

MANDAN PLANNING AND ZONING COMMISSION
MANDAN CITY HALL
Monday, September 26, 2022

The Planning and Zoning Commission of Mandan duly met in session in the Commission Meeting Room of the Mandan City Hall on Monday, September 26, 2022, at 5:30 p.m. CST. City Hall will be open for this meeting. If you would prefer to appear via video or audio link, please provide your contact information to andrew.stromme@cityofmandan.com. Planning & Zoning Commissioner members may be attending this meeting remotely.

ROLL CALL

Commissioners Present: Leingang, Horn, Helbling, Liepitz, McLean, Frank, Camisa, Vayda and Robinson. Commissioners Absent: Mehlhoff.

MINUTES

Commissioner Liepitz motioned to approve the August 22, 2022 minutes as presented. Commissioner Horn seconded the motion. Upon vote, the motion passed unanimously.

PUBLIC HEARINGS

1. A request from EBCMGL 16 LLLP for consideration of a zone change from Agriculture to RM Residential (Multi Family. Said property is Lot 4, Block 2, Rockwood First Add. in Section 16, Township 139N, Range 81W. The property is located on the corner of 31st St. NW and 12th Ave. NW.

A. Staff Report

City Principal Planner Stromme presented.

EMCMGL 16, LLP (Dr. Eric Belanger) requested consideration for a zone change from A – Agriculture to RM – Residential for Rockwood Apartments (Lot 4, Block 2, Rockwood First Addition). This property is located in north Mandan, north of 31st Street NW between 8th and 12th Avenue NW, northeast of Mandan Middle School.

Property History

The property is in Rockwood First Addition and was platted in early 2022. A zone change accompanying the plat initially included this property, however, it was removed due to a potential alternative development opportunity on this property that would have required alternative zoning. The property remains zoned A – Agriculture.

Requested Zone Change

The requested zone change aligns with the City Future Land Use Plan of medium-density residential. The zoning requested would permit the construction of multifamily residential on the property.

Adjacent Zoning and Land Use

Adjacent land uses include multifamily residential, low-density residential, un-platted agricultural land and Mandan Middle School. Adjacent zoning includes A – Agriculture, RM – Residential and R3.2 – Residential.

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, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Planner Stromme reported that staff has not received comments related to this item. Eight (8) letters were sent to adjacent property owners. The following items were noted:

- A Development Agreement exists for this subdivision.
- Multifamily construction requires MARC review.
- No construction will be permitted to start unless hard-surface road is approved.

Planner Stromme stated that Planning Department staff recommended approval of the zone change from A - Agriculture to RM – Residential for Rockwood Apartments.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request from EBCMGL 16 LLLP for consideration of a zone change from Agriculture to RM (Multi Family).

Chair Robinson inquired if there were any comments or questions.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request from EBCMGL 16 LLLP for consideration of a zone change from Agriculture to RM (Multi Family). Hearing none, this portion of the public hearing was closed.

D. Commission Action

Commissioner Liepitz motioned to recommend approval of the zone change from Agriculture to RM (Multi Family). Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

2. A request from Brandon Zachmeier for a preliminary plat to be named Uncle Louie's Addition. Said property is Lots 2 & 3 of Lot A of the N1/2 of Section 10, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 5718 Rock Haven Harbor Road.

A. Staff Report

City Principal Planner Stromme presented.

Brandon Zachmeier requested consideration of a preliminary plat for a subdivision to be titled Uncle Louie's Addition. The property is located in the extraterritorial area in north Mandan, east of Hwy 1806 North, south of 37th Street North, on east side of Rock Haven Harbor Road North. This Board discussed this matter in June and approved the variance from an Agricultural District to allow an extension of expansion on the property.

Property History

The property was developed prior to 1981. At the time of development, the property was not located in the City of Mandan ETA and was therefore it was developed to county standard. It is zoned A – Agriculture and a variance was granted in 2022 to allow the existing, legal-nonconforming commercial operation to expand, as commercial uses are not allowed in A - Agriculture zones by-right.

The Mandan City Code requires property to be platted prior to building construction. The plat for Uncle Louie's Addition would permit building construction to occur on this property.

Preliminary Plat

The preliminary plat contains one lot in one block and is 6.17 acres in size. Portions of the property on the east (river) side are in the Zone AE – Floodplain.

Property Information

A WAPA Transmission Line bisects the property. The present use is a marine repair and accessory sales facility. A residence and boat launch supporting the business exist on the property. The city has permission from that agency to build on the property. An established screening of mature evergreen trees surrounds the property on the north, west and south property lines.

