



**AGENDA**  
**MANDAN PLANNING & ZONING COMMISSION**  
**COMMISSION ROOM 5:30 P.M.**  
**MARCH 25, 2019**

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**Roll Call, Reading and Approval of the February 25, 2019 minutes.**

**PUBLIC HEARINGS**

**1. Consider a request from Hopfauf Custom Builders and Runnings for a Special Use Permit. The request is for remodeling of its new store located on part of Blocks 11 & 12, Mandan Proper, in Section 27, Township 139N, Range 81W. The main store will be located at 504 West Main Street with a warehouse located at 511 -1<sup>st</sup> Street NW.**

**A. Staff report B. Open public hearing C. Close public hearing D. Commission action**

**2. Consider a change to city ordinance Section 105-1-15 related to signs. Said change would allow the building inspections department to process any standard sign application that clearly falls within the established ordinances without having to go before the Mandan Architectural Review Commission.**

**A. Staff report B. Open public hearing C. Close public hearing D. Commission action**

**OTHER BUSINESS**

**Planning & Zoning recognition.**

**ADJOURN**

MANDAN PLANNING AND ZONING COMMISSION  
MANDAN CITY HALL BUILDING  
February 25, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on February 25, 2019, at 5:30 p.m. CDT.

**ROLL CALL**

Commissioners Present: Boehm, Knoll, Helbling, Leingang, Renner, Camisa, Robinson

Commissioners Absent: Klemisch, Klein, Laber, Liepitz, Frank

*Commissioner Knoll motions to approve the January 28, 2019 minutes. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

**PUBLIC HEARINGS**

**1. Consider an ordinance of the Mandan Municipal Code enacting guidelines and regulations regarding murals.**

**A. Staff report.**

John Van Dyke, City Planner, describes the request. An ordinance was requested by the community Beautification Committee (CBC) and the Mandan Architectural Review Commission (MARC). A mural application moratorium was established in the meantime to ensure future murals were placed in appropriate locations within the city.

The ordinance presented in Exhibit 1 outlines application, revocation, and appeal procedures. It also addresses vandalism and establishes standards. The original guidelines are provided in Exhibit 2.

The primary differences between the ordinance and original guidelines are as follows:

- Location is directed to area in downtown (See Exhibit 6)
- Limited to commercial structures
- Text as a dominant theme is removed
- Aligns restrictions on content (freedom of speech) to those allowable by law

Many art programs have their origins addressing specific community interests through creative means. A few examples include addressing vacancy by creating vibrancy, addressing graffiti, or holding unique events to promote downtown revitalization. These programs also share beginning in a specific location whether downtown or urban neighborhoods.

So many ideas have been incorporated into the guidelines that its purpose and direction were difficult to identify and follow by the time it was created.

The ordinance is underpinned by the existing guidance provided by way of the Downtown Mandan Subarea Study and Governor Bergum's Mainstreet Initiative. The Downtown Mandan Subarea Study specifically identifies using murals as a tool to enhance alleyways and draw pedestrian activity into these corridors for the purposes of downtown revitalization.

Governor Bergum's Mainstreet initiative is heavily oriented on downtowns, where "unique places and spaces become the differentiator..." that will help create the vibrancy that is necessary to attract a 21<sup>st</sup> century workforce. It's the creation of a sense of place that is the ultimate goal shared by these two studies. Exhibit 4 provides an illustration of the nuances that together create a sense of place.

Local artists were solicited for comment. The ordinance was then shared via Facebook to other artists in the area. It was amended to incorporate a larger area than originally identified to produce more opportunities for canvas in downtown (see Exhibit 5).

One of the primary reasons for reevaluating the guidelines was the mural that was approved on the side of a residential garage. While beautiful and tasteful, it certainly was not anticipated that this would be an application received by the MARC. That was approved by split decision with many commissioners stating that they felt the guidelines did not provide adequate means to deny despite feeling it may not have been the most appropriate location. These limitations will only allow murals to be placed on commercial structures or those with five (5) dwelling units or more.

Murals where the text is the primary structure has been removed after comment by Commissioner Larson (MARC and City Commissioner). Exhibit 3 shows three examples of murals that cities have produced where the dominant feature of the artwork is text itself. The primary concern with text initially was businesses using the mural as a means to advertise. This is addressed with the disallowance of the promotion of a business or product.

Prior guidelines overstepped the allowable suppression of free speech afforded by law. Obscene material, which are graphic sexual depictions, and inciting violence would need to be "where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

CBC Recommendation: Approve the ordinance as written, with the understanding that there are concerns over 1. Is the area too restrictive? 2. Should we allow them on the street-fronting sides of structures? If there are problems that arise from these two concerns we can address them in the future.

MARC Recommendation: Next meeting held February 26, 2019. Comment received thus far have been incorporated into the ordinance in Exhibit 1.

Business Development: Concerns aligned with CBC.

Building Department: Recommend approval as presented in Exhibit 1.

## **B. Open public discussion.**

Chair Robinson asks if a permit application would go to architectural review. John says it will go to MARC.

Commissioner Renner asks what repercussions are there if somebody changes the picture after MARC approval. John says it would be a zoning violation and possibly a fine. Code enforcement would send them a letter with a time period specified for correction. If not corrected within the time frame, further action can be taken.

Commissioner Camisa asks if there have been any interest outside of downtown. John says there has been. There has been discussion on that. Initially, John only had it allowed in the alleyways. After discussion with Melissa Gordon it was expanded to a roughly 14 block area downtown. John says the city does not have an art fund to create an art district.

John says the previous guidelines were insufficient in guiding MARC to make decisions on these applications.

Attorney Brown says the ordinance is better than guidelines.

**C. Close public discussion.**

**D. Commission's action.**

*Commissioner Leingang motions to approve the mural ordinance. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

**2. Consider 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).**

Chair Robinson says Commissioner Laber represented this commission at some of the meetings with telecommunication providers and city staff. She could not be here tonight and she asked if this item could be tabled until she could attend. Chair Robinson will be absent at the March meeting. He is open to tabling this until March or April.

**A. Staff report.**

John Van Dyke, City Planner, says because this was going to be tabled, he did not change this staff report and take out the R3.2, but it has been removed and in front of City Commission.

**B. Open public discussion.**

**C. Close public discussion.**

**D. Commission's action.**

*Commissioner Leingang motions to table the telecommunications hearing until the April Planning & Zoning meeting. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.*

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

*Meeting adjourns at 5:53 p.m.*

# **PUBLIC HEARING # 1**

**PUBLIC HEARING # 1**

Mandan Planning and Zoning Commission Agenda Item PH1  
 For Meeting on March 25, 2019  
 Mandan Engineering and Planning Office Report  
**Runnings**  
 Requested Action  
**Special Use Permit**

Application Details				
Applicant	Owner	Subdivision	Legal Description	
Hopfauf Custom Builders	Runnings Supply, Inc.	Mandan Proper	City of Mandan	
Location		Proposed Land Use	Parcel Size	Number of Lots
City of Mandan		Farm Supply Retail	Approx. 3.34 acres	7
Existing Land Use	Adjacent Land Uses		Current Zoning	Proposed Zoning
Vacant Grocery Stores	Banking/Professional Office/Private Education		DF – Downtown Fringe	DF – Downtown Fringe
			Adjacent Zoning	
			DF – Downtown Fringe and DC – Downtown Core	
Fees	Date Paid	Adjacent Property Notification Sent	Legal Notices Published	
\$450	02/28/2019	March 11, 2019	2/15/2019 & 2/22/2019	

**Project Description**

Hopfauf Custom Builders on behalf of Runnings Supply, Inc. is requesting a special use permit for farm supply retail (See application docs in Exhibit 1). A special use permit is required for vehicle and farm supply sales in the DF – Downtown Fringe District.

The two buildings are the former Central Market and Thrifty White. The City acquired the two buildings and associated parking lots in 2017 for a purchase price of \$1.5M. A redevelopment proposal was presented to City Commission in Summer 2018, where staff was guided to explore alternative private investment opportunities.

Runnings Supply, Inc. closed on the property in January for a purchase price of \$1,025,000. Runnings has received approval for Renaissance Zone funds and intends to apply for Storefront Improvement Funds at the time of writing.

The site plan (Exhibit 2) was presented to Mandan Architectural Review Commission on March 12, 2019 and received approval contingent on an acceptable landscaping plan and improved quality of the fence for the outdoor storage area. They have subsequently submitted a landscaping plan that will be reviewed at the March 26, 2019 Mandan Architectural Review Commission meeting (See Exhibit 3).

The primary reason that this use requires a special use permit is largely due to the outdoor display of inventory for sale and amount of unimproved land used for this purpose and customer parking. These types of uses commonly have large ground-level parking lots which is a poor use of the limited land in a downtown setting. Changes regarding certain aspects of this application are not possible due to the existing structure placement and driveway approaches. However, there are design improvements that can be required to ensure the development is harmonious with the downtown redevelopment aspirations of the City of Mandan driven by the Downtown Mandan Subarea Study and Mandan Land Use and Transportation Plan.

In evaluating special uses, Sec. 105-1-5 (3) denotes the following requirements to recommend approval:

(3) *In order to give a favorable recommendation, the planning and zoning commission must consider the following:*

- a. The proposed use is in harmony with the purpose and intent of this chapter;*
- b. The proposed use is not in conflict with the adopted comprehensive plan of the city;*
- c. The proposed use will not adversely affect the health and safety of the public and the workers and residents in the area;*
- d. The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhood; and*
- e. The proposed use meets all appropriate regulations for the district in which it will be located.*

Staff finds that the application for the special use permit aligns with the evaluation criteria with the exception of the proposed landscaping plan. The limited five (5) foot landscaping buffer is insufficient given the size of the parking lot coupled with the proximity to Dykshoorn Park to the south and southeast.

