



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

Roll Call, Reading and Approval of the October 28, 2019 minutes.

PUBLIC HEARINGS

1. A request from Val Renner and Janet Dykshoorn for final plat approval of Evergreen Heights Third Addition. Said property is part of Lot B of Auditor's Subdivision and Lot 1, Block 1, Evergreen Heights in the SW ¼ of Section 35, Township 139N, Range 81W. The property is located on the west side of Highway 1806 S.

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

Staff Recommendation: To recommend approval of the final plat as presented in Exhibit 2 subject to the condition outlined in Exhibit 3

OTHER BUSINESS

1. Update on zoning application procedures and zoning ordinance workgroup.

ADJOURN

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
October 28, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on October 28, 2019, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Klemisch, Klein, Knoll, Helbling, Camisa, Vayda, Robinson

Commissioners Absent: Boehm, Leingang, Liepitz, Renner, Frank

Commissioner Knoll motions to approve the September 23, 2019 minutes. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from WW Ranch, a Limited Partnership, for final plat approval of Meadow Ridge 4th Addition. Said property is part of Lot 44, Block 1, Pioneer Industrial Park 1st Addition, and part of the NW ¼ in Section 22, Township 139N, Range 81W. The property is located between 8th Avenue NW and 6th Avenue NW.

A. Staff report

John Van Dyke, city planner, presents. Mike Wachter on behalf of WW Ranch, a Limited Partnership is seeking approval for a final plat of Meadow Ridge 4th Addition. The preliminary plat, rezone to RM-multifamily residential, and masterplan were discussed and approved earlier this year. The adjacent property owners desired and the developer was willing to restrict the property to single and twin-home construction.

Each lot is likely to be divided at a future date when building placement is determined for each residential structure.

Staff is recommending approval of the final plat as presented in Exhibit 1.

Comments noted corrections to the plat that were required before final approval. Exhibit 1 shows the plat following these necessary corrections.

Engineering and Planning recommend approval of the final plat as presented in Exhibit 1.

B. Open public hearing

There are no comments or questions.

C. Close public hearing

D. Commission action.

Commissioner Knoll motions to recommend approval of the final plat. Commissioner Klein seconds. Upon vote, the motion passes unanimously.

2. A request from the City of Mandan and Marathon Petroleum Company for a special use permit for a water intake pump house on Lots 15 & 16, Block 2, Riverbend 2nd Addition in Section 23, Township 139N, Range 81W. The property is located at 2300 & 2304 River Drive NE.

A. Staff report

Justin Froseth, City Engineer, presents. The nature of the Raw Water Intake facility needed for the City of Mandan's water supply best fits under the Utility Service Group category. Because of that, a special use permit is needed within the R7 zoned lots for which this facility is planned to be constructed on.

This project has long been discussed. This location was committed to after much study and was chosen because of its size of constructible land and, more importantly, its hydraulic advantages. Basically, this location along the river has a more stable and narrow river channel that conveys water through at a higher velocity and is able to self-flush the sediments through. The current intake does not have that ability and therefore fighting sediment is a regular battle needed to keep the intake open necessary for water service to the City of Mandan and its buyer, Missouri West Rural Water.

A public input meeting was held on October 30th of 2018. During that meeting, the project team heard concerns from the approximately 25 people who could attend. A couple of main concerns that emerged from the meeting were about construction traffic affecting the condition of the roads to and from the site as well as noise that would be generated from the facility.

The condition of the roads has been accounted for by 1) budgeting enough in the project to mill and overlay River Drive from Missouri Drive up to the project site, 2) limiting construction project associated loads to 6 tons per axle in the project plans and 3) documenting the condition of the road before the project in order to compare it to the condition after the project is completed.

The noise concern is greatly mitigated by construction specifications that call for well insulated walls at the intake facility. The facility will be similar to, but not quite as big as a large pump house facility that was constructed just south of the Community Bowl in Bismarck approximately five years ago. Upon visiting that site, it was evident to the project team that the noise just outside the shut door of the facility was not much more than a quiet conversation and noise is not noticed from the street about 100' away.

Staff recommends approval of this request.

A public input meeting was held. One concern was for the condition of the roads with construction equipment on them. The budget for the project includes a mill and overlay. There will also be a reduction in the load bearing weights allowed. There were also concerns about the noise from the new facility. Justin says the walls will be well insulated. He toured a

similar facility in Bismarck and you can barely hear it standing outside next to the building. There should not be any problems with noise.

B. Open public hearing

Commissioner Klemisch asks if the size is similar to the current facility. It will be a little smaller than Bismarck's newest facility. The pump will also be a little smaller. The building will be approximately 60x80 feet. The building will sit about 100 feet from the neighboring residential structure.

C. Close public hearing

D. Commission action

Commissioner Camisa motions to recommend approval of the special use permit for the raw water intake to be located on the north cul de sac of River Drive NE. Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

3. A request from Wade Vogel, Premier Homes, for approval of a preliminary plat named Waterpark Commercial Addition. Said property is a replat of Lakewood Commercial Park, Block 1, Lots 16-25 and Lots 47-55 in Section 6, Township 138N, Range 80W. The property is located on 46th Avenue SE.

A. Staff report

John Van Dyke, City Planner, presents. Wade Vogel, on behalf of GMV LLP, is seeking to combine 19 lots into 7 for the purposes of commercial and residential construction. The original plat is included as reference in Exhibit 1. Exhibit 3 shows the proposed plat, which focuses on the east and south lots of Exhibit 1.

The property is zoned PUD and subject to the requirements as outlined in Ordinance 1187 (Exhibit 2).

