

A. ROLL CALL Commissioners Present: Mayor Froelich, Mudder, Buchmiller, Gardner, Intveld, Smith, Hammond, Huber, McLean, Robinson. Absent: Leingang, Horn.

B. CONSIDER APPROVAL OF MINUTES

1. *October 28, 2024 Minutes. Commissioner Smith motioned to approve the October 28, 2024 minutes. Commissioner Buchmiller seconded the motion. Upon vote, the motion passed unanimously.*

C. PUBLIC HEARINGS

1. *Consider a request for a preliminary plat for JRs Estates 2nd Add.*

Staff recommendation: To approve the preliminary plat for JRs Estates 2nd Add.. City Principal Planner Stromme presented.

Arlen Ruff and Laureen Bryan and Swanberg Morton, LLP, requested consideration for a preliminary plat to be titled JRs Estates 2nd Addition. The purpose of the plat is to facilitate a small ownership transfer between the parties. Said property is located in west Mandan, southwest of Lohstreter Road NW at 2003 Bruley Road NW.

Property History

The subdivision Replat of Lohstreter's First Addition was approved in 1976, with Lot 1, Block 5 being divided into two after the plat's approval. A home was built on the subject property, Lot 1 less the east 75 feet, in 1991. In 2024, a retaining wall on the property was upgraded. To reflect the retaining wall's location, this preliminary plat has been prepared to facilitate the land's ownership transfer. City records indicate that JRs Estates was platted in 2007 with the purpose being to construct a barn.

Preliminary Plat

The preliminary plat covers 51.23 acres of land but primarily focuses on a small, 2,555sf portion of the property where ownership was transferred between Ruff/Bryan and Swanberg Morton LLP, located near Lot 1, Block 1. The requirement for this item to be processed as a preliminary and final plat is due to its size in acres as being associated with the larger property to the west. MDU has an overhead power line on the property and it is shown in an easement on the plat.

Adjacent Properties Zoning, Land Use, and Future Land Use

The property is zoned R7 - Residential (as rezoning to R7 was a previous practice associated with annexation). Adjacent properties to the east and south are zoned R7-single family residential. To the north and west Ag - agriculture. The future land use plan designates this area as low density residential.

Additional Information and Public Outreach

- The application was received on October 21, 2024.
- This item was published in the Mandan News as required. Twenty-seven (27) letters were sent to adjacent property owners on November 7, 2024.

Staff comments:

- This plat serves as a reconfiguration and is not intended to facilitate land development. Rather, it

enables an ownership transfer between two parties, requiring survey work to define and plat newly described and reconfigured properties.

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. Portions of the subdivision are located in the Special Flood Hazard Area and have wetland designations, and while no development is proposed, any such would be required 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.

Planner Stromme recommends approval of the preliminary plat for JRs Estates 2nd Addition.

Chair Robinson inquired if there were any comments or questions. Hearing none, the public hearing was opened.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for a preliminary plat for JRs Estates 2nd Addition. A second invitation was given to come forward to speak.

Close Public Hearing

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

Commission Action

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

Commissioner Buchmiller moved to recommend approval of a request for a preliminary plat for JRs Estates 2nd Addition. Commissioner Hammond seconded the motion. Chair Robinson called for a roll call vote: Huber: Yes; Mudder: Yes; Mayor Froelich: Yes; Intveld: Yes; McLean: Yes; Buchmiller: Yes;

Smith: Yes; Hammond: Yes; Gardner: Yes; Robinson: Yes. The motion passed.

2. *Consider Cove at Lakewood PUD Amendment.* City Principal Planner Stromme presented.

VE Land Company, represented by Arthur Goldammer, requests consideration of a PUD (Planned Unit Development) amendment for the Cove at Lakewood development. The proposed amendment revises the development plan, changing the plan from detached individual commercial structures to attached multi-use shops. The property is situated in southeast Mandan, west of 40th Avenue SE and south of 21st Street SE. Its legal description is Lots 1-3, Block 1, Cove at Lakewood Addition to the City of Mandan, Morton County, North Dakota.

Overview of Request

The developer proposed a new development plan consisting of a mix of attached multi-use shop units, including two single-story buildings and four two-story shop buildings, along with two standalone office/commercial buildings currently planned as a salon and an animal rescue facility.

Property Details and Zoning History

The Cove at Lakewood Plat was approved at the May 16, 2023 City Commission meeting. A previous PUD Amendment, to enable the most recent development plan (for detached business suites), was approved by the City Commission in April. Previously, the properties were included in a similar development proposal, and before that, they were part of oversized stormwater and amenity ponds tied to an earlier development plan.

This PUD amendment primarily relates to building form/appearance and development intensity, and there are no uses proposed as part of this development that were not approved in the 2020 Ordinance. The most recent plan was for twenty-three (23) detached structures comprising a mix of single and two-story buildings. The revised layout includes thirty-one (31) attached units, consisting of two single-story buildings with five (5) units each and five (5) two-story shop buildings, ranging between three (3) and five (5) units per building.

