City of Minot
Planning Commission Meeting
Tuesday, July 07, 2020 at 5:30 PM
City Council Chambers, City Hall

This meeting will be conducted with social distancing modifications consistent with the recommendations of the CDC. Members of the public may attend but are encouraged to view the live airing of the Planning Commission meeting on Channel 19 or streamed through the City’s YouTube channel.

Any member of the public seeking to submit comments relating to an Agenda item or public hearing should submit their comments on the City website.

1. Roll Call
2. Pledge Of Allegiance
3. Approval Of June 02, 2020 Regular Meeting Minutes

Documents:

06 (JUN) RECOMMENDATIONS 2020.PDF

4. Subdivision And Rezoning - Swenson’s Addition, Lots 1 And 2
   Public hearing request on a subdivision application by Souris River Joint Board and Ackerman-Estvold, applicants, represented by Nathan Amick, and Charles & Sandra Swenson, owners. SRJB is purchasing proposed Lot 1 from the owners to construct a levee as part of the Mouse River Flood Control Project. The Swenson’s are retaining ownership of proposed Lot 2. The applicant is also requesting rezoning from AG (Agricultural) to RA (Agricultural Residential) for both of the proposed lots.

   This property is located on the west side of town along the Mouse River, approximately aligned with 5th Avenue SW if extended west approximately 1,000 feet from the west edge of Terracita Vallejo Subdivision (No assigned address).

Documents:

SUBDIVISION AND REZONE SWENSONS ADDITION.PDF

5. Subdivision And Rezoning - The Bluffs 14th Addition, Lot 1
   Public hearing request on an application by Randy Conway, Owner, and Ackerman-Estvold, Applicant, to create a one lot residential subdivision by adding acreage to an existing lot and also a rezoning request from R1 (Single-Family Residential) and AG (Agricultural) to RA (Agricultural Residential).

   This property is located at 4260 27th Street SE.

Documents:

SUBDIVISION AND REZONE BLUFFS 14TH.PDF

6. Subdivision - Bel Air 25th Addition, Lot 1
   Public hearing request on an application by Keith Bloms, Owner, and Ackerman-Estvold, Applicant, to combine existing Lots 10 and 11, Bel Air 14th Addition into one lot to be known as Bel Air 25th Addition to build a garage.
This property is located at 504 27th Street NW.

Documents:

**SUBDIVISION BEL AIR 25TH.PDF**

7. Subdivision, Variance And Zone Change - Trinity Health 3rd Addition
   Public hearing request on an application by Eric Popinga of Central Power Electric Cooperative, Inc. for a zone change from AG (Agricultural) to P (Public Zone) and a two-lot subdivision plat to create a lot for a new electrical substation to provide redundant electrical service to Trinity Hospital along with capacity for future development activity in the southwest Minot area by member cooperative Verendrye Electric Cooperative, Inc. In addition, a variance to zoning requirements is requested to waive the requirement to pave the parking lot at the substation.

This property is located at Lot 1, Trinity Health 2nd Addition to the City of Minot (south of Trinity Hospital).

Documents:

**SUBDIVISION, REZONE, AND VARIANCE - TRINITY 3RD.PDF**

8. Other Business

9. Adjournment
Meeting Called to Order by Chairman Charles DeMakis at 5:30 p.m.

Roll Call

Pledge of Allegiance

Approval of the May 05, 2020 Regular Meeting Minutes

Motion by Commissioner Offerdahl to approve May 05, 2020 Planning Commission Meeting minutes, second by Baumann, and was carried by the following roll call vote: ayes: Barnett, Baumann, Wegenast, Sivertson, Demakis, Offerdahl, Nesdahl, Hochhalter, Gates, Lider. nays: none

Motion carries

The following are the recommendations of the Planning Commission:

Item #1
Interim Use Permit – Section 23-155-83, Outlots 18-29 Less Right-of-Way

Planning Commission recommends City Council adopt a resolution with certain conditions of approval on an application by Minot Public Schools for an IUP (Interim Use Permit) to allow two (2) additional modular classroom buildings to be added to the five (5) existing portable classroom buildings for a total of seven (7). The additional classroom space is needed due to an increase in students.

This property is located at 1000 6th Street SW.

