

A. ROLL CALL Those present were Ellen Huber, Jamie McLean, Ben Buchmiller, Russell Leingang, Will Gardner, Bill Robinson, Victoria Vayda Hammond, Craig Smith, Tanner IntVeld, Rick Horn.

B. CONSIDER APPROVAL OF MINUTES

1. *Consider approval of January 22, 2024 minutes..*

McLean moved and Gardner seconded to approve Jan. 22, 2024 minutes with review of the roll call and attendance. Roll Call vote: Aye 10, Nay 0 None, Absent Mayor Helbling, Mehlhoff. The motion passed

C. PUBLIC HEARINGS

1. *Consider Setback Variance Request for Kia of Mandan (Lot 1 Block 1 Midway 13th Addition).*

Eide Kia of Mandan is seeking approval to expand their building on the Memorial Highway, having a portion of the building project four (4) ft. into the required front yard setback. The request is for approval of a variance from Sec. 105-3-16 (5) of the City Code of Ordinances related to MC - Industrial District - Front yard. The property is in southeast Mandan along the Memorial Highway SE at 3334 Memorial Highway SE. The applicants are planning a remodel of the dealership facility, including building additions to the east, south, west, and north of the building. The proposed addition to the south, while in-line with the current footprint of the building, lies 4 ft. into the front yard setback (35 ft.) required in the MC - Industrial District. Since there is no record of a variance being granted for the current building, and the proposed addition involving additional building mass within the setback, this variance request is being requested. The property has been used as motor vehicle sales and service facility since the building was constructed in 2006. Prior uses were believed to be industrial in nature. The property is 1.54 acres in size, and is accessed from Memorial Highway in two locations. There is an overhead electrical easement along the north property line. The variance request would allow the construction of the building in the front yard setback. This would reduce the front yard on the property by 4 ft., from 35 ft. down to 31 ft. The proposed building additions to the north, east and west would adhere to setback requirements as a minor plat is planned to follow this request with plans to combine the Kia and former Schmidt auto properties into one and that would alleviate any concerns of a setback on the east.

Planner Stromme presented the following:

Staff recommended approval of this item contingent upon a minor plat;
Staff is working with project design team on a landscaping plan that adheres to gateway requirements;
The minor plat would result in two buildings being on one parcel. In this case, City Ordinances require that a consistent design theme / character be established for the property. Changes are being proposed that would make the look of the secondary structure more consistent with the look proposed for the main dealership building;

The Mandan Architecture Review Commission has conditionally approved the plans.

Planner Stromme recommended reviewing the 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. (See Exhibit 2). If there is a motion made to approve, it should be contingent upon a minor plat following; and being recorded prior to the issuance of building permit.

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

Abe Ulmer, ILSE, came forward and stated he represents the applicant. Regarding the variance, the existing building is already within 4 ft. of the 35 ft. setback. The main issue is that the property is not very wide north to south; it is combined by an overhead large transmission easement. He said they are working on another addition to the north of this and that it is within one to two feet within the easement line. They are working on a minor plat for the three (3) properties (Schmidt Auto (2), Kia (1)); currently Kia is leasing a portion of that; the plan will include either updating the lease or purchasing the property, if possible. Jeffrey Peterson, CEO Eide Ford of Mandan, came forward and indicated he concurred with the information presented by Mr. Ulmer.

Chair Robinson inquired if there were any comments or questions.

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the Setback Variance Request for Kia of Mandan (Lot 1 Block 1 Midway 13th Addition). A second invitation was given to come forward to speak for or against the request.

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

Commissioner Huber motioned to approve the setback variance from Sec. 105-3-16 (4) of the City Code of Ordinances related to the MC - Industrial District Front yard setback, and to permit the variance request due to the following hardship: The unique dimensions easements associated with the property and to modify the following staff Findings of Facts, which is 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 MC - Industrial District; contingent on the minor plat following.