This finding is supported by the Mandan Land Use and Transportation Plan Goal 7, Policy 4, which states:

*Use incentives to encourage business owners to use and increase landscaping and other design aesthetics to beautify their buildings, entrances and parking lots.*

It is additional supported by the Mandan Downtown Subarea Study. The use of landscaping to visually separate the roadway and sidewalk from adjacent parking lots is the second highest ranking parking policy coming from the this study. By breaking up the visual monotony, W. Main St. beyond 4<sup>th</sup> Ave. NW lends itself to be inviting to pedestrians in downtown.

**Agency & Other Department Comments**

Building and Business Development recommend approval of the special use permit for farm supply sales at this location.

**Engineering & Planning Recommendation**

Engineering and Planning recommend approval of the special use permit with the following conditions and reasons documented (See Exhibit 4):

The following requirements are supported by the application received by the Engineering and Planning Department in Exhibit 1:

- 1) 511 1<sup>st</sup> St. shall be used for inventory storage and is considered accessory to the primary use of farm supply sales conducted at 504 W. Main St.
- 2) The property owner shall substantially conform to the site plan as illustrated on page 3 of Exhibit 2.

Landscaping utilized to break up the gray between the road and adjacent parking lots is supported by the Mandan Downtown Subarea Study (p. 14 – Parking Policies, p. 80 - Design challenges facing Main Street..., p. 87 – Community Agenda, Beautify Downtown). The city-issued incentives provided for this development align with the Mandan Land Use and Transportation Plan Goal 7, Policy 4. The size of the parking lot and adjacency to the park to the southeast provide an opportunity for streetscape beautification and place-

making in order to entice pedestrian activity west through 4<sup>th</sup> Ave. NW along W. Main St. Based on these findings, the following is required:

- 3) The property owner shall substantially conform to a landscaping plan to be submitted prior to ratification by City Commission which shall include at a minimum:
  - a. A minimum five (5) foot landscaping buffer between the sidewalk and parking lot along W Main St. and 4<sup>th</sup> Ave. NW.
  - b. A minimum twenty-five (25) foot by twenty-five (25) foot landscaped area located on the southeast corner abutting the sidewalk of W Main St. and 4<sup>th</sup> Ave. NW.
  - c. A minimum of ten (10) trees and seventy-eight (78) shrubs shall be included in the area noted in 2) a. and 2) b. above.
  - d. The trees and shrubs shall be approved by the City Arborist.

Based on the March 12, 2019 Mandan Architectural Review Commission the fence improvement is required:

- 4) The proposed fence located between 511 1<sup>st</sup> St and 504 W. Main St. shall be no less than six (6) feet tall and either wrought iron, if non-site-obscuring, or wood/vinyl, if site obscured.

In order to facilitate the relocation of the greenhouse based on conversation with the applicant and not require a reevaluation of the special use permit site plan, the following exception to requirement 2) above is allowed:

- 5) The greenhouse may be relocated directly in front of the east loading dock, but in no way shall interfere with the alleyway to the east.

The following requirement is supported by the letter of intent (Exhibit 1) provided by the applicant with additional provision for setup and takedown prior to opening and upon closing of the store.

- 6) The outdoor display of goods shall be limited to the hours between 6:00am and 10:00pm, seven (7) days a week. They shall be enclosed within the proposed fence at all other times.

**Proposed Motion**

I move to recommend approval of the special use permit as outlined in Exhibit 4.

List of Exhibits:

Exhibit 1 – Application Docs

Exhibit 2 – Site Plan

Exhibit 3 – Landscaping Plan

Exhibit 4 – Requirements of Approval

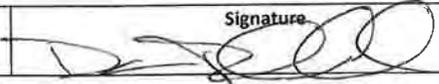
# Exhibit 1

CITY OF MANDAN	
Development Review Application	
Minor Plat (\$300)	Zone Change (\$600) <input type="checkbox"/>
Preliminary Plat up to 20 acres (\$350)	Planned Unit Development (\$700)
Preliminary Plat more than 20 acres (\$400)	Zone Change with Minor Plat (\$400)
Final Plat up to 20 lots (\$350)	Vacation (\$500)
Final Plat 21 to 40 lots (\$475)	Variance (\$400)
Final Plat more than 40 lots (\$700)	<input checked="" type="checkbox"/> Special Use Permit (\$450)
Annexation (\$450)	Stormwater submittal (\$300)
Annexation with Minor Plat (\$200)	Stormwater 2 <sup>nd</sup> & subsequent resubmittal (\$50)
<b>Summary of Request</b> <div style="font-size: 1.2em; font-family: cursive;">See attached letter of intent.</div>	

Engineer/Surveyor			Property Owner or Applicant		
Name <i>Abel/Ummer/Toman Engineering</i>			Name <i>Dave Prindiville / Hopfau Custom Builders</i>		
Address <i>501 1st St NW</i>			Address <i>1800 E Main St</i>		
City <i>Mandan</i>	State <i>ND</i>	Zip <i>58554</i>	City <i>Mandan</i>	State <i>ND</i>	Zip <i>58554</i>
email			email		
Phone			Phone		
Fax			Fax		

If the applicant is not the current owner, the current owner must submit a notarized statement authorizing the applicant to proceed with the request.

Location		Type		Existing Zone	Proposed Zone	Project Name
<input checked="" type="checkbox"/> City	ETA	New	Addition			<i>Runnings</i>
Property Address <i>504 W Main St</i>				Legal Description <i>511 1st St NW Mandan</i>		
Current Use <i>Vacant</i>				Proposed Use <i>Retail &amp; Storage</i>		
Section		Township		Range		
Parcel Size <i>3.3 Acres +/-</i>	Building Footprint	Stories	Building SF	Required Parking <i>NA</i>	Provided Parking <i>158 - 18 Fox Greenhouse</i>	

Print Name	Signature	Date
<i>Dave Prindiville</i>		<i>2-28-19</i>

Office Use Only			
Date Received:	Initials: <i>nm</i>	Fees Paid: <i>\$ 450.00</i>	Date <i>2/28/2019</i>
Notice in paper		Mailed to neighbors	P&Z meeting
<input type="checkbox"/> Approved	Approved with conditions:		
<input type="checkbox"/> Denied			

Updated 1/1/2019

N:\PLANNING & ZONING\Development Application - January 2019.docx



Your Home, Farm & Outdoor Store

February, 28 2019

To: City of Mandan

Re: Letter of intent

To whom it may concern,

This is a letter of intent of the properties located at 504 W. Main and 511 1<sup>st</sup> St. NW in the city of Mandan. The use of the location at 504 W. Main is to renovate the building including but not limited to new ceiling tile, floor tile removal, led light upgrade, interior partition demo, full ada compliant restroom construction. The facility will be the future home of Runnings. We intend on using this space for our sales and day to day operations. Operational hours are tentatively 7:30 am to 8 pm m-s and 12-5 on Sunday. We would have a seasonal greenhouse from approx. mid- april to mid- july. This is to be located in the SE portion of the parking lot.

The intent of the property at 511 1<sup>st</sup> St. NW would be primarily as a warehouse space. Work to be done at this location includes but is not limited to interior wall demo, garage door added, burg system added. Future use could have potential to build an interior archery range depending on how much space is needed for warehousing. This facility would not be open to the public, would be warehouse and runnings employees only.

The two properties would be connected by a fence on the north and south side of the shared parking area. This space would be for our outdoor sales area, cattle panels, t-posts, wire, calf shelters, etc. There would be a gate on the north and south that would be open during normal business hours.

Please feel free to call with any questions comments you may have

Sincerely,

A handwritten signature in black ink that reads 'Chad Weyh'.

Chad Weyh  
Construction/Maintenance Manager  
Running Supply, Inc.  
901 N. Highway 59, Marshall, MN 56258  
Ph. 507-337-5177

2/28/19

To whom it may concern:

Dave Prindiville is authorized by Chad Weyh, Construction and Maintenance Manager for Running Supply, Inc. to act on their behalf to fill out a development application request on behalf of Running Supply, Inc. This authorization is to begin immediately on 2/28/19.

Sincerely,

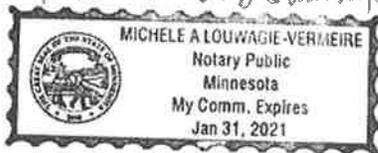


Chad Weyh, Construction/Maintenance Manager

Running, Supply, Inc.