Adjacent Properties and Land Use

The property and all adjoining lands are zoned A – Agriculture. The Future Land Use Designation is for rural residential. (Exhibit 4). Adjacent land uses are residential and agricultural in nature. The City Extraterritorial Area extends to 37th Street N, roughly 500' north of this property.

Findings of Fact Preliminary Plat

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

Planner Stromme reported that no comments were received related to this request. Seven (7) letters were sent to adjoining property owners notifying of the hearing. No new approaches to Rock Haven Harbor Road are being proposed.

Planner Stromme stated that the Planning Department staff recommended approval of the preliminary plat for Uncle Louie's Addition. Brandon Zachmeier was available to answer questions regarding this matter.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request from Brandon Zachmeier for a preliminary plat to be named Uncle Louie's Addition.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request from Brandon Zachmeier for a preliminary plat to be named Uncle Louie's Addition. Hearing none, this portion of the public hearing was closed.

D. Commission Action

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

Commissioner McLean motioned to recommend approval of the preliminary plat to be named Uncle Louie's Addition. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

3. A request from James and Kelsi Hach for consideration of a final plat to be named Rafters at Hach Creek Add. and a Special Use Permit. Said property is Auditor's Lot E and Lot A of Tract 7B-1 of Section 7, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located along 56th Ave NW.

A. Staff Report

City Principal Planner Stromme presented.

James and Kelsi Hach requested approval of a final plat for a subdivision to be named Rafters at Hach Creek Addition and a Special Use Permit for multi-use shops on the property. This property is located in the extraterritorial area in NW Mandan, north of Old Red Trail and west of 56th Avenue NW near the Roughrider subdivision.

Special Use Permit for Multi-use shops

The proposed multi-use shops would consist of twenty-eight (28) units in four (4) buildings on Lot 1. A site plan is included as Exhibit 7 and a rendering of the structures is Exhibit 8.

Final Plat

The final plat is 17.69 acres in size and contains four (4) lots in one block.

Right-of-Way, Utilities, Easements and Access

One-hundred feet (100') of right-of-way has been dedicated for 56th Avenue NW. Thirty-foot (30') access easements provide access to all lots within the subdivision from 56th Avenue NW beltway. Fifteen-foot (15') utility easements are shown to all lots. A storm water and draining easement, as well as the wetland delineation are shown in areas across Lots 1-4.

Adjacent Zoning and Land Use

Adjacent properties are zoned R7 – Residential, CB – Commercial and A – Agriculture. Adjacent land uses include low-density residential, agricultural implement and planned low-density residential/commercial mix.

Findings of Fact

Final Plat

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

7. The proposed subdivision would not adversely affect the public health, safety, and general welfare.

Planner Stromme reported that staff has not received any comments related to this item. Thirty-Eight (38) letters were sent out to adjacent property owners. The following items were noted:

- There is a creek/stock dam on this property. Both are listed on the State Wetlands Map. These are delineated on the plat.
- The proposed subdivision would have, at the time of development, two access points onto 56th Avenue NW. Should beltway plans be realized, or other conditions present themselves, the number of access points will be reduced or consolidated with adjoining properties for proper access control on the arterial facility.
- Right-of-way dedication for 56th Avenue NW aligns with Beltway study recommendation (100' from centerline).
- City Staff is working with NW Mandan Developers on viable paths forward for the alignment of Old Red Trail and for sewer connections. In order to maintain adequate access control near the planned interstate access point; Old Red Trail must shift north to allow a signalized intersection near the DOT.

Planner Stromme stated that the Planning Department staff recommended approval of the Special Use Permit and Final Plat for Rafter's at Hach Creek addition with the condition that a final utility servicing plan is approved by City staff prior to the City Commission ratification of the Special Use Permit and approval of Final Plat. The surveying engineer for the project was present to answer any questions.

Chair Robinson inquired if there were any questions at this time.

Commissioner Camisa inquired about the east side of Lot 2, where there is an access easement that is running concurrently with the utility easement. Is that correct? Planner Stromme replied "yes" that is correct. Commissioner Camisa inquired if that access easement is intended for the public use or is it tied in with any of the utilities that are dedicated to the city? Planner Stromme replied that he will defer to the surveying engineer for further clarity, stating that he believes it is for the residents going to and from the property in the subdivision. Commissioner Camisa stated that when looking at the dedication statement he did not see anything in it for access and it appeared there was language in there for the utilities. He wondered if it was for the city and the intention was to have that included in that particular paragraph, however, that should probably be included in the final plat. Planner Stromme stated he will work with the development team to assure that's included for its review by the City Commission.