Huber moved and Smith seconded to approve. Roll Call vote: Aye 10, Nay 0, Absent Mayor Helbling, Mehlhoff. The motion Passed.

2. Consider Final Plat for Cat Creek Addition.

A request from Casey & Brooke Breuer for final plat approval of Cat Creek Addition. The property is Auditor's Lot A and Part of the NE 1/4 of Section 13, Township 139, Range 82 of Morton County, North Dakota. The property is located at 2420 County Road 139A. Casey and Brooke Breuer requested consideration of a final plat for Cat Creek Addition, a 17.3 acre, 2-lot subdivision located west of Mandan in the extraterritorial area. A preliminary plat was approved for Cat Creek Addition in 2023. Following

preliminary approval, the applicant revised this request slightly to ensure that the properties to be platted were laid out as desired. The area to be platted has increased in size slightly, however, the outcome of this project has not. The existing land use is agriculture and residential zoned A - Agriculture. A zone change to a residential district has not been requested and is not advised at this time due to not having a zoning district that works well for rural residential uses, and because the A - Agriculture district allows a single-family home on the lot to be platted. The final plat is a 2-lot, one block subdivision comprising 17.3 acres. Lot 1 (8.96 acres) is the location of the planned new home. Lot 2 (8.34 acres) has an existing residence. There will not be any other platted lots. A 40-foot access easement is shown to benefit these properties and provide access to I-94 to public roads. A final plat application and fee was received on January 24, 2024. Legal notices were published on February 16 & 23, 2024 and seven (7) letters were sent to adjacent property owners.

The applicants intend to use an “outlot” process to mutually transfer property. This is not a process that creates buildable lots, rather it allows the applicants to “swap” land and end up owning what they are interested in owning.

Adjacent properties are generally agricultural in nature and are zoned A - Agriculture. The property north/northwest of the subject property is a farm/ranch with a residence. The properties future land use is for low-density residential and commercial. An east- west arterial road is planned in this area in the future. Considering the properties characteristics, the plat and construction of one additional home on this property is generally complimentary with the land use plan. A Development Agreement will be in place.

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 demonstrates an ability for the property to align 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 generally 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

Mark Isaacs, a surveyor with ILSE came forward and explained there are two pieces of land, the larger piece currently is owned by Bruce Strinden and Bob Willis. They own several parcels that make up this area. They plan to line up the property lines by ownership with fencing and those are generally referred to as “outlots”. That will allow the plat to process and to allow recording of the plat of irregular description wherein that ownership will take place; and then they could process the minor plat, sign off and record it simultaneously and deeds would be signed for Bruce Strinden and Bob Willis. The city engineer will sign off on the plat.

Planner Stromme stated that the Planning Department recommended approval of the plat as presented contingent upon a Development Agreement with the city. City Ordinance requires plat approval of subdivisions more than 4 acres and this is 17 acres in the ETA.

Chair Robinson inquired if there were any comments or questions.

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the Final Plat for Cat Creek Addition. A second invitation was given to come forward to speak for or against the request. Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

McLean moved and Buchmiller seconded to approve final plat of Cat Creek Addition contingent on approval of a Development Agreement.. Roll Call vote: Aye 10, Nay 0 None, Absent Mayor Helbling, Mehlhoff. The motion Passed.

