

- A. ROLL CALL Those present were Ellen Huber, Russell Leingang, Tim Helbling, Will Gardner, Bill Robinson, Miles Mehlhoff, Victoria Vayda Hammond, Craig Smith, Tanner IntVeld, Rick Horn.

Commissioner Gardner left the meeting at 5:36 p.m.

B. CONSIDER APPROVAL OF MINUTES

1. *Consider approval of the February 26, 2024 minutes.* Smith moved and Vayda Hammond seconded to approve. Roll Call vote: Aye 10, Nay 0 None, Absent McLean, Buchmiller. The motion passed.

C. PUBLIC HEARINGS

1. *Consider a variance to Section 105-1-3 (g) of the City Code of Ordinances related to Incidental Uses, Accessory Structures, Size for Lots 1 & 2, Block 19, Southside Addition..* City Principal Planner Stromme presented.

Jerry and Shawn Stryker requested approval of a zoning variance from Section 105-1-3 (g) of the City of Mandan Code of Ordinances related to Incidental Uses - Accessory Structures - Size for a proposed detached garage to be constructed to be equal in size to the existing home structure. The previous garage was removed in 2023. The City Ordinance allows detached accessory buildings to be up to 75% or 3/4 the size of the home they are accessory to. The property is in southwest Mandan, east of 10th Ave SW, south of 3rd Street SW on the southwest corner of 4th Street SW and 9th Avenue SW. Said property is Lots 1 & 2, Block 19, Southside Addition to the City of Mandan, Morton County, North Dakota in Section 33, Township 139, Range 81.

Project Overview

The applicant proposes to construct a detached 3-stall garage south of the existing home. The garage would adhere to building setbacks and be accessed from the alleyway. The variance requested would allow the garage to be 180 sf larger than allowed by City Ordinance (720 sf instead of the allowed 540 sf); a 24 ft. x 30 ft. structure with garage doors and vehicular access to the alley to the south end of the property.

Requested Variance

Sec. 105-1-3 (g) of the City Code of Ordinances permits accessory buildings in the R3.2

- Residential district provided that the total area of all accessory buildings is less than 75% of the size of the principal structure on the property it is an accessory to. The applicant states that this ordinance, when applied to the lot and nearly 100-year-old home, is preventing the construction of a garage that is common by 2024 standards. The applicant is requesting to be able to construct a detached garage that is equal in size to the home on the property. The variance is regarded the size equivalency of 1:2 relevant to the existing home for a 3-stall garage. The applicant provided a Statement of Hardship (See: Exhibit #2 provided in the agenda packet).

Property History

Southside Addition was platted in 1883 and the property was developed with a single-family home in 1929. The home previously had a detached single-stall garage that was demolished in 2023.

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent properties to the north, south, east and west are zoned R3.2 - Residential and are primarily residential in nature. Mary Stark Elementary School is northeast of the subject property. The future land use designation is medium-density residential.

Additional Information and Public Outreach

- The Application and fee of \$400 was received on February 14, 2024.
- Seventeen (17) letters were sent to adjacent property owners. There have been no complaints or protests received.
- The required legal notice was published on March 15, 2024.

Findings of Fact

Zoning 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 R3.2 - Residential 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.

RECOMMENDATION:

Planner Stromme stated that the Planning Department 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. The applicants were present to answer questions.

Chair Robinson inquired if there were any comments or questions.

Commissioner Mehlhoff inquired if the request were for an attached garage, would that percentage apply? Planner Stromme explained that that section of the code is only for attached garages and a typical city policy would be attached garages to homes that would be considered one structure that would need to fall under the lot coverage. The city does not get involved with the ratio between the garage and the attached living space, rather it is the detached accessory unit that the Ordinance affects. Commissioner Mehlhoff stated that in full disclosure, he was a previous owner of this home and the applicant would not be able to build an attached garage, based on the elevation of the first floor.

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 variance to Section 105-1-3 (g) of the City Code of Ordinances related to Incidental Uses, Accessory Structures, Size for Lots 1 & 2, Block 19, Southside Addition.

