

**MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
Monday, October 23, 2023**

The Planning and Zoning Commission of Mandan met in session in the Commission Meeting Room of the Mandan City Hall on Monday, October 23, 2023, at 5:30 p.m. CST. Planning & Zoning Commission members may be attending this meeting remotely.

ROLL CALL

Chair Robinson called the meeting to order.

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

MINUTES

Commissioner Smith motioned to approve the September 25, 2023 minutes as presented. Commissioner Buchmiller seconded the motion. Upon vote, the motion passed unanimously.

PUBLIC HEARINGS

1. A request from SML Properties LLC for consideration of a zone change from MB – Industrial to MA – Industrial. Said property is Riverwood Commercial Park 4th Addition in Section 26, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 160 Riverwood Avenue SE.

A. Staff Report

City Principal Planner Stromme presented.

Project Description

SML Properties LLC presented a request of a zone change from MB – Industrial to MA – Industrial. The property is in central Mandan, south of Memorial Highway on the east side of Riverwood Avenue Southeast.

Overview of Request

This request would rezone the property from MB – Industrial to MA – Industrial to comply with the City’s ordinances regarding zoning of properties. The applicant has acquired a twelve-foot (12 ft.) strip of land from a lot located to the north of the subject property, which was zoned as MA – Industrial. Since a property may not be zoned to more than one district, a rezoning was necessary. In this case, the entire property will be rezoned to conform with the acquired property and adjacent zoning of MA – Industrial.

Requested Zone Change

Changing the zoning from MB – Industrial to MA – Industrial would permit the continued operations of the existing shops, as the uses are permissible in both zoning categories. The MA – Industrial designation would better match the zoning and usage patterns of neighboring

properties, align more closely with the property's physical infrastructure and shop structure, which is suited for light industrial activities. Planning practices commonly indicate that heavy industrial operations, allowed in MB - Industrial are typically more suitable for larger pad sites or standalone buildings, as they may not be well-suited for multi-use shop structures or the smaller units of a multi-use shop.

Adjacent Zoning, Land Use, Future Land Use

The adjacent properties are zoned MA – Industrial, MC - Industrial Restricted, and CB – Commercial. The Future Land Use Plan identifies this area for Industrial zoning and land uses.

Findings of Fact

Zone Change

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

Agency & Other Department Comments

- Sixteen (16) letters were sent to adjoining property owners notifying them of the request. There have been no comments or opposition received.

Engineering & Planning Staff Comments

A building addition is planned for the shop structure.

Engineering & Planning Recommendation

Planner Stromme stated that the Engineering and Planning Staff recommended approval of the zone change from MB – Industrial to MA – Industrial.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request from SML Properties LLC for consideration of a zone change from MB – Industrial to MA – Industrial. A second invitation was given to come forward at this time to speak for or against this project.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any further comments or questions from members of the Planning and Zoning Commission.

Commissioner Smith motioned to recommend approval of the zone change from MB - Industrial to MA – Industrial for Lot 2, Block 1, Riverwood Commercial Park 4th Addition. Commissioner Gardner seconded the motion. Upon vote, the motion passed unanimously.

2. A request from David & Alexandria Weinreis for consideration of a zone change from Ag (Agriculture) to CB (Commercial). Said property is Schaff Estates 2nd Addition in Section 7, Township 139N, Range 81W. The property is located at 2392 37th Street.

A. Staff Report

City Principal Planner Stromme presented.

Project Description

David and Alexandria Weinreis presented a request for a zone change from A – Agriculture to CB – Commercial for a subdivision to be titled Schaff Estates 2nd Addition. The property is located in the Extraterritorial Area northwest of Mandan, on the southeast corner of 56th Avenue NW and 37th Street.

