

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
March 23, 2020

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on March 23, 2020, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Boehm, Klemisch, Knoll, Helbling, Liepitz, Renner, Frank, Camisa, Vayda, Robinson

Commissioners Absent: Klein, Leingang

Commissioner Camisa motions to approve the February 24, 2020 minutes with the correction. Commissioner Liepitz seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from Dr. Eric Belanger for reconsideration of approval of an amendment to the City of Mandan's Land Use and Transportation Plan that serves as the City's Comprehensive Plan. Said property is in part of Sections 8, 9, 16 & 17, in Township 139N; Range 81W.

A. Staff report

John Van Dyke, City Planner, presents.

The application was originally denied by lack of necessary support of eight members of Planning and Zoning Commission at the January 27 meeting. This application is being reheard by request of the Planning and Zoning Commission at the February 24 meeting.

As discussed at the February 24 meeting, the primary concern was an area on the west of the Parks property (See Exhibit 1). Public comment and P&Z shared concern that the area would create conflicting land uses between the low density development along the ridge and the medium density originally proposed. The applicant has amended the plan to show low density residential of the area of concern.

Staff is recommending approval of the land use and transportation plan amendment per the originally proposed plan that was evaluated by agencies and City staff at the January 27 P&Z meeting with the only change being the adjustment of the area west of Parks from medium density to low density residential. This area is denoted as the red hatched area in Exhibit 3.

The applicant made additional changes in their proposed amendment that were not brought to staff's attention, leading staff to identify them mid-last week (See Exhibit 3). Therefore, staff does not support these other adjustments. The applicant may always reapply for these changes, if desired, or P&Z may table the application until April to give staff a chance to evaluate these additional proposed changes.

Staff Report Provided at January 27, 2020 meeting (below).

Eric Belanger and Wendy McNichols have submitted an application for an amendment to the comprehensive plan for approximately 550 acres in north Mandan.

City staff from multiple departments met with the applicant or the applicant's representatives Steve Iverson and Jerod Klabunde 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.

Exhibits 1 and 2 highlight the land use and transportation changes overlaid on one another for ease of review of the proposed changes. Exhibits 3 and 4 include the broader plan document providing analysis and evaluation related to the provision of utilities, such as water, waste water, and storm sewer.

One of the primary changes is a proposed school site at the intersection of 38th and Sunset Dr. This site will be used as the anchor for other surrounding residential and commercial development in the vicinity. Other changes, include adjustments to the alignment of an extension of Jude Ln. (collector) and to the alignment of Sunset Dr. (arterial). Another change is the removal of some high and low density designations and replaced with medium density.

If approved, this amendment to the comprehensive plan would replace the future land uses and preliminary road layout presently planned for the area.

Staff is recommending approval of the amendment to the land use and transportation plan.

Parks comments can be found in Exhibit 7.

Metropolitan Planning Organization (MPO) - The MPO has concerns regarding the spacing of intersections on 38th, which is to be a bypass in the future. Also a concern was having the school site located along the intersection of two major roadways.

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 area.

Engineering and Planning is recommending approval of the land use and transportation plan amendment per the originally proposed amendment that was evaluated by agencies and City staff and presented at the January 27 P&Z meeting (Exhibits 1 & 2) with the only change being the adjustment of the area west of Parks from medium density to low density residential. This area is denoted as the red hatched area in Exhibit 3.

Commissioner Knoll asks if it meets the concerns for the medium to low density.

Commissioner Liepitz says it does address that. He questions if the staff has had a chance or not to review other changes.

John Van Dyke, City Planner, says it can be tabled or apply for another amendment, however, he thinks this can move forward.

Commissioner Renner asks if any of the changes are significant. John says the one he noticed was the additional roadway. It creates almost a three way intersection. That adjustment needs more input from MPO and city staff.

B. Open public hearing

Dr. Eric Belanger says they made additional changes that came from requests by the MPO and those already approved by Planning & Zoning.

C. Close public hearing

D. Commission action.

Commissioner Camisa motions to approve the amendment to the comprehensive plan as presented in Exhibits 1 and 2 with an adjustment of the area west of the Parks District property from medium density residential to low density residential. Commissioner Renner seconds. Upon vote, the motion passes unanimously.

2. Consider recommending an ordinance to amend and re-enact portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to Telecommunications Facilities (Small Cells).

A. Staff report

John Van Dyke, City Planner, presents.

Ordinance 1300 includes changes to accommodate wireless facilities located within the public right-of-way, specifying which districts require a special/conditional use permit and which ones require only administrative approval. Further, the proposed ordinance change establishes the requirement for a special use permit for telecommunications towers that are one-hundred-twenty (120) feet tall or greater in any district. Finally, the ordinance attempts to consolidate the numerous definitions and uses of terminology related to communications towers.