Finding of Facts:
The Minot Planning Commission should accept the following findings of facts:
1) The applicant has submitted a complete application.
2) The applicant’s request is consistent with Minot’s Comprehensive Plan Future Land Use Map, but the portable units are not a permanent solution for classroom capacity.
3) This request meets all of the bulk requirements of Minot’s Zoning Ordinance.
4) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

Staff Recommendations:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this Interim Use Permit, subject to the following conditions, to the City Council:

1. Five (5) years after the passing of the Interim Use Permit (IUP) by City Council, the IUP will be reevaluated for either extension or termination subject to the plans and funding available to the School Board to provide a more permanent solution.
2. The City requests at least twelve (12) feet of separation between the proposed units.
3. The owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

Chairman DeMakis asked the Principal Planner for staff comments.

Mr. Lang explained that the applicant is requesting approval of an Interim Use Permit (IUP) to allow two (2) additional portable modular classroom buildings to be installed at Jim Hill Middle School for a total of seven (7). The purpose of this project is to provide an appropriate amount of classroom space to compensate for an anticipated increase of eighty (80) to ninety (90) students. The property is located at 1000 6th Street SW. This property is zoned “P”, Public zoning district.

Chapter 16 of the Minot Zoning Ordinance, “P” or Public zoning district, allows for “Modular classrooms on school property with a principal building.” This use is classified as an interim use requiring the issuance of an Interim Use Permit (IUP) by the City Council. Therefore, the Minot School District is requesting an IUP to allow an additional two (2) portable units, each of which contains two (2) classrooms to accommodate the anticipated increase in students. Currently, there are ten (10) modular classrooms contained within five (5) portable units clustered around the northwestern corner of Jim Hill Middle School. The two (2) proposed units will be placed in the same vicinity to the east of the existing units. In the past, the five existing modular units were not brought to the attention of the Planning Department, but did secure proper permits from the Building Permitting and Inspections Department. Apparently, the requirement for an Interim Use Permit was not recognized and, as a result, there was no review before the Planning Commission and City Council.

The proposed units will look similar to the photographs of the existing units. The site plan sketch indicates eight (8) feet between units which seems awfully close especially given that the units are not fire sprinklered. The Facilities Director for Minot Public Schools said he would provide more separation between the units, at least twelve (12) feet, but there are existing site features that affect the ability to spread the units out further. There is a chain link fence around the existing units which will be enlarged to incorporate the two additional units. He also indicated that time is of the essence in getting these units moved in, installed and up and running for the upcoming school year. The units need to be shipped here,
set on foundations, utilities need to be connected, fencing extended, and school related infrastructure such as computer links and data runs need to be provided to each classroom.

A Development Review Team (DRT) meeting was held to review this project. Staff expressed the need to find a permanent solution for the overcapacity problem. A permit term of five (5) years was discussed as the greatest amount of time the City should allow the interim units to be used before a more suitable solution is implemented. The Fire Chief expressed concerns for the safety of the children in these types of settings. The units will not be fire sprinklered. They will have local fire alarms and extinguishers, but the alarms will not ring into the 911 dispatch system. Someone will need to contact dispatch if there is an emergency. The Chief also expressed concern for the close proximity of these units to one another and to the principal school building. The units burn fast and the fire has a tendency to spread rapidly between structures. Principal Planner read a letter into the record from the Fire Chief to the Minot School District dated May 15, 2020 that expressed these concerns.

Chairman DeMakis opened up comments from the commissioners.

Commissioner Baumann stated that he felt it to be his civic duty as a citizen of Minot to point out that modular classrooms are a less than desirable standard to provide quality education to the school children of our community and a better solution needs to be identified, funded, and constructed as soon as possible.

Chairman DeMakis opened up comments from the public.

There were no comments on the public portal.

Chairman Demakis asked for a motion form the Commissioners.

Motion by Commissioner Offerdahl to approve based on finding of facts, staff recommendations and conditions, including the five-year time limit. Second by Commissioner Baumann.

Discussion. Principal Planner asked if the motion includes the separation distance between units of twelve feet? Offerdahl said yes, he amends his motion to include both conditions. The second by Commissioner Baumann was reaffirmed.

Assistant City Attorney, Stefanie Stalheim, spoke and asked the Principal Planner if the applicant has provided any assurances or indication that the units will in fact be removed when the permit expires as referenced in Chapter 30 of the Zoning Ordinance?

