29 feet from the front property line.

### **Findings of Fact**

#### **Variance**

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area or within the CC – Commercial District.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

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

- ~ Five (5) letters were sent to adjoining property owners notifying of the request. As of today, no comments or opposition have been received.
- ~ The Zoning Code permits certain projections of up to 6 feet into setbacks – in general, those that are un-roofed, such as steps, terraces, decks, chimneys (*Sec. 105-1-2 (2) – Supplementary Provisions*). The specific reason that this would not be able to pass would be because it would be a projection. Should this move forward as a commercial building improvement it would be subject to review by the Mandan Architecture Review Commission.

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

Staff requested that if this request is approved, that the applicant work with city staff to explore the potential for boulevard landscaping to be installed along 3<sup>rd</sup> Street Southeast. There have been some landscaping changes to the city ordinances since the original building was constructed that would pertain today, thus with new enhancements to the building, would include landscaping to be required.

### **Engineering & Planning Recommendation**

Planner Stromme stated that the Planning Staff recommended review of the request and findings of fact, consideration of the statement of hardship and identification of a hardship, and modifying staff's findings of fact as necessary to support the motion of the Board.

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

Commissioner Buchmiller inquired about the 35 ft. setback of the building - is that to the building or to the street or where the boulevard grass is? Planner Stromme explained that the property line for this property is currently 35 ft. from the property line and the plan is to add a projecting entrance that would reduce the front yard which is the reason for the variance. The measurement from the building to the curb is closer to approximately 45 or 50 feet. Commissioner Buchmiller stated that with this projection going out about 6 feet and with that parking lot, would there still be enough room for emergency vehicles? Planner Stromme stated this was presented at a pre-planning meeting with emergency services representatives and that was not identified as a concern. There were discussions about the parking lot and with the dimensions and it wasn't thought to be restrictive to that. Within the site plans there currently are no issues with the parking as configured. Planner Stromme indicated that this re-review would come up at the Mandan Architectural Review Committee meeting where site specific plans are handled as well as storm water plans, thus there will be another opportunity for review of any concerns.

### **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 for a variance to Section 105-3-13(5) of the City Code of Ordinances related to the CC – Commercial district front yard setback. A second invitation was given to come forward at this time.

Commissioner Smith commented on Section 105-1-2 having to do with the projection in the yards. A couple things in regard to a wall provision that the applicant would build a 6-foot wall. That would be in compliance with the code but there cannot be a 6-foot cover on the entrance that is not enclosed. He said he could see a difference if it were enclosed because it would then become part of the building and possibly a different kind of variance. He stated that he does not agree with the code. Planner Stromme stated that there is work in progress to update the code and if requested, consideration could be given to change that section.

Chair Robinson commented that item No. 2 in the variance code allows for a hardship caused by the provisions in the zoning ordinance. Planner Stromme stated that would be related to No. 3. Chair Robinson pointed out that it would be on the first page of the summary in the agenda packet documentation.

Commissioner Gardner inquired if the building conforms to the 35 feet? Planner Stromme explained that as it is currently 35 feet from the property line so it is in conformance. The request is to add a projecting entrance which would reduce the front yard which is the reason for the variance and currently there are no issues.

Jerry Benson, representing Joe Glass, stated that the plans are to make this area to look welcoming wherein the parking plan is to allow parking up to the curb. At the entrance there will be no parking of the trucks by the building anymore.

Chair Robinson inquired if there were any questions.

### **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**

*Commissioner McLean motioned to approve the variance from Section 105-3-13(6) of the City Code of Ordinances related to the CC – Commercial front yard setback to permit the variance request due strict application of the provisions of the zoning ordinance would deprive the property owner of reasonable use of the property. Commissioner Smith seconded the motion.*

Chair Robinson requested clarification in regard to the Public Hearing title, wherein it states Subsection 5 and, in the motion, it states Subsection 6? Planner Stromme clarified that the variance is Section 105-3-13(6). The reference about Subsection (5) would have been particular to the projections which are allowed in the section code. He stated that the variance is Section 105-3-13(6) of the code.

*Upon vote, the motion passed unanimously.*

**3. A request from Val and Mary Renner for a final plat to be named Evergreen Heights 4<sup>th</sup> Addition. Said property is Part of Lot 1 of Lot B1 of Lot B of Auditor's Subdivision in**

*the SW ¼ of Section 35, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota.*

## **A. Staff Report**

City Principal Planner Stromme presented.

Val Renner requested consideration of a final plat for a subdivision to be titled Evergreen Heights 4<sup>th</sup> Addition. The property is located in south Mandan, west of Highway 1806, north of 19<sup>th</sup> Street SE, east of 14<sup>th</sup> Avenue SE.