Multi-use shops typically require special use permits, which are intended to provide a higher level of review and ensure greater control over project outcomes. The review process for the proposed development aligns closely with the scope and criteria of a special use permit. However, given that the project has been part of a Planned Unit Development (PUD) for an extended period, and that only portions of the project are multi-use shops, staff determined that it would be more appropriate to continue treating the project and its review as an amendment to the existing PUD, rather than introducing special use permitting at this stage. The review criteria for multi-use shops were used in the evaluation of this project. Specific standards requested by the applicant to be added that were not adopted into the PUD Ordinance in 2020 relate to parking and setbacks. The general intent of the amendment is to update legal descriptions (lot numbers) to match the PUD.

Uses included in the Planned Unit Development Ordinance include:

- Multi-family (permitted if in an approved residential structure - no residential uses permitted in multi-use shop structures).
- Retail group A
- Office-bank group

- Service group A
- Service group B
- Health-medical group
- Education group

Elevations and renderings of the proposed structures to be developed on this property, and a draft of the PUD Amendment Ordinance, are available in the attachments to this agenda document.

Multi-Use Shop Review

Multi-use shops are generally permitted when the following conditions have been met.

- (1) Each individual unit within the structure shall have an open space/yard or public way on no more than three sides.
- (2) Each individual unit within the structure shall have its own separate means of egress.
- (3) Such units shall only contain group business, factory, mercantile, or storage occupancy classifications as set forth by Section 3 of the North Dakota State Building Code.
- (4) Uses, whether commercial or accessory to residential, shall be declared at the time of the conditional use permit issuance. No change in use may be conducted unless reevaluated through the special use permitting process and the structure meets all building code requirements for the desired change of use.
- (5) Traditional mixed-use (residential and commercial combined) multi-use shops shall not be permitted. The declaration of either commercial or accessory to residential shall apply to all units within the structure and the structure will be constructed according to the minimum standards of the building code for the declared use.
- (6) Minimum off-street parking requirements shall be planned and provided for based on the declared uses. Any inadequate provision of parking within the development for a combination of uses may result in the revocation of the special use permit.
- (7) Each structure shall be limited to one curb stop accessible by city staff.
- (8) The declaration of commercial or accessory to residential shall in no way affect the way valuation, special assessments, utility rates, and other city fees are determined. These shall remain determined by separate city policy.
- (9) Covenants, conditions, and restrictions (CC&Rs) or another form of recorded agreement approved by the city attorney shall set out, at a minimum, provisions for access and responsibility for costs of inspections related to the fire suppression system, if any.
- (10) For the city's utility billing purposes, a recorded development association or another form of recorded agreement approved by the city attorney is required if any of the individual units within the development are not owned by the same owner of the development. The recorded development association or recorded agreement shall set out, at a minimum, the allocation of costs and statement of understanding of the collective responsibility of owners for payment of city utilities. If a recorded development association or another form of recorded agreement approved by the city attorney is in place, the city will issue one utility bill per month to one owner or representative of the structure for the entire structure's base charges and consumption or usage. The monthly utility bill will not be sent to each individual owner within the structure. If ownership is divided after a special use permit has been obtained, the property owner shall furnish a copy of said recorded agreement to the city showing it meets this provision.

Staff is directed to review multi-use shop projects with the following criteria in mind.

- a. The proposed use is in harmony with the purpose and intent of this chapter. The proposed use aligns

with the overarching goals and objectives of the zoning ordinance in its adherence to minimum development requirements and comprehensive submittal.

- b. The proposed use is not in conflict with the adopted comprehensive plan of the city. The proposal generally adheres to the city's comprehensive plan and is not in conflict with its planning priorities.
- c. The proposed use will not adversely affect the health, safety, and general welfare of the public and the workers and residents in the area. Based on accommodations made to provide adequate off-street parking, fire safety, and landscaping, this project is not likely to adversely affect the health, safety, or general welfare of the public, workers, and residents in the vicinity of the project area.
- d. The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhood. The proposal complements the character and uses of the surrounding area.
- e. The proposed use meets all appropriate regulations for the district in which it will be located. The proposed development complies with zoning and district-specific regulations.
- f. The proposed use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of importance to the community. This project is not located in an area where natural, scenic or historic features of importance to the community have been identified.
- g. The proposed use includes adequate screening or buffering to compensate for any departure that the proposed use has from existing adjacent uses. The project utilizes a mix of land-use transitions and open space, in addition to landscaping, to act as screening or buffering to account for the transition in land use from the subject property to adjoining uses.
- h. The proposed use includes adequate provisions for those individuals who are mobility impaired. The design accounts for this in the use of ADA-spaces and sidewalk connections to the property.

