The Morton County Planning & Zoning Commission

Agenda for December 18, 2024

Planning and Zoning meeting beginning at 5:30pm, located in the Morton County Commission room in the County Courthouse, 210 2nd Ave. NW, Mandan, ND. This meeting will also be available via the Go To Meeting platform via https://www.gotomeet.me/MortonCounty/morton-county-planning--zoning-meeting or dial +1 (646) 749-3122 and use access code: 242-435-693.

Call to Order
Pledge of Allegiance
Roll Call
Approval of Agenda
Approval of Minutes from the November 20, 2024 meeting

1. **Public Hearing**: request from Ivan Gange for a variance to operate a car sales business on a non-conforming lot of approximately 0.76 acres, currently zoned Commercial, in the SW¼ Section 11, Township 135N, Range 79W, Morton County.

ISSUES MAY BE ADDED OR DELETED BY MEETING DAY

Summary of County Commission official actions since last Planning & Zoning Commission meeting.

Name	Action	Type	Location
Grade Subdivision	Approve	Short-form subdivision and zoning map amendment	W½ Section 3, Township 140N, Range 90W
Defender 1 Subdivision	Approve	Short-form subdivision and zoning map amendment	SW¼ Section 15, Township 139N, Range 83W
Defender 2 Subdivision	Approve	Short-form subdivision and zoning map amendment	SW¼ Section 14, Township 139N, Range 83W
Gwyther Third Subdivision (revised)	Approve	Short-form subdivision and zoning map amendment	SE¼ Section 33, Township 137N, Range 81W

TTHE MORTON COUNTY PLANNING AND ZONING COMMISSION MINUTES
NOVEMBER 20, 2024 MEETING MINUTES

Chairman Kist called the Morton County Planning and Zoning Commission meeting to order at 5:32 P.M. November 20, 2024, in the Morton County Commission Room, 210 2nd Ave NW, Mandan, North Dakota. Commissioners present were Buckley, Ell Jr, Tomac, Rohr, Berger and Wald. Also present were County Planner Natalie Pierce and Auditor Deputy Eckroth. Absent Zachmeier and Braun.

Buckley moved and Ell Jr. seconded to approve the agenda. All voting aye, motion carried.

Ell Jr. moved and Tomac seconded to approve the minutes from October 23, 2024. All voting aye, motion carried.

Chairman Kist opened the Public Hearing – Bismarck/Mandan Metropolitan Planning Organization presentation of the Arrive 2050 Long-range Transportation Plan.

The Bismarck-Mandan MPO requests a motion to recommend approval of Arrive 2050, the 2025-2050 Metropolitan Transportation Plan, by Resolution of Adoption.

Rohr moved and Berger seconded to recommend County Commission to adopt the 2025-2050 Bismarck-Mandan Metropolitan Transportation Plan. All voting aye, motion carried.

Chairman Kist opened the Public Hearing – request from Robert and Tina Grade for a final plat of a short-form subdivision known as Grade Subdivision, and a zoning map amendment from Agricultural to Residential, on approximately 4 acres in the SW ¼ Section 6, Township 139N, Range 85W, Morton County.

Berger moved and Rohr seconded to recommend approval of the final plat of the short-form subdivision known as Grade Subdivision and a zoning map amendment from Agricultural to Residential, as the subdivision conforms to the regulations established in Article 7 of the Morton County Land Use Code and conforms to the land use priorities established in the 2045 Comprehensive Plan. All voting aye, motion carried.

Chairman Kist opened the Public Hearing – request from Chad Gartner for a final plat of a short-form subdivision known as Gwyther Third Subdivision, on approximately 1.45 acres in the NW 1/4 Section 11, Township 135N, Range 79W, Morton County. Plat is coming forward again with changes.

Member of the Public Lisa Dillmann Ft Rice, spoke in favor of the applicant.