### **Project Overview**

The applicant seeks to plat the property for future development of multi-use condo shops and low-density residential. A preliminary plat, special use permit for multi-use shops, and ordinance related to the annexation and zone change have been approved, all tied to the recordation of a final plat. (Presented at February 27, 2023 Planning and Zoning meeting and March/April 2023 City Commission meetings)

### **Proposed Final Plat**

The final plat is 5.65 acres and includes two lots in two blocks: Lot 1, Block 1 (2.14 acres), to be reserved for future residential development, and Lot 1, Block 2 (2.43 acres) for commercial multi-use shops. The plat designates a 33-66 feet right-of-way for future Living Water Drive and 16<sup>th</sup> St. SE extensions. The plat includes a non-access line preventing vehicular access from Hwy 1806 and Living Water Drive to the multi-use shop property. It also includes standard lot-serving utility easements, and notably a 40-foot water main easement on Lot 1, Block 2.

### **Adjacent Property Land Use, Zoning and Future Land Use Designations**

Adjacent properties are zoned CB – Commercial, CA – Commercial, R7 – Residential and R3.2 – Residential. Uses include a religious institution, platted/undeveloped commercial land, developed single-family residential and multi-use shops. The future land use designation for this property is commercial.

### **Findings of Fact**

#### **Final Plat**

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms with the Future Land Use Plan and other plans and studies;
4. The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development,
5. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;

6. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
7. The proposed subdivision would not adversely affect the public health, safety, and general welfare.

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

- Seventy-Five (75) letters were sent to adjoining property owners notifying of the request.
- There have been no comments or opposition received to-date from adjacent land owners.
- ND State Historic Preservation Office is in contact with the development team regarding construction activities on the site.

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

- The Zone Change and Annexation (Ordinance 1423) will be recorded upon recording of the final plat upon City Commission approval.
- A storm water management plan is required to be submitted for this development.
- During the initial site development, landscape screening comprising a combination of deciduous and evergreen trees must be installed along the west property line of Lot 1, Block 2.
- A Development Agreement will be created specifically for this subdivision.
- The City Engineering staff is collaborating with site engineers to evaluate utility plans and connections.
- Mandan Architecture Review Commission will review the commercial building plans as the property is located in a Gateway Overlay.
- Although the land use plan suggests developing the entire property with commercial structures, the preferred approach at the site level, supported by the neighborhood, involves creating a buffer of new homes between the new commercial area and the existing residential zone.

In the future, it will be necessary to subdivide further to create lots that complement those located west of Lot 1, Block 1 (R7 lot). The city staff will consider alternatives to this requirement on a case-by-case basis.

#### **Engineering & Planning Recommendation**

Planner Stromme stated that the Planning Staff recommended approval of the final plat for Evergreen Heights 4<sup>th</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 calling in or present, to come forward to speak for or against the request for a final plat to be named Evergreen Heights 4<sup>th</sup> Addition. A second announcement was made to come forward to speak for or against the 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**

*Commissioner Smith motioned to recommend approval of the final plat for Evergreen Heights 4<sup>th</sup> Addition. Commissioner Huber seconded the motion. Upon vote, the motion passed unanimously.*

#### **OTHER BUSINESS**

##### ***1. Brief Project Updates presented by Planner Stromme:***

*(i) Zoning Code Study:* A consultant has been hired to assist with this project. Two firms were interviewed and Stantec was selected. Stantec is a nationwide consulting firm that has an office located in Mandan. This is a 2-year study wherein the goal is to address some of the unusual sections of the city's zoning code. Public engagement opportunities will be scheduled in 2023 and 2024.

*(ii) Mandan High School Placemaking Study:* Plans were unveiled at a community Open House event. A community design workshop was held in mid-May wherein ideas were presented that were reviewed by Stantec Consultants. Three land use plans were presented including a combination of transitional, single family or low residential into some mixed-use and commercial zoning as well as public space amenities. There are future community events coming up before decisions are made in August. Information can be found on the city's website.

*(iii) Sunset Drive Interchange Study:* The preferred alternative decision document would be the single point interchange that received the highest points for being able to achieve the desired outcome of the project. This will be a series of three (3) intersections between Boundary and Old Red Trail. The construction for this project is scheduled to begin in 2025-2026. The City of Mandan will be afforded 1 of the 15 votes for this project.

*(iv) Grant Marsh Bridge Feasibility Project:* There was an initial public meeting for the Grant Marsh Bridge slated for demolition and reconstruction in 2030. There will be public input meetings coming up over the next several months. The study area is from Culver's to the strip extending to Tyler Parkway in Bismarck.

#### **ADJOURNMENT**

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

The meeting adjourned at 6:19 p.m.