Mr. Lang stated no, there has been no discussion to date regarding this matter, but it could certainly be added as a third condition of approval.

Commissioner Offerdahl made an addendum stating the requirement for some type of financial surety to ensure the units are removed at the expiration of the permit be added as a third condition of approval. Second by Nesdahl. The addendum was carried by the following roll call vote: ayes: Barnett, Baumann, Wegenast, Sivertson, Demakis, Offerdahl, Nesdahl, Hochhalter, Gates, Lider. nays: none

Motion carries.
Chairman Demakis asked for a vote on the original motion which was still on the floor.

The original motion was carried by the following roll call vote: ayes: Barnett, Baumann, Wegenast, Sivertson, Demakis, Offerdahl, Nesdahl, Hochhalter, Gates, Lider. nays: none

Motion carries.

With no other business before the committee, Chairman DeMakis adjourned the meeting at 5:50 PM.
**PROJECT DESCRIPTION:**

The applicant is requesting approval of a lot line adjustment to shift the lot line between two existing lots, Outlot 10 and a Portion of Outlot 16 of Section 21, Township 155 North, Range 83 West. The two new lots will be known as Lots 1 and 2 of Swenson’s Addition. The applicant is also requesting rezoning from “AG”, Agricultural District to “P”, Public Zoning for Lot 1 and to “RA” Agricultural Residential District for Lot 2. These properties are located at the southwest corner of 5th Avenue and 37th Street SW (see Vicinity Map exhibit).
**BACKGROUND INFORMATION:**

The two existing lots are under common ownership by the Swenson’s and both of the lots have a few small structures on them (see Aerial View exhibit). Lot 1 will be purchased by the Souris River Joint Board (SRJB) for flood protection improvements in accordance with MREFPP (Mouse River Enhanced Flood Protection Plan) Phase WC-1. The proposed flood protection levee is located partially on both lots. The conceptual alignment is shown on the Vicinity Map Exhibit.

The new common lot line is platted such that all of Outlot 10 and a portion of what was Outlot 16 will make up proposed Lot 2 of Swenson’s Addition while the remaining portion of Outlot 16 will comprise proposed Lot 1. Lot 1 will consist of approximately 570,293 square feet or 13.1 acres, while Lot 2 will consist of 202,321 square feet or 4.64 acres with a 32-foot wide easement on the western side of the lot being reserved for utilities and drainage (see Preliminary Plat exhibit). Lot 1 meets the minimum size requirements for P, Public Zoning in the City’s Extra-Territorial Jurisdiction (ETJ) of two (2) acres and Lot 2 meets the minimum lot size requirements of two (2) acres for RA zoning. The location of the new lot lines also meets all setback requirements of the P and RA zoning bulk regulations, respectively.

Both of the properties involved in this subdivision are currently zoned AG, Agricultural District, Lot 1 will be rezoned to P, Public Zoning, while Lot 2 will be rezoned to RA, Agricultural Residential (see Zoning Map exhibit). The lot area in each case is too small to meet the minimum required lot area of twenty (20) acres in AG zoning. The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as “Low Density Residential.” The requested rezoning of these properties is in conformance with the land use map designation and it will not be amended (see Future Land Use Map).
VICINTY MAP: This map highlights the subject property.

AERIAL VIEW: This aerial photograph was taken in 2015.
ZONING MAP: This map highlights the current zoning of the subject property and the properties surrounding the subject site.

FUTURE LAND USE MAP: This is the City of Minot’s official comprehensive plan map adopted in 2012.
CONSIDERATIONS GOVERNING SUBDIVISION DESIGN APPROVAL AND CONDITIONS:

In approving or disapproving a proposed subdivision design, the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40-48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs. The development, in accordance with present and future needs, which will best promote the amenities of life, health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement. This will also include wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction. Zoning Ordinance of the City of Minot, Section 28-24.

If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public roadways, easements, parks, or other areas reserved or dedicated to the public. Zoning Ordinance of the City of Minot, Section 28-25(a).

SUBDIVISION DESIGN STANDARDS:

The design and layout of all subdivisions shall conform to the standards set forth in this division, to the extent that they are applicable given the nature of the subdivision or the method by which the subdivision is to be accomplished. Zoning Ordinance of the City of Minot, Section 28-40.