The property is served by private roads. The existing access easements were originally dedicated to the entire development and the rights of this easement lie with the entire development. Therefore, one of the recommendations is to include the original access easements on the final plat.

While the development receives water and sewer services from the City, the City's underground infrastructure is limited to east side of the development. Throughout the rest of the development is private underground infrastructure. Adjustments to the easement locations appear to be proposed and it will be necessary to ensure that underground infrastructure that presently serves developed lots is not interfered with and assurances are made that other lots will have access to services as necessary through this proposed replatting of lots. This same concern applies to utilities.

Finally, in speaking with Fire Chief Nardello, there may be a need for a hydrant. Staff recommends including the fire hydrant location, if any is required, on the preliminary plat that goes before City Commission.

Staff feels the corrections can be made prior to ratification by City Commission and have included them in Exhibit 4.

Engineering and Planning recommend to approve the preliminary plat as presented in Exhibit 3 subject to the conditions in Exhibit 4.

B. Open public hearing

Commissioner Camisa asks how there is access to lot 1. Should there be an access easement? John says access would be on the west side. The easements will be on the final plat.

Three ladies in the audience asks questions, but do not want to approach the podium. John answers by explaining this is a consolidation of lots and combining them into larger lots. There is no change in uses. The requirements in the PUD still have to be honored.

C. Close public hearing

D. Commission action

Commissioner Camisa motions to recommend approval of the preliminary plat as presented in Exhibit 3 subject to the conditions in Exhibit 4. Commissioner Klemisch seconds. Upon vote, the motion passes with the following vote: Klemisch-aye, Klein-aye, Knoll-nay, Helbling-aye, Camisa-aye, Vayda-aye, Robinson-aye

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

Meeting adjourns at 5:58 p.m.

PUBLIC HEARING # 1

PUBLIC HEARING # 1

Mandan Planning and Zoning Commission Agenda Item PH1
 For Meeting on November 25, 2019
 Mandan Engineering and Planning Office Report
Evergreen Heights 3rd Addition
 Requested Action
Final Plat

Application Details				
Applicant	Owner	Subdivision	Legal Description	
Val Renner/Janet Dykshoorn	Val Renner/Janet Dykshoorn	Evergreen Heights 3 rd Addition (proposed)	Part Of Lot B Of Auditor's Subdivision And All Of Lot A And Lot B Of Lot B Auditor's Subdivision And Lot 1 Block 1 Evergreen Heights Southwest 1/4 Section 35, Township 139 North, Range 81 West City Of Mandan, Morton County, North Dakota	
Location City of Mandan		Proposed Land Use Contractor Shops	Parcel Size 4.04 acres total	Number of Lots 3 (proposed)
Existing Land Use Undeveloped/Single-family home	Adjacent Land Uses Residential/Undeveloped/Church		Current Zoning CA – Neighborhood Commercial	Proposed Zoning CA – Neighborhood Commercial
Fees \$350	Date Paid October 25, 2019	Adjacent Property Notification Sent November 7, 2019	Legal Notices Published 11/15/2019 & 11/22/2019	

Project Description
<p>Val Renner and Janet Dykshoorn are seeking to plat their property near 19th St. SE and S. 1806 for the purposes of commercial development. The subject property completed an annexation, preliminary plat, zone change to CA – Neighborhood Commercial, and masterplan subdivision review. The final plat totals 4.04 acres.</p> <p>The preliminary plat was conditioned upon the vacation of an approach that would serve proposed Lot 3, Block 1 and a ten (10) foot utilities easement along 1806 S (See Exhibit 1). Both are addressed through the plat via easement and non-access line as seen in the final plat (See Exhibit 2).</p> <p>Staff recommends an application for vacation to North Dakota Department of Transportation be filed as a condition of approval of the final plat and a plat note outlining this condition to be placed on the final plat prior to presentation to the Board of City Commissioners.</p> <p>The final plat is found to meet the standards outlined in Sec. 109-2-6 (c) and the conditions placed upon the preliminary plat by the Board of City Commissioners.</p> <p>Staff is recommending approval of the final plat as presented in Exhibit 2, subject to the condition outlined in Exhibit 3.</p>
Agency & Other Department Comments
<p>No comments were received regarding this final plat.</p>

Engineering & Planning Staff Comments

Engineering and Planning include one (1) condition as part of the final plat shown in Exhibit 3.

Engineering & Planning Recommendation

Engineering and Planning recommend to approve the request for final plat as presented in Exhibit 2 subject to the condition outlined in Exhibit 3.

Proposed Motion

I move to recommend approval of the request for final plat as presented in Exhibit 2 subject to the condition outlined in Exhibit 3.

List of Exhibits:

- Exhibit 1 – Conditions of Preliminary Plat Approval
- Exhibit 2 – Evergreen Heights 3rd Addition Final Plat
- Exhibit 3 – Condition of Final Plat Approval

EXHIBIT 1

Requirements of Final Plat (Purpose)

- No access onto 1806 S other than by way of existing driveway approach presently serving proposed Lot 2, Block 1 of Evergreen Heights 3rd Add. (Safety)
- Approach solely serving proposed Lot 3, Block 1 of Evergreen Heights 3rd Add. shall be vacated to meet the current North Dakota Department of Transportation standards for minimum distance between approaches. (Safety)
- Montana-Dakota Utilities (MDU) requests an easement along properties abutting 1806 S of ten (10) feet to adequately provide services to the proposed lots. (Utilities)

EXHIBIT 2

EVERGREEN HEIGHTS THIRD ADDITION

PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION AND PART OF SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST

TO THE CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF MANDAN, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF MANDAN, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF MANDAN, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____ 2019.