Overview of Request

This request would rezone Lot 1, Block 1 of Schaff Estates 2nd Addition from the A – Agriculture district to CB – Commercial for the purposes of residential and commercial land uses on the parcel. The final plat for Schaff Estates 2nd Addition was recommended for approval at the September 19, 2023 City Commission meeting, contingent upon a re-zone to the City’s CB – Commercial district. The CB district aligns with the City’s future land use designation of Commercial, and would permit a mixture of commercial and residential uses to be established on the property. The existing zoning does not permit the mix of a trucking operation (*of any scale*) and a residence, where the CB – Commercial district would.

Proposed Zone Change

The property presently has an agricultural shop. A home is planned to be built on the property in 2024. The existing A – Agriculture zoning does not align with the City’s land use plan, and the shop on the property is in violation of the A – Agriculture setback. A rezone to CB would bring the shop into conformity with present zoning regulations, and allow a home to be developed on the property. The lot is subject to a ghost plat, restricting site development to a portion of the property in order for future subdivision into urban commercial lots to occur with less difficulty than if no site regulations are placed.

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent properties are all zoned A – Agriculture and used for agricultural and rural residential purposes. The future land use plan designates this property to be commercial in nature with adjacent properties commercial and residential of varying density. The regional

Beltway Study and Northern Bridge corridor are identified for this property and right-of-way has been dedicated in the event that plan materializes.

Findings of Fact

Zone Change

1. The City of Mandan and/or other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this zone change, contingent on utilities;
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 is compatible with adjacent zoning;
5. The proposed zoning change would not adversely affect public health, safety and general welfare.

Agency & Other Department Comments

- Five (5) letters were sent to adjoining property owners notifying of the request. There have been no comments or opposition received.
- Morton County Tax Equalization Office indicated that rezoning the property to CB – Commercial would not likely affect the tax collected from the property until a point in the future where it is closer to urban development.
- Comments from previous meetings on this item has been discussed indicating that zoning this property to commercial now may increase the likelihood that future commercial development occurs, as if done now the zoning would exist prior to development around the property which the land use plan as of now would indicate would be residential in nature.

Engineering & Planning Staff Comments

- Development is subject to a recorded ghost plat and amended Development Agreement.

Engineering & Planning Recommendation

Planner Stromme stated that the Engineering and Planning Department recommended approval of the zone change from A – Agriculture to CB – Commercial for Lot 1, Block 1, Schaff Estates 2nd Addition.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for approval of a zone change from Ag (Agriculture) to CB (Commercial).

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

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner Buchmiller moved to recommend approval of the zone change from A – Agriculture to CB – Commercial for Lot 1, Block 1, Schaff Estates 2nd Addition. Commissioner Hammond seconded the motion. Upon vote, the motion passed unanimously.

3. A request from Kenneth Stoxen for consideration of a variance from Sec. 105-4-2.2 (d)(3)(c) and Sec. 105-1-3 (4)(1)(4) of the City Code of Ordinances related to Design standards in the DF – Downtown Fringe District and codes related to Incidental Uses – Portable Shipping Containers. Said property is Lots 14 & 15, Block 24, Helmsworth-McLeans Addition in Section 26, Township 139, Range 81 in City of Mandan, Morton County, North Dakota. The property is located at 1500 3rd Street NE.

A. Staff Report

City Principal Planner Stromme presented.

Kenneth Stoxen requested consideration of a variance from Sec. 105-4-2.2 (d) (3) (c) and Sec. 105-1-3 (4) (1) (4) of the City Code of Ordinances related to Design standards in the DF – Downtown Fringe District and codes related to Incidental Uses – Portable Shipping Containers. The property is located west of Mandan Avenue on the north side of 3rd Street Northeast, east of the automotive dealership set into the Mandan Hill. The Downtown Fringe and Land Use Plan calls for commercial development.

Background/Overview:

The applicant requested to install a portable storage container on the property, next to the garage on the west side. The City's ordinances only allow portable storage containers to be used as residential accessories when they match the homes building material.

