

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
Monday, March 28, 2022

The Planning and Zoning Commission of Mandan duly met in session in the Commission Meeting Room of the Mandan City Hall on March 28, 2022, at 5:30 p.m. CST. City Hall will be open for this meeting. If you would prefer to appear via video or audio link, please provide your contact information to andrew.stromme@cityofmandan.com. Planning & Zoning Commissioner members may be attending this meeting remotely.

ROLL CALL

Commissioners Present: Leingang, Mehlhoff (virtual), Horn, Helbling, McLean (virtual), Frank, Camisa, Vayda, Otto (virtual), Robinson. Commissioners Absent: Liepitz.

Commissioner Camisa motioned to approve the February 28, 2022 minutes as presented. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

PUBLIC HEARINGS

1. A request from Lindsey and Chris Satnan for a Special Use Permit to allow a preschool (education group) in the R7 – Residential Zoning District. Said property is the east 40’ of Lot 19 and all of Lot 20, Block 1, Siegel’s 2nd Addition. The property is located on the southeast corner of 13th Street NW and Collins Avenue N.

A. Staff Report

City Principal Planner Stromme presented.

Chris and Lindsey Satnan requested approval of a Special Use Permit for the Education Group in the R7 – Residential district to allow the conversion of a single-family home into a private pre-school facility. This property is located in central Mandan on the southwest corner of 13th Street NW and Collins Avenue with the Eagles Park nearby.

Property History

Siegels 2nd Addition was platted in 1955. The residence and detached garage were constructed in 1956 and an attached garage was added in 2006. The property has been zoned single-family since being platted.

Proposed Special Use

The proposed conversion of this property from a residence to a pre-school (Education Group) is permitted with a Special/Conditional Use Permit (**Sec. 105-3-5 (d) – R7 Residential District, Conditional Uses**). There would not be residential occupancy of the home in conjunction with the proposed use. The facility is planned to operate during the school year. Per Exhibit 3(c) the proposed hours of operation are Monday through Thursday, 8:00 a.m. to 4:00 p.m. with backyard outdoor play from 12:00 noon to 1:00 p.m.

Due to specific criteria for education group not being adopted, Staff recommends permitting this use similar to childcare uses (**Sec. 105-1-5 (f)** – *Supplementary Provisions, Day Care Center*). This includes:

- Facility must have state approval prior to occupancy permits being issued;
- Facility must accommodate no less than 35 square feet of interior play area per pupil;
- Facility must accommodate no less than 75 square feet of exterior play area per pupil, provided that it is no less than ten feet to adjoining residential lots;
- On-site parking consisting of one space per manager and employee per shift and one space per each 12 pupils must be provided;

Drop-off and pickup of students shall be off-street and be separate from parking areas. The play area hours would be no earlier than 9:30 a.m. and no later than 7:00 p.m. because it is located in a residential area. In terms of signage the recommendation is that it will be non-illuminated and directed towards the intersection and not facing any adjoining properties. The applicant provided responses about the proposed use for its conditional use and are included in Exhibit 3. They are not proposing anything higher density than typically is seen in a neighborhood with a daycare or home daycare.

Planner Stromme stated that the specific evaluation criteria, Staff Findings, and a draft of the Special Use Permit are included as exhibits in this staff report.

Adjacent Zoning and Land Use

Adjacent land uses include low density residential, zoned RM – Residential and R7 – Residential, and neighborhood commercial zoned CA – Commercial. The Future Land Use Plan identifies this area as low-density residential.

Planner Stromme reported that staff received two letters of support related to this request which have been forwarded to the Commission for review along with one letter received that outlines an objection to the proposed use. A total of seventy-two (72) letters were sent to adjacent property owners. Building and Fire Departments have reviewed this request with no concerns related to the proposed use. Additional requirements would be necessary if more than 12 students are enrolled. The applicant does not plan to increase to more than 12 students.

Planner Stromme recommended the following:

- Existing propane tank be enclosed/fenced in.
- Signage be non-illuminated and oriented towards the intersection of 13th Street and Collins Avenue.
- Exterior play area not be used earlier than 9:30 a.m. or later than 7:00 p.m.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Special Use Permit to allow for Education Group (preschool) on the East 40' of Lot 19 & All of Lot 20-6019, Block 1, Siegel's 2nd Addition. The applicant is available to answer questions.