JIM NEUBAUER--CITY ADMINISTRATOR

TIM HELBLING--MAYOR

APPROVAL OF CITY ENGINEER

I, JUSTIN FROSTH, CITY ENGINEER OF THE CITY OF MANDAN, NORTH DAKOTA, HEREBY APPROVE "EVERGREEN HEIGHTS THIRD ADDITION", MANDAN, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

JUSTIN FROSTH
CITY ENGINEER

DESCRIPTION

ALL THAT PART OF LOT B OF AUDITOR'S SUBDIVISION AND ALL OF LOT A AND LOT B OF LOT B AUDITOR'S SUBDIVISION OF THE SOUTHWEST 1/4 SECTION 35, TOWNSHIP 139 NORTH, RANGE 81 WEST, CITY OF MANDAN, MORTON COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 BLOCK 2 REPLAT OF EVERGREEN HEIGHTS 2ND; THENCE NORTH 00 DEGREES 00 MINUTES 31 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 256.67 FEET TO THE NORTHEAST CORNER OF LOT 1 BLOCK 1 EVERGREEN HEIGHTS; THENCE NORTH 89 DEGREES 53 MINUTES 40 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 129.87 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF LOT A OF E1/2, SW1/4 SECTION 35, T139N, R81W; THENCE NORTH 00 DEGREES 01 MINUTE 22 SECONDS WEST, ALONG EAST LINE OF SAID LOT 1 OF LOT A OF E1/2, SW1/4, A DISTANCE OF 258.17 FEET TO THE SOUTH RIGHT-OF-WAY OF 15TH STREET SE; THENCE NORTHEASTERLY AND TO THE RIGHT, ALONG SAID RIGHT-OF-WAY, ON A 204.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 58 DEGREES 38 MINUTES 59 SECONDS EAST, AN ARC LENGTH OF 33.78 FEET; THENCE NORTH 40 DEGREES 50 MINUTES 14 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 90.42 FEET TO THE WEST RIGHT-OF-WAY OF HIGHWAY 1806; THENCE SOUTH 38 DEGREES 47 MINUTES 51 SECONDS EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 329.06 FEET; THENCE NORTH 51 DEGREES 25 MINUTES 12 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 5.16 FEET; THENCE SOUTH 38 DEGREES 42 MINUTES 43 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 285.14 FEET; THENCE SOUTH 51 DEGREES 17 MINUTES 17 SECONDS WEST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET; THENCE SOUTH 38 DEGREES 48 MINUTES 49 SECONDS EAST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 163.24 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 25 SECONDS WEST, A DISTANCE OF 427.70 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 3.70 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, LARRY J. SMITH, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____ 2019, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA)
COUNTY OF _____) SS

SES GEOMATICS
2321 HARDING AVENUE
BISMARCK, NORTH DAKOTA
58501

LARRY J. SMITH
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 2363



SCALE: 1"=50'
OCTOBER 23, 2019
MONUMENT IN PLACE

NOTES

BASIS OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.
PLAT IS SUBJECT TO EASEMENTS,
COVENANTS, AND RESTRICTIONS OF RECORD.

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT JANET DYKSHOORN AND VALAN RENNER, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "EVERGREEN HEIGHTS THIRD ADDITION", MANDAN, MORTON COUNTY, NORTH DAKOTA.

STATE OF NORTH DAKOTA)
COUNTY OF _____) SS

JANET DYKSHOORN
1601 HIGHWAY 1806 S
MANDAN, ND 58554

ON THIS _____ DAY OF _____ 2019, BEFORE ME PERSONALLY APPEARED JANET DYKSHOORN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC _____
COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

STATE OF NORTH DAKOTA)
COUNTY OF _____) SS

VALAN RENNER
4655 HIGHWAY 6
MANDAN, ND 58554

ON THIS _____ DAY OF _____ 2019, BEFORE ME PERSONALLY APPEARED VALAN RENNER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC _____
COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