Variance Request

The requested variance would allow the placement of a portable storage container on the property. The applicant states that he would anchor the container to the ground and paint it white in an attempt to match the home. It would replace an existing tent and be set back four (4) feet further back than the tent is. A statement of hardship has been submitted to support this request (Exhibit 2) in the report for administrative approval.

Adjacent Properties Zoning, Land Use and Future Land Use

The properties surrounding this property are zoned DF – Downtown Fringe and MA – Industrial. The future land use plan identifies this area for commercial uses. Existing land uses are residential, Mandan Hill to the north and commercial to the south.

Findings of Fact

Variance

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

Agency & Other Department Comments

Six (6) letters were sent to adjacent property owners. There have been no comments or opposition received.

Engineering & Planning Staff Comments

- In 2022, the City introduced new regulations governing portable storage containers in response to feedback from both the local community and city leadership. The concerns that prompted these regulations revolved around various aspects, including visual aesthetics, health and safety, property values, neighborhood cohesion, and potential impacts on local infrastructure. The primary goal of these regulations was to allow the use of portable storage containers as residential accessory buildings only when the design of the main dwelling incorporated this building material. Additionally, compliance is not solely determined by matching the container's color to that of the home.
- This property is located in the Gateway to Mandan, of which the City has adopted higher site development standards for, although at this point there is no code language within the gateway that expressly prohibits this, the underlying zoning regulations would not allow a container to be placed in a gateway.

Engineering & Planning Recommendation

Planning Stromme recommended reviewing the outlined request and Findings of Fact, consideration of the Statement of Hardship and potential identification of a hardship, and to modify or accept staff's Findings of Fact as necessary to support the motion of the Board. Further, that a motion to approve this, if desired by the Board, should be contingent that the container to be sited is able to be anchored, is adequately painted to match the color of the home, and is rodent-proof.

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

Commissioner Smith inquired if the city ordinance allows for those lots over 10,000 sq. ft. - if there can be a second accessory building with side limitations? Planner Stromme replied that there is a sliding scale wherein a homeowner can have more and the underlying zoning would have a locked-in ridge amount that would cap how many they can have. Commissioner Smith inquired if the homeowner would have the option to either expand the existing garage or add a second single stall garage? Planner Stromme stated those would both be options for this property.

Commissioner Huber inquired what the size of the proposed container will be. Planner Stromme stated the size is 8 ft. x 20 ft.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for approval of a variance from Sec. 105-4-2.2 (d)(3)(c) and Sec. 105-1-3 (4)(1)(4) of the City Code of Ordinances related to Design standards in the DF – Downtown Fringe District and codes related to Incidental Uses – Portable Shipping Containers.

Kenneth Stoxen came forward and stated he is anxious to get the project started. The container color will match the garage, but there is nothing he can do about the siding material because his house has asbestos siding.

Chair Robinson provided a final invitation to come forward at this time to speak for or against a variance from Sec. 105-4-2.2 (d)(3)(c) and Sec. 105-1-3 (4)(1)(4) of the City Code of Ordinances related to Design standards in the DF – Downtown Fringe District and codes related to Incidental Uses – Portable Shipping Containers.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any further comments or questions from members of the Planning and Zoning Commission.

Commissioner Smith stated he has concerns with granting a variance for this project because the city just enacted this ordinance 1½ years ago to prevent this exact situation. He believes there are other alternatives that could be done to satisfy the homeowner's needs.

Chair Robinson concurred with Commissioner Smith's statement. The Ordinance was passed with best both the city's and the homeowner's interests in mind. Commissioner Buchmiller stated he agrees with the comments voiced by Commissioner Smith and Chair Robinson. Commissioner Gardner stated that he agrees with the opinions presented and said that he believes that the neighbors need to give their okay.

Chair Robinson inquired if there were any further comments.

Commissioner Smith motioned to recommend denial of the variance from Sec. 105-4-2.2 (d)(3)(c) and Sec. 105-1-3 (4)(1)(4) of the City Code of Ordinances related to Design standards in the DF – Downtown Fringe District and codes related to Incidental Uses – Portable Shipping Containers and accept the findings of fact due to no hardship being identified. Commissioner Buchmiller seconded. Upon vote, the motion passed unanimously.