901 N Highway 59

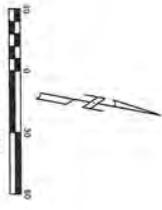
Marshall, MN 56258



*Michele A Louwagie-Vermeire*  
2.28.19



HORIZ DATUM: 1985 STATE PLANE, NO SOUTH (5302)

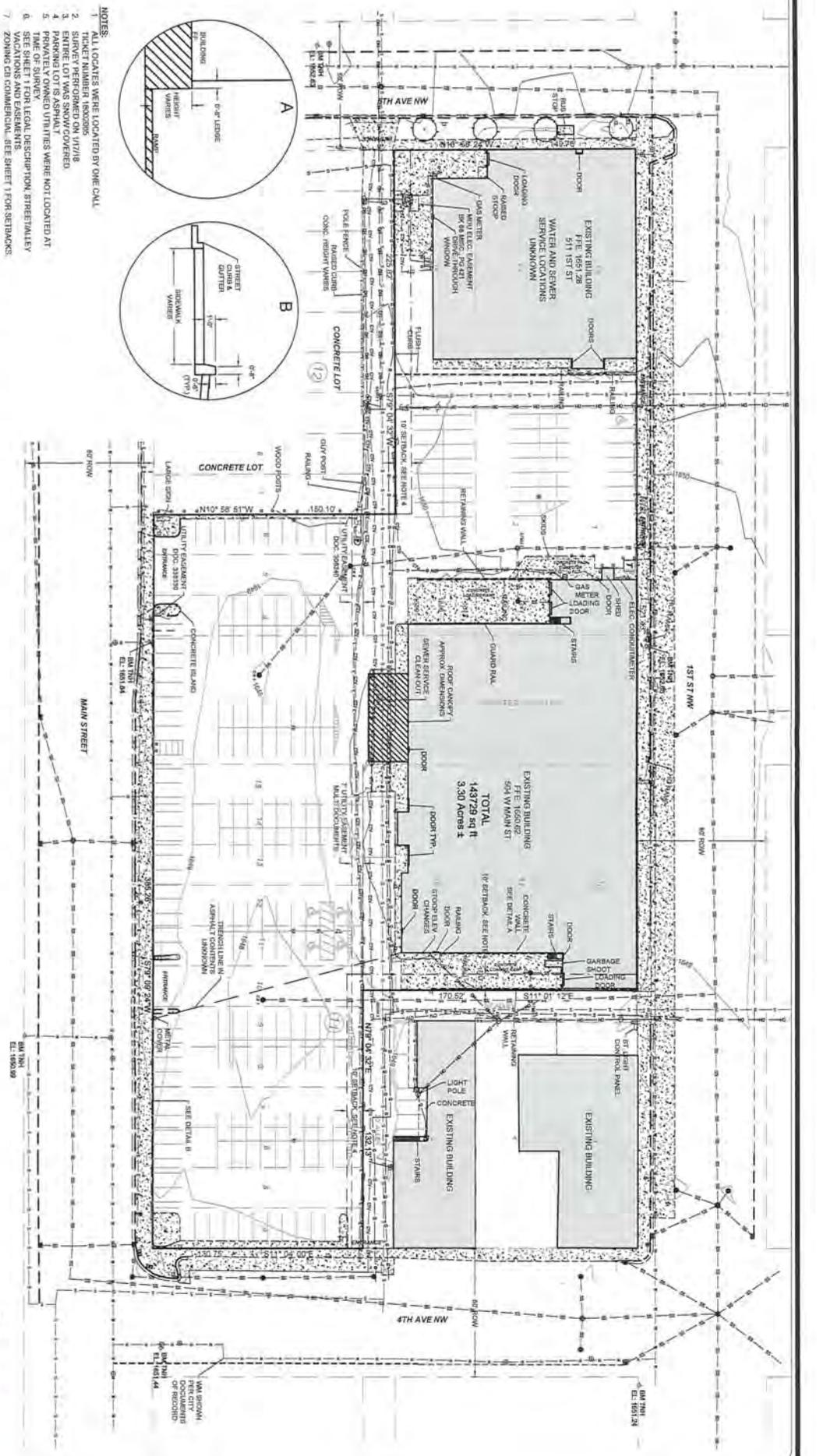


- NOTES:**
1. ALL LOCATES WERE LOCATED BY ONE CALL.
  2. TRUCK TRAILERS WERE NOT LOCATED.
  3. ENTRANCE TO LOT WAS SNOW COVERED.
  4. PARKING LOT IS ASPHALT.
  5. PRIVATELY OWNED UTILITIES WERE NOT LOCATED AT THIS TIME.
  6. SEE SHEET 1 FOR LEGAL DESCRIPTION, STREET/ALLEY VACATIONS AND EASEMENTS.
  7. ZONING OR COMMERCIAL, SEE SHEET 1 FOR SETBACKS.

- LEGEND**
- PIPE WORKING
  - GATE VALVE
  - CONCRETE
  - SAWTOOTH SIGN MOUNTAGE
  - STORM SEWER MANHOLE
  - STORM SEWER CATCH BASIN
  - GATE VALVE
  - BATTERY METERS
  - POWER POLE
  - LIGHT POLE
  - GRV ANCHOR

- MANHOLE CHART**
- | STORM               | SAWTOOTH              |
|---------------------|-----------------------|
| GS 11 RIM - 1647.37 | SSMH 11 RIM - 1649.44 |
| GS 2 RIM - 1646.08  | SSMH 2 RIM - 1649.44  |
| GS 3 RIM - 1645.29  | SSMH 3 RIM - 1649.44  |
| GS 4 RIM - 1647.88  | SSMH 4 RIM - 1649.44  |
| GS 5 RIM - 1647.88  | SSMH 5 RIM - 1649.44  |
| GS 6 RIM - 1647.88  | SSMH 6 RIM - 1649.44  |
| GS 7 RIM - 1647.88  | SSMH 7 RIM - 1649.44  |
| GS 8 RIM - 1647.88  | SSMH 8 RIM - 1649.44  |
| GS 9 RIM - 1647.88  | SSMH 9 RIM - 1649.44  |
| GS 10 RIM - 1647.88 | SSMH 10 RIM - 1649.44 |
| GS 11 RIM - 1647.88 | SSMH 11 RIM - 1649.44 |
| GS 12 RIM - 1647.88 | SSMH 12 RIM - 1649.44 |
| GS 13 RIM - 1647.88 | SSMH 13 RIM - 1649.44 |
| GS 14 RIM - 1647.88 | SSMH 14 RIM - 1649.44 |
| GS 15 RIM - 1647.88 | SSMH 15 RIM - 1649.44 |
| GS 16 RIM - 1647.88 | SSMH 16 RIM - 1649.44 |
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| GS 18 RIM - 1647.88 | SSMH 18 RIM - 1649.44 |
| GS 19 RIM - 1647.88 | SSMH 19 RIM - 1649.44 |
| GS 20 RIM - 1647.88 | SSMH 20 RIM - 1649.44 |

**REGISTERED PROFESSIONAL ENGINEER**  
**ABRAHAM E. ULMER**  
 PE-6693  
 DATE: 7-26-19  
 NORTH DAKOTA



REVISIONS

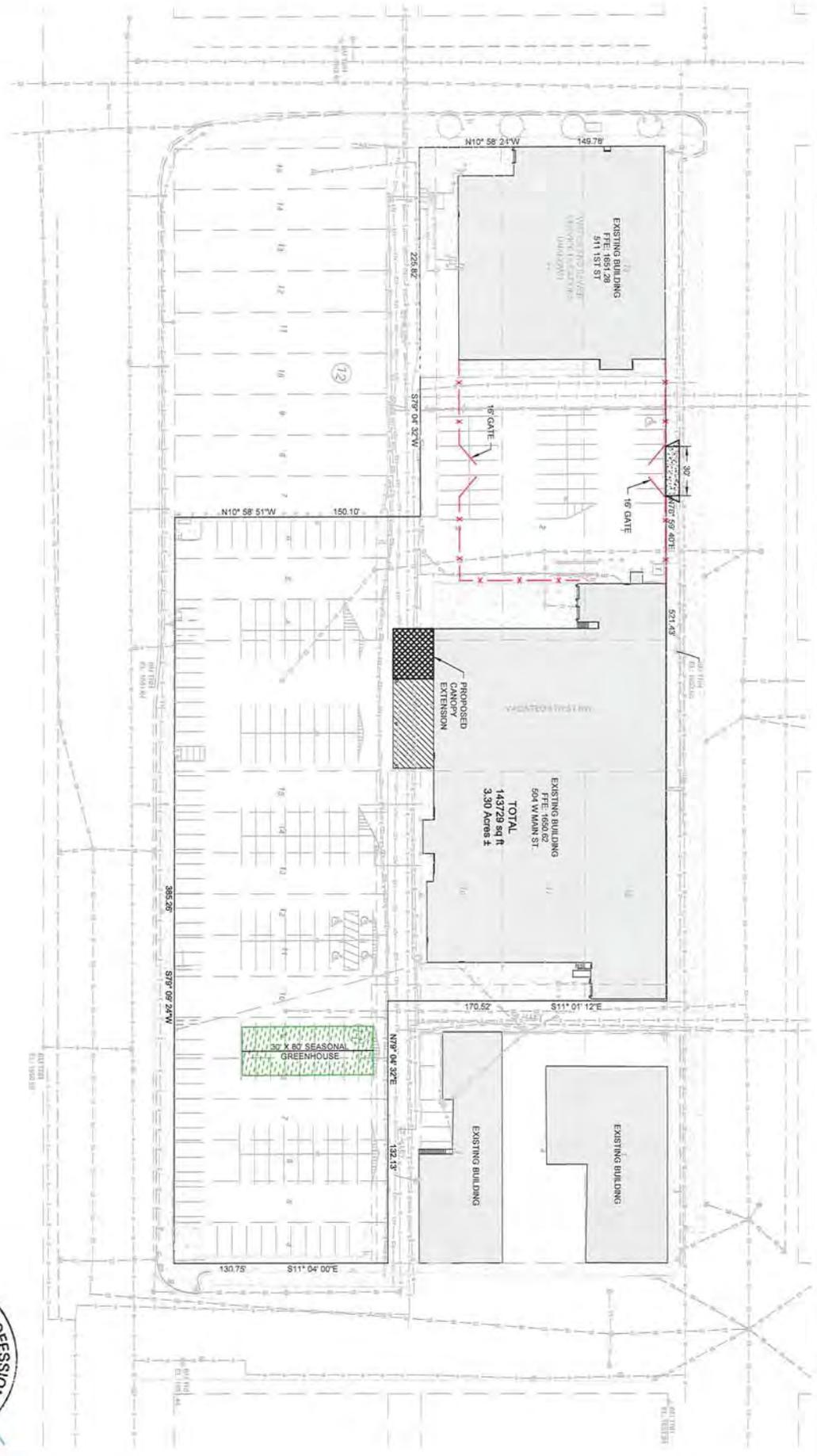
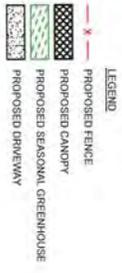
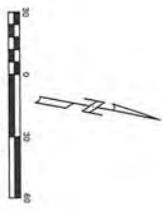
NO	DESCRIPTION	BY	DATE