Relation of Streets to Adjoining Street System: The arrangement of streets in new subdivisions shall make provision for the continuance of existing streets in adjoining areas or their proper projection where the land is not subdivided, insofar as they may be deemed necessary by the Commission for public requirements. The street and alley arrangement should also avoid creating hardships to the owners of adjoining property when they plat their own land and seek to provide a convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted. Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked for duplication. Zoning Ordinance of the City of Minot, Section 28-41.

Street and Alley Width, Dead-End Streets: a) The widths and locations of major streets shall conform to widths and locations designated on the plan for major streets. b) The minimum width for minor streets shall be sixty-six (66) feet. When streets adjoin unsubdivided property, a half street at least thirty-three (33) feet in width must be dedicated. c) Dead-ended streets are to be avoided, but if necessary, in the opinion of the Commission, they shall terminate in a circular right-of-way with a minimum diameter of one hundred twenty
(120) feet unless the Commission approves an equally safe and convenient space, provided that, however, no dead end street or street ending in a cul-de-sac shall be more than five hundred (500) feet in length from the point of intersection with the cross street to the beginning of the cul-de-sac. d) Alleys, when provided, shall have a minimum width of twenty (20) feet. e) Necessary utility easements will be provided as required. Specifically, for storm sewers, sanitary sewers or water mains, permanent easements shall be a minimum of twenty (20) feet wide. Also, ten (10) feet wide public utility easements shall be provided along the front lot line of every lot. Zoning Ordinance of the City of Minot, Section 28-42.

Lot Arrangement: a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites and street access, properly related to topography and the character of surrounding development. b) All side lines of lots shall be as near as possible at right angles to straight street lines, or radial to curved street lines, unless a variation from this rule will give a better street and lot plan. Lots with double frontage shall be avoided wherever possible. c) The minimum width and area of residential lots subject to the zoning authority of the City of Minot shall not be less than that specified in the zoning district in which the lot is located. d) All lots shall have at least one lot line abutting a street other than an alley. Zoning Ordinance of the City of Minot, Section 28-43.

Easements Along Streams: Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall provide an adequate easement for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course. Zoning Ordinance of the City of Minot, Section 28-44.

**REZONING & MAP AMENDMENT PETITION REQUIREMENTS:**

**PETITION REQUIREMENTS:** All petitions requesting a change, amendment, or supplement of the established zoning districts of the city and regulations connected therewith shall be filed by the person requesting such action and such petition shall contain the street address of the petitioners, the lot number of any real estate owned by him adjacent to the area proposed to be changed and shall also contain an accurate legal description of the district or parts of districts proposed to be so altered. Such petition shall also recite facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this ordinance, and shall further disclose the purpose for which such property is sought to be used. Zoning Ordinance of the City of Minot, Section 30-5(k).

Petitions for rezoning must also include the following information:

1. A generalized location map and aerial photograph showing the location of the proposed site in relation to the overall city.
2. Zoning of the subject parcel and all adjacent properties.
3. The land use designation on the City’s Future Land Use Map of the subject property and all adjacent properties.
4. A boundary survey of the site, drawn to scale, showing the property lines and any improvements present on the site, with dimensions and with north indicated. Other information such as locations of proposed wetlands, existing woodlands, water courses, or other natural features present on the site shall be shown. In some cases, staff may request more information to be shown to aid in evaluation of the development potential of the site such as contour lines or spot elevations.

5. A list of proposed uses, and whether said uses are either permitted, conditional, or interim in nature.

6. Location of all existing buildings, setback lines, structures, easements of record, or other encumbrances on the proposed site.

7. At a minimum, a written description of the applicant’s intent and vision for the development of the property shall be provided of known a conceptual layout of the site depicting proposed improvements including, but not limited to; buildings, parking, access points, outdoor service areas and loading spaces, landscaping, outdoor storage, etc. Applicants are encouraged to submit additional information that may further describe the applicant’s request.

Zoning Ordinance of the City of Minot, Section 30-5(f).

Applications for rezoning property which has not been previously platted shall also be required to plat the property in accordance with Chapter 28 of the Zoning Supplement. Additionally, applications for rezoning shall be consistent with the City of Minot’s Comprehensive Plan in terms of land use and be located within the stage growth area plans of the Comprehensive Plan to prevent premature subdivision and development. Zoning Ordinance of the City of Minot, Section 30-5(e).