Rohr moved and Tomac seconded to recommend approval of the plat of a short-form subdivision known as Gwyther Third Subdivision, which includes vacation of one alleyway, as the subdivision reduces non-conformity of the subject properties, and abides by the land use priorities established in the 2045 Comprehensive Plan. All voting aye, motion carried.

Chairman Kist opened the Public Hearing – request from Kevin Miller for a final plat of two

short-form subdivision known as Defender 1 and 2 Subdivision, and a zoning map amendment from Agricultural to Residential, on approximately 22 acres in the SW ¼ Section 15, Township 139N, Range 83W and on approximately 12.38 acres in the SW ¼ Section 14, Township 139N Range 83W Morton County.

Ell Jr. moved and Berger seconded to recommend approval of the final plat of the short-form subdivision known as Defender 1 Subdivision and a zoning map amendment from Agricultural to Residential, as the subdivision conforms to the regulations established in Article 7 of the Morton County Land Use Code and conforms to the land use priorities established in the 2045 Comprehensive Plan. All voting aye, motion carried.

Buckley moved and Ell Jr. seconded to recommend approval of the final plat of the short-form subdivision known as Defender 2 Subdivision and a zoning map amendment from Agricultural to Residential, as the subdivision conforms to the regulations established in the 2045 Comprehensive Plan. All voting aye, motion carried.

Ell Jr. moved and Rohr seconded to adjourn meeting at 6:21pm. All voting aye, motion carried.