4. A request from JE Properties, LLC, for consideration of a preliminary plat to be named Meadows Ridge 5th Addition. Said property is Lots 3A & 3B, Block 1 in Meadow Ridge 3rd Replat Lot 3, Block 1 in Section 22, Township 139N, Range 81W in City of Mandan, Morton County, North Dakota. The property is addressed 2611 & 2615 7th Avenue NW.

A. Staff Report

City Principal Planner Stromme presented.

Project Description

JE Properties, LLC, requested consideration of a preliminary plat for a subdivision to be titled Meadow Ridge 5th Addition. The property is in north Mandan, south of 27th Street NW and 8th Avenue NW on the west side of 7th Avenue Northwest.

Overview of Request

This request would divide the two (2) existing lots into a total of six (6) lots for individual ownership of existing townhome units in the Meadow Ridge Addition. The three-unit townhomes were built in 2016 and are presently leased.

Proposed Preliminary Plat

The preliminary plat is 23,672sf (.54 acres) in size and would have six (6) lots in one (1) block. The proposed lots range in size from 2,759sf to 5,525sf. Various access and utility easements are shown on the plat, notably for the shared driveway.

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent properties are zoned R7 – Residential to the west and RM – Residential to the north, south and east. The future land use plan designates this property to be high density residential.

Findings of Fact

Preliminary Plat

1. All technical requirements for approval of a preliminary plat have been met;
2. The proposed subdivision, as controlled by the development agreement and ghost platting exhibit, generally conforms with the Future Land Use Plan and other plans and studies;
3. 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,
4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;

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

Agency & Other Department Comments

- Seventy-six letters (76) were sent to adjacent property owners. There have been no comments or opposition received.
- Morton County Emergency Management will require the units to be numbered conspicuously if not already to their standard.

Engineering & Planning Staff Comments

- This plat will require a Shared-Use Agreement for sanitary sewer.
- The City has an exception policy within RM – Residential zoning (Sec. 105-3-9 (12) to permit lots as small as 2,400sf in cases such as this.

Engineering & Planning Recommendation

Planner Stromme stated that the Engineering and Planning Department staff recommended approval of the preliminary plat contingent on fire and building code compliance.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for a preliminary plat to be named Meadow Ridge 5th Addition.

Deb Dressler, came forward and stated she resides on 7th Avenue Northwest. She stated she has concerns about the new plan that will affect her street. She lives in a building owned by JE Homes located on 7th Avenue Northwest. Her concerns include: (1) There are no street lights on street. That is a very longer than average “L” street with the long part being the top of the “L” and the shorter part is the foot. It’s in the corner of the foot where these properties are going to be located. When there is a lot of snow, that corner becomes congested, sometimes down to one-lane of traffic flow.

Jordan Singer, Building Official stated that he received the plans for this. It was a previous build. He said he will be doing a visual inspection to make sure it conforms with the city’s current code requirements to separate each structure.

Abe Ulmer, ILSE came forward and stated that his company will be doing the final plat on this property. He addressed Deb Dressler’s question about the street lights wherein stating that he is the engineer for that project and reported that the street lights will be installed in the spring of 2024.

Chair Robinson provided a final invitation to come forward at this time to speak for or against the request for a preliminary plat to be named Meadow Ridge 5th Addition.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any further comments or questions from members of the Planning and Zoning Commission.

Commissioner Smith motioned to approve the preliminary plat of Meadows Ridge 5th Addition conditioned on fire code building compliance and a shared use agreement. Commissioner Gardner seconded. Upon vote, the motion passed.

5. A request from Oleg Stasenکو for consideration of a variance to Section 105-4-1 of the City Code of Ordinances related to the A – Agriculture zoning district. Said property is Lot 1, Block 1, Rockhaven Heights 2nd Subdivision in Section 10, Township, Range 81 in City of Mandan, Morton County, North Dakota. The property is located at 2063 38th Street.