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

Commissioner Mehlhoff commented that the Building and Fire Departments did not have any concerns if there are less than 12 students. What concerns would they have if there were more than 12 students? Planner Stromme deferred to Building Official Singer who stated that the main concern the Fire Chief looked at was the number of students. When the number is over 12 students, the State Health Department becomes more involved. It would not necessarily be limited to a sprinkler system but would include certain conditions that are required in a household of more than 12, wherein that would trigger additional requirements.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the approval of the request from Lindsey and Chris Satnan for a Special Use Permit to allow a preschool (education group) in the R7 – Residential Zoning District. Said property is the east 40’ of Lot 19 and all of Lot 20, Block 1, Siegel’s 2nd Addition. The property is located on the southeast corner of 13th Street NW and Collins Avenue North.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the request from Lindsey and Chris Satnan for a Special Use Permit to allow a preschool (education group) in the R7 – Residential Zoning District. Said property is the east 40’ of Lot 19 and all of Lot 20, Block 1, Siegel’s 2nd Addition. The property is located on the southeast corner of 13th Street NW and Collins Avenue North. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any other questions or comments from the Commission.

Commissioner Frank motioned to recommend approval of the special use permit to allow a preschool (education group) in the R7 – Residential Zoning District. Said property is the east 40’ of Lot 19 and all of Lot 20, Block 1, Siegel’s 2nd Addition, as presented. Commissioner Camisa seconded the motion.

Commissioner Mehlhoff inquired if there will be a fence around the outdoor play area? Planner Stromme stated that the intent is for the outdoor area to be enclosed with a fence.

Upon vote, the motion passed unanimously.

2. A request from LH Holdings, LLP for consideration of a Preliminary Plat, Masterplan and Zone Change from A – Agriculture and R7 – Residential to R7 – Residential and R3.2 – Residential. Said property is all of Keidel’s South Heart Terrace 4th

Addition and Part of the NW ¼, All in Section 3, Township 138N, Range 81W. The property is located in south Mandan, south of 19th Street SW and east of 8th Avenue SW.

A. Staff Report

City Principal Planner Stromme presented.

LH Holdings LLP requested approval of a Masterplan, Preliminary Plat and Zone Change from A – Agriculture and R7 – Residential to R7 – Residential and R3.2 – Residential for a subdivision to be titled Keidel’s South Heart Terrace 5th Addition. This property is located in southwest Mandan, south of 19th Street SW and west of 8th Avenue SW.

Property History

The proposed subdivision is located directly south of Keidel’s South Heart Terrace 3rd Addition, including property previously approved as Keidel’s South Heart Terrace 4th Addition. The 3rd and 4th Additions were annexed in 2013 (Ord. 1162) and the 4th addition was zoned R7 – Residential in 2021 (Ord. 1361). A Purchase Agreement is in place for this property, and if plans are approved, the 4th Addition plat would be vacated. Exhibit 7 explains the proposed request and it is included in the agenda packet noting that it was approved approximately one year ago by this Board. That subdivision is for sale and the applicants LH Holdings LLP purchased the subdivision with the intent to develop it in a residential nature and to reconfigure the lots. In doing so, the major changes seen from the master plan for the 5th Addition and the approved 4th Addition were detailed by Planner Stromme. The main difference between the 4th and 5th Additions will be the addition of a park area as outlined.

Masterplan

The proposed masterplan contains 282 residential lots, a mix of R7 – Residential and R3.2 – Residential. Permitted land uses include single-family detached residences and twin-homes. The Development Team has coordinated with Mandan Parks for park land on this property. The proposed layout includes extensions of roadways from Keidel’s South Heart Terrace 3rd Addition, including 8th Avenue SW, 7th Avenue SW, 6th Avenue SW, 4th Avenue SW, 2nd Avenue SW and Cobblestone Loop SW. Additional proposed streets include 24th Street SW (shown to be future collector roadway) and additional unnamed streets further south. The proposed subdivision would be built out over Four (4) Phases.

Preliminary Plat

The 1st Phase of the project is the Preliminary Plat, 24.69 acres in size and contains 90 lots in 7 blocks. R3.2 - Residential Zoning would be applied to Block 1 and Lots 1-4, Block 7 with all other lots being in R7 – Residential Zoning. A mid-block sidewalk is shown on Block 1 to facilitate a pedestrian connection. All streets show sixty-six-foot (66’) right of way, except 24th Street SW which shows eighty feet (80’) and 8th Avenue SW which is forty feet (40’) (half-street). The proposed park area in Block 2 is 1.07 acres in size.