Gange Variance
Zoning Map

Morton County Planning and Zoning Department
Created: 11/26/2024

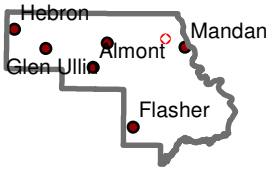
Project Area

N

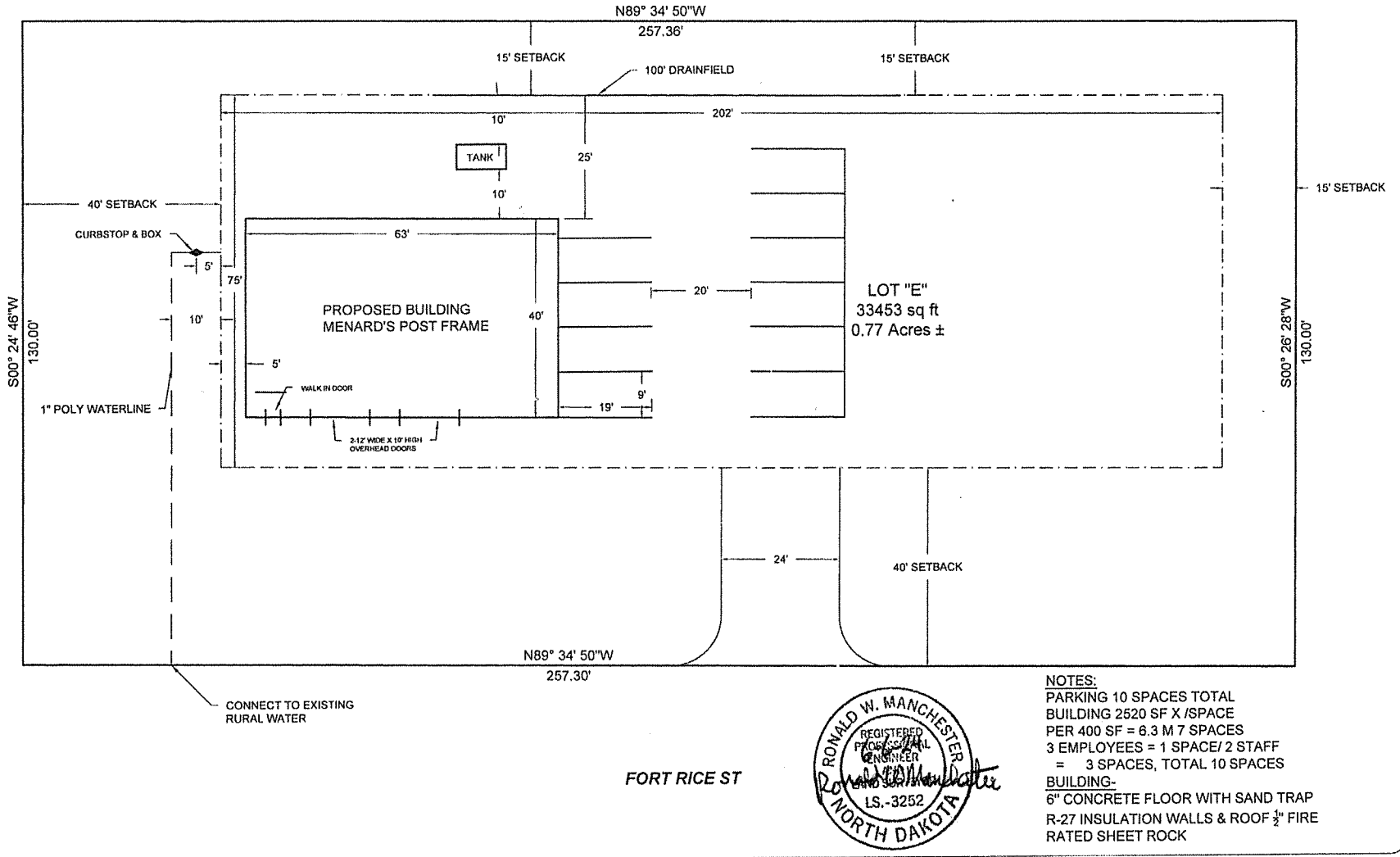
0 150 300 600 Feet

Zoning

- Agricultural
- Estate
- Public Institutional
- Parks & Recreation
- Conservation/Open Space
- Industrial
- Limited Industrial
- Commercial
- Rural Commercial
- Residential Multifamily
- Residential



Proposed boundaries of site not exact.
For planning purposes only.



RONALD W. MANCHESTER
REGISTERED PROFESSIONAL ENGINEER
LAND SURVEYOR
LS.-3252
NORTH DAKOTA

NOTES:
PARKING 10 SPACES TOTAL
BUILDING 2520 SF X /SPACE
PER 400 SF = 6.3 M 7 SPACES
3 EMPLOYEES = 1 SPACE/ 2 STAFF
= 3 SPACES, TOTAL 10 SPACES
BUILDING-
6" CONCRETE FLOOR WITH SAND TRAP
R-27 INSULATION WALLS & ROOF ½" FIRE RATED SHEET ROCK

TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

PROJECT:
LOT "E"
W1/2, SEC. 11, T135N-R79W
REVISED SITE PLAN

NO	DESCRIPTION	BY	DATE
	REVISIONS		

SHEET NUMBER
1
OF 1 SHEETS

October 29, 2024

Morton County Planning & Zoning
2916 37th St. NW
Mandan, ND 58554

RE: Fort Rice Variance Statement of Hardship

Dear Ms. Pierce and the Morton County Commissioners:

I am writing to formally request a variance for land where my auto dealership operates in order to construct a new building at 795 Fort Rice St., Fort Rice, North Dakota. A variance to the allowable lot size and setbacks are necessary to allow the reconstruction of a building for use by Gange Auto Sales, Inc. Gange Auto Sales, Inc. has been operating out of a temporary facility which is not able to be the long-term facility due to North Dakota Department of Transportation regulations. I am requesting a variance no greater than what is necessary to be able to re-construct this building. Thereby alleviating my hardship. Granting the variance will have no adverse effects on any neighboring properties.