A. Staff Report

City Principal Planner Stromme presented.

Oleg Stasenکو requested consideration of a setback variance from Sec. 105-4-1 of the City Code of Ordinances related to the A – Agriculture zoning district. The property is in the extraterritorial area north of Mandan, east of ND Hwy 1806 on the north side of 38th Street.

Background/Overview:

The applicant seeks to construct two (2) new buildings and one (1) future addition within the front, rear, and side yard setbacks for the A – Agriculture district. The required amounts are a twenty-five-foot (25 ft.) front yard, a twenty-foot (20 ft.) rear yard and a side yard which is an equation requiring 20% of the lots width to be building setbacks, with none being less than six (6) feet. The property is a rural, 1.32-acre platted lot accessed from 38th Street (*Heskett Road*). A minor plat to clean up lot lines (*Rockhaven Heights 2nd Addition*) was approved in the summer of 2023. The applicant currently runs a beekeeping/apiary operation on the property.

Property History

The property is thought to have been developed before 1968, possibly in 1967 when the "Rockhaven Heights" plat was filed at the County Recorder's office. Before the applicant obtained the property, it served as a rural residence and an apiary/beekeeping operation. The current structures on the property do not conform to the setback requirements. The buildings were moved to this area from another location.

Variance Request

The proposed variance would enable the placement of structures as illustrated in Exhibit 3. The front yard setback would be reduced from twenty-five feet (25 ft.) to eleven feet (11 ft.), while the rear setback would decrease from twenty feet (20 ft.) to ten feet (10 ft.). Although the side yard setbacks on the property would be slightly less than the required 20% of the lot width, the minimum requirement of both to be at least six feet (6 ft.) is accommodated by the site plan. The proposed buildings would not encroach any closer to the property lines or the front and rear yard setbacks than the existing structures on the site. The east side yard setback would be reduced from the distance of the building already situated on that side of the property. The applicant would like the building located in the southeast to be aligned with the home. To the west there are rural properties and there are industrial lots located to the north and south with Marathon refinery.

Adjacent Properties Zoning, Land Use and Future Land Use

The properties surrounding this property are zoned A - Agriculture and Morton County - Industrial. The future land use plan identifies this area for industrial uses. Existing land uses are residential, agricultural, and industrial (Mandan Refinery and MDU Heskett Station).

Findings of Fact

Variance

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

Agency & Other Department Comments

Three (3) letters were sent to adjacent property owners. There have been no comments or opposition received.

Engineering & Planning Staff Comments

- The City's land use plan supports industrial uses on this property in the future. It's use as an apiary leans more towards Agricultural zoning, based on the City's Code of Ordinances as written today. The site plan and land use can potentially view as an incremental transition towards non-residential/industrial uses on this corridor.
- The property is located along the potential northern bridge corridor. This piece of infrastructure is planned for 2045 or beyond. Access to the property may be subject to change in the future.
- The proposed buildings are in-line with the buildings at MDU Heskett Station to the east.

Based on adjacent uses to the north, east and south, Staff would not recommend this property to be used for solely residential purposes.

Engineering & Planning Recommendation

Planner Stromme recommended review of the request and Findings of Fact, consideration of the Statement of Hardship and potential identification of a hardship, and modifying or accepting staff's findings of fact as necessary to support the motion of the board.

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

Commissioner Smith inquired if the lot boundary is 100 ft. off the roadway? Planner Stromme stated that the exhibit presented does not accurately depict the right of way, however, the property line is about 106 ft. with an MDU easement there.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request of a setback variance from Sec. 105-4-1 of the City Code of Ordinances related to the A – Agriculture zoning district setbacks.

Chair Robinson inquired if there were any questions for Planner Stromme or the property owner.