Jerry Stryker came forward and provided information related to his request. The height of the home extends out of the ground by about 4 ft. He said he researched options of attaching a garage to the home, however, the only kitchen window would have to be eliminated and in addition, there would have to be 4 to 5 steps constructed to get to the garage level. Based on those conditions, the only other option would be to construct a detached garage which proved to be the best option for their budget. Planner Stromme commented that the applicant's plans include matching the materials for the detached garage to the existing home.

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

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

Commissioner Smith commented that the ordinance for zoning for the R3.2 Section 105-3-7 has a provision on lot coverage in addition to all the setbacks but on the lot coverage it counts all structures on a lot that are limited to 50% of the total square footage of a lot. This lot appears to be @ 7,000 sf or .61 acres or roughly 3,500 sf; thus under the zoning ordinance they could build one or more structures; so the limitations are in the uses provisions within the 75% and it limits it to the 10% all accessory buildings of the lot area which is inconsistent with the other ordinance. In his opinion, the R3.2 zoning ordinance was adopted in 2016 wherein it appears the intent was to control the overall size of the structure of the lot when considering the incidental uses. The other concern with incidental uses provision where the garage does not have to be directly attached to the home, if there is a 6-ft. breezeway then it would be considered as part of the house. If it is attached or a breezeway or under the zoning rule then the applicant could easily do this; they could take 1,440 sf and that would be under the requirement. He stated that he would support the variance request.

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

Commissioner Smith motioned to recommend approval of the accessory building size variance from Sec. 105-1-3 (g) of the City Code of Ordinances related to Residential Accessory Buildings - Size, and to permit the variance request due to the following hardship:

Strict application of the provisions of the Zoning Ordinance would deprive the property owner of the reasonable use of the property. Commissioner Mehlhoff seconded. Ms. Moser noted that Commissioner Gardner was excused from the meeting prior to this vote being taken. Upon vote, the motion passed unanimously.

Of Note: Planner Stromme clarified that he has the motion verbiage and stated there is no need to mention the minor plat as there is a minor plat with this one.

Smith moved and Mehlhoff seconded to approve. Roll Call vote: Aye 10, Nay 0 None, Absent McLean, Buchmiller, Gardner. The motion passed.

2. *Consider Preliminary Plat and Zone Change from A - Agriculture and R7 - Residential to PUD - Planned Unit Development for Shores at Lakewood Second Addition.* . Principal City Planner Stromme presented. He stated that this item is a continuation from the February 26, 2024 meeting.

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 preliminary plat for the second phase was presented at the February 2024 Planning and Zoning Commission however action was not taken.

Proposed Preliminary Plat

The proposed preliminary plat is 46.82 acres in size and would contain 126 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 developer proposes to construct a private park on Lot 56, Block 2 (which conforms to the masterplan) and a dog park on Lot 58, Block 1 which does not conform to the original masterplan submittal. 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. This involves the extension of Oxbow Trail SE from its present terminus near Oxbow Trail SE and 29th Street SE to the south to connect to the south end of the Shores at Lakewood. Lot 58, Block 2 and 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, while 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 placed 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. 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, private drives, and maintenance of the LHRWRD levee. The developer is proposing to use water that is in the pond for a community wide irrigation system that is being reviewed by staff. The proposed crossing locations would be on one of the exhibit's details wherein locations would be underground and in the utility easement and essentially every home in Lakewood Shores would receive irrigation in the master community work. The pond would have its irrigation inlet in the north side by the park. This would be a private park and there is a concept in the updated packet that details what the HOA park would look like. Each HOA lot would pay and the HOA would then own the parks and developed as shown on the map. Aside from the original plan, they are submitting a request to have a dog park on McKenzie Drive southeast in a part of Lot 58, Block 1 which would be the lot depicted and this area between Lot 58 and Lot 64 is a deviation from the original plan. Following Master Plan approval it has been included in the requested development.

Proposed Zone Change

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 and to request a front yard setback due to constraints they have and the inability to have a driveway. A copy of the PUD Narrative is included as an exhibit. The PUD Narrative, relative to its

regulations on home placement / setbacks, which is of primary importance to the city.

Other Project Information

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, 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, 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.