Easements & Utilities

Easements shown on the plat include standard 10 and 15-foot utility easements and a 25-foot utility easement along the north property line of Lot 11, Block 2 and Lot 1, Block 3. The

existing overhead electric line along 8th Avenue SW would be buried as the subdivision is developed.

Zoning

Lots 4-56, Block 1 and Lots 1-4, Block 7 are to be zoned R3.2 – Residential to allow for twin-home development. All other lots and blocks are to be zoned R7 – Residential.

Adjacent Land Uses and Zoning

Adjacent land uses include low-density residential to the north zoned R7 – Residential and agricultural lands to the east, south and west.

Findings of Fact

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision would likely not have substantial effects on the safety and circulation of public roadways in the vicinity, and therefore no traffic impact study is required;
3. The proposed plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision;
4. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the proposed subdivision at the time of development;
5. The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development could adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed subdivision is consistent with the Comprehensive Plan, the Future Land Use Plan and other plans and studies, policies and accepted planning practice;
8. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Zone Change

1. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this zone change;
2. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
3. The proposed zoning change is consistent with the Future Land Use Plan, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Planner Stromme stated that staff has not received comment related to this item. A total of seventy-three (73) letters were sent to adjacent property owners. Mandan School District did not return comment on the proposed masterplan.

- Staff supports the proposed street/lot layout.

- Bismarck-Mandan Bike and Pedestrian Study recommended a connection be added along 4th Avenue SW. This could be an on-street facility / shared bike lane.
- Staff requests that pedestrian access to the coulee be considered with future phases and if feasible have easements added to plats to provide for access.
- Staff will draft a Development Agreement for this subdivision.

Planner Stromme requested that as the subdivision is built out, that reservations are put in place for possible access to the coulee in the event that would develop into some sort of a recreational amenity such as natural trails. A Development Agreement will be drafted for the subdivision.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Masterplan, Preliminary Plat, and Zone Change for Keidel's South Heart Terrace 5th Addition. The applicants are available to answer questions.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the approval of the request of the Masterplan, Preliminary Plat, and Zone Change for Keidel's South Heart Terrace 5th Addition.

Two daughters representing Grace Uhler, a home-owner in this neighborhood, south of Keidel's, came forward and voiced several concerns, as follows: Regarding utility poles - will the city go through their land to take down the utility poles? When will the development begin on the land located right next to their fence? The concern is that the Uhler's rent that property out and cattle are pastured there. There is a lot of trash that comes across their fence from that development. They are concerned that the renter will not appreciate the cattle eating plastic, insulation and other trash that accumulates near the fenced property. She inquired if a fence could be put up there to hold that trash? She commented there is a main waterline that goes across the property. How does the city plan to get water lines to all the lots? Finally, there is also a concern about the drainage from the coulee down 19th Street.

Abe Ulmer, Independent Land Survey and Engineering came forward and explained that the power poles will be constructed per phases of this development plan. This phase does not go all the way to the south to that property. They will bury the poles to a certain point from this phase down to their property and the poles won't go underground since it is a heavy burden and a large cost. Yes, those power poles that parallel 8th Avenue will be shifted and put underground just through this phase but there is still about a quarter mile to the south that they will not touch. All that land is pasture and will remain pasture until that phase goes to the south. The plan is for this phase to be first and the next phase will be to the east because everything past the southern boundary will require a lift station for sanitary sewer and that will be cost prohibited. Therefore, everything to the north from the south phase line will be first and then they will move to the south as development grows. Rural water does have a main along 8th Avenue. That was mitigated in Keidel's 3rd Addition and they had to move that over to the city right of way on 8th Avenue. The plan is to do the same thing as will be

done with the power poles and will only be done for this phase. The future south phase will continue to move that rural water line as needed. Regarding the storm water, this phase drains to the north of the existing system and storm water ponds in Keidel's 3rd Addition that were designed for this area. In the future, for those coulees going to the east on the southern future phase, the plan will be to do something at that time to mitigate slowing down that storm water. As for the trash, he said he cannot speak for the owners who would address this problem.

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

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the request of the Masterplan, Preliminary Plat, and Zone Change for Keidel's South Heart Terrace 5th Addition. Hearing none, this portion of the public hearing was closed.

Commissioner Mehlhoff commented that the Park District has been negotiating with this development group regarding some of the property in this development. They have not finalized any agreements, so where it indicates a park area, those could go back to lots, or be moved or go to another phase. Since this is the preliminary plat, he does not believe there is any reason to stop the process at this time.