Commissioner Gardner inquired if the setbacks are the main area of concern or is it the changing of the code to allow for this building because of the business that it has? Planner Stromme stated that the primary concern is the way the buildings would be situated on the property. The land use that is proposed is permitted with the Agricultural zoning that is in place. The beekeeping/apiary operation is part of the general farming group. Would the Agricultural designation allow for this? Planner Stromme explained that this is brought to this Board because the buildings would be located at the minimum setbacks for the agriculture district. Because of the way the property is laid out, each of the proposed buildings would fall within the city's required setback amount. The land use is not a concern rather how the buildings are situated on the property. By keeping the property in Agricultural the way, the buildings are proposed, there are setback variances required. Because the city ordinances are under review, not a lot of time has been spent researching how this site would fit future zoning.

Chair Robinson inquired if it is the configuration a concern? Planner Stromme stated that is correct, and the reason the variance has been brought to this Board is because the proposed buildings lie within the setback, therefore, it is a variance setback request.

Commissioner Huber requested clarification on the front setback that is at 117, what should it be? Planner Stromme said the setback would be measured from the property line, not from the street. The applicant intends to use this property for semi-truck parking but they cannot maneuver with the setbacks allowed. Therefore, this request cannot administratively be approved.

Commissioner Smith state that this involves the AG district and existing buildings. The proposal is to conform with those existing buildings and there is a large right of way too. The

Heskett plant and the Marathan refinery are bordering and it is the last structure before the Heskett plant. Based on that, a variance request can be justified.

Chair Robinson clarified there is an 11 ft. setback provided but the applicant desires to line it up with the house which would be a 6 ft. setback.

Commissioner Huber voiced concern about a previous territorial jurisdiction concern in which it was noted there was a propane tank located in this area and if there is a structure with a setback of only 6 ft. from the property line, thus, she wonders if the city is being asked for forgiveness rather than give permission since these structures are already in place. What are the options?

Oleg Stasenko came forward and stated he is the applicant/owner of the property in discussion. He said when he inquired about the building, he was told it would be 80 ft. from the road and that his plan is to align it with the house. The building is 120' x 40' there would not be enough room to turn around inside, it gives him enough room to unload the truck. Commissioner Smith inquired if the original buildings were constructed in the 1960's? Planner Stromme replied that the city does not have records on these lots, like the property assessing cards for assessing buildings, however, when viewing this property by aerial imagery, the home and Quonset started appearing in 1968 and the plat was filed in 1967.

Chair Robinson inquired if it is the 20 ft. area between the two buildings that would cut it off if the southeast corner building gets built within the setback area? Planner Stromme explained that the pinch point for the turnaround movement would be the 40 ft. between the two proposed.

Commissioner Gardner stated it is his opinion that a variance would be appropriate in this case. Commissioner Huber stated that it seems precedence has been set wherein it is easier to ask for forgiveness rather than permission. It seems there is a lot being crammed into this space and the pictures do not do justice to the amount of stuff that is on the property.

A final invitation was given to come forward to speak for or against the request for consideration of a variance to Section 105-4-1 of the City Code of Ordinances related to the A – Agriculture zoning district.

(Mayor Helbling was excused from the meeting at this time.)

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any further comments or questions from members of the Planning and Zoning Commission.

Commissioner Smith motioned to recommend approval of the setback variance from Section 105-4-1 of the City Code of Ordinances related to the A-Agriculture zoning district setbacks, and to permit the variance request due to the following hardship that the current setbacks do not provide enough room for the existing buildings or provide the necessary space for the additional buildings and to modify the staff findings of fact. Commissioner Leingang seconded. The motion passed with the following vote: Leingang-aye, Huber-nay, Buchmiller-aye, Smith-aye, Hammond-nay, Gardner-aye, Robinson-aye.

OTHER BUSINESS

1. Parking Space Requirements in the Fringe District

Planner Stromme reported that Amanda Harris recently contacted the Planning Department to address concerns with the Planning and Zoning Committee regarding parking space requirements in the fringe district.