PROJECT: RUNNINGS  
 PART OF BLOCKS 11 & 12, MANDAN PROPER  
 EXISTING CONDITIONS

**TOMAN ENGINEERING**  
 501 1st Street NW, Mandan, ND 58554  
 Phone: 701-663-6483 • Fax: 701-663-0823

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HORIZ DATUM: 1983 STATE PLANE, ND SOUTH (3302)



OF 3 SHEETS  
3

REVISIONS			
NO	DESCRIPTION	BY	DATE
1	Revised Greenhouse Location	AJ	2/27/2019

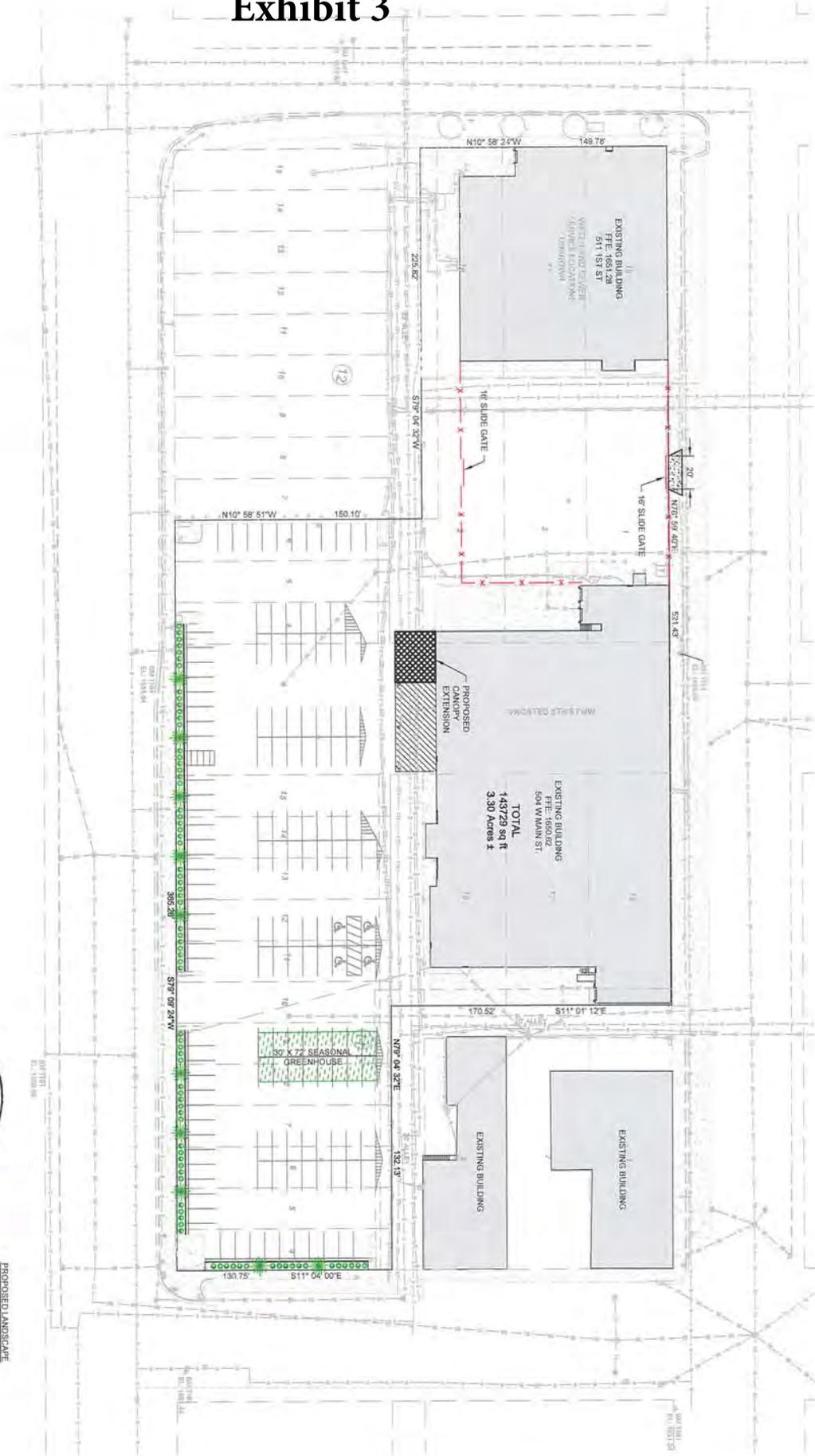
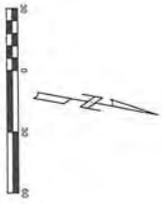
PROJECT: RUNNINGS  
PART OF BLOCKS 11 & 12, MANDAN PROPER  
PROPOSED CONDITIONS



**TOMAN ENGINEERING**  
501 1st Street NW, Mandan, ND 58554  
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# Exhibit 3

HORIZ DATUM: 1983 STATE PLANE, ND SOUTH (3302)  
 VERT DATUM: NAVD83



- PROPOSED LANDSCAPE**
- FAY ALBERT BLUE SPRUCE  
H-10'-15', S-8-10'  
Price per tree for 100' - 120'  
SIZE=1" CALIBER, QUANTITY=10
  - LITTLE GIANT GLOBE  
H-4'-7', S-3-4'  
Price per tree for 100' - 120'  
SIZE=2" CAL, QUANTITY=30
  - ANDORRA COMPACT JUNIPER  
H-18", S-3-5'  
Price per tree for 100' - 120'  
SIZE=2" CAL, QUANTITY=30

OF 3 SHEETS  
**3**

NO	DESCRIPTION	BY	DATE
1	Revised Greenhouse Location	AU	02/27/2019
2	Add Landscape, modify fence, modify approach	AU	01/12/2019

PROJECT: **RUNNINGS**  
 PART OF BLOCKS 11 & 12, MANDAN PROPER  
 PROPOSED CONDITIONS

**TOMAN ENGINEERING**  
 501 1st Street NW, Mandan, ND 58554  
 Phone: 701-663-6483 \* Fax: 701-663-0923

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# Exhibit 4 - Special Use Permit Outlining Requirements

The following requirements are supported by the application received by the Engineering and Planning Department in Exhibit 1:

- 1) 511 1<sup>st</sup> St. shall be used for inventory storage and is considered accessory to the primary use of farm supply sales conducted at 504 W. Main St.
- 2) The property owner shall substantially conform to the site plan as illustrated on page 3 of Exhibit 2.

Landscaping utilized to break up the gray between the road and adjacent parking lots is supported by the Mandan Downtown Subarea Study (p. 14 – Parking Policies, p. 80 - Design challenges facing Main Street..., p. 87 – Community Agenda, Beautify Downtown). The city-issued incentives provided for this development align with the Mandan Land Use and Transportation Plan Goal 7, Policy 4. The size of the parking lot and adjacency to the park to the southeast provide an opportunity for streetscape beautification and place-making in order to entice pedestrian activity west through 4<sup>th</sup> Ave. NW along W. Main St. Based on these findings, the following is required:

- 3) The property owner shall substantially conform to a landscaping plan to be submitted prior to ratification by City Commission which shall include at a minimum:
  - a. A minimum five (5) foot landscaping buffer between the sidewalk and parking lot along W Main St. and 4<sup>th</sup> Ave. NW.
  - b. A minimum twenty-five (25) foot by twenty-five (25) foot landscaped area located on the southeast corner abutting the sidewalk of W Main St. and 4<sup>th</sup> Ave. NW.
  - c. A minimum of ten (10) trees and seventy-eight (78) shrubs shall be included in the area noted in 2) a. and 2) b. above.
  - d. The trees and shrubs shall be approved by the City Arborist.

Based on the March 12, 2019 Mandan Architectural Review Commission the fence improvement is required:

- 4) The proposed fence located between 511 1<sup>st</sup> St and 504 W. Main St. shall be no less than six (6) feet tall and either wrought iron, if non-site-obscuring, or wood/vinyl, if site obscured.

In order to facilitate the relocation of the greenhouse based on conversation with the applicant and not require a reevaluation of the special use permit site plan, the following exception to requirement 2) above is allowed:

- 5) The greenhouse may be relocated directly in front of the east loading dock, but in no way shall interfere with the alleyway to the east.

The following requirement is supported by the letter of intent (Exhibit 1) provided by the applicant with additional provision for setup and takedown prior to opening and upon closing of the store.

- 6) The outdoor display of goods shall be limited to the hours between 6:00am and 10:00pm, seven (7) days a week. They shall be enclosed within the proposed fence at all other times.

