MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
September 23, 2019

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall on September 23, 2019, at 5:30 p.m. CDT.

ROLL CALL

Commissioners Present: Boehm, Klein, Knoll, Leingang, Liepitz, Renner, Camisa, Vayda, Robinson

Commissioners Absent: Klemisch, Helbling, Frank

Commissioner Camisa motions to approve the August 26, 2019 minutes. Commissioner Knoll seconds. Upon vote, the motion passes unanimously.

PUBLIC HEARINGS

1. A request from Linda Betlaf, Darin Thomas, and Tamara Wolt for annexation of Lot 2, Block 2, Bahm's 1st Addition, in Section 2, Township 138N, Range 81W. The property is located at 2503 14th Avenue SE.

A. Staff report

John Van Dyke, city planner, presents. The property owners wish to annex their 1.74 acre property into the City of Mandan to connect to city services that currently run along 14th Ave. SE in front of their property. Upon annexation, they desire to split their property through a minor plat into residential two lots as shown in Exhibit 2. This property is one of four in Bahm's 1st Addition that have yet to annex which will be required in order to connect to city services. No comments from other departments were received regarding this annexation. No additional comments. Engineering and Planning recommend to approve the request for annexation. I move to recommend approval of the property owner request for annexation of Lot 2, Block 2, Bahm's 1st Addition.

B. Open public hearing

There are no comments or questions.

C. Close public hearing

D. Commission action.

Commissioner Leingang motions to recommend approval of the annexation. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

2. A request from Innovative Energy Alliance Cooperative for a variance from the required landscaping ordinance and for standalone offices in support of an allowable industrial activity in the MA Industrial district. Said parcel of land is Lot 3, Block 1, Mandan Industrial Park, in Section 17, Township 139N, Range 81W. The property is located at 2719 34th Street NW.

A. Staff report

John Van Dyke, City Planner, presents. John says Basin is shown as the owner on the application, but a transaction occurred this summer making Innovative Energy Alliance Cooperative (IEAC) the owner. Please disregard any reference to Basin Electric. Innovative Energy is seeking a variance to the site obscuring requirement that applies to public utility service yards. IEAC is also seeking a variance to MA-Industrial to allow stand-alone offices.

This request is coming from a reallocation of assets within the energy cooperative. Through this reallocation the applicant is seeking to divide the existing lot that currently has an office building located on the same property as the utility storage yard. The offices are in support of the utility service yard and broader IEAC administrative activities.

This division would create a non-conforming office building, as it is presently not allowed as a stand-alone structure. As the obscuration requirements apply to all new development, a subdivision would trigger the need to meet the current code requirements.

Below are the requirements under the Mandan Code of Ordinances in granting a variance.

Variance may be granted under the following circumstances (See Sec. 105-1-12):

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

A special circumstance that applies is that the cooperative is a unique entity attempting to reallocate assets within the entity itself. No change in use is expected on either of the proposed lots – utility service yard or office.

2. For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of said land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant; For the cooperative to function as it sees necessary at this time, a division of the property and reallocation of ownership within the entity itself is required. A division would trigger a non-conforming use for stand-alone offices and trigger the requirement for site obscuration of the utility yard.

Further, the land is presently surrounded by industrial uses. Requiring site obscuration due to a reallocation of assets within the same entity is overly burdensome.

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

The unique characteristic of this application is that the property is cooperatively utilized and will continue to be cooperatively utilized by the same partners. The use will remain unchanged and a granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. No comments from other departments were received regarding this request. Engineering and Planning recommend approval of the variance with the provisions noted in Exhibit 3 for the rationale outlined in Exhibit 4.

Exhibit 3 - Provisions of Variance

The following provisions of the variance shall apply:

1) Stand-alone offices shall be in support of an allowed use of the zoning district that the subject property is located within.

2) The site-obscuration requirement for a utility service yard is granted.

Exhibit 4 - Rationale for Approving Variance

- An internal redistribution of assets in support of the energy cooperative is the basis for this request. A division merely to reallocate assets within the same entity for the same use and character is a reasonable use of land.

- Without the granting of the variance in this case, the energy cooperative would be unnecessarily burdened by the zoning ordinance where no perceptible change in function or use is to occur.

- The utility service yard is entirely surrounded by industrial activities and currently not site-obscured.

Collectively, not individually, the above provide rationale to grant the variance.

Commissioner Liepitz asks if a plat will be coming as the application shows a plat as well. John says a plat will be forthcoming. Today we are only considering the variance.

Commissioner Renner asks if the variance stays with the property or the current land owner. John says the property.

B. Open public hearing

There are no comments or questions.

C. Close public hearing

D. Commission action

Commissioner Liepitz motions to recommend approval of the variance. Commissioner Klein seconds. Upon vote, the motion passes unanimously.

3. A request from Val Renner and Janet Dykshoorn for a preliminary plat named Evergreen Heights 3rd Addition, a zone change, annexation and masterplan of 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 request is to change the zoning from A-Agricultural to CA-Neighborhood Commercial for Lots 1-3, Block 1 of the proposed Evergreen Heights 3rd Addition plat. The property is located on the west side of Highway 1806 S.