Commissioner Liepitz inquired if the Special Use Permit, assuming it's approved, will that get recorded with the plat, or how does that process work? Planner Stromme replied that he does not believe Special Use Permits are recorded because it references the legal description, thus he said it could possibly be recorded, however, it is filed with the City Planning Department Office. Commissioner Liepitz inquired if the land is sold, does it carry with the fee interest on the property? Planner Stromme replied that without that step, he believes it will be missed so it may be advantageous to do so. He offered to look into that process.

Chair Robinson inquired if there were any questions at this time.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request from James and Kelsi Hach for consideration of a final plat to be named Rafters at Hach Creek Addition and a special use permit.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request from James and Kelsi Hach for consideration of a final plat to be named Rafters at Hach Creek Addition and a special use permit. Hearing none, this portion of the public hearing was closed.

D. Commission Action

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

Commissioner Liepitz motioned to recommend approval of the final plat to be named Rafters at Hach Creek Addition and a Special Use Permit with the condition that a final utility servicing plan is approved by city staff prior to City Commission ratification of the Special Use Permit and approval of the Final Plat. Commissioner Horn seconded the motion. Upon vote, the motion passed unanimously.

4. A request from Tyrina Townsend for consideration of a Special Use Permit. Said property is Lot 4, Block 52, Mandan Proper of Section 27, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 505 Collins Avenue.

A. Staff Report

City Principal Planner Stromme presented.

Shirley's Shining Star Daycare, represented by Tyrina Townsend, requested consideration of a Special Use Permit for a Child Care Facility Day Care Center to be located at Lot 4, Block 52, Mandan Proper Addition, 505 Collins Avenue. The property is in central Mandan, on the west side of Collins Avenue and north of 4th Street. He indicated on the overhead map, that this area is near St. Joe's on Collins Avenue. Earlier this year there was a request to convert a home into a preschool center, just north of this area on Collins Avenue at 13th Street.

Property History

The existing property contains one residential structure, a carport and a shed. City permit data from the construction period is unclear, but is believed the residence is from the late 1800s or early 1900s.

Proposed Daycare Center

Day care centers in Mandan require a Special Use Permit with an exception for in-home daycare as a home occupation, which permits up to twelve (12) children. In the DF – Downtown Fringe district. Daycare Centers are permitted under the provisions of Section 105-1-5. The applicant is requesting to have up to 30 (thirty) children which will maximize the use of the day care facility as allowed by the city ordinance.

From a zoning perspective, in order for this facility to be used as a day care center, the following must be met:

1. Facility must receive State approval prior to issuance of occupancy permit.
2. 35sf of interior play area must be provided per child.
3. 75sf of outdoor play area must be provided per child.
4. Onsite parking shall consist of one space for the manager, each employee, and one per twelve (12) clients for a total of six (6) parking spaces required. Included in the agenda packet is what the applicant submitted for the home. The actual useable room space in the home, excluding hallways, closets and stairwells, etc., there will be 1,075 sq. ft. of useable space.
5. Drop-off and pick-up spaces shall be off-street and separate from parking areas.

Additional requirements may come from State licensing, Building, and Fire Codes. These may include exit sign illumination, fire suppression or other treatments.

Planner Stromme included staff findings related to these minimum requirements for the special use in Exhibit #7. A draft Special Use Permit was also included and marked as Exhibit #5.

Adjacent Zoning and Land Use

Adjacent land uses include residential and institutional (St. Joseph's Church/School). Adjacent properties are zoned DF – Downtown Fringe.

Planner Stromme reported that at the time of the publishing of the agenda packet, staff received one (1) letter of support for this item. A phone call was also received from one of the neighbors that received a letter. A total of ninety-five (95) letters were sent out. The Building Inspections and Fire Department staff have provided the applicant with a list of required improvements for the proposed use to move forward:

- Due to the residential nature of adjoining properties, staff recommends restricting the number of children outside at any time to twelve (12) as this would be permitted by right as an in-home facility.
- The applicant proposes to operate a 24-hour facility, however outdoor play would not occur after dark.
- Staff recommended restricting signage to be no larger than a 2-sq. ft. of double-sided non-illuminated signage to be installed in the front yard of the property. No signage is to be affixed or altered to the structures.

- Pick-up and drop-off shall not occur later than 8:00 p.m. or earlier than 6:00 a.m. unless an emergency or last-minute need requires doing so.

Planner Stromme stated that the Planning Department Staff recommended approval of the Special Use Permit (Exhibit 8) as drafted for a Day Care Center in-home facility to operate on Lot 4, Block 52, Mandan Proper Addition (505 Collins Avenue) contingent that all Building and Fire Code requirements are met by the applicant. The applicant was available to answer questions.

Chair Robinson inquired if there were any questions at this time.