# **PUBLIC HEARING #2**

**PUBLIC HEARING #2**

Mandan Planning and Zoning Commission Agenda Item  
 For Meeting on  
 March 25<sup>th</sup>, 2019  
 Mandan Building Inspections Office Report  
**Standard Sign Applications**  
 Requested Action

Application Details					
Applicant N/A	Owner N/A	Subdivision N/A		Legal Description City of Mandan	
Location City of Mandan		Proposed Land Use N/A		Parcel Size N/A	Number of Lots N/A
Existing Land Use N/A	Adjacent Land Uses N/A		Current Zoning	Proposed Zoning	Adjacent Zoning
Fees N/A	Date Paid N/A	Adjacent Property Notification Sent N/A		Legal Notices Published N/A	

Project Description
<p>A change to City ordinance Section 105-1-15. – Signs (Exhibit 1) to allow the building inspections department to process any standard sign application. The building inspections department has received complaints from customers about the sign permitting process particularly the time it takes to go before the Mandan Architectural review Commission (MARC). With the MARC meeting every second and fourth Tuesday of every month it has become an issues for some sign contractors and installers schedule installations in a timely fashion. The question of consistency and attendance has come into question as well. This action would allow the MARC to focus its efforts on other areas of the architectural review process and provide better guidance on more substantial issues as it was intended. By allowing the building inspections office to process any sign that clearly falls within the established ordinances the process can be expedited and we can provide a better service to the customers. The applicant would be able to ask for the sign to be evaluated by MARC if they do not fall within the established ordinances. MARC would be able to issue a site specific waiver to the ordinance if they feel the intent of the ordinance was not being violated and the sign was not causing an encumbrance or hazard to surrounding properties or patrons.</p> <p>This change also outlines the corrective actions for unsafe or unlawful signs by establishing the Code Enforcement Officer as the first point of contact for these signs. This is the current procedure the city follows now.</p> <p>The final change in this document would establish a size limitation on total sign area of 30% of the street facing sides of the structure and maximum of 1 square foot of sign area for each 2.5 square feet of lot frontage for pylon and pole signs. Previously the building inspections department has received questions that we have not been able to answer because we do not have an established maximum area for pole and pylon signs or a maximum area for all signage that we regulate on a building. Many people have been using the chart for the electronic message centers which would limit the sign area to 100 square feet at maximum. After looking into other communities in North Dakota the language being proposed is a close correlation to the language used in Fargo but is also similar to what is used in Bismarck.</p>
<b>Agency &amp; Other Department Comments</b>
MARC recommendation to present to Planning and Zoning Board – Unanimous
<b>Engineering &amp; Planning Staff Comments</b>
<b>Building Inspections</b>
Staff recommends approval of this request.

**Proposed Motion**

Move to recommend approval of the changes to Section 105-1-15 of the Mandan Municipal Code as it pertains to signs.

## EXHIBIT 1 –SIGN ORDINANC CHANGES

Sec. 105-1-15. - Signs.

- (a) *Purpose.* The purpose of these sign requirements is to establish regulations that allow businesses to effectively convey information through signage while also maintaining a neat and orderly appearance. These regulations apply to new signs installed after adoption of these regulations and existing signs that are rebuilt or relocated. Permanent types of signs require a building permit and payment of the established fee. Permanent signs must meet building and utility code requirements.
- (b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Awning* means a roof-like structure that is supported by a metal or wood frame.

*Banner* means a sign printed on lightweight, flexible material such as cloth, canvas or plastic that contains decorations and/or graphics or provides information to the public that is temporarily attached to a building or suspended between permanent poles or columns.

*Bench sign* means a place for people to sit that also contains wording and/or graphics advertising a business or activity.

*Billboard* means an off-premise sign constructed to industry standards that either advertises one business or contains an easily changeable face that can be rented by a business or multiple businesses for a period of time.

*Canopy* means a structure or architectural element, other than an awning, that is made of metal or other noncombustible materials and is either freestanding or attached to a building.

*Canopy sign* means a message or identification which is affixed to or supported by a canopy.

*Directional* means an on-premise sign using arrows and/or words to assist with internal circulation that may contain the name or logo of an establishment but no advertising copy.

*Display* means a structure of any kind that is arranged, intended, designed or used as an advertisement, announcement or direction.

*Electronic or changeable copy* means a portion of a sign that includes a screen or letters, characters, or graphics that are not permanently affixed to the structure, that can be modified from time to time either electronically or manually.

*Erect* means to build, construct, attach, hang, place, suspend or affix.

*Facing or surface* means the part of a sign upon, against, or through which the message is displayed or illustrated.

*Figurative wall mural* means an illustration, diagram or design, not intended to sell a product or to advertise an establishment, that is used for aesthetic purposes or to enhance architectural features of a building.

*Flag sign* means a loose section of fabric or other flexible material designed to move with the wind that is attached to a lightweight pole which is either pushed into the ground or into some form of support.

*Flashing* means a pattern of changing light, pictures or wording for the purpose of drawing attention to the sign.

*Frame effect* means a defining element on an electronic message center sign applied to a single frame or to transition from one frame to the next.

*Frame hold* means the duration or interval of time during which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.

*Freestanding* means a sign supported by uprights or braces placed in or upon the ground surface with no attachment to any building.

*Illuminated* means a sign that has either internal or external lights or luminous tubes.

*Marquee* means a hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a sidewalk.

*Marquee sign* means a message attached to the face of a marquee.

*Monument* means a freestanding sign where the entire bottom of the sign is affixed to a base on the ground that fully supports the sign.

*NIT* means a unit of illuminative brightness equal to one candela (12.5 lumens) per square meter measured perpendicular to the rays of the source.

*Non-conforming* means a sign that was lawfully erected prior to the effective date of the ordinance that adopted this article and that fails to conform to any of the provisions of this article.

*Obstructive* means a sign erected with the purpose of hiding or covering from the view of the public an adjacent or nearby sign.

*Off-premise* means a sign advertising a business, person, service or product which is located or conducted elsewhere than on the premises where the sign is located.

*On-premise* means a sign advertising a business, service or major product located on that property.

*Permanent* means a sign not falling under the definitions of temporary or portable.

*Pole* means a free standing sign supported from the ground by one or two supports that are normally bare.

*Portable* means a sign designed to be transported, including inflatable devices and signs carried or attached to a trailer or vehicle unless such trailer or vehicle is used in normal day-to-day operations of the business.

*Post and panel* means a freestanding sign that does not have a base other than the support posts.

*Privilege panel* means a permanent sign provided by the distributor or manufacturer of a product which utilizes a portion of the sign to advertise a specific product with the rest of the sign allocated to identifying business located at the property upon which the sign is placed.

*Projecting* means a sign which is attached directly to a building wall and which extends more than 12 inches from the face of the wall.

*Pylon* means a free standing sign supported from the ground by one or two supports that are normally shrouded.

*Roof* means a sign erected or constructed wholly upon or over the roof of a building.

*Sign* means any written announcement, demonstration, display, illustration, or insignia used to advertise or promote the interests of any person when the same is displayed or placed out of doors in view of the general public and shall include every detached sign or billboard and every sign attached to or forming a component part of any building marquee, canopy, awning, street clock, pole, parked vehicle or other object whether stationary or moveable.

#### *Sign size*

1. The size of a sign shall mean the area including all lettering, wording, and accompanying design, logos, and symbols. The area of a sign shall not include any supporting framework, bracing, or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
2. Where the sign consists of individual letters, designs, or symbols attached to a building, awning, or wall, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.

*Signable wall surface area* means the portion of a building wall that is free of windows, doors or major architectural details.

*Sight triangle* means the area on each side of a driveway, the area at the intersection of two streets or the area at the intersection of an alley and a street that provides visibility along the street for drivers of vehicles, pedestrians and cyclists wishing to turn onto or cross the adjoining street or exit the property onto or across the street.

*Streamer* means one or more small, typically triangular, flags attached to a line or cable that can be tied or otherwise attached to a portion of a permanent structure or sign post.

*Temporary* means a sign that is designed to be used only for a limited period of time to advertise a special event or activity and includes banners, construction signs, finance signs, real estate signs, flag signs, political signs, portable signs and streamers.

*Wall mount* means a sign which is affixed parallel to the exterior wall of a building and which does not project more than 12 inches from the surface to which it is attached nor does it extend beyond the top of any parapet wall.

*Window* means a sign which faces the exterior of the building and is applied in any manner to the window from either side.

- (c) *Application for permit.* An application for issuance of a sign permit shall be submitted to the City of Mandan Building Department. An application shall include all necessary drawings and specifications showing dimensions and materials to be used on the sign. Required fees must be paid before an application will be processed. Fees for processing and issuance of a sign permit shall be set by action of the board of city commissioners. Actions requiring a permit include the following.