Chair Robinson inquired if there were any comments or questions.

D. Commission Action

Chair Robinson inquired if there were any other questions or comments from the Commission.

Commissioner Frank recommended that the individuals who testified in this matter should exchange contact information with the developers in order to be kept in the loop.

Commissioner Frank motioned to recommend approval of the preliminary plat, masterplan, and zone change for Keidel's South Heart Terrace 5th Addition. Commissioner Camisa seconded the motion. Upon vote, the motion passed unanimously.

3. A request from Arthur Goldammer/Dakota Pioneer Land Company LLC, for consideration of a final plat to be named Heart River Villas Addition. Said property is a Replat of Lot 1, Block 2, School District 7th Addition in Section 20, Township 139N, Range 80W, City of Mandan, Morton County, North Dakota. The property is located in southeast Mandan, west of 40th Avenue SE and north of McKenzie Drive SE.

A. Staff Report

City Principal Planner Stromme presented.

Arthur Goldammer and Dakota Pioneer Land Company, LLC, requested approval of a Final Plat for a residential subdivision to be titled Heart River Villas Addition. This property is located in southeast Mandan, west of 40th Avenue SE and north of McKenzie Drive SE.

Overview

The original proposal was for 66 single and twin-family lots in Block 1. Due to storm water needs that number was reduced to 64 lots single and twin-family lots. Lots 31 and 66 all in Block 1, will be where storm water and drainage easements will be placed and where the ponds will be built. Other items shown are street names and the addition of sidewalk easements for the proposed subdivision from the southeast and northeast as well as some internal connections. The recommendation is to make it more convenient to walk from lot to lot without having to go out to 38th Avenue SE. The developer is proposing private streets and utilities for this subdivision and requested PUD – Planned Unit Development zoning. All lots would be accessed from an internal private street network via 38th Avenue SE. A public street is planned to be constructed in 2022 (or 24th Street SE). The proposed private driveways will be twenty-foot wide (20'). The proposed subdivision would be constructed in one phase.

Zoning

The PUD Narrative (Exhibit 4) was recommended for approval at the February 28, 2022 Planning and Zoning Commission meeting. The zoning is planned to be based in the R3.2 and R-4 Residential Districts for the single and twin-family lots. The set back for the alley mode lots will be 15 ft. yard setback off the front door on the McKenzie Drive Street.

All residential lots would have consistent setback requirements. (See Exhibit 4)

- Front Yard: 25' from public street (garage access) north side
- Front Yard: 15' from public street (alley load garage access) McKenzie Drive
- Side Yard: 5'
- Street Side Yard: 15'
- Rear Yard: 20'

Adjacent Land Use

Adjacent land uses include low, medium and high-density residential and institutional. Adjacent zoning is R3.2, PUD, RM and CB.

Findings of Fact

Preliminary Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms with the Future Land Use Plan and other plans and studies;
4. The proposed subdivision is located in the Special Flood Hazard Area but is proposed to be constructed in accordance with the Floodplain Development Ordinance and therefore will not adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;

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

Planner Stromme stated that staff has not received any comments from adjacent property owners related to this request. A total of sixty-four (64) letters were sent. Chief Nardello's comment has been addressed regarding the Mandan Fire Department proposed access lane widths and turnarounds. The access lane has been widened to twenty-six feet (26') to accommodate the Mandan Fire Code fire hydrant right of way.

- Interior sidewalk easements have been added to the plat to promote pedestrian connectivity.
- Street names have been added to the plat.
- A Developer's Agreement has been drafted for this subdivision.
- Maintenance of streets and other utilities is to be the responsibility of the Development / HOA.
- Internal development illumination will be motion sensor activated lighting on the residences.
- 8 parking spaces are shown on the plat and are intended to be for visitors or delivery couriers.
- Subdivision is located in the floodplain but is would be developed in accordance with the Floodplain Development Ordinance (finished floor elevation to be 2 ft. above base flood elevation).
- Staff requests that boulevard street trees be installed along McKenzie Drive SE, 38th Avenue SE and 24th Street SE.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the Final Plat for Heart River Villas Addition. The Development Team is available to answer questions.

Chair Robinson inquired if there were any questions for Planner Stromme or the Development Team.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the approval of the request from Arthur Goldammer / Dakota Pioneer Land Company LLC, for consideration of a final plat to be named Heart River Villas Addition.