Commissioner Liepitz inquired if the Special Use Permit #4 relates to the onsite parking? It's one space for the manager, each employee, and one per twelve (12) clients for a total of six (6) parking spaces. Is the presumption that there will be six (6) onsite off-street parking spaces? Planner Stromme stated that he discussed this with the applicant and they penciled out how six (6) parking spaces could be provided on the property in addition to the alley parking in the rear of the home that would be separate from pick up and drop off. Six (6) parking spaces were chosen because that amount would be adequate to provide for up to 30 clients and there would also be additional parking for the manager and two staff members. Commissioner Liepitz inquired where the additional drop off and pick up spaces would be that are separate from the six (6) already allotted? Planner Stromme explained that the lot is deceiving considering how deep it is – he pulled up the map and indicated and explained the parking areas in question. There is a carport area that would accommodate six (6) spaces, per the dimension on the vehicle for a 20-foot x 8-foot area, thus the six (6) vehicles could fit in the driveway and an additional two (2) more in the rear. The proposed pickup and drop off spaces would be the two (2) spaces that are not parked in and are closest to the public right of way.

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

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request from Tyrina Townsend for consideration of a Special Use Permit.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request from Tyrina Townsend for consideration of a Special Use Permit. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any other questions or comments on this request.

Commissioner Camisa motioned to recommend approval of the Special Use Permit as presented for a Day Care Center in-home facility to operate on Lot 4, Block 52, Mandan Proper Addition at 505 Collins Avenue contingent that all Building and Fire Code

requirements are met. Commissioner Vayda seconded the motion. Upon vote, the motion passed unanimously.

5. A request from Mitzel Builders, Inc. for consideration of a zone change from RM (Multi Family Residential) to CB (Commercial). Said property is Lot 2, Block 3, Lakewood 6th Addition of Section 1, Township 138N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 3215 Lakewood Drive SE.

A. Staff Report

City Principal Planner Stromme presented.

Mitzel Builders, Inc (Lee Mitzel) requested consideration of a zone change from RM – Residential to CB – Commercial with restrictions for Lot 2, Block 3, Lakewood 6th Addition. The property is located in southeast Mandan, north of the City Waste Water Treatment Plant (WWTP) on the west side of 40th Avenue SE.

Property History

The property was platted into Lakewood 6th Addition. The present land use is undeveloped with portions of the property being wetland mitigation areas from other Lakewood developments.

Requested Zone Change

The requested zone changes from RM – Residential to CB – Commercial with restrictions would limit development on the site to cold storage of boats and recreational vehicles. A draft version of the zone change ordinance was provided (Exhibit 2). The developer’s proposed plan includes a fenced, access-controlled marine and recreational vehicle storage facility and cold storage building. The applicant already has structures located on this property for the use as proposed.

Adjacent Zoning and Land Use

Adjacent zoning includes R7 – Residential, A – Agriculture, CB – Commercial and RM – Residential. Adjacent land uses include low-density residential, commercial and the WWTP.

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 generally consistent with the Future Land Use Plan, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

Planner Stromme reported that staff has not received any comments related to this item. Forty-nine (49) letters were sent to adjacent property owners. The following were noted:

- Public Works and Fire Staff request hard-surface for portions of the parking areas and drive lanes used to access the proposed structure. A track-out pad is required if gravel is to be used in storage areas. This is to be evaluated by City Engineering and Public Works staff.
- Per Section 109-3-1 (6) – Land Subdivision; Zoning Screening, a buffer consisting of a 6-foot privacy fence and boulevard landscaping will be required for site development, if approved.
- The site engineer has proposed a storm water management plan that would not result in impacts to the wetland area.
- Site development would be limited to one (1) structure on the property.
- Signage is restricted to a non-illuminated, limited to 4 sq. ft. sign on 40th Avenue SE and a non-illuminated, 1 sq. ft. sign per access point on 39th Avenue SE.
- Staff to explore ability to include site plan restrictions (lighting, fencing, etc.) in a Development Agreement or in the Zone Change ordinance.
- On-site lighting must be completely downcast and designed not to spill over onto adjoining properties.
- While not a high-density residential development as the Future Land Use Plan recommends, it may be appropriate due to the volume of odor complaints for the WWTP to not develop the property as residential.

Planner Stromme stated that the Planning Department staff recommended approval of the zone change from RM – Residential to CB – Commercial with restrictions listed in the Ordinance for Lot 2, Block 3, Lakewood 6th Addition. Members of the Development Team were available to answer questions.

Chair Robinson inquired if there were any questions at this time.