- (1) Alterations to an existing sign. No sign shall be altered except in conformity with the provisions of this policy. The changing of moveable parts of an approved sign that is designed for such changes, repainting the sign or reposting of display matter shall not be deemed an alteration provided the conditions of the original approval and the requirements of this section are not violated.
  - (2) New signs.
  - (3) Relocated signs. A sign that is moved to another location on the same premise or to another premise.
- (d) *Permit exemptions.* No permit shall be required for signs or outdoor display structures listed here. However, not having to get a permit does not relieve the owner of the sign from responsibility for its erection and maintenance in a safe and conforming manner to the requirements contained in this section.
- (1) Directional or instructional signs. Signs not exceeding four square feet in area which provide direction, instruction or identify public facilities; are located entirely on the property to which they pertain; and do not in any way advertise a business.
  - (2) Political signs. Signs that meet the standards contained in this section.
  - (3) Professional name plates. Professional name plates not exceeding two square feet in area.
  - (4) Real estate, construction and finance signs. These signs do not require a permit but signs larger than 16 square feet must be registered with the building department.
  - (5) Rental signs. Rental companies that provide portable signs to businesses must register with the building department and provide an inventory of where the signs are located by the 5th business day of each month in which they have a sign rented within the city. The inventory shall include the dates that the sign was or will be in place.
  - (6) Special displays. Decorative displays used for holidays, public demonstrations or promotion of civic welfare or charitable purposes and on which there is no commercial advertising.
  - (7) Store signs. Signs erected on a show window or on the door of a store or business establishment which announces the name of the proprietor and the nature of the business conducted therein as well as temporary signs placed in windows used to advertise a special product or sale.
  - (8) Street signs. Signs erected by the city for street direction.
  - (9) Transit directions. Signs designating the location of a transit line, a railroad station or other public carrier not more than three square feet in area.
- (e) *Processing of application.* Upon receipt of a sign permit application, the building department shall ~~schedule the application for review and approval by the Mandan Architectural Review Commission (MARC).~~ **process the application in a timely manner relaying all information that pertains to any violation of the city codes and ordinances so the applicant can make changes as needed to comply with standards set forth by this section. If a situation arises and the applicant requests a variation of this section an application to the Mandan Architectural Review Commission (MARC) can be requested by the applicant for a site specific waiver.** The MARC meeting shall occur within thirty (30) days of ~~receipt of the application~~ **the request for a site specific waiver.** Once the MARC has reviewed the application and rendered a decision, the building department will process the application and issue any permit recommended by the MARC.
- (f) *Mandan Architectural Review Commission (MARC).* The MARC is responsible to apply the standards contained in this section when reviewing any sign application submitted to it- **however it may also grant site specific waivers, for variations to this section, when it feels the design of the sign meets the intent of this section and will cause no disruption to pedestrians or surrounding buildings.** The MARC shall review the application and notify the building department of its determination. If the MARC approves the application, the building department will issue the appropriate permit. The MARC may attach any conditions it deems appropriate to any approval granted. **The reasons for the decision set forth by MARC must be documented in the minutes of the MARC meeting.**
- (g) *Unsafe or unlawful signs.* **Unlawful signs shall be submitted to the Code Enforcement Officer and an application for the unlawful sign shall be submitted to the Building Inspections Department.** The **Code Enforcement Officer** and building department shall take whatever action is necessary to correct an unsafe condition with a sign or have an unlawful sign removed. If necessary, the **Code Enforcement Officer** and building department may file a complaint with any court of competent jurisdiction.
- (1) Whenever any sign becomes insecure, in danger of falling or otherwise unsafe, the owner of the sign shall be notified by the building department and given a specified time to correct the problem.
  - (2) The building department shall order the removal of any sign that has been unlawfully installed, erected or maintained in violation of any of the provisions of this code.

- (3) The building department shall notify the owner and lessee of a building or structure whenever a sign is so erected as to obstruct free ingress to or egress from a required door, window, fire escape or other required exit way and shall require appropriate corrective action within a specified time frame.
  - (4) Signs damaged by storm or accident shall be repaired to a safe condition by the owner of the sign at the direction of the building department within a specified period of time. Signs that present a clear and present danger to the public shall be removed or repaired within 48 hours. Signs that are impeding traffic may be removed immediately by the city and the owner of the sign billed for the costs incurred by the city.
  - (5) Signs that are destroyed or removed shall not be re-erected, reconstructed, rebuilt or relocated unless the sign is made to comply with all applicable requirements of this section.
  - (6) A sign that no longer advertises a bona fide business or product is considered an unlawful sign and must be removed or covered.
- (h) *Non-conforming signs.*
- (1) A previously approved or permitted and properly maintained non-conforming permanent sign will be allowed until the building is remodeled to an extent greater than 50 percent of its value, a new business occupies the building or structural or dimensional changes are proposed for the sign.
- (i)- *Maintenance and inspection.*
- (1) It shall be the duty and responsibility of the owner or lessee of every sign to maintain the sign in a clean, sanitary and healthful condition.
    - a. The sign, together with all supports, braces, guy wires and anchors, and individual letters and symbols shall be kept in good repair
    - b. Parts that are not galvanized or constructed of approved corrosion-restrictive materials shall be painted as necessary to prevent corrosion.
  - (2) Every sign for which a permit has been issued shall be inspected by the building department upon completion of erection or installation.
- (j) *General requirements and provisions.*
- (1) All signs shall be designed and constructed in conformity to the provisions for materials, loads and stresses of the adopted version of International Building Code Appendix H.
  - (2) No sign shall be illuminated by other than electrical means and electrical devices. Wiring shall be installed in accordance with the requirements of the ND State Electrical Board. No open spark or flame shall be used for display purposes unless specifically approved in writing by the building department and the fire chief.
  - (3) No sign shall be erected at the intersection of any street, alley or driveway in such a manner as to obstruct the sight triangle.
    - a. A sign shall not be located within a sight triangle if the portion of the sign or support posts between three feet and ten feet above the edge of the roadway will be greater than ten inches wide.
    - b. The sight triangle for intersections that are not traffic light controlled is the area measured along the curb or edge of pavement of the street to a point with a straight line distance of 25 feet from the curb or edge of pavement of the intersecting street.
    - c. No sight triangle is required for intersections that are traffic light controlled.
    - d. For intersections that are only partially controlled with stop signs, the sight triangle is only applied to the side streets that have stop signs.
    - e. For an alley or driveway, the other side of the triangle is measured perpendicular to the street along the curb or edge of pavement of the alley or driveway to a point that is a distance of 15 feet from the curb or edge of pavement of the street. Sight triangles for alleys or driveways in commercial or industrial districts are not required but are recommended. Sight triangles for alleys and driveways in residential districts are not required.
    - f. In zoning districts with a zero front yard setback, the depth of the sight triangle is limited to the boulevard area of the public right-of-way.
    - g. Where existing conditions on a lot limit the options for location of a sign, the applicant may request that the MARC approve location of a designated type of sign within the limits of the sight triangle for a specific site. The reasons for the approval of the location must be documented in the minutes of the MARC meeting.

- (4) No sign shall be erected that closely resembles or approximates the size, shape or form of an official traffic regulation sign or marker.
- (5) No private sign shall be attached to a public building or structure, a utility pole or any existing public signage.
- (6) The light for a sign shall not be directed into any residential dwelling or towards any oncoming vehicle.
- (7) Signs, other than window signs, containing or utilizing flashing, rotating, or moving lights shall be prohibited unless they are used solely for public safety, e.g. construction markers.
- (8) The use of laser lights, strobe lights, searchlights, beacons and similar upward or outward oriented lighting as part of any sign is prohibited.
- (9) No sign or wall mural shall be painted on any building without prior approval from the MARC.
- (10) No sign shall be attached to, affixed to, painted or drawn on trees, shrubs, rocks, other natural features or organic material unless approved by the MARC or the city commission for a specific site or application. Certain species of wood products may be used for construction of a sign with approval of the MARC or city commission.
- (11) No Permanent sign shall use fluorescent type coloring such as that known as "day-glow".
- (12) No sign shall be attached to the stairwell railing of a basement business. ~~unless a site specific waiver of this requirement is approved by the MARC or the city commission.~~
- (13) Obstructive signs are prohibited.
- (14) No advertising sign within 300 feet of a residentially zoned area shall have any bulb that is greater than 11 watts of incandescent lighting or generate more than 165 lumens in light brightness. Public service information signs and other electronic message signs permitted within an area zoned for commercial or industrial use shall have a bulb no greater than 75 watts of incandescent lighting or generate more than 1,125 lumens of light brightness.
- (15) Illuminated signs are permitted for buildings housing three or more dwelling units.
- (16) No sign shall hide from a driver's view or interfere in any material degree with the effectiveness within 500 feet of any traffic control device, sign or signal.
- (17) No advertising sign, by reason of location, position, shape, or color may be designed to be confused with any public sign. The use of cautionary words such as: "stop", "danger", "caution", "beware" or similar words is prohibited.
- (18) No sign shall contain statements, words, or pictures of an obscene, indecent, pornographic, or immoral character.
- (19) Except for sidewalk signs in the downtown commercial area and signs above sidewalks, no sign shall be allowed in the public right-of-way unless otherwise provided for in this section.
- (20) Signs that can only be accessed from a state controlled roadway must have written approval from NDDOT.
- (21) No motorized vehicle or trailer on which is attached thereto or located thereon any sign or advertising device that provides the advertisement of products, services, or directs people to a business may be parked in a public right-of-way or on public property. This subsection shall not apply to vehicles that have been decorated with signs or messages advertising a business or product or to vehicular signs that are attached to or affixed on a motor vehicle used in the normal day-day-day operations of a business.
- (22) No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide air, ingress or egress for any building or structure.
- (23) Audio speakers or any form of pyrotechnics are prohibited on or in association with a sign.
- (24) The total sign area for all permanent signs associated with a structure may not exceed 30% of the street fronting sides of the structure.

(k) *Zoning district requirements.*

- (1) On single family and two family residentially zoned lots or subdivisions the following sign standards shall apply.
  - a. Each lot may have one sign not exceeding two square feet in area. The sign may be of a wall, foundation or projecting type. Signs may not project past the property boundary. House numbers are not counted as a sign.
  - b. For existing subdivisions, one sign not exceeding 12 square feet in area identifying the subdivision is allowed at each principal entrance.