Landon Niemiller, an engineer from Swenson Hagen came forward and stated he is representing Dakota Pioneer Land Company. He stated that the type of development planned is a mix of single and twin-family lots. This type of development does not require any type

of platting or zoning change as there is an existing RM zoning that allows this type of development which makes it easier for home buyers to get financing.

Chair Robinson inquired if there were any questions for the developer.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the request from Arthur Goldammer / Dakota Pioneer Land Company LLC, for consideration of a final plat to be named Heart River Villas Addition. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any other questions or comments from the Commission.

Commissioner Mehlhoff motioned to recommend approval of the final plat for the final plat to be named Heart River Villas Addition. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

4. A request from EBCMGL 16 LLP for consideration of a final plat to be named Rockwood First Addition. Said property is North ½ of the SE ¼ of Section 16, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located in north central Mandan, west of ND Highway 1806 and north of 31st Street NW.

A. Staff Report

City Principal Planner Stromme presented.

EMCMGL 16, LLP (Dr. Eric Belanger) and Kristin Schwab are requesting approval of a Final Plat for a subdivision to be titled Rockwood First Addition. This subdivision is located in north Mandan, north of 31st Street NW between 8th and 12th Avenue NW.

Final Plat

The final plat is 32.98 acres in size and contains 29 lots in 3 blocks. Proposed zoning is R3.2 – Residential for Lots 1-22, Block 1 and A - Agriculture for Lots 23 and 24, Block 1, Lots 1 and 2, Block 2 and Lot 1, Block 3. There have been minor changes since the preliminary plat with the addition of two of the twin home lots that were discussed in the future phase. They will try to include those in the first phase. Those lots will be Lots 1 and 2 in Block 2 on the south side of Beretta Street NW and a slight modification of some lot lines on the north side of Beretta Street.

This slight increase in the number of lots results from a change in proposed home layouts and number of planned residences. Zoning was recommended for approval at the February 28, 2022 Planning and Zoning Commission Meeting.

Easements

A one-hundred-foot (100') Marathon Oil Pipeline easement crosses this property, and a water line easement exists within the right of way to be dedicated for 8th Avenue NW. The standard utility easements appear on residential lots and a storm pond is shown on Lot 23, Block 1.

Right of Way

Right of ways shown on the plat include 8th Avenue NW, 12th Avenue NW, the north forty-foot (40') of 31st Street NW, and Beretta Street NW (formerly known as Broadstone Way). Beretta Street NW is shown to be sixty-foot wide (60') which is supported by the Engineering and Planning Department provided that parking is limited to one side of the street.

Adjacent Zoning and Land Use

Adjacent land uses include multifamily residential, low-density residential, un-platted agricultural land and Mandan Middle School. Adjacent zoning includes A – Agriculture, R7 – Residential and R3.2 – Residential. The developer is requesting larger lots and Blocks namely Lots 3 and 4. Block 2, Lot 1, and Block 3 and a larger lot to the north would remain in the Agricultural until a later time when they are ready to develop this site or plat due to an assessment standpoint. Staff approves of that and they will follow any future development land use plan which has been amended and updated as median residential for this area. That has been updated in the zone change ordinance and will be presented to the City Commission for their review and approval on April 5, 2022.

Findings of Fact

Final Plat

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

Planner Stromme stated that staff has not received comments related to this item and that eight (8) letters were sent to adjacent property owners.

- The Development Agreement for this subdivision has been updated to reflect this Final Plat that were modified.
- Beretta Street NW and 12th Avenue would be the first streets constructed.
- Fire turnarounds are required to be established for any subdivision phasing.
- The storm pond will be held in undivided interest to ensure the city does not become the owner of or responsible for future maintenance.

Planner Stromme stated that the Planning and Engineering staff recommended approval of the request from EBCMGL 16 LLP for consideration of a final plat to be named Rockwood First Addition and to enter into a Development Agreement with EBCMGL 16 LLP (Exhibit 5.)

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the approval of the request from EBCMGL 16 LLP for consideration of a final plat to be named Rockwood First Addition and to enter into a Development Agreement with EBCMGL 16 LLP (Exhibit 5).

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the request from EBCMGL 16 LLP for consideration of a final plat to be named Rockwood First Addition and to enter into a Development Agreement with EBCMGL 16 LLP (Exhibit 5). Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any questions or comments from the Commission.