Commissioner Liepitz inquired about the list of restrictions outlined in the staff report, however, he stated that he did not see any of those listed within the ordinance. Should there be an updated version of the ordinance wherein a Development Agreement would capture all of those restrictions? Planner Stromme replied that he did not see a standard zone change ordinance in the city's records that included site plan restrictions. There are "Use" restrictions but the site plans did not have precedence. He said he is currently working with Attorney Oster on this matter to see if that could go in the Zone Change Ordinance or if it would best be included in a Development Agreement. Either way, he will look for an item to be recorded with this action so that the request is held to the Commission's approvals. Thus, it will either be in the Zone Change Ordinance or in a Development Agreement.

Chair Robinson inquired if there were any questions at this time.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request for consideration of a zone change from RM (Multi Family Residential) to CB (Commercial).

Brian Zuroff, a civil engineer with Mountain Plains, representing the developer Mr. Mitzel, came forward. He offered to answer any questions regarding this project. Chair Robinson inquired if the intent of the Storm Water Plan is to get it to the street? Mr. Zuroff explained that the Storm Water Plan is the area that will be used as track-out pads and that would be to get it to the street so it's away from the Wetland area. Everything else will be planned to have earth and berm run along all the wetland side so all those points are contained into a catch basin that would allow gravel, etc. before it would be discharged to a wetland.

Chair Robinson inquired if there were any questions regarding this request.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request for consideration of a zone change from RM (Multi Family Residential) to CB (Commercial). Hearing none, this portion of the public hearing was closed.

D. Commission Action

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

Commissioner Liepitz motioned to recommend approval for a zone change from RM (Multi Family Residential) to CB (Commercial) with restrictions for Lot 2, Block 3, Lakewood 6th Addition subject to incorporating the variance restrictions set forth in staff's recommendation as presented and listed above whether it be through a Development Agreement or Ordinance. Commissioner Horn seconded the motion. Upon vote, the motion passed unanimously.

6. A request from David Barth for consideration of a setback variance. Said property is the North ½ of Lot 20 and all of Lot 21 & part of vacated 7th Ave NE, Block 1, Helmsworth-Mcleans Add. of Section 26, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 108 6th Ave NE.

A. Staff Report

City Principal Planner Stromme presented.

David Barth requested consideration of a variance from Section 105-4-2.2 (c)(6) of the Mandan City Code of Ordinances related to *DF – Downtown Fringe; Dimensional Standards; Rear Yard Setback*. The property is located in central Mandan on 6th Avenue Northeast between Main Street and 1st Street Northeast at the Conoco intersection. The property is currently used as commercial.

Requested Variance

The requested variance, if granted, would permit the placement of a 15' x 20' accessory building in the rear of this property between the principal structure and rear property line. In order to accommodate 5-feet between the proposed building and existing structure, only 5-feet would be left between the rear property line and accessory building. The Mandan City Code requires a 10-foot rear yard setback in the DF – Downtown Fringe District when bordering a residentially-zoned property. While the adjoining residence is in the DF – Downtown Fringe District the development on residential properties in the Fringe District uses RM – Residential ordinances, a residential classification. It is believed to be the spirit of the code to use a 10-foot rear yard setback on this property due to the neighboring residential use.

The placement of this structure would not increase the lot coverage amounts beyond those permitted. It would require no additional parking than what is presently provided.

Property History

The current structure on the property was built in 1985. Current and previous uses are primarily related to automotive repair and vehicle servicing. The variance is being requested for the rear portion of the area. The proposed building would encroach into the rear area setback for the Downtown DF-Downtown Fringe district that's 10 feet from the rear property line. The applicant is requesting to build on that side and it will either be a building that is brought in or constructed on site to this property. The applicant desires to build closer to the structure.

Adjacent Zoning and Land Use

Adjacent land uses include low-density residential and commercial services. Custer Elementary School is one block to the north. All adjacent properties are zoned DF – Downtown Fringe. The nature of the city's code is to require a 10-foot setback adjacent to residential uses. The way the code is written, it states residential zoning however, the way it is being looked at is that the property that is directly across the alley is a residential property. If the city were to review Planning and Zoning activities on that property it would be looking at the RM Residential zoning district for that because the fringe falls back on the RM, thus it is somewhat already zoned residential. The way the code is written, there is basically no reason that would only be adjacent to residential use because there are only so many places where the fringe lines up with true residential zoning district. There is a possibility that the fringe was being utilized as an overlay and there would be underlying zoning however it is not clear where those districts are located. He stated he would recommend the 10-foot for the fringe due to the number of blocks that combine commercial and residential due to the way the properties are viewed. Commercial zoning does not necessarily have a setback unless it is adjacent to a residence (which it is) and the residence is subject to residential zoning. Information regarding variances was included in the agenda packets.

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 and 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.