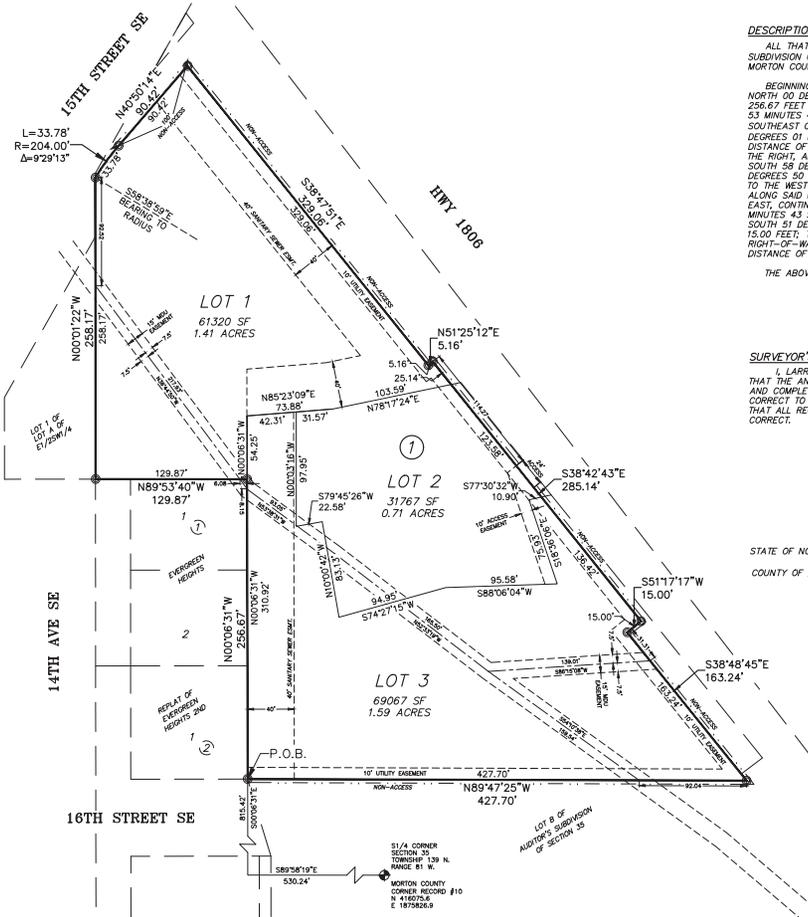


EXHIBIT 3

- A plat note is to be included outlining the requirement to formally submit application for vacation of the approach presently serving Lot 3, Block 1 of proposed Evergreen Heights 3rd Addition to North Dakota Department of Transportation or other procedure as required to effect the same by said agency.

OTHER BUSINESS ITEM # 1

OTHER BUSINESS ITEM # 1

Mandan Planning and Zoning Commission Agenda Item Other #1
 For Meeting on November 25, 2019
 Mandan Engineering and Planning Office Report
Zoning Ordinance Workgroup Update
 Requested Action
Review

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

Project Description
<p>The attached in Exhibit 1 contains a preliminary DRAFT code changes that would consolidate the various zoning application procedures into one location within the Zoning Chapter of the Mandan Code of Ordinances (MCO).</p> <p>Presently, the full procedures are in many different places and to determine how to apply and what to expect through the process is unnecessarily difficult.</p> <p>The proposed amendment is to ensure the application is clear to both staff and applicants.</p> <p>Staff is asking Planning and Zoning Commission to review between now and the next meeting and to provide feedback on the information contained within this preliminary DRAFT ordinance amendment.</p> <p>Staff intends to revise or address feedback received and present this amendment at the January 27, 2020 Planning and Zoning meeting.</p>
Agency & Other Department Comments
N/a
Engineering & Planning Staff Comments
N/a
Engineering & Planning Recommendation
N/a
Proposed Motion
N/a

- List of Exhibits:
 Exhibit 1 – Zoning Application Procedures Preliminary DRAFT Code Changes

1 **105-1-13 – Zoning Application Procedure**

2 (a) General Provisions.

3
4 (1) Purpose. The following Section outlines the requirements and procedures for land
5 use applications that fall within the purview of Chapter 105. Specific application and
6 procedural requirements for Planned unit developments and Large-scale
7 developments shall follow those provided within Sec. 105-4-3 and Sec. 105-4-5
8 respectively.

9
10 (2) Definitions. For the meanings of zoning terms or words not found in Section 101-1-3
11 related to definitions, the city staff shall rely upon the latest A Planners Dictionary,
12 edited by Michael Davidson and Fay Dolnick, American Planning Association and
13 Planning Advisory Service, for interpretation purposes.

14
15 (3) Complete Application. A complete application shall include the following:

16
17 a. Development application as established by the Engineering and Planning
18 Department

19 b. Fee, as established by the board of city commissioners

20
21 c. Site plan

22
23 d. Letter of intent containing:

24
25 1. A summary of the purpose for the application

26
27 2. How negative externalities resulting from the change in land use will
be addressed

28
29 e. Additional submittals as required by the respective land use application that
falls within the purview of this Section

30
31 f. Additional plans, studies, or other information as may be required from time
to time from the planning and zoning commission or city staff

32
33 (4) Period of Review. The planner or his/her designee shall review a submitted
34 application within ~~five (5)~~ ten (10) business days to determine whether an application
35 is complete. If the application is determined to be a complete application the planner
36 or his/her designee shall notify the applicant or applicant representative of the
37 determination and the application shall be considered accepted. If the application is
determined to be incomplete the planner or his/her designee shall notify the applicant

38 or applicant representative of the missing components necessary to consider the
39 application complete.

40

41 (b) Zoning Ordinance Map Amendment. Whenever the public necessity, convenience,
42 general welfare or good zoning practice requires, the board of city commissioners may
43 amend, supplement or change the zoning boundaries or classification of property on the
44 zoning map as set forth in this Section.

45 (1) Initiation of Amendments. A proposed zoning map amendment may be initiated by
46 the board of city commissioners upon its own motion, or upon receipt of a request
47 therefor from the planning and zoning commission, or upon receipt of a petition
48 therefor from any interested person or their agents.

49 (2) Additional Submittals. A zoning ordinance map amendment application shall include
50 the following additional submittals:

51 a. ~~Evidence Map or written statement evidencing of~~ conformity with the future
52 land use map of the City of Mandan Land Use and Transportation Plan and/or
53 any corresponding goals, objectives, policies and other information contained
54 therein. Evidence of conformity shall include:

55 1. Where the requested zoning district aligns with the future land use map
56 designation; OR

57
58 2. Where two or more future land use map designations apply to the area
59 that is part of the application for a zoning ordinance map amendment
60 and only one future land use map designation aligns with the requested
61 zoning district the applicant shall outline how the application also aligns
62 with the goals, objectives, policies, and other information contained
63 within the City of Mandan Land Use and Transportation Plan; OR

64
65 3. If no future land use designations apply to the area that is part of the
66 zoning ordinance map amendment the applicant shall be required to
67 successfully amend the future land use map as outlined in this Section.

68 b. An ESRI shapefile (.shp) of the zoning ordinance map amendment area
69 projected in spatial reference well-known ID (WKID) 102721.