The City of Mandan was approached in 2018 with regard to placement of infrastructure necessary to provide customers with 5G wireless service. The infrastructure is known as “small cell” technology, which is much smaller than a traditional cellular tower. They are small enough to be attached to other infrastructure that is typically located within the public right-of-way, such as street or traffic light poles, larger street signs, etc. They service a much smaller geography and therefore require a higher concentration than a standard tower.

This ordinance outlines the requirements that must be met in order for a small cell to be placed within the public right-of-way, as well as within each zoning district. The ordinance

provides standards for small cells attached to existing poles within the right-of-way, city-owned buildings, and privately owned buildings. Fees and process are established by reference to the Wireless Facilities Guidelines.

Staff, including Principal Planner John Van Dyke, Engineering and Planning Director Justin Froseth, Public Works Director Mitch Bitz, City Administrator Jim Neubauer, and City Attorney Brown met to discuss the creation of the ordinance and associated guidelines. Several cities including Grand Forks, Minot, Fargo, and Bismarck have adopted a close variant of the proposed ordinance. This has established consistency between cities.

The ordinance was sent to Verizon, T-Mobile/Sprint, and AT&T for comment. Most comments were taken into consideration by Verizon and T-Mobile/Sprint. AT&T has indicated several issues with the proposed ordinance. Attorney Brown's recommendation is to move forward with the proposed ordinance as presented with no known issues occurring in other cities in ND that have adopted a similar ordinance.

While working through the ordinance changes related to telecommunications, limitations to the height of telecommunication transmissions towers has also been added. Presently, telecommunications transmission towers are exempt from height limitations and in some districts do not require a conditional use permit. This opens the door to the erection of these structures adjacent to residential development with limitless height. The proposed changes would require towers exceeding one-hundred-twenty (120) feet to obtain a conditional use permit. The height of one-hundred-twenty feet was determined based on those in Mandan today.

As noted above, Public Works, Administrator Neubauer, and Attorney Brown are in favor with the proposed changes.

As noted above, Engineering and Planning are in favor with the proposed changes.

Engineering and Planning recommend approval of the zoning amendment as presented in Exhibit 1.

B. Open public hearing

There are no public comments.

C. Close public hearing

D. Commission action.

Commissioner Knoll motions to recommend approval of Ordinance No. 1300 as presented in Exhibit 1. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

3. Consider recommending approval of an ordinance amending Section 101-1-3 and 105-1-5 (k), of the Mandan Municipal Code related to Multi-Use Shops.

A. Staff report

John Van Dyke, City Planner, presents.

Exhibit 1 contains a DRAFT zoning ordinance amendment related to multi-use shops, commonly referred to as shop condos. The structures have become a popular type of construction. Since they have become more popular several issues have arisen.

The ordinance seeks to address these deficiencies moving forward for all NEW multi-use shop construction. Existing shops could voluntarily apply if the owners collectively decided to apply.

The purpose surrounding the proposed ordinance is as follows:

- Multiple complaints have been received from occupants of multi-use shops regarding commercial rates being charged for utilities and insurance when the occupant is utilizing their respective unit for residential storage purposes, requesting the City provide a solution to this issue; and
- Multi-use shops are being divided and used for purposes that they were not constructed to accommodate, creating health and safety hazards for all occupants within the structure.
- When the number of units and corresponding square footage of each unit is amended the administration of special assessments for each resulting unit is unnecessarily burdensome; and
- Public Works Department has indicated multiple times that shut-offs for individual units are inaccessible, leading the City to continue providing services without receiving payment for such services.

This ordinance was constructed in consultation with Assessors, Water Billing (Finance), Fire, and Building Departments.

Engineering and Planning recommend approval of the ordinance as proposed. We understand the an additional planning application that will be required for a structures of this type, but also believe there is value to the property owner and general public that will be obtained through the process. The ordinance will address matters of health/safety, create efficiencies for processing future divisions and water billing, and potentially save property owners money with regard to private utilities.

Engineering and Planning recommend approval of the ordinance as proposed in Exhibit 1.

Commissioner Camisa wants confirmation #5 applies to the whole building and not individual condos. John says that is correct.

B. Open public hearing

There are no public comments.

C. Close public hearing

D. Commission action.

Commissioner Liepitz motions to recommend approval of the ordinance as presented in Exhibit 1. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

Chair Robinson thinks the meeting went well via teleconference due to people being asked to stay home because of covid-19.

Mayor Helbling thanks everybody for their participation.

Chair Robinson adjourns the meeting at 6:03 p.m.