Staff Comments

Staff generally supports the proposed development, particularly the elements consistent with the original masterplan submission. For conditional approval of this plat, several items need to be addressed. These include concerns regarding access to the private street from McKenzie Drive SE which may require a right-of-way vacation request, the proposed City sewer lift station and upstream sewer capacity vs. alternatives, civil plans, a conceptual development-wide irrigation system, and other requested changes. This review will facilitate a clearer approval process for staff, city leaders, and the

development team. The applicant has provided updated exhibits for the commission which include a preliminary plat, detail on proposed irrigation crossings, zoning exhibits. Staff does not support the addition of a dog park on Lot 58, Block 1.

Other Information and Public Outreach

- Applications and fees of \$1,100 were received on January 22, 2024.
- Seventy-Two (72) letters were mailed to adjacent property owners.
- Legal notices were published on March 15 & March 22, 2024.
- Staff has received questions from neighboring property owners regarding the proposed development, specifically what the zone change was for, how the development would be accessed, and what the developer is proposing for earthwork.

RECOMMENDATIONS

Planner Stromme reviewed staff recommendations for approval of the preliminary plat for Shores at Lakewood 2nd Addition contingent upon:

- City Sanitary Sewer Capacity Analysis;
- Evidence of support by Utility providers for lot combination plan;
- Updated covenant/by laws for legal description and ownership issues; specifically, how over the course of the phased development the developer plans to ensure the HOA members own equitably their share in the common spaces;
- Request to vacate city right of way where the private drive is proposed;
- Final determination on allowance and operation of the development wide sprinkler system;
- Further discussion of city leaf collection site which is presently in a city right of way south of McKenzie Drive SE.

It is Planner Stromme's understanding there will not be a final plat application until there is a better sense of the lots to be combined. It appears the updated covenants and bylaws for the legal description and ownership are being addressed. The right of way vacation would be for the private use public right and way and then they could petition for development. The city will need to have verification for private irrigation lines in the city right of way and discussion on the collection site. The contingencies are related to the details of what the development entails.

RECOMMENDATION

Planner Stromme stated that it is staff's recommendation to approve the Preliminary Plat and Zone Change for the development of the Shores at Lakewood 2nd addition, with the contingencies outlined by staff.

Chair Robinson inquired if there were any comments or questions.

Mayor Helbling inquired that with regard to the plat if Planner Stromme is comfortable with the driveway widths and the amount of street frontage that is going to be taken up with placement of snow. Are there restrictions on the width of the driveways or anything of that nature in a Development Agreement?

Planner Stromme stated those concerns have been discussed at pre-planning meetings. During the current review and rewrite of the ordinances, discussions have been ongoing regarding these types of issues. He believes the engineering and the planning staff has come up with a plan for issues such as these

while at the same time being conscious about placement of driveways and curb spaces. Mayor Helbling inquired about the irrigation allowing that into public right of way (he has never seen that done before) – what is the added expense to the city if a utility must be dug up? Will this irrigation system be the same as the water line going into the home or is it of lesser quality or a different depth? What effect, if it is something lesser what effect could that have on the public utilities in the case of a break or malfunction?

Planner Stromme stated that all those issues are under consideration by Public Works, Engineering and Planning staff. The Public Works Dept. reached out to the Dept of Health that requires approval of fresh water and sewer, etc. There have not been any concerns based on the placement of jeopardizing the safety of water. At this time, there is not a complete sense of what the impact will be if a line was hit accidentally, however, a plan as been developed that included some protective controls, per se, with plans to have the lines located with wire placed on them so that they are easier to locate irrigation, called tracer wire that will be located on both sides of a crossing. The concern is the location of it within a right of way. Chair Robinson commented that another element of the irrigation system, levee and horizontal drilling. There was a seepage analysis performed by the developer when they started this project and there are situations there wherein, they will have to have another seepage analysis done due to standards of what the original approval was. There are other elements that occur within the 500 ft. reach of the levee.

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 and Zone Change from A - Agriculture and R7 - Residential to PUD - Planned Unit Development for Shores at Lakewood Second Addition.