70 c. Map of area including the subject property and surrounding three-hundred
71 (300) feet. The map shall include the current and proposed zoning of the
72 subject property, neighboring property's current zoning, including street

73 names and base aerial imagery for reference. If the nearest road is greater
74 than three-hundred (300) feet from the subject property, the map shall be
75 scaled back to incorporate the nearest street intersection for reference but is
76 not required to include zoning information for properties outside the three-
77 hundred (300) foot surrounding area.

78 (3) Complete Application Received. A complete application shall be received no less
79 than 30 days prior to the desired Planning and Zoning Commission meeting date.

80 (4) Public Hearing Noticing Requirements. Notice of the hearing must be published once
81 a week for two successive weeks before the time set for the hearing in the official
82 newspaper of the city. Property owners within three-hundred (300) feet of the
83 boundary of the area of the proposed amendment shall be notified by mail. The
84 property owner notice requirement shall be considered to be met if reasonable effort
85 is made to contact applicable property owners, even if some are inadvertently omitted
86 from notification. The notice must contain the following items:

87 a. The time and place of the hearing.

88 b. A description of any property involved in any zoning change, by street
89 address if streets have been platted or designated in the area affected.

90 c. A description of the nature, scope, and purpose of the proposed regulation,
91 restriction, or boundary.

92 d. A statement of the times at which the application will be available to the
93 public for inspection and copying at the office of the city auditor or his/her
94 designee.

95 (5) Planning and Zoning Public Hearing Required. The Planning and Zoning
96 Commission shall hold a public hearing to review the application for a zoning
97 ordinance map amendment. The Planning and Zoning Commission may recommend
98 approval, recommend approval with restrictions, recommend denial, or table the
99 public hearing to a future date. A recommendation shall include or reference findings
100 of fact related to the application and forwarded to the board of city commissioners. A
101 motion to table the application to a future date shall be limited to no longer than 60
102 days.

103 (6) City Commission Public Hearing Required – First Consideration. The ~~b~~Board of
104 ~~c~~City ~~c~~Commissioners shall hold a public hearing no sooner than is possible to follow
105 the public hearing noticing requirements. The public hearing shall be the first
106 consideration of the ordinance. The ~~b~~Board of ~~c~~City ~~c~~Commissioners may approve,
107 approve with restrictions, deny, or table the public hearing to a future date. A

108 decision shall include or reference findings of fact related to the application. A
109 motion to table the application to a future date shall be limited to no longer than 60
110 days. A decision to deny the application is final and no second consideration is
111 required. If substantial changes to the ordinance zoning map amendment are required
112 the public hearing shall be repeated and follow the public hearing noticing
113 requirements.

114 (7) City Commission Public Meeting Required – Second Consideration. The ~~b~~Board of
115 ~~c~~City ~~c~~Commissioners shall hold a public meeting no sooner than ten (10) days
116 following the first consideration of the zoning ordinance map amendment. The
117 zoning ordinance map amendment shall not substantially differ from that presented at
118 the preceding public hearing. The ~~b~~Board of ~~c~~City ~~c~~Commissioners may, at their
119 discretion, hear public testimony related to the application. The ~~b~~Board of ~~c~~City
120 ~~c~~Commissioners may approve, approve with restrictions, deny, or table the public
121 hearing to a future date. A decision shall include or reference findings of fact related
122 to the application. A motion to table the application to a future date shall be limited
123 to no longer than 60 days. A decision to deny the application is final.

124 (8) Restrictions. Zoning ordinance map amendments which list allowable uses shall not
125 be construed to be permission to conduct uses in perpetuity. Listed allowable uses
126 shall be further limited by any zoning ordinance text amendment that affects,
127 excludes, alters, or relates to a use contained in said list. The required land use
128 application procedure shall be followed per Chapter 105 DISTRICT
129 REGULATIONS (ZONING) at the time of initiation of any use.

130 (c) Zoning Ordinance Text Amendment. Whenever the public necessity, convenience,
131 general welfare or good zoning practice requires, the board of city commissioners may
132 amend, supplement or change the regulations in the zoning ordinance as set forth in this
133 Section.

134 (1) Initiation of Amendments. A proposed zoning text amendment may be initiated by
135 the board of city commissioners, planning and zoning commission, the city planner or
136 his/her designee, or any interested person or their agent.

137 (2) Additional Submittals. A zoning text amendment application shall include the
138 following additional submittals:

139 a. Summary of the goal(s) intended to be achieved by the amendment

140 b. Word document with tracked changes enabled, showing all mark-up of the
141 existing ordinance and proposed changes

- 142 (3) Complete Application Received. A complete application shall be received no less
143 than 30 days prior to the desired Planning and Zoning Commission meeting date.
- 144 (4) Public Hearing Noticing Requirements. Notice of the hearing must be published once
145 a week for two successive weeks before the time set for the hearing in the official
146 newspaper of the city. The notice must contain the following items:
- 147 a. The time and place of the hearing.
 - 148 b. A description of the nature, scope, and purpose of the proposed regulation,
149 restriction, or boundary.
 - 150 c. A statement of the times at which the application will be available to the
151 public for inspection and copying at the office of the city auditor or his/her
152 designee.
- 153 (5) Planning and Zoning Public Hearing Required. The Planning and Zoning
154 Commission shall hold a public hearing to review the application for a zoning
155 ordinance text amendment. The Planning and Zoning Commission may recommend
156 approval, recommend approval subject to changes, recommend denial, or table the
157 public hearing to a future date. A motion to table the application to a future date shall
158 be limited to no longer than 60 days.
- 159 (6) City Commission Public Hearing Required – First Consideration. The **b**Board of
160 **c**City **c**Commissioners shall hold a public hearing no sooner than is possible to follow
161 the public hearing noticing requirements. The public hearing shall be the first
162 consideration of the ordinance. The **b**Board of **c**City **c**Commissioners may approve,
163 approve subject to changes, deny, or table the public hearing to a future date. A
164 motion to table the application to a future date shall be limited to no longer than 60
165 days. A decision to deny the application is final and no second consideration is
166 required. If substantial changes to the ordinance are required the public hearing shall
167 be repeated and follow the public hearing noticing requirements.
- 168 (7) City Commission Public Meeting Required – Second Consideration. The **b**Board of
169 **c**City **c**Commissioners shall hold a public meeting no sooner than ten (10) days
170 following the first consideration of the zoning ordinance text amendment. The
171 zoning ordinance text amendment shall not substantially differ from that presented at
172 the preceding public hearing. The **b**Board of **c**City **c**Commissioners may, at their
173 discretion, hear public testimony related to the application. The **b**Board of **c**City
174 **c**Commissioners may approve, approve subject to changes, deny, or table the public
175 hearing to a future date. A motion to table the application to a future date shall be
176 limited to no longer than 60 days. A decision to deny the application is final.