Commissioner Frank motioned to recommend approval of the final plat for Rockwood First Addition and to enter into a Development Agreement with EBCMGL 16 LLP (Exhibit 5). Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

5. Consider City-Initiated Zoning Ordinance Text Amendment to Sections 101-1-3, Section 101-2-6, Section 105-1-2 (5), Section 105-1-3, Section 105-1-4, Section 105-1-5, Section 105-1-6, Section 105-3-11, Section 105-3-16, and Section 105-4-2 related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts.

A. Staff Report

City Principal Planner Stromme presented.

Planner Stromme stated he created a written overview of the recommended changes and the text amendment for this committee to review. These are items that have been discussed previously wherein this Board expressed interest in looking at or they are relatively minor and were not introduced for that reason. For example, starting with the first one “Definitions” With any added language to the code, a definition was inserted, whether or not it had an existing definition that may conflict with a new one in the case of an auto service, some of the definitions were modified. He explained that he added definitions or added to the definitions for some of the items such as child care center, portable storage container and sight triangle. Each of the sections listed are self-explanatory.

The City of Mandan has initiated a Zoning Ordinance Text Amendment to modify/add to language found in Section 101-1-3, Section 101-2-6, Section 105-1-2 (5), Section 105-1-3, Section 105-1-4, Section 105-1-5, Section 105-1-6, Section 105-3-11, Section 105-3-16, and Section 105-4-2 related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts.

Overview of recommended changes:

- **Section 101-1-3; Definitions**
 - o Recommended definitions for Auto Service, Car wash, Child care center, Portable storage container, and Sight Triangle have been drafted to add to the code.
- **Section 101-2-6; Meetings**
 - o Meeting time updated from 5:15 pm to 5:30 pm.
- **Section 105-1-2 (5); Supplementary Provisions**
 - o Removes Accessory Buildings and renumbers sub-sections.
- **Section 105-1-3; Incidental Uses**
 - o Adds Accessory Buildings language to Incidental Uses, expands Portable Storage Container language.
- **Section 105-1-4; Use Groups**
 - o Adds childcare center to Service Group A.
- **Section 105-1-5; Use standards**
 - o Adds language related to car washes in the DF – Downtown Fringe districts.
- **Section 105-1-6; Automobile parking**
 - o Cleans up parking requirement for retail, recommends language for Drive through establishments.
- **Section 105-3-11; CA Commercial District**
 - o Removes single/twin family residential as a permitted use, removes language related to minimum sizes of CA – Commercial districts, expands on setbacks, height limits and floor-area ratio.

- **Section 105-3-16; MC Industrial District**
 - o Removes reference of residential dwellings in the MA district.
- **Section 105-4-2; Downtown districts**

Planner Stromme noted that there are updates to daycare and to Child Care Center that aligns with the use table of Section 105-1-5; Use Standards. This has not been included in any use group, so having it added to the code will assist future verification from a lender wherein it will require a code use. Service Group A would be allowed in the city's downtown core, downtown fringe and more of the commercial and residential sections of the community as well as the addition of car wash as related to special use in the downtown fringe under Service Group B. That is the next section of the code recommended to be revised.

The specific changes accounted for in this text amendment were each reviewed by Planner Stromme and they have been identified by staff, the Development Committee and the Planning and Zoning Commission as areas for improvement or gaps that could be filled in the Zoning Ordinance. Similar language is found in the Zoning Ordinances of similar sized communities across the State. Staff consulted the zoning ordinances of Fargo, Minot, Grand Forks and Bismarck to research and recommend proposed language. Existing uses would be grandfathered in per Section 105-1-1.

Planner Stromme stated that the Engineering and Planning Department recommended approval of the Zoning Ordinance Text Amendment related to Section 101-1-3, Section 101-2-6, Section 105-1-2 (5), Section 105-1-3, Section 105-1-4, Section 105-1-5, Section 105-1-6, Section 105-3-11, Section 105-3-16, and Section 105-4-2 related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts.

Commissioner Camisa inquired on the portable storage container section which would be more specifically found at Item 5 where it refers to storage containers and residential neighborhood. At Item (b) referring to loading and unloading – is the intent of that provision to allow a truck and trailer outside of the right of way on a particular parcel or to allow loading and unloading within the right of way? Planner Stromme explained the intent would be for it to be in both sections of the code when it relates to activities in the street such as parking. This would already be addressed with the 48 hours parking limit ordinance on Mandan streets. This will include covering the private property. Commissioner Camisa said the reason he inquired if it would be on the property or right of way is because there is a provision in the Parking Code that prohibits unattended semi-trucks, or anything over 10,000 lbs. in gross weight at any time. Thus, if that issue were to go to court, there might be some conflict in how to interpret the code. He suggested bridging the gap with a cross reference. The Parking Work Group has had some conversations regarding this. Has anyone from the Police Department or the Parking Work Group had any comments about that particular provision? Planner Stromme stated that discussion has not been brought to the specific attention of how it affects the Parking Ordinance. He said he will present that question to them for their suggestions as to how to make sure it is accommodated. The intent will be to make reference from the Zoning Code to the section on parking to assure that activity does not happen.