A. Staff report

John says a different version was before Planning & Zoning and City Commission a few months ago. 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 property requesting to be platted totals 4.04 acres, with a further five (5) acres being part of a masterplan. The master planned area is not being requested to be annexed, platted, or rezoned at this time.

Mr. Renner would like to erect shop condos to for his landscaping business and to house similar contractor businesses on Lot 3, Block 1 of the proposed plat (See Exhibit 2 and 3). Lot 1 is intended for similar use as Lot 3. No residential uses are desired on these lots. Ms. Dykshoorn would like to maintain her single-family dwelling on Lot 2, Block 1.

Lots 1 through 3, Block 1 is seeking CA – Neighborhood Commercial zoning. Staff is recommending the same restrictions that applied to these lots at the previous P&Z meeting on April 22, 2019. At the time, these restrictions were amenable to both adjacent property owners and the applicant.

The master plan shows single-family residential being constructed along the west of a proposed north-south future road titled "Living Water Drive." These are Lots 1-8, Block 3 on the masterplan. Future zoning for Lot 1, Block 2 of the masterplan is RM – multi-family.

The development proposed does not align with the comprehensive plan for the city. Despite this, staff is providing recommendation for approval based on the rationale in Exhibit X.

Several external agency and internal department comments were previously received. The requirements for final plat were constructed based on these comments.

Engineering and Planning have included a list of zoning restrictions for the proposed zone change. These are unchanged for Lots 1-3, Block 1 from the April 2019 hearing.

Engineering and Planning recommend to approve the request for annexation, zone change, and preliminary plat for the reasons outlined in Exhibit 4, subject to changes incorporated into the final plat as outlined in Exhibit 5, and restricted to uses on each lot per Exhibit 6.

Exhibit 4 - Rationale for Deviating from Land Use and Transportation Plan:

1) As the facility is operated and maintained by NDDOT and as they have provided approval of the layout as presented, there appears to be no substantive reason for the connection of 16th St. SE from 14th Ave. SE to 1806 S. at this time. The future land use map shows commercial in a large portion of this area. Without a direct access to 1806 S, commercial uses on Lot 1, Block 2 of the masterplan would require commercial traffic to travel through single-family residential.

2) Single-family residential on Block 3 of the proposed master plan is an accommodation of adjacent property owners and amenable to the applicant. As, both neighbors and the current property owner desire to see the property developed in this manner where the proposed "Living Water Drive" becomes the buffer to non-single-family uses, this zoning designation is more harmonious.

3) Commercial on Lots 2 & 3 of the proposed preliminary plat would utilize one of two existing approaches onto 1806 S and vacate the other. This is desirable, as it moves the arterial further toward optimization (efficiency/safety). Lot 1, Block 1 will utilize access onto 15th St. SE.

The corridor along this area is a combination of multi-family and commercial. This proposal would align with the character of the similarly positioned properties in this area.

Exhibit 5 - 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 6 - Recommended Zoning Restrictions by Lot/Block

Lot 1, Block 1

a. Single-family dwelling.

b. Two-family dwelling.

c. Multifamily dwelling.

Office-bank Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted; professional services.

Lot 2, Block 1

a. Single-family dwelling.

b. Two-family dwelling.

c. Multifamily dwelling.

Office Use Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted, Professional services;

Lot 3, Block 1

Office-bank Group Uses

Insurance or real estate;

Private company - Shop condos for contractor-related activities to include:

- Landscaping, electrician, plumbing, HVAC, drywall taping, and;
- Carpenters, where no milling, cutting, or other wood machining is conducted Professional services;

Commissioner Liepitz asks why this is back and what has changed. John says the previous version had a provision that they had to vacate the access to Ms. Dykshoorn's property. She did not want to give up her current driveway. The NDDOT would not give their blessing without that vacation of her access. There would have been too many accesses onto 1806 with 16th Street coming all the way through to 1806. The proposed masterplan zoning is also different. They are going to keep the single-family residential along the west side of Living Waters Drive. The other large lot that was slated for commercial they are now asking for multi-family.

Commissioner Renner asks which driveway to going to provide access for Lot 3, Block 1. John says they will share Ms. Dykshoorn's approach. These two properties will not have access to 16th Street in the future. 16th Street will not go through to 1806.

A. Open public hearing

Wade Meschke, 1810 14th Avenue SE. In talking to some of his neighbors, they seem to have no objections to the plan. He thanks the applicant for listening to neighbors. He asks John

what the maximum density would be for the multi-family on Lot 2, Block 1. John says RM allows for 30 units per acre. He would like to go on record to say they are concerned about that big of a building and it would create a lot more traffic. He asks Planning & Zoning to consider restricting the multi-family.

Commissioner Liepitz asks what access would the multi-family lot, Lot 2, Block 1 be using. John says more than likely they would be using 16th Street extension/Living Water Drive. He does not see NDDOT granting another access onto 1806.

B. Close public hearing

C. Commission action

Commissioner Liepitz motions to recommend approval of the zone change, annexation and masterplan. Commissioner Camisa seconds. Upon vote, the motion passes unanimously.

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

Meeting adjourns at 6:08 p.m.