177 (d) Conditional/Special Use Permit. In order to carry out the purposes of this chapter, the
178 board of city commissioners finds it necessary to require that certain uses, because of
179 unusual size, safety hazards, infrequent occurrence, effect on surrounding area or other
180 reasons, be reviewed by the planning and zoning commission prior to the board voting on
181 whether or not to approve the use at a specific site.

182 (1) Additional Submittals. A special or conditional use permit application shall include
183 the following additional submittals:

184 a. An answer with explanation for each of the following questions:

185 ~~1. Does the proposed use meet the goals and objectives for the area as~~
186 ~~expressed in the adopted comprehensive plan?~~

187 2.1. Will the proposed use be designed, constructed, operated and maintained
188 so as to be compatible in appearance with the existing or intended
189 character of the neighborhood?

190 ~~3. Will the proposed use be served adequately by essential facilities and~~
191 ~~services including streets, police and fire protection, drainage, refuse~~
192 ~~disposal, potable water and sanitary sewer services, emergency services~~
193 ~~and schools?~~

194 ~~4. Will the proposed use not create additional requirements for public~~
195 ~~facilities and services at public cost and will not be detrimental to the~~
196 ~~economic welfare of the community?~~

197 5.2. Will the proposed use involve activities, processes, materials, equipment
198 or conditions of operation that will be incompatible with the
199 neighborhood due to the production of traffic, noise, smoke, fumes, glare
200 or odors?

201 ~~6. Will the proposed use have vehicular approaches to the property which~~
202 ~~do not create traffic congestion or interfere with traffic on surrounding~~
203 ~~public streets?~~

204 ~~7. Will the proposed use result in the destruction, loss or damage of a natural,~~
205 ~~scenic, or historic feature of importance to the community?~~

206 ~~8. Will the proposed use depreciate surrounding property values?~~

207 9.3. Will the hours of operation of the proposed use be different than the
208 adjacent uses?

209 ~~10.4.~~ Will the proposed use require exterior lighting of a type and intensity
210 greater than the adjacent uses?

211 ~~11.5.~~ Will the site of the proposed use have sufficient area to provide the
212 parking required for the use?

213 ~~12.6.~~ Will the proposed use require adjustments to the normal lot size, height
214 and setback requirements of the district?

215 ~~13. Has adequate provision been made for those individuals who are mobility~~
216 ~~impaired?~~

217 ~~14. Will screening or buffering be required to compensate for any departure~~
218 ~~that the proposed use has from existing adjacent uses?~~

219 (2) Complete Application Received. A complete application shall be received no less
220 than 30 days prior to the desired Planning and Zoning Commission meeting date.

221 (3) Public Hearing Noticing Requirements. Notice of the hearing must be published at
222 least ten (10) days before the time set for the hearing in the official newspaper of the
223 city. Property owners within five-hundred (500) feet of the boundary of the area of
224 the proposed conditional use shall be notified by mail. The property owner notice
225 requirement shall be considered to be met if reasonable effort is made to contact
226 applicable property owners, even if some are inadvertently omitted from notification.
227 The notice must contain the following items:

228 a. The time and place of the hearing.

229 b. A description of the nature, scope, and purpose of development requiring a
230 special use permit.

231 c. A statement of the times at which the application will be available to the
232 public for inspection and copying at the office of the city auditor or his/her
233 designee.

234 (4) Planning and Zoning Public Hearing Required. The Planning and Zoning
235 Commission shall hold a public hearing to review the application for a special use
236 permit. The Planning and Zoning Commission may recommend approval,
237 recommend approval with conditions, recommend denial, or table the public hearing
238 to a future date. A recommendation shall include or reference findings of fact related
239 to the application ~~and forwarded to the board of city commissioners~~. Conditions of
240 approval shall be related and roughly proportional to mitigate negative externalities
241 affecting nearby property owners and the general public and to fulfill the intent of the
242 adopted plans of the City. A motion to table the application to a future date shall be
243 limited to no longer than 60 days.

244 (5) City Commission Public Hearing Required. The ~~b~~Board of ~~C~~city ~~C~~ommissioners
245 shall hold a public hearing no sooner than is possible to follow the public hearing
246 noticing requirements. The ~~B~~board of ~~C~~city ~~C~~ommissioners may approve, approve
247 with conditions, deny, or table the public hearing to a future date. Conditions of
248 approval shall be related and roughly proportional to mitigate negative externalities
249 affecting nearby property owners and the general public and to fulfill the intent of the

250 adopted plans of the City. A motion to table the application to a future date shall be
251 limited to no longer than 60 days. A decision to deny the special use permit is final.