Commissioner Frank extended a thank you to Planner Stromme for being less restrictive than more which opens up greater flexibility for people who are interested in making a commitment to the community. With regard to the automobile parking referenced in Section 105-1-6 Automobile Parking. Regarding seats, food for thought, it can be difficult to have a commitment from a restaurant on the number of seats, because those could change anytime based on the configuration of the space. Would there be interest in changing the language that applies to seats, to more of a square footage and/or a seating capacity? She said she would not like to see anyone get in trouble for a parking requirement based on the number of seats available. There is a lot that can be done with seat depth and width and rearranging seats. That could have an impact on parking requirements. That might be something to research. She inquired about the drive-thru establishments related to any use cases where there is reference to, for example, an ATM @ 3-spaces per lane; the bank teller @ 3-spaces per lane. Is this a standard in the community here or elsewhere as to the logic for this? How is that working with the current space per establishment and if it is setting the city up for success. Planner Stromme stated that he would have to review the Parking Code since it does not currently require any parking for (restaurant or other businesses) staff which should probably attribute some spaces for the workplace. He said he would look into it. With regard to the drive-thru stacking, that (number) is a happy medium found throughout North Dakota cities. With mobile banking and mobile ordering, it is anticipated that additional spaces will not be needed with three (3) spaces being recommended for a bank open with one teller and one ATM lane to assure there are spaces for those activities. As of now he recommended moving forward with the current status as is. Some of the land uses, mobility type, do require the city to look into them. As of now, he is not aware of any specific section adopted for locating electric vehicle services or charging facilities. Some communities are saying that your Tesla charging spot doesn't count towards the minimum parking requirement but there are communities that have looked into this. He will discuss that issue further with the group working on this matter.

Commissioner McLean inquired about the storage units and requested clarification as to what is meant when reference is made to them being in the driveway? Planner Stromme pulled up the section of the code, as referenced in Section 5(a) or at Section 2. Commissioner McLean clarified that residential storage containers may be used for a period not exceeding thirty (30) days and this would be talking about the pods, can be on the driveway for thirty (30) days. Planner Stromme clarified that under the proposed Section 5(a), it would permit pods to be placed on a residence for a period up to thirty (30) days during a relocation. Commissioner McLean inquired if they needed to extend that period, can they get a special permit for that if they need it longer than thirty (30) days? He said he has a concern that if they are doing a remodel and they pull stuff out of the house and they are waiting for product, which has become a nightmare for builders, it could be longer than thirty (30) days before they can get all that stuff out of the pod. Planner Stromme explained there may be two ways to accommodate that would and that would be to include additional language for temporary use nature or a provision under the residential moving section for how to receive an administrative extension of a temporary use.

Commissioner Frank indicated that her initial thought when reviewing these sections and when she heard portable storage container in a residential neighborhood, she thought of a structure on a house that has already been built and the furniture is in it but she now thinks about staging for construction purposes. When it comes to the type of utility trailer they are

using or a storage container to have construction equipment in it including tools and supplies, how is that going to be accommodated when it is in a residential area, just not a build out structure? Planner Stromme explained there is a lot of nuances to these situations and it is possible that there may already be language in the code that addresses construction activities. Planner Stromme will look into this further as it relates to the construction process. He said that the main intent of this with regard to portable storage containers is to make it so if someone is adamant about doing a development and if they use a shipping container or a portable storage container, that it is real property and under the architectural review trying to find a middle ground on what the minimum threshold is for a portable storage container development that it might be just as easy to do a building in town which would be the preference of the City's Building and Planning Department. The language in this section does not say that a resident cannot have a storage unit, you cannot build your house using shipping containers rather it's trying to level the playing field. Commissioner Camisa commented that there are some ongoing conversations with the Parking Code work group about trailers that have been discussed. The police department is aware of these situations and he recommended that a good resource might be Deputy Chief Flaten for additional input. He inquired if there is a term used to address "goods" such as in (a) reference to household goods; and (b) reference is just to goods. What about commercial goods? In the Parking Code there is reference to merchandise as a specific term. Should there be a definition? Planner Stromme stated that to his knowledge there is no definition of "goods". He offered to look into definitions for "merchandise" and "goods" but those are very broad terms and he will work towards finding a definition that would be all encompassing for what might be in a shipping container or a storage container and present recommendations to the City Commission.