- c. For existing subdivisions that were platted more than two years ago, one sign not exceeding six square feet in area may be erected at each principal entrance to the subdivision advertising property for sale or rent within the subdivision.
  - d. For new subdivisions that were platted less than two years ago, one sign not exceeding 32 square feet in area may be erected at each principal entrance to the subdivision advertising lots or dwellings for sale within the subdivision.
  - e. No sign shall be illuminated.
- (2) In business and industrial zoning districts and residential lots containing three or more dwelling units the following sign standards shall apply.
- a. Each business on a lot containing one or two businesses may have an individual freestanding sign. Lots with more than two businesses must share any freestanding signage. The MARC shall determine the number of signs allowed on any lot with multiple businesses.
  - b. Each business may have one projecting, roof or marquee sign per building side.
  - c. Each business may have one wall sign per building side. ~~unless the MARC approves a site specific waiver to allow more than one sign per building side.~~
  - d. Each multi-family residential lot may have up to two signs.
- (l) *Awnings and awning signs.*
- (1) Awnings may extend from a building over the public right-of-way two feet less than the distance from building to curb. Such structures shall be at least eight feet above the sidewalk or ground grade line. Suspended signage or valances shall be at least eight feet above the sidewalk or ground grade line.
  - (2) Awnings should complement the building architecture. Awning shape, color, material, and location on the building shall be compatible with the building architecture and relate well to the dominant architectural features.
  - (3) Signs will be allowed on the band or the valance. Signs on a sloped surface shall be at the discretion of the MARC. The sign band shall be no greater than 12 inches in the downtown commercial area. Signs shall not be the dominant feature of an awning.
  - (4) Awnings in historic areas and on historic buildings should respect the history of the area and buildings. Historic colors, styles, and mounting locations based on research, old photographs, and historic records are encouraged.
  - (5) Awnings should generally be located to fit within window and/or door recesses.
  - (6) A uniform shape, color, and placement should be used when multiple awnings are proposed for a single building. New awnings should generally match any existing awnings on the building. Existing inconsistent awning styles of a building do not justify approval of additional or new awning styles. Inconsistent awning styles are to be reduced, not increased with new awning approvals.
  - (7) Individual awning proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
  - (8) Awnings shall be approved by the MARC if installed under significant eave overhangs, cantilevers, or other prominent architectural projections.
  - (9) In the downtown commercial area, day-glow colors, reflective materials and illuminated back lighting of transparent materials are not allowed. ~~unless a site specific waiver of this restriction is granted by the MARC.~~
  - (10) Solid colors or low contrast, non-jarring patterns are generally acceptable awning color treatments.
  - (11) Fabric awnings shall not be painted.
  - (12) Awnings shall be maintained in good repair with a clean and attractive appearance as long as they are installed on the building. Torn, bent and/or faded awnings shall be repaired, replaced or removed.
  - (13) An application for an awning that is submitted to the MARC shall include a sample of the proposed awning material to show color, texture and finish.
  - (14) If any upper story window is treated with an awning, then all upper story windows on that side of the building shall be treated with awnings. ~~unless another design is approved by the MARC.~~
- (m) *Basement business signs.*
- (1) When only one business is utilizing a basement area, an appropriate wall sign may be provided.

- (2) When two businesses exit from the basement of a building, appropriate signs or directories to such businesses may be provided on the wall over the entrance to the basement and coordinated with other building signs.
  - (3) Signs or directories shall not exceed nine square feet in area.
- (n) *Benches or structures with signage.*
- (1) The total number of bench signs located in any district shall be limited and approved by the MARC.
  - (2) Bench signs shall not be located closer than 75 feet to one another (measured from base to base).
  - (3) Maximum height of four feet.
  - (4) Maximum sign area of 20 square feet.
  - (5) Only one advertising panel advertising one business is permitted per bench.
  - (6) Bench rental companies shall be licensed with the city.
  - (7) All signs and structures shall be properly maintained, well-kept and in good condition.
  - (8) If signage is out of date, the signage or the structure shall be removed or replaced.
  - (9) Signs must advertise Mandan businesses or events if they are located within public right-of-way.
  - (10) MARC must review and recommend the design and content of any bench sign that will be located in public right-of-way. The city commission must grant approval for any bench sign that is to be located in public right-of-way. City commission may include conditions or design requirements with its approval.
- (o) *Billboard signs.*
- (1) No billboard sign shall exceed a height of 40 feet above the lot grade of the adjacent roadway.
  - (2) The exposed upright or super structure of billboard signs shall be of non-corrosive metal materials or be painted a color so as to blend with the surrounding environment.
  - (3) Billboard signs shall be of all steel or similar material, constructed and designed in accordance with the Mandan Building Code.
  - (4) There shall be a minimum of 300 feet between billboards.
  - (5) All billboards shall meet city, state and federal requirements and must be located totally on private property.
- (p) *Canopy and canopy signs.*
- (1) Canopies and canopy signs attached to a building may extend from the building into the public right-of-way to a point within two feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight feet above the sidewalk or ground grade line.
  - (2) Canopy signs shall not extend more than 12 inches above or below a canopy.
  - (3) Canopy signs shall not extend closer than three inches to any edge of a canopy.
  - (4) Canopy signs may be located beneath or above an overhead canopy but shall not project lower than eight feet above the sidewalk.
  - (5) There shall be only one canopy sign per business on each street exposure. ~~unless otherwise approved by the MARC.~~
  - (6) Canopies should complement the building architecture. Canopy shape, color, material, and location on the building shall be compatible with the building architecture, relate well to the dominant architectural features, and not cover up or hide handsome materials or important details.
  - (7) Canopies in historic areas and on historic buildings should respect the history of the area and buildings. Historic colors, styles, and mounting locations based on research, old photographs, and historic records are encouraged.
  - (8) Individual canopy proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
  - (9) Solid colors and/or low contrast, non-jarring patterns are generally acceptable canopy color treatments.
  - (10) All applications for canopies shall include a sample of the proposed awning material to show color, texture, and finish.
  - (11) If any upper story window is treated with a canopy, then all upper story windows shall be treated with canopies. ~~or as otherwise approved by the MARC.~~

(q) *Electronic signs.*

- (1) Flashing is prohibited.
- (2) The city reserves the right to require any sign to be modified based on display message including timing or frame changes or effects of movements displayed.
- (3) Ground signs, as defined by the IBC Appendix H102 and commonly referred to as billboards or off-premise signs, are permitted in commercial and industrial districts. When adjacent to federal or state aid highways, all NDDOT standards for design and approval must be followed. In those districts where permitted, ground signs must be spaced at least 300 feet apart along the roadway. Ground signs may not exceed 16 feet by 50 feet per face of sign in size (multiple faces must be treated as one face), and the support structure and sign may not exceed 50 feet in height, measured from the top of the nearest curb line to the top of the sign or structure. Additional requirements for digital billboards are included elsewhere in this section.
- (4) No electronic message center sign installed after January 1, 2010, shall be permitted to operate unless it is equipped with:
  - a. A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and
  - b. A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.
- (5) An electronic message center sign installed prior to January 1, 2010, shall be allowed to continue operation provided the brightness of the sign does not exceed a maximum illumination of 5,000 NITS during daylight hours or a maximum illumination of 750 NITS between one-half hour before sunset to one-half hour after sunrise as measured at the sign's face at maximum brightness. These illumination levels may be set manually or by an alternative method approved by the building official.
- (6) Only one electronic message center sign shall be allowed per property.
- (7) The electronic message center sign portion of any sign shall not exceed the area specified in the table below. The maximum size is based on the type of zoning district in which the sign is located and the functional classification of the roadway adjacent to the sign or 50 percent of the total sign area, whichever is less.

Zoning District	Functional Classification of Adjacent Roadway				
	Interstate	Principal Arterial	Minor Arterial	Collector	Local
Industrial	100 sf	100 sf	72 sf	48 sf	32 sf
Commercial	100 sf	100 sf	72 sf	48 sf	32 sf
Neighborhood Commercial	72 sf	72 sf	48 sf	32 sf	32 sf

- (8) Electronic message center signs shall be subject to the following operational requirements:
  - a. The sign shall have a frame hold time of no less than one second. The use of animation and background animation is allowed and is not subject to the one second frame hold time requirement.
  - b. Entrance and exit effects may be used to transition from one frame to another, provided said entrance effects result in all of the text within the frame appearing at once or in the order that the text is normally read (including, but not limited to, scrolling from right to left or scrolling from bottom to top entrance effects). Entrance effects where all of the text within the frame does not appear at once or in the order that the text is normally read are prohibited (including, but not limited to, scrolling from left to right, scrolling from top to bottom, and entrance effects referred to as slot machine, slots, splice, mesh, radar, kaleidoscope and spin). There are no limitations on the types of exit effects used. Except for such transitions, each frame shall remain static with no additional frame or hold effects applied to text within the frame (including, but not limited to, the

fading or flashing on any part of the message and hold effects referred to as flash, spin, twinkle, wavy and rumble). The use of bijou lights as a frame effect is allowed.

c. The use of streaming video or full-motion video on any electronic message center sign is prohibited.

(9) Electronic message center signs located within 300 feet of any residentially zoned district, as measured from any part of the sign to the nearest property line within any residential zoning district, are subject to the following additional requirements:

- a. The sign shall not exceed 32 square feet in area, or 50 percent of the total sign area, whichever is less.
- b. Between 7:00 a.m. and 10:00 p.m., the sign shall be allowed to operate. Between 10:00 p.m. and 7:00 a.m., the sign shall only display static images with a frame hold time of no less than three seconds and shall be limited to instantaneous transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.

(10) An electronic message center sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.

(11) No portion of any existing sign shall be replaced with an electronic message center sign unless a sign permit is obtained for the new electronic message center sign.

(12) Digital billboards must be located at least 300 feet from any other non-digital ground sign (billboard), at least 1,200 feet from any other digital billboard, and at least 500 feet from an interstate interchange, as measured from any part of the sign to the nearest portion of any part of any other billboard sign on the same side of the roadway or to the nearest right-of-way line of the interchange. Digital billboards that face state or federal highways are subject to NDDOT regulation.