Planner Stromme reported that the Planning Department staff has not received any comments related to this item. Eleven (11) letters were sent to adjacent property owners notifying them of the request. The following items were included in the information:

- The reason 5-feet is needed between the existing structure and the proposed accessory building relates to fire suppression requirements of the city's Building and Fire codes. The distance of 5-feet is enough to not trigger the need for improvements.
- Staff recommended, if granted, that the structure finished will be similar to the principal structure.
- No driveways or doors may face the alley.

Planner Stromme stated that the Engineering and Planning Staff recommended the Board to review of the request and Findings of Fact identifying a hardship to forward to the City Commission and modifying the Findings of Fact to support the motion that would include the conditions outlined above. See information provided in the agenda packet for a guide to assist Commissioners with review, criteria and motions related to variances. David Barth was available to answer questions regarding this request.

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

Chair Robinson inquired if Planner Stromme sent a follow up email that addressed the fire proof wall, thus, if a motion is made, should that be included in the motion? Planner Stromme replied "yes", that is correct.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request from David Barth for consideration of a setback variance.

David Barth came forward and extended a thank you to the Board for reviewing his request. He explained that his plan is to stay in line with other resident located in this property area. To the north of his building there is a garage there that has been measured and it appears to be approximately 5 feet off from the back of the alley. That's why he wants to keep his

building in line with that. There would be a walk-in door on the west end of the building, The garage door would be a 4-foot roll up door that would face to the north so it will not exit out the east side. It will be a 20-foot-wide building, north to south, and 16-feet, east to west. The structure next door to his property belongs to the Cenex Corporation and there is work in progress to have them acquire the building due to implementing plans for a new car wash facility there. He anticipates getting the property from these people and then would modify the building according to the specifications they are looking at for the 20' x 16' building to fit on their property.

Chair Robinson inquired if there were any questions for David Barth.

Planner Stromme presented a photo that depicted the garage that Mr. Barth referenced.

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request from David Barth for consideration of a setback variance. Hearing none, this portion of the public hearing was closed.

D. Commission Action

Chair Robinson inquired if there were any other questions for Planner Stromme. He inquired if the Commission agrees with the hardship for the variance request?

Commissioner Camisa commented that the Findings of Fact for the variance are all stated in the negative, thus if the Commission approves, should they not have that in the affirmative? Planner Stromme explained that the Findings can be modified, if necessary, by this Commission thus, you are able to make a motion to modify the hardship to support the Findings, however, you would not need to modify all of them. Commissioner Liepitz inquired if the city knows any history about the other building that is 5 feet off the alley? Planner Stromme replied that he is not aware of any history specific to that structure on how it came to be. The neighborhood is old, thus it could have been constructed prior to the ordinance. It is also worth noting that the way that property is set up it would be considered a side yard, it's not facing the alley. He said that the garage will be torn down pursuant to a conversation he had with the property owner.

Chair Robinson inquired if there were any other questions relative to the variance request?

Commissioner Camisa motioned to recommend approval of a variance from Section 105-4-2.2 (c)(6) of the Mandan City Code of Ordinances related to DF – Downtown Fringe; Dimensional Standards; Rear Yard Setback; to reduce the required rear yard setback on this property to Five (5) feet due to hardship and that the request for variance would accomplish the lease sought by the applicant and that the provisions of the zoning code creating the hardship by depriving use of land that is reasonable subject to the Findings of Fact. Commissioner Leingang seconded the motion. Upon vote, the motion passed unanimously.

7. A request from LH Holdings, LLC for consideration of a final plat to be named Lakewood 10th Add. and a zone change reconfiguration of R3.2 (Two Family Residential) and RM (Multi Family Residential). Said property is Lots 1 & 2, Block 1, School District 7th Addition First Replat of Section 1, Township 138N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 3701 24th St. SE.

A. Staff Report

City Principal Planner Stromme presented.

LH Holdings, LLP requests consideration of a final plat for Lakewood 10th Addition. The property is located in southeast Mandan, west of the new Lakewood elementary school on the southeast corner of 34th Avenue SE and 24th Street SE.

Final Plat

The proposed preliminary plat contains 25 lots in one Block. Lot 1, Block 1 is Lakewood Elementary School. Lots 2-25 are proposed to be accessed from 24th Street SE and 34th Avenue SE. The proposed plan would be for twelve (12) twin-home structures containing a total of twenty-four (24) units to be built (4 units/acre).

Zone Change

The requested zone change is necessary to ensure the proposed lot configurations are contained within no more than one zoning district. As requested, all of the elementary school would be placed in the RM – Residential district and all twin homes in the R3.2 – Residential district.

Property History

The property was platted in to School District 7th Addition in 2020 and School District 7th platted in 2021. It was rezoned from RM – Residential to R3.2 – Residential in 2021. A separate zone changes to R7 – Residential was requested and withdrawn in 2022. A land-use plan amendment completed in 2021 updated the designated future land use to low-density residential.