Staff Comments

- Staff recommends that signage and lighting be restricted from being placed on the rear or side of buildings as a means to mitigate potential negative impacts of commercial development adjacent to lower-density residential.
- Staff recommends that parking intended to fulfill handicap space requirements be positioned away from overhead doors to ensure its availability is not hindered by the need to provide access inside to shop spaces.
- Minimum off-street parking requirements are met by the proposed site plan. It is possible that additional off-street parking will be contained within the individual shop units themselves.
- Staff recommends that any proposed signage allowances for the two-story units be shared with Mandan Architecture Review Commission for their review and approval.

Agency & Other Department Comments

- The City Building Inspections Department advised the applicant on steps necessary to develop in accordance with the City Floodplain Development Ordinance which will involve a LOMR-F.
- The City Assessing Department requests that the condominium agreements filed with Morton County be updated to reflect the new legal descriptions and to include clearer language regarding each condominium's share of undivided interest in Stormwater Lot 3, Block 1.
- 162 letters were sent to adjoining property owners notifying of this request. As of the writing of this report, two statements in objection to the proposed development have been received.
- Development on this property will be subject to a development agreement with the City of Mandan. A previously approved development agreement will be updated for this purpose.
- A sidewalk and boulevard trees will be required along 21st Street SE.
- Lot 3, Block 1 (storm water lot) must be held in undivided interest by the developable lots in this

subdivision plat.

Adjacent Properties Zoning, Land Use, and Future Land Use

Adjacent properties are zoned PUD (Ords. 1216, 1250, 1355) and have been developed with low-density residential, high-density residential, and multi-use shops. Although the 2015 Future Land Use Plan recommended industrial uses on this property, staff would not support that due to the character of development in the area of the proposed development.

Additional Information and Public Outreach

- An application was received on October 25, 2024.
- This item was advertised as a public hearing in the Mandan News, and seventy (70) letters were mailed to adjacent property owners on November 7, 2024.

Findings of Fact

PUD Amendment

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 PUD Amendment;
2. The proposed PUD Amendment is consistent with the general intent and purpose of the zoning ordinance;
3. The proposed PUD Amendment is consistent with the Future Land Use Plan, other adopted plans and policies, and accepted planning practice;
4. The proposed PUD Amendment would not adversely affect public health, safety and general welfare.

Planner Stromme recommended approval of the PUD Amendment for Cove at Lakewood Addition.

Commissioner Huber inquired about the nature of the two statements and objections received. Planner Stromme stated those were carried over from a previous time that this PUD was first introduced. He said he does not recall receiving any recent comments on this matter. The staff report was updated from the previous report. He said the comments were related to traffic concerns on 21st Street and the animal rescue was proposed that addressed animal barking and things of that nature.

Commissioner Mudder voiced concern about a water retention (pond), is there a minimum distance or worry about an under-toe or anything such as that? Planner Stromme replied regarding building placement, the previous PUD and this version of the PUD would permit the buildings to be placed 5-feet from the rear lot line. They will be further away from the rear lot line. He said at the time this application was submitted the applicant was working with a professional engineer regarding the placement of fill to be placed and storm water capacity of the pond. Those are checked at the start of the project regarding quality, compaction, and things like that.

Commissioner Gardner requested a comparison of the previous PUD request and any major differences that have changed between the two. Planner Stromme stated that the most significant change would be that the previous development was going to call for a mix of detached single and two story shops with varying architectural styles. The biggest change is they are going from twenty-three (23) detached units to thirty-one (31) attached units. The uses that are allowed will be the same.

Chair Robinson inquired if there were any comments or questions. Hearing none, the public hearing was opened.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for a PUD Amendment for Cove at Lakewood Addition. A second invitation was given to come forward to speak.

Close Public Hearing

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

Commission Action

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

Commissioner Smith moved to recommend approval of a request for a PUD Amendment for Cove at Lakewood Addition. Commissioner Gardner seconded the motion. Chair Robinson called for a roll call vote: Huber: Yes; Mudder: Yes; Mayor Froelich: Yes; Intveld: Yes; McLean: Yes; Buchmiller: Yes; Smith: Yes; Hammond: Yes; Gardner: Yes; Robinson: Yes. The motion passed.

D. OTHER BUSINESS

Planner Stromme announced that December's meeting will be on Wednesday, December 18, 2024 at 5:30 p.m. He requested that members bring their 2025 calendars as meeting dates will be set for the upcoming year. In addition, there are several applications that will be brought forward for review.

Planner Stromme provided an update on the new Zoning Code document. He said that some adjustments have been made to the project, budget and scope geared towards an engineer and developer kind-of targeted engagement.

E. ADJOURN

There being no further business to discuss or come before the Board, a motion was made by Commissioner Mudder and seconded by Commissioner Hammond to adjourn the meeting. Upon vote, the motion passed unanimously.

The meeting adjourned at 5:53 p.m.