252 (6) Evaluative Criteria. In order to provide a favorable recommendation by the planning
253 and zoning commission or final decision by the board of city commissioners, the
254 following must be considered:

- 255 a. The proposed use is in harmony with the purpose and intent of this chapter;
- 256 b. The proposed use is not in conflict with the adopted comprehensive plan of
257 the city;
- 258 c. The proposed use will not adversely affect the health, ~~and safety,~~ and general
259 welfare of the public and the workers and residents in the area;
- 260 d. The proposed use will not be detrimental to the use or development of
261 adjacent properties or of the surrounding neighborhood; and
- 262 e. The proposed use meets all appropriate regulations for the district in which it
263 will be located.
- 264 f. The proposed use will not result in the destruction, loss or damage of a
265 natural, scenic, or historic feature of importance to the community.
- 266 g. The proposed use includes adequate screening or buffering to compensate for
267 any departure that the proposed use has from existing adjacent uses.
- 268 e.h. The proposed use includes adequate provisions for those individuals who are
269 mobility impaired.

270 (7) Permit Expiration. Conditional/Special use approval is valid for one year. Should a
271 building permit not be issued within one year of receiving special/conditional use
272 approval from the city commission, the approval will lapse. An extension may be
273 granted by the board of city commissioners upon receipt of a written request prior to
274 the one-year expiration.

275
276 (e) Zoning Variance. On appeal from an order, requirement, decision or determination made
277 by an administrative official, the board of city commissioners may vary or adjust the
278 strict application of any of the requirements of this chapter in the case of an exceptionally
279 irregular, narrow, shallow or steep lot or other exceptional physical or topographical
280 condition, by reason of which the strict application of the provisions of the chapter would
281 result in unnecessary hardship that would deprive the owner of a reasonable use of the
282 land or building involved, but in no other case.

283 (1) Additional Submittals. A zoning variance application shall include the following
284 additional submittals:

285 a. Detailed statement including the following:

286 1. The circumstances or conditions applying to the land or buildings for
287 which the variance is sought; and

288 2. how the applicant is deprived of a reasonable use of said land or
289 building; and

290 3. how the grant of a variance will not be injurious to the neighborhood or
291 otherwise detrimental to the public welfare; and

292 4. The minimum variance that will accomplish the relief sought.

293 (2) Complete Application Received. A complete application shall be received no less
294 than 30 days prior to the desired Planning and Zoning Commission meeting date.

295 (3) Public Hearing Noticing Requirements. Notice of the hearing must be published at
296 least ten (10) days before the time set for the hearing in the official newspaper of the
297 city. Property owners within one-hundred-fifty (150) feet of the boundary of the area
298 of the proposed variance shall be notified by mail. The property owner notice
299 requirement shall be considered to be met if reasonable effort is made to contact
300 applicable property owners, even if some are inadvertently omitted from notification.
301 The notice must contain the following items:

302 a. The time and place of the hearing.

303 b. A description of the nature, scope, and purpose of the variance request.

304 c. A statement of the times at which the application will be available to the
305 public for inspection and copying at the office of the city auditor or his/her
306 designee.

307 (4) Planning and Zoning Public Hearing Required. The Planning and Zoning
308 Commission shall hold a public hearing to review the application for a variance. The
309 Planning and Zoning Commission may recommend approval, recommend approval
310 with conditions, recommend denial, or table the public hearing to a future date. A
311 recommendation shall include or reference findings of fact related to the application
312 and forwarded to the board of city commissioners. Conditions of approval shall be
313 related and roughly proportional to mitigate negative externalities affecting nearby
314 property owners and the general public and to fulfill the intent of the adopted plans of

315 the City. A motion to table the application to a future date shall be limited to no
316 longer than 60 days.

317 (5) City Commission Public Hearing Required. The ~~b~~Board of ~~c~~city ~~c~~ommissioners
318 shall hold a public hearing no sooner than is possible to follow the public hearing
319 noticing requirements. The ~~b~~Board of ~~c~~ity ~~c~~ommissioners may approve, approve
320 with conditions, deny, or table the public hearing to a future date. Conditions of
321 approval shall be related and roughly proportional to mitigate negative externalities
322 affecting nearby property owners and the general public and to fulfill the intent of the
323 adopted plans of the City. A motion to table the application to a future date shall be
324 limited to no longer than 60 days. A decision to deny the variance is final.

325 (6) Evaluative Criteria. No adjustment in the strict application of any provisions of this
326 chapter shall be recommended by the planning and zoning commission or granted by
327 the board of city commissioners unless it finds that:

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

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

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

344 (f) Future Land Use Map/Plan Amendment.

345 (1) Initiation of Amendments. A proposed future land use map/plan amendment may be
346 initiated by the board of city commissioners upon its own motion, or upon receipt of a
347 request therefor from the planning and zoning commission, or upon receipt of a
348 petition therefor from any interested person or their agents. The amendments are
349 limited to the planned land uses for a subject property and does not include

350 amendments to other components of the Land Use and Transportation Plan or other
351 plans that have been adopted by the city.

352 (2) Additional Submittals. A future land use map amendment application shall include
353 the following additional submittals:

- 354 a. An explanation of how the application aligns with the goals, objectives,
355 policies, and other information contained within the City of Mandan Land Use
356 and Transportation Plan and other plans adopted by the city; and
- 357 b. How any amendment, if approved, would not further create potential for
358 disharmonious adjacent land uses; and
- 359 c. An ESRI shapefile (.shp) of the future land use map amendment area and
360 projected in spatial reference well-known ID (WKID) 102721.
- 361 d. Other?