The current lot size restrictions limit my ability to fully operate Gange Auto Sales, Inc., which is critical to the local economy. As you may recall, Gange Auto Sales, Inc. used to operate out of a building on this lot which is identical to the planned size of the new building. That old building was deconstructed, and the lot cleaned up, through an agreement with the County. That agreement called for Gange Auto Sales to regain "full legal use of the property" after the completion of the building deconstruction. That has been completed, and this variance is the final piece needed to allow Gange Auto Sales to operate in its new permanent building, which has already been staged on site.

The temporary facility that Gange Auto Sales has operated out of has created a hardship resulting in financial losses due to limiting the size of my business since it did not have a shop for repair work. This new building will alleviate these concerns. A majority of Gange Auto Sales' income is derived from customers on the Standing Rock Reservation. Not operating the dealership in Fort Rice harms my business, my customers, and the County, by diminishing sales tax revenue and caused me to lose business to competitors in Mobridge, South Dakota. Granting this variance will not only help my business, but also continue to provide tax revenue and job creation in Morton County. This dealership serves the needs of residents and provides economic opportunities in the area.

I am committed to ensuring my dealership operates in harmony with the surrounding community and meets all other regulatory requirements. I respectfully request your consideration of this variance to allow me to proceed with operating my dealership, Gange Auto Sales, Inc. Thank you for your time and attention to this matter. I look forward to discussing this request further at the upcoming hearing.

Sincerely,

Ivan Gange, President of
Gange Auto Sales, and CenDak, LLC

STAFF REPORT | MORTON COUNTY DEPARTMENT OF PLANNING AND ZONING

ITEM 1 Gange Variance

		Location:	NW¼ Section 11, Township 135N, Range 79W
Public Hearing:	December 18, 2024 Planning and Zoning Commission Regular Meeting	**Acreage:**	0.77 acres
Application Type:	Variance	**# of Lots:**	1
Applicant:	Ivan Gange	**Existing Zoning:**	Commercial (C)
Application Fee:	$200 (11/4/24)	**Proposed Zoning:**	Commercial (C)
Citizen Outreach:	41 letters sent (11/20/24) Notice of Public Hearing advertised.	**Future Land Use Category:**	Existing Development
Proposal:	Construct a 63' x 40' post frame structure and operate a used car dealership on a non-conforming lot.		
Recommendation from Staff:	Deny the variance request.		

OVERVIEW

The subject property is located in the former townsite of Fort Rice, adjacent to Highway 1806. In 2020, Morton County executed an agreement to settle with the applicant regarding the demolition of a structure on the subject property that did not meet County setback requirements. The agreement stated that "Upon completion of the agreement, Mr. Gange is allowed full legal use of the property." In 2022, staff confirmed with the Morton County States Attorney's office that

FIGURE 1 FACING NORTH TOWARD SUBJECT PROPERTY FROM EXISTING APPROACH

full legal use means Mr. Gange must follow normal permitting/zoning procedures.

The applicant wishes to re-construct the building and operate a used car sales business. Because the subject property is non-conforming, a variance is required.

FINDINGS

The subject property is 0.77 acres and zoned Commercial. The minimum size for a lot in the Commercial Zoning District is 80,000 sq feet or approximately 1.84 acres, per Morton County Land Use Code Section 2-210 Dimensional Table. Therefore, the subject property is non-conforming.

There is a conforming commercial lot with a bar directly to the north of the subject property. All other properties within the Fort Rice townsite are zoned residential. All lands to the west of the subject property, across Highway 1806, are zoned Agricultural.

The Future Land Use designation for all properties within Fort Rice is "existing development." The 2045 Comprehensive Plan describes the priority for these areas as "the continued use or expansion of the existing use or uses."

Photos in Figure 1 and 2 were taken during a site visit on November 26, 2024.

PROJECT DESCRIPTION

Applicant proposes to construct a 63' x 40' post frame structure, surface a parking lot, and to operate a used car dealership on the property.

Applicant plans to have a builder assess the condition of the steel beams and girders that were left over after demolition of the old building and see if those parts can be repurposed for the new building. The proposed structure would have a customer lounge area with bathroom. The customer area would be separated from the garage area with a wall. Applicant would plan to begin construction in spring 2025.