3. *Consider Preliminary Plat and Zone Change Request for Shores At Lakewood 2nd Addition..*
TRX Developers requested approval of the preliminary plat and a zone change from A - Agriculture to PUD - Planned Unit Development for the Shores at Lakewood Phase 2. This development is in southeast Mandan, southwest of the Lakewood Elementary School on the south side of McKenzie Drive SE and west of 39th Avenue SE. The Shores at Lakewood Phase 2, is a proposed continuation of the Shores at Lakewood Masterplan which received approval from the City of Mandan in 2022. The proposed preliminary plat is 46.82 acres in size and would contain 126 total lots in three (3) blocks. It would include the dedication of public right of way for future public streets and utilities. The plat generally conforms to the masterplan. The development would be constructed so that Grotto Loop SE and Oxbow Trail SE form a "loop" providing secondary access to the lots in phase 2. Lot 58, Block 2 is intended to be a storm water / amenity lot. Lot 65, Block 1 would be a city sewer lift station. Lots 58-64, Block 1, that are beyond the boundaries of the original masterplan, are proposed to be developed in a manner generally consistent with the zoning in place today. The property, which is zoned R7 - Residential, is proposed to be absorbed into the Shores at Lakewood PUD and developed according to the guidelines in place for R7 - Residential lots in that development PUD, which is generally a setback reduction of one foot. Lot 58 is being contemplated for a dog park and Lot 56 on the plat would be a private park. Lot 57 will be residential. The developer is proposing private streets to serve lots 36 - 64 in Block 1. Several easements are shown on the plat including some to facilitate access, utilities, stormwater conveyance and maintenance of the LHRWRD levee. The requested zone change would place the lots into the Shores at Lakewood PUD which specifies setback requirements and design standards for the various R3.2, R4, and R7 - Residential lots in the development. A copy of the PUD Narrative is included as an exhibit. A conceptual rendering of proposed park improvements is shown as an exhibit. The park facilities in this development are planned to be private.

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, thus 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 subdivision boundaries;
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, subject to future approval of civil utility plans;
5. Portions of the subdivision are in the Special Flood Hazard Area, however the subdivision is proposed to be developed according to the existing ordinance requirements pertaining to Floodplain Development and therefore, the proposed development should not adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development,
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed subdivision is consistent with the Comprehensive Plan, the Future Land Use Plan, and other plans and studies, policies and accepted planning practice;
8. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Zone Change

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

Planner Stromme stated that staff generally supports the development being proposed, specifically the aspects that carry over from the original masterplan submittal. However, at this time, a recommendation to approve this plat would come with several contingencies greater than staff is comfortable placing on an item.

Planner Stromme stated that the Planning Department recommended that this matter be postponed to allow for additional time to review concerns such as access to the private street from McKenzie Drive SE; the proposed city sewer lift station and upstream capacity; civil plans; a conceptual development-wide irrigation system, and modifications to the plat drawing. In addition, there are other requested changes that have been requested that will allow for a clearer approval process for staff, city leaders, and the development team.

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

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the Preliminary Plat and Zone Change Request for Shores at Lakewood 2nd Addition.

Art Goldhamer, TRX Developers, came forward and stated that TRX supports postponing this matter to

work on outstanding issues with city staff. He said there will be a cleanup on the ordinance as well as other areas of concern that will need to be addressed, that were previously outlined by Planner Stromme.

Chair Robinson again invited anyone to come forward to speak for or against the Preliminary Plat and Zone Change. Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

Commissioner Intveld stated he owns a lot on the said property and recused himself from voting in this matter.

Smith moved and Buchmiller seconded to postpone the request to a future meeting subject to noticing requirements. Commissioner IntVeld abstained. Roll Call vote: Aye 9, Nay 0 None, 1 Abstain, Absent Mayor Helbling, Mehlhoff. The motion Passed.

D. OTHER BUSINESS

Planner Stromme reported:

1. The Zoning Steering Committee will be scheduling a meeting. They have received survey results of the 600-700 residents that were sent a survey. The results will be forwarded to P & Z Commission members for review.
2. Meeting packets. The information will look different due to a change in software programs. If there are requests for anything specific to be included in the programming, commissioners were asked to let Planner Stromme know.

E. ADJOURN

There being no other business to come before the Board, Gardner moved and Vayda Hammond seconded to adjourn at 6:20 PM. Roll Call vote: Aye 10, Nay 0, Absent 2 Tim Helbling, Miles Mehlhoff. The motion received unanimous approval of all the members present.