362 (3) Complete Application Received. A complete application shall be received no less
363 than 30 days prior to the desired Planning and Zoning Commission meeting date.

364 (4) Public Hearing Noticing Requirements. Notice of the hearing must be published once
365 a week for two successive weeks before the time set for the hearing in the official
366 newspaper of the city. Property owners within three-hundred (500) feet of the
367 boundary of the area of the proposed amendment shall be notified by mail. The
368 property owner notice requirement shall be considered to be met if reasonable effort
369 is made to contact applicable property owners, even if some are inadvertently omitted
370 from notification. The notice must contain the following items:

- 371 a. The time and place of the hearing.
- 372 b. A description of any property involved in any future land use map
373 amendment, by street address if streets have been platted or designated in the
374 area affected.
- 375 c. A description of the nature, scope, and purpose of the proposed regulation,
376 restriction, or boundary.
- 377 d. A statement of the times at which the application will be available to the
378 public for inspection and copying at the office of the city auditor or his/her
379 designee.

380 (5) Planning and Zoning Public Hearing Required. The Planning and Zoning
381 Commission shall hold a public hearing to review the application for a future land use
382 map amendment. The Planning and Zoning Commission may recommend-approve,

383 ~~deny, or approval, recommend approval with restrictions, recommend denial, or table~~
384 ~~the public hearing to a future date. The adoption of the amendment shall be by a~~
385 ~~resolution of the commission carried by the affirmative votes of not less than two-~~
386 ~~thirds of the members thereof. An attested copy of the amendment shall be certified~~
387 ~~to the governing body of the municipality. A decision recommendation shall include~~
388 ~~or reference findings of fact related to the application. A motion to table the~~
389 ~~application to a future date shall be limited to no longer than 60 days.~~

390 ~~(6) City Commission Public Hearing Required. The Board of City Commissioners shall~~
391 ~~hold a public hearing no sooner than is possible to follow the public hearing noticing~~
392 ~~requirements. The public hearing shall be the first consideration of the ordinance.~~
393 ~~The Board of City Commissioners may approve, approve with restrictions, deny, or~~
394 ~~table the public hearing to a future date. A decision shall include or reference~~
395 ~~findings of fact related to the application. A motion to table the application to a~~
396 ~~future date shall be limited to no longer than 60 days. A decision to deny the~~
397 ~~application is final. Evaluative Criteria. In order to provide a favorable decision by~~
398 ~~the planning and zoning commission, the following must be considered:~~

- 399 ~~a. Does the proposed amendment align with the goals, objectives, policies, and~~
400 ~~other information contained within the City of Mandan Land Use and~~
401 ~~Transportation Plan and other plans adopted by the city; and~~
- 402 ~~b. Will the amendment, if approved, further create potential for disharmonious~~
403 ~~adjacent land uses; and~~
- 404 ~~c. Does the amendment contribute toward the general purpose of guiding and~~
405 ~~accomplishing a coordinated, adjusted, and harmonious development of the~~
406 ~~municipality and its environs, which, in accordance with present and future~~
407 ~~needs, best will promote the amenities of life, health, safety, morals, order,~~
408 ~~convenience, prosperity, and general welfare as well as efficiency and~~
409 ~~economy in the process of development, including adequate provision for~~
410 ~~light and air, distribution of population, good civic design and arrangement,~~
411 ~~wise and efficient expenditure of public funds, the adequate provision of~~
412 ~~public utilities and other public requirements, the improvement and control of~~
413 ~~architecture, and the general embellishment of the area under its jurisdiction.~~

414 ~~(g) Appeal.~~

415 ~~(1) Request for Appeal. Any aggrieved person may file an appeal with the city planner~~
416 ~~within ten (10) days of the final decision for land use applications contained in~~
417 ~~Chapter 105.~~

418 ~~(2) Complete Application. An appeal shall include the following:~~

419 a. A summary of the reasons for appeal

420 b. Any new evidence or information that may not have been considered by the
421 hearing body at the time the final decision was rendered

422 (3) Public Hearing Noticing Requirements. Public and neighboring property owner
423 noticing of the hearing must follow the public hearing noticing requirements of the
424 respective land use application for the hearing body for which a final decision is
425 rendered. The property owner notice requirement shall be considered to be met if
426 reasonable effort is made to contact applicable property owners, even if some are
427 inadvertently omitted from notification. The notice must contain the following items:

428 a. The time and place of the hearing.

429 b. A description of any property involved in the appeal, by street address if
430 streets have been platted or designated in the area affected.

431 c. A description of the nature, scope, and purpose of the proposed regulation,
432 restriction, or boundary.

433 d. A statement of the times at which the application will be available to the
434 public for inspection and copying at the office of the city auditor or his/her
435 designee.

436 (4) Public Hearing Required. The hearing body for which a final decision is rendered
437 shall hold a public hearing no sooner than is possible to follow the public hearing
438 noticing requirements of the respective land use application of the hearing body for
439 which a final decision is rendered. The hearing body for which a final decision is
440 rendered may approve, approve with conditions, deny, or table the public hearing to a
441 future date. Conditions of approval shall be related and roughly proportional to
442 mitigate negative externalities affecting nearby property owners and the general
443 public and to fulfill the intent of the adopted plans of the City. A motion to table the
444 application to a future date shall be limited to no longer than 60 days. A decision
445 rendered for the appeal is final and any further appeals must be made to the district
446 court. In the case of an appeal of a zoning ordinance map or text amendment, an
447 approval or approval with conditions of the appeal shall be considered approval of the
448 first consideration of the ordinance.

449

450