Zoning and Land Use

The property is predominantly zoned R3.2 – Residential, however portions are zoned RM – Residential (See Exhibit 5). While a twin-home is a permitted use in both districts, a zone change alongside the final plat would be required if the plan is approved, as no structure or lot can be located in more than one zoning district.

Utilities + Access

Access to the proposed lots would come from 34th Avenue and 24th Streets SE. The development team is proposing a private looped water line and shared sewer services. A ten-foot (10') utility easement runs along the front of each lot.

Findings of Fact

Final Plat

1. All technical requirements for approval of a final plat have been met;

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

Zone Change

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

Planner Stromme reviewed the following comments:

- Due to the established nature of the neighborhood street network, and no service lines being stubbed out, Public Works and Engineering request a plan to reduce the necessary number of cuts into the street. A utility servicing plan has been requested for review.
- City staff initially recommended restricted or no-parking in the winter on the development side of 24th Street and 34th Avenue SE however this will be lifted. City staff and the applicant after the agenda packet was distributed. The applicants are proposing a driveway treatment that has a little more curved space for parking and the city is comfortable with the plan submitted.
- Floodplain Development procedure including a LOMR, LOMR – F and City Floodplain Development Application have been initiated.
- This subdivision will be subject to a development agreement (See: Exhibit 5)
- Staff is working with the development team on a utility servicing plan for the proposed development.
- A total of ninety-one (91) letters were sent to adjoining property owners. As of the publication of this packet, no comments were received.
- Boulevard landscaping will be required for this subdivision.
- A Homeowner's Association will need to be created for the shared water line. Shared Use Agreements will need to be recorded for combined sewer lines.

When reviewing other submittals on the lots he stated that Exhibit 6 shows the general footprint of where the twin home structures will be located. The concern with the driveway treatment was that the City Code allows a driveway up to 36 ft. and there can be a flare on both sides so there could be a total of 44 feet of the curb where Public Works cannot put snow, thus there were concerns about where to put snow. The proposed driveway treatment would preserve them for vehicles to park in between each cut and provide some space for snow storage. The amount of curve per lot would be restricted to no more than 22 feet of driveway per lot. They are twin homes and a twin-home driveway would be 44 feet wide but no lot could have more than 22 feet. With that configuration a standard lot would have 26 feet in between the driveway and to the curb would be 26 feet in that area, 30 feet in between others. Some of the bends will exceed 55 feet. One vehicle is about 22 feet long with some at 23 feet for the SUVs and pickups and similar vehicles. An inset flare photo was shown wherein the driveways go straight out to the street (from its garage) which is what the developer is proposing. A more conventional standard approach to driveways where it makes it 8 feet wider by adding the triangle flare on both sides. By not doing that and by having all the driveway transition occurring in a straight fashion, the savings come out to 8 feet per curb per structure over the course of 12 twin-home units, a savings of up to 100 feet of curb.

Planner Stromme stated that the Planning Department staff recommended approval of the Final Plat for Lakewood 10th Addition and the zone change to modify the boundary of the RM – Residential and R3.2 – Residential district related to the plat. The Development Team was present to answer questions.

Chair Robinson inquired if there were any questions at this time.

Commissioner Liepitz inquired as to on the map that depicts the zone change – what is changing from current zoning? Planner Stromme explained that nothing is changing, rather the property line as it currently stands (indicating on the map the location), are the ways these overlay on the top of it because technically they are in the RM and R3.2. The school could have a portion of R3.2, however, the city does not allow a lot to have more than one zoning designation so while it only stays within a few feet of the yard that really needs to be changed. He provided information on the map wherein the R3.2 follows the parcel that exists. If the development is overlaid, RM would technically need to be (showed the location) wherein R3.2 would actually be moved because the proposed development is actually larger in some ways and smaller in some ways in the parcel shown. The zone change is to slightly enlarge the R3.2 in one area and reduce it in another area.

B. Open Public Hearing

Chair Robinson opened the public hearing and invited anyone in the room or on the phone to come forward to speak for or against the request from LH Holdings, LLC for consideration of a final plat to be named Lakewood 10th Addition and a zone change reconfiguration of R3.2 (Two Family Residential) and RM (Multi Family Residential).

C. Close Public Hearing

Chair Robinson inquired if there were any comments or questions. A second and third announcement was made to come forward to speak for or against the request for consideration of a final plat to be named Lakewood 10th Addition and a zone change reconfiguration of R3.2 (Two Family Residential) and RM (Multi Family Residential). Hearing none, this portion of the public hearing was closed.