Applicant plans to sell used vehicles. In a conversation with staff, the applicant stated that the focus of the business is not to perform regular repair work nor for the facility to operate as a service garage. Applicant stated that some minor service work may be done to prepare vehicles for sale, such as topping off washer fluid or filling tires with air. Applicant's legal counsel stated that tires related to the business would be provided by Walmart or OK Tire, but that the applicant would not be selling tires. Applicant plans for all waste associated with the business to be handled by a dumpster. Applicant stated he would manage the operation himself without employees. Applicant stated the hours of operation would be 10am to 3pm.

State Environmental regulations allow for up to 1,300 passenger tires or a semi-trailer load equivalent of shredded tires to be stored on a property before the property owner is required to dispose of the tires via a permitted waste handler or at a waste facility permitted to dispose of tires.

CIRCULATION

Applicant estimated the business would generate 50 customer trips per day on pay-days and roughly 6 customer trips per day on a typical day. The approach that serves the subject property is the first approach in Fort Rice, approximately 275 feet from centerline of Highway 1806. The townsite road is designated as a 1st day snow route.

Parking lot would be surfaced with crushed asphalt. Applicant's site plan provides for 10 parking spaces. The number of parking spaces required in the Morton County Land Use Code is 1 space per 200sq ft of public gross floor area + 1 space per 400 sq ft of non-public gross floor area (Section 4-010 Table/Off-Street Parking). The greatest possible number of parking spaces required would be 12, if the entire building were public space. Actual number of required spaces is to be determined, based on ratio of public to private space in the proposed structure.

UTILITIES

Mor Gran Sou power is available to be extended to the proposed structure. Missouri West Water has very limited capacity in this area. Water service is not guaranteed. However, the applicant's engineer stated that a well can be easily located on the property with a required distance from the septic system. Western Plains Public Health staff stated that the site plan adequately addresses septic system needs.

PUBLIC OUTREACH

Staff advertised the public hearing in the Mandan News for the required two weeks prior to the meeting. Staff mailed the required notices to all property owners within ½ mile of the project site.

As of the writing of this report, staff received phone calls from two concerned parties who live in Fort Rice. They stated that they were concerned about the impact of a used car sales business on a residential neighborhood. They were concerned that junk cars and tires would accumulate on the lot. They were concerned that they do not want the traffic, and the clientele the business would attract, coming to Fort Rice.

ANALYSIS AND RECOMMENDATION

The majority of Fort Rice lies in the Residential Zoning District. The character that Fort Rice will grow into will depend upon how the County guides development within the townsite. Staff suggests that it is appropriate for the County to continue encouraging the consolidation of non-

conforming lots into conforming lots within the townsite, and to encourage development that contributes to maintaining a primarily residential character.

Neighborhood-oriented commercial use would be appropriate in this location. The Morton County Land Use Code offers a Rural Commercial zoning designation to allow for low-intensity commercial use that is compatible with rural residential development patterns. Unfortunately, at the time the subject property was originally re-zoned Commercial, this Rural Commercial zone was not available.

Staff suggests that a full Commercial zoning is too intense of a zoning designation in this location, particularly on a lot that is less than half the minimum lot size required in the Commercial Zoning District. Staff suggests that allowing the proposed use to become established on the property would alter the potential for the rest of Fort Rice to continue developing as a residential neighborhood. For those reasons, staff recommends denying the variance request.

Suggested motion

I move to recommend denial of a variance to allow the construction of a building for a used car sales business on a non-conforming lot for the following reasons:

1) a used car sales business is too intense of a commercial use for the size of the subject property
2) the proposed use is not compatible within a primarily residential neighborhood

ATTACHMENTS

1. Zoning map
2. Site plan
3. Applicant's statement of hardship

FIGURE 2 LOOKING NORTHWEST FROM EASTERN SIDE OF EXISTING APPROACH