(13) Digital billboard signs shall have a frame hold time of no less than seven seconds and must transition instantaneously from one static image to another static image without any special effects. The use of streaming video, full-motion video, and animation or frame effects is prohibited.

(r) *Marquee and marquee signs.*

(1) Marquees and marquee signs attached to a building may extend from the building into the public right-of-way to a point within two feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight feet above the sidewalk or ground grade line.

(2) A sign attached to the face of a marquee may not exceed three feet above the top edge of the marquee and not to extend below the marquee's lower edge.

(3) Marquee signs shall be constructed entirely of approved materials and size.

(4) Marquee signs may extend the full length but in no case shall they project beyond the ends of the marquee.

(s) *Monument signs.*

(1) A monument sign shall be solid from the grade to the top of the structure using non-flammable architectural materials.

(2) The minimum setback is ten feet from the property line or sight triangle, whichever is greater.

(3) The maximum allowable height of a monument sign is 12 feet unless the sign is set back farther from the property line or sight triangle. For each additional two feet of setback, the height of the sign can be increased by one foot up to a maximum sign height of 16 feet.

(4) Monument signs may be incorporated into a retaining wall or masonry wall.

(5) The bottom edge of the sign portion of a monument sign must be in continuous contact with the base and be a minimum of 12 inches above grade.

(6) Monument signs must be placed within a landscaped area.

(t) *Post and panel signs.*

(1) A post and panel sign shall be no taller than 12 feet off the ground.

(2) No part of the sign may encroach on the sight triangle.

(3) The bottom edge of a post and panel sign must be a minimum of 12 inches above grade and must be placed within a landscaped area.

- (4) The support posts must be made of a non-flammable material. ~~or as otherwise approved by the MARC.~~
- (u) *Projecting signs.*
- (1) The bottom edge of the sign board, or of any affixed devices, must be at least eight feet above grade.
  - (2) A projecting sign or any part thereof may not project more than 36 inches from the face of the supporting building, not be within less than two feet of the back of the curb, not be more than ten feet in height and not be greater than 30 inches in width.
  - (3) No projecting sign shall extend more than four feet above a building roof eave or parapet.
  - (4) No projecting sign shall originate from other than a front wall of the building. The maximum square footage for sign face is 50 square feet. ~~unless otherwise approved by the MARC.~~
  - (5) No projecting sign shall be permitted in any alleyway.
- (v) *Pylon and pole signs.*
- (1) No pylon or pole sign shall extend into a public utility easement or right-of-way.
  - (2) ~~Unless a greater height is approved by the MARC for a specific property, t~~ **The** maximum pylon or pole sign height is 25 feet in the downtown commercial area; 40 feet in the other commercial and industrial districts; and 60 feet in the Gateway Overlay Zone.
  - (3) The sign portion of a pylon or pole sign shall be a minimum of ten feet above the top of curb or surrounding grade, whichever is higher. The clearance shall be a minimum of 13 feet within a vehicle parking or travel area.
  - (4) For single business properties with sufficient frontage, multiple pylon or pole signs will be allowed provided they can be set back from the adjacent or adjoining lot line a minimum of 25 feet and are no closer to each other, as measured parallel to the property frontage, than 155 feet. ~~or otherwise as approved by the MARC.~~
  - (5) A pylon or pole sign's support shall originate from the surface of the ground only and be made of non-flammable material.
  - (6) Pylon or pole signs may be used as a directory for more than one business.
  - (7) The maximum sign area for pylon and pole signs is 2.5 square feet per 1 foot of lot frontage but cannot exceed 30% of the area of all sides of the building that front a street.**
- (w) *Roof signs.* Roof signs shall not project above the roof peak (this includes mounting brackets).
- (x) *Sidewalk signs.*
- (1) All signs must be self-supporting and not be attached to any other structure or object.
  - (2) One sign of this type will be allowed per place of ground level business.
  - (3) The maximum width of a sign shall be two and one-half feet, a minimum height of three feet and a maximum height of four feet.
  - (4) The sign support and base shall not extend beyond the edge of the sign.
  - (5) A sign shall be placed only where a minimum width of three feet for pedestrian movements can be maintained.
  - (6) This type of sign is allowed only within a business district.
  - (7) Signs may be placed on the sidewalk only during hours of operation and must be stored inside the building during non-business hours.
  - (8) Signs may be used for on-premise advertising only.
  - (9) Signs shall not be illuminated.
  - (10) Streamers, flags or banners shall not be attached to the sign or use the sign as an anchor.
- (y) *Temporary signs.*
- (1) Temporary signs are not to be used as a substitute for erecting a permanent sign. Temporary signs are to be used for short duration events that do not occur on a regular basis. Activities that repeatedly occur throughout the year are to be publicized using permanent signage.
  - (2) Use of off-premise temporary signs is limited to a maximum of 30 days per event, activity or function. Off-premise temporary or portable signs may be used only in places where they meet all city, state and federal regulations. Temporary or portable off-premise signs are treated the same as permanent billboards under federal law.

administered by NDDOT. Signs proposed to be located along federal aid routes that are impacted by the federal rules regulating off-premise signs must receive written permission from NDDOT. A copy of the written permission from NDDOT must be presented to the city building department prior to sign installation. Off-premise temporary or portable signs can be no closer together than 100 feet along a state highway.

- (3) The owner of a property where a temporary or portable off-premise sign is to be placed must provide the city with written permission for the placement of the sign prior to installation of the sign.
- (4) Except for the requirements for construction, finance and real estate signs and political signs; each type of temporary sign is limited to 240 days per calendar year per property.
- (5) Banner signs are limited to three per property. The total area of all banner signs on a wall may not be larger than 20 percent of the wall surface area of the wall to which they are attached or which they are in front of.
- (6) Construction, finance and real estate signs.
  - a. Construction and finance signs may be displayed during the duration of the construction phase of a project and must be removed within 30 days after receiving a certificate of occupancy.
  - b. Signs indicating that an individual lot is for sale, sold, for rent or for lease are limited to 16 square feet in size.
  - c. Signs indicating that a large, undeveloped property is for sale are limited to 48 square feet in size unless a larger size is approved by the city engineer for a specific parcel.
  - d. Open house signs advertising a one or two day event that are no greater than 36 inches in height and in place for less than 48 hours may be placed in the public right-of-way provided that they are located at least one foot behind the back of curb or three feet off the pavement where no curb exists. Other types of real estate signs or signs that will be in place for more than 48 hours may be authorized by city commission to be placed in the public right-of-way.
  - e. Once a property has been sold, the sale sign must be removed within 30 days after closing.
  - f. Parade of Homes signs shall conform to the following requirements.
    1. The signs shall be placed at least one foot behind the back of curb or three feet off the edge of pavement where no curb exists.
    2. The signs may be in place for no more than 12 days twice each year.
    3. The signs shall be located no closer than 100 feet to an intersection as measured from the pedestrian crossing or stop bar.
    4. The signs shall not be attached to trees, traffic control signs, traffic signal poles or street light poles.
    5. No ribbons, balloons, streamers, lighting or ancillary devices may be attached to the signs.
    6. The Bismarck-Mandan Home Builders Association shall be responsible for any costs incurred during installation or removal of the signs.
    7. The signs shall not be higher than three feet above the road surface.
- (7) Flag signs are limited to one per 20 feet of lot frontage with a limit of five per lot.
- (8) Political signs. Political signs shall follow North Dakota Century Code (NDCC) regulations.
- (9) Portable signs.
  - a. All companies that rent portable signs to customers within the city must be licensed with the city and carry liability insurance in a form and amount specified by the city. Each rental sign shall have the rental companies name and phone number clearly visible on the sign.
  - b. All portable signs and sign lettering shall be properly maintained, well-kept and in good condition. The city may order removal of a sign that is not advertising a current event or is not being maintained in good condition.
  - c. No ribbons, balloons, streamers, lighting or ancillary devices may be attached to any portable sign.
  - d. Each property is allowed one portable sign. Larger properties may have more than one portable sign as long as they are placed a minimum of 155 feet apart.
  - e. Maximum square footage for a portable sign shall be 64 square feet and maximum height shall be eight feet. The portable sign shall not be illuminated or electronic.
  - f. The owner of each rented portable sign shall submit a monthly report to the building department showing days in use and the location of the sign.

g. "Floppy guy" signs are a type of portable sign.

(10) Streamers may be strung on a line or cord no longer than three times the width of the lot.

(z) *Wall signs.*

(1) Wall signs shall be securely fastened to the wall of a building by its supporting structure.

(2) Wall signs placed against exterior walls of buildings and structures shall not extend more than 12 inches from a wall's surface. The lowest edge of such sign shall be a minimum of eight feet above grade unless a lower height is approved by MARC.

(3) No combination of wall signs and supports shall exceed 20 percent of the signable wall surface area up to a maximum of 200 square feet. ~~unless other limits are approved by the MARC.~~

(4) Signs printed directly on exterior walls or surface of a building shall be prohibited.

(5) No wall sign shall extend beyond the width of a building or project above the roof eave.

(6) Wall signs advertising products or services not related to the primary business shall be approved by the MARC.

(7) Second floor businesses can utilize wall signs to advertise their establishments but must do so between floors and not below their floor.

(8) A wall sign shall not obstruct the required door or exit window of any building nor shall it be attached to or placed on fire escapes.

(aa) *Window signs.*

(1) No paper or solid surface signs shall be permitted on a second floor window or above.

(2) No window signs shall advertise or identify a business other than the one contained therein.

(Ord. No. 1241, § 2, 12-13-2016)