Arthur Goldammer, the developer, came forward and provided information on the irrigation system crossing McKenzie, they utilized the storm water trench that is currently open that was approved previously from east to west. There are no additional excavations and at the eastern crossing of McKenzie, caution was taken to make sure it is out of the 500 ft. zone, so they did not compromise anything with the federal levee system. Regarding driveway placement, parking, and snow removal on the boulevards – this was discussed with the city wherein we are going to do planned curb drops so there can be a left or right driveway orientation that will be set in order to maximize parking. The HOA will be providing snow removal for all the residents for driveways, sidewalks, and the city would do the street. Concerns from Public Works seem to be mitigated for having a community-based snow removal service to do individualized work. Chair Robinson requested information on the plan for irrigation to Lower Heart prior to this being finalized. Mr. Goldammer stated that information will be provided promptly. The thought is to be environmentally conscious to provide homeowners relief from their water bills and have capacity relief for other city projects. He stated he has received the draft version back of the Covenants from legal and those will be submitted prior to the final plat submission. There are plans to have the utilities for the 3.2 lots combined and those will be submitted prior to final submission in order to have the easements in place to plan for utility wires. An exhibit has been provided regarding the private drive into McKenzie that would allow the city to keep the collection site in the area as to how it would tie the private drive into the existing city right of way, however, that is not all inclusive. He stated that he agrees with the sewer capacity that assurance will be in place that the existing system is going into additional flows, however, there is an alternative potential to go straight into the treatment facility to the south and that will be determined when doing the capacity studies.

Chair Robinson inquired if there were any comments or questions for Mr. Goldammer.

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.

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

Commissioner Huber inquired about the dog park on Lot 58, Block 1? Planner Stromme replied that he does not believe that request was brought to the Mandan Park District. He stated that he has concerns about the size and location of the dog park relative to proposed private parks; in particular, he stated he is not clear if the Mandan Park District would want to take over this park should the HOA desire to do that.

His concerns are is that he does not know if it is large enough to become a city dog park; he also has reservations about the location of the dog park due to location and other activities that may be eventually proposed in that area.

Commissioner Smith inquired of the timeline for the final plat of approval? Planner Stromme stated that the final plat will come after the plat has been approved by the City Commission. His intent would be to take this to the City Commission with contingencies addressed, thus, with the majority of them being completed before going to the Commission with the plat being approved @ 6-8 weeks following preliminary plat approval by the City Commission, as early as June 2024, with it being recorded after approval.

Commissioner Huber inquired if Planner Stromme is comfortable reconciling the concerns from MDU which are tied to the PUD zoning? Planner Stromme replied that he does not believe there is a point wherein the city would be able to totally avoid lot combinations or lot modifications after a plat has been approved due to future change requests. He stated his preference would be to have the plat not be submitted until those lot combinations are known because the final plat can be reviewed by this Board, the City Commission, and the utility providers for a more certain development plan.

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

Commissioner Huber motioned to approve the Preliminary Plat and Zone Change from A - Agriculture and R7 - Residential to PUD - Planned Unit Development for Shores at Lakewood Second Addition with the contingencies outlined by city staff. Commissioner Leingang seconded. Upon vote, the motion passed unanimously.

Huber moved and Leingang seconded to approve. Roll Call vote: Aye 9, Nay 0 None, Absent McLean, Buchmiller, Gardner. The motion passed.

3. *Test.*

D. OTHER BUSINESS

1. *Consider Update on Zoning Study.* Planner Stromme referred to a handout being provided regarding adjustments having been made to a meeting schedule for the zoning group; those handouts are being prepared at a high level with survey results of insights to what types of changes the Mandan residents want to see in the zoning code and what other changes they want to avoid. A meeting is scheduled for the upcoming week with an update to be provided in April. The consultant is in the process of drafting new code passages.

He reported that the City has accepted a planning technical assistance opportunity and will be considering for the first time ever at a higher level a corridor-based study of land uses with the goal of improving existing housing conditions in the area; improving services for residents and/or newcomers to the city and identifying properties and areas of concern where there are environmental, health or safety issues to residents or visitors to the area. The plan will be presented with potential solutions wherein staff will work together to address issues with different agencies.

E. ADJOURN There being no other business to come before the Board, Smith moved and Vayda Hammond seconded to adjourn at 06:28 PM. Roll Call vote: Aye 9, Nay 0, Absent 3 Jamie McLean, Ben Buchmiller, Will Gardner. The motion passed.