D. Commission Action

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

Commissioner Liepitz motioned to recommend approval of the final plat to be named Lakewood 10th Addition and a zone change to modify the boundary of R3.2 (Two Family Residential) and RM (Multi Family Residential) related to the plat. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

OTHER BUSINESS

1. A request from Shayna Griffiths for consideration of a minor plat. Said property is Lot 9, Block 19, Mandan Proper of Section 27, Township 139N, Range 81W, City of Mandan, Morton County, North Dakota. The property is located at 204 4th Avenue Northwest.

City Principal Planner Stromme presented.

Shayna Griffiths requested approval of a minor plat to be titled Mandan Proper, a Replat of Lot 9, Block 19. He stated that this is not a public hearing because this is not a public hearing matter rather it is a request to split two properties by the applicant. This request would separate the two (2) existing residential structures currently located on one lot and split them by platting out two properties. The property is on the east side of 4th Avenue Northwest between 1st and 2nd Streets Northwest in Mandan. The structures have been there since the early 1900's. The applicant plans to sell and rent the property separately however, because they are all located on one lot currently, that is not possible.

Minor Plat

The existing property is stated as being .16 acres in size and contains two (2) residential structures (Exhibits 2 and 4). The proposed plat (Exhibit 3) would separate the two (2) properties and create a path forward for the structures and properties to be under separate ownerships.

Easements and Access

A pedestrian and utility easement are shown depicting how access can be provided for utility services and pedestrians to the right-of-way for 4th Avenue Northwest. Access to the rear parcel (Lot 2) is to primarily come from 4th Avenue Northwest, although a door presently exists on that residence facing the alley. The Mandan City Code requires Planning and Zoning Commission review of parcels gaining alley access.

Adjacent Zoning and Land Use

Adjacent properties are zoned DC – Downtown Core and DF – Downtown Fringe. Adjacent land uses includes both commercial and residential areas.

Findings of Fact

Minor Plat

1. All requirements for approval of a minor subdivision plat have been met;
2. The proposed subdivision is generally consistent with the intent and purpose of the zoning ordinance;
3. The proposed subdivision is consistent with the Future Land Use Plan, other adopted plans and policies, as well as accepted planning practice; and
4. The proposed subdivision would not adversely affect public health, safety and general welfare.

Planner Stromme reported that the Planning Department staff has not received comments related to this item and that this is not a public hearing item. As this property is located within the Downtown Mandan Parking District, no off-street parking is required, however ample parking exists in the vicinity of this property. The City of Mandan requires a separate water service line to be created for the rear parcel. A Shared Use Agreement will be required for shared sewer infrastructure.

Planner Stromme stated that the Planning Department staff recommended approval of the Minor Plat for Mandan Proper, a Replat of Lot 9, Block 19 with the condition that a separate water service line be added to serve Lot 2, Block 1. The surveyor for the project was available to answer questions.

Chair Robinson inquired if there were any questions for Planner Stromme. Planner Stromme stated that this is not a public hearing, thus no comments were required.

Commissioner McLean motioned to recommend approval of the minor plat for Mandan Proper, a replat of Lot 9, Block 19 with the condition that a separate water service line be added to serve Lot 2, Block 1. Commissioner Horn seconded the motion. Upon vote, the motion passed unanimously.

2. Consider appointment of Will Gardner to the Planning and Zoning Commission Board.

Planner Stromme introduced Will Gardner who was in attendance via tele-conference. Planner Stromme provided the Letter of Intent submitted by Mr. Gardner indicating his interest to serve on the Planning and Zoning Commission Board. Mr. Gardner provided a brief summary of his qualifications to fill the position on the Board. He stated that he would be willing to serve on the Board if he is appointed to do so.

Chair Robinson inquired if there were any questions at this time. He stated that the Board members received copies of Mr. Gardner's Letter of Intent via email. Commissioner Liepitz inquired as to what position the Board is filling? Planner Stromme stated it would be an at-large position, to be filled by an in-city resident. This position is replacing a vacancy on the

Board with its term ending in 2024 or 2025. Planner Stromme will check that date for accuracy.

Will Gardner inquired if there would be a conflict of interest with client representation? Chair Robinson explained that if there would be a circumstance that there would be a direct link to a property wherein if he were representing a property owner or a specific realtor involved posing a conflict, he would most likely have to recuse himself from discussion and voting on the matter being heard before the Board. Should it be a general connection, he believes he would be able to participate in the discussion and/or voting on the matter.

Commissioner Camisa motioned to recommend the appointment of Will Gardner to fill the remainder of the open position on the Board to the Planning and Zoning Commission Board. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.

ADJOURNMENT

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

The meeting adjourned at 6:55 p.m.