Amanda Harris came forward and stated both her and her husband live and work in Mandan. They own two businesses and two commercial properties with anticipation to expand one of the businesses, however, the property was under contract and did not pass inspection. They are looking at other property options and the issue comes down to the Mandan Zoning Ordinance and its interpretation by staff. One property is located in the Fringe District. Ms. Harris provided a packet of information for each of the commissioners present and she referenced documents contained within the packet during her presentation. The primary problem is parking. The business would be a retail establishment Group A and is allowed by the code. She was denied a certificate of occupancy due to off street parking. She believes it does meet the code requirements for off street parking, however, staff's reading of the ordinance, says it does not meet the off-street parking requirement. She requested clarity on that issue. She proposed to staff that if additional parking is needed, they could make the parking adjacent to the commercial parking lot next door and expand that parking area, however, she was advised that would be rejected because it would not comply with the residency use of the buildings on the block. Of note, the 5-plex next door, has six (6) parking spots. This would be adjacent and match up to the parking spot next door. Per the code, a 5-plex building is required to have ten (10) parking spaces. Ms. Harris requested the Commission provide clarity on her questions and provide to provide her with direction to resolve the parking space issues.

Chair Robinson stated that in mid-November there is going to be a review of the Municipal Code. This could be a discussion item included in that review. Planner Stromme commented that the consultant working on the code review called out the blanket allowance of commercial use in the Downtown Fringe as a conflict with the Downtown Plan that the Board adopted in 2018. They recommended a time to accept that plan. He said he provided Ms. Harris with that information. He invited Ms. Harris to this meeting to share her concerns with the Downtown Fringe.

Chair Robinson commented that this process will be looked at in the near future however there is no date set for a final product completion. Planner Stromme said the plan is to complete the review and to accept the recommended amendments to the ordinances in the fall of 2024.

Ms. Harris inquired if her requests are considered as being denied until the ordinances are completed or can she do something under the current code? Chari Robinson answered with a “yes and no”. Chair Robinson stated he is not familiar enough with the parking ordinance so he is unable to provide a definite answer. He said that these issues will have to be discussed at some of the upcoming meetings before committing to a yes or no response.

Commissioner Huber commented that some of the questions and concerns to be looked into further, are: (1) When the Downtown Core Districts came about, there was intent, that those might have been perceived to be overlays in Ordinance language and at some point, became actual districts. The question is if Retail A, if those are overlays of previous zoning rather than districts, would Retail A be an appropriate use for that particular property or not? (2) If it would be boulevard parking as compared to within the public right of way if some of those spaces are not being counted?

Planner Stromme explained that the ordinance provides that all the parking needs to be on the deeded parcel owned, thus, it cannot be in the public right of way unless it's within the city's parking district. A person would have to possess title to all the property for its parking needs. Ordinance 105.69 there is parking required for downstairs areas, so it is more than just on the ground floor. These are all issues that will be looked into during the ordinance review.

Ms. Harris stated that she believes the code is misconstrued as to what it says at Ordinance 105.16 for off street parking. Parking is the only issue and that remains to be determined at future discussions.

Chair Robinson stated that the documentation and references provided (by Ms. Harris) will be reviewed by this Board as well as by those involved with the rewrite of the ordinances.

2. Final Recommendations from Mandan High School Placemaking Plan.

Planner Stromme presented an update to the Mandan High School Placemaking Plan. The items reviewed include: (1) Project Overview; (2) Responses and comments received; (3) Concept Development; (4) Recommended Design Concept; and, (5) Placemaking Concepts. A final presentation with recommendations will be provided to the Mandan City Commission on November 7, 2023, and to the Mandan School Board also in November. Redevelopment of the site is planned for some time in 2025. Any questions regarding this plan are to be sent to Planner Stromme. The project is also listed on the Mandan City website. This is an informational item, there is no action required on this matter at this time.

ADJOURNMENT

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

The meeting adjourned at 7:07 p.m.