Commissioner McLean commented on No. 4 – that residential storage containers cannot be used as an accessory building on a residential lot. He stated that there is a thing that storage containers are now becoming "cool" and it is a thing in the real estate world where they are using the old shipping containers as either some part of the house or they make them into a pool. That is a real thing that's out there. There have been conversations in Lakewood wherein someone was talking about doing it but they don't know if it will be allowed and this might help to not allow it but he wanted this Board to know that it's a thing. Planner Stromme stated that the definition that the city will be using for a portable storage container will be for its function and form, and in this case, a kind of accessory building on a residential lot. We will be trying to prohibit them as being sheds. The attempt for adopting language would be for their use as a storage facility. Planner Stromme inquired if it is the wish of the Board, he could further specify that portable storage containers may not be placed on residential lot or possibly tweak the language to make it so there is really no way to do it on that type of lot. Commissioner Frank commented that it is a growing trend and she believes that there is a way it encourages recycling to a certain extent and an affordable way to create additional space and could be aesthetically pleasing and she would hate to rule it outright because people are getting creative. The concern is to make sure it is not straight out of the shipping yard. She does not think outright eliminating it is showing our community that we are progressive in nature. She recommended further exploration for portable storage containers without having a negative impact for the community.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the approval of the Zoning Ordinance Text Amendment related to Section 101-1-3, Section 101-2-6, Section 105-1-2 (5), Section 105-1-3, Section 105-1-4, Section 105-1-5, Section 105-1-6, Section 105-3-11, Section 105-3-16, and Section 105-4-2 related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts.

C. Close Public Hearing

Chair Robinson again inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the approval of the Zoning Ordinance Text Amendment related to Section 101-1-3, Section 101-2-6, Section 105-1-2 (5), Section 105-1-3, Section 105-1-4, Section 105-1-5, Section 105-1-6, Section 105-3-11, Section 105-3-16, and Section 105-4-2 related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any other questions or comments from the Commission.

Planner Sromme stated that he has the necessary information needed to make adjustments to the sections discussed by this Board in order to develop recommendations before presenting this matter to the City Commission on April 19, 2022. He recommended approval of the text amendments as presented with the modifications discussed.

Commissioner Frank motioned to recommend approval of the zoning ordinance text amendments related to Section 101-1-3, Section 101-2-6, Section 105-1-2 (5), Section 105-1-3, Section 105-1-4, Section 105-1-5, Section 105-1-6, Section 105-3-11, Section 105-3-16, and Section 105-4-2 related to Definitions, Meetings, Supplementary Provisions, Incidental Uses, Use Groups, Use Standards, Parking, CA – Commercial, MC – Industrial and Downtown districts with the recommended modifications and/or some additional investigation to the sections that were discussed today. Commissioner Otto seconded the motion. Upon vote, the motion passed unanimously.

OTHER BUSINESS

(1) Chair Robinson reported that there was discussion at the last Lower Heart Water Resource District meeting for to develop additional language in city code for construction adjacent to the levee. He said there will be information provided in the near future. Planner Stromme stated there has been work in progress to include the Lower Heart Water Resource District into the development process to ensure that the levee that is to built and adopted to remain intact well into the future. The Lower Heart Board would request input and

developments within 500 feet on the land side of the levee and 300 feet on the river side of the levee to make sure whatever is going on in terms of what is going on is done with the levee in mind. Some benefits will come from the city's Building and Planning staff as to who needs to be included in on a right of way permit or who needs to know when digging for utilities to make sure that the levee structure is safe in times of flood.

Planner Stromme reported he has information available for anyone interested in testing their property for environmental contaminants via a city grant received.

Planner Stromme reported that Litter Clean-up Day is set for Saturday April 30, 2022. For more information, see the city website or contact the City Planning Office or Kari Schmidt (kari.moore@cityofmanda.com).

ADJOURNMENT

Commissioner Camisa motioned to adjourn the meeting. Commissioner Frank seconded. Upon vote, the motion passed unanimously.

The meeting adjourned at 6:52 p.m.