**ACTION BY PLANNING COMMISSION:** No amendment, supplement, change or modification of this zoning ordinance or zoning map shall be made by the City Council without first a public hearing and consideration of the entitlement by the Planning Commission. Zoning Ordinance of the City of Minot, Section 30-5(h).

The Planning Commission may close the public hearing and forward its recommendations to the City Council at the same meeting at which it initially opens the public hearing, or may continue the item for further consideration or for further public comment, or for both, at a later meeting. Zoning Ordinance of the City of Minot, Section 30-5(a).

No application for a rezoning of a property shall be accepted more than once in any six (6) month period except if the prior application was withdrawn before action was taken by the City Council, or if the Planning Commission determines that the circumstances surrounding a previous application for a rezoning has changed. Zoning Ordinance of the City of Minot, Section 30-5(e).

The Planning Commission approval shall be by majority vote of its members (simple majority of those present at the meeting). Zoning Ordinance of the City of Minot, Section 30-5(h).
Following a public hearing before and consideration by the Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendation shall be of an advisory nature only. Zoning Ordinance of the City of Minot, Section 30-5(h).

**ACTION BY THE CITY COUNCIL:** After receipt of the recommendation on any amendment from the Planning Commission, or in any event of the failure of the Planning Commission to so report, within ninety (90) days from the time of referral of the proposed amendment to the Planning Commission, the City Council shall hold a public hearing, after which the proposed amendment may be passed. City Council approval shall be by majority vote (four (4) affirmative votes). Zoning Ordinance of the City of Minot, Section 30-5(i).

**APPROVAL AND ACCEPTANCE OF SUBDIVISION DESIGN:**

The applicant for subdivision design approval shall submit as part of his application the subdivision design documents referred to in Subsection (c). The Commission shall study the subdivision design documents and the supplemental materials to see whether or not the design conforms to the minimum standards and requirements set forth in this zoning ordinance, and if not, whether any of the requirements should be waived or varied. The Commission shall not grant final approval or disapproval of the design until it has conducted a public hearing thereon. Notice of the public hearing specifying the time and date thereof, the place where held, and the legal description of the premises to be affected by the proposed subdivision design shall be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least seven (7) days prior to the date of the hearing exclusive of the date of publication and the date of the hearing. The public hearing may be continued by the Commission as it deems necessary in order to solicit additional views and opinions concerning the proposed subdivision design. This will allow applicant to submit requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within ninety (90) days of the initial hearing on the design. Zoning Ordinance of the City of Minot, Section 28-23(b).

**STAFF ANALYSIS:**

**Comprehensive Plan Analysis:**
Current Comprehensive Plan Map Classification: Low Density Residential

Proposed Comprehensive Plan Map Classification: No Change

Staff finds that this request is consistent with the goals and objectives of the Minot Comprehensive Plan.
Public Agency Comments:
Staff did not receive any comments.

FINDBINGS OF FACT:

The Minot Planning Commission should accept the following findings of facts:
1) The applicant has submitted a complete application.
2) The applicant’s request is consistent with Minot’s Comprehensive Plan.
3) This request meets all of the bulk requirements of Minot’s Zoning Ordinance.
4) This property needs to be further subdivided and rezoned to meet the needs of the Mouse River flood protection program.
5) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this preliminary plat application and rezoning request, subject to the following conditions, to the City Council:

1) No later than six months after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, auditor’s outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.
**City of Minot**

**Planning Commission**

**Staff Report**

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**Application Date:** 5/26/20  
**Date of Staff Report:** 6/18/20  
**Staff Contact:** Peter Baumgartner, Planner I & Lance A. Lang, AICP, Principal Planner  
**Staff Recommendation:** Approval

<table>
<thead>
<tr>
<th>Status:</th>
<th>New Application</th>
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<tbody>
<tr>
<td><strong>Staff Report Item #: 2 (Agenda Item # 5)</strong></td>
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<tr>
<td><strong>Project Number:</strong></td>
<td>8020-7.2</td>
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<tr>
<td><strong>Project Name:</strong></td>
<td>The Bluffs 14th Addition</td>
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<tr>
<td><strong>Current Legal Description:</strong></td>
<td>Lots 3, The Bluffs 7th Addition and an Unplatted Portion of SW1/4 of NE1/4 of Section 6-154-82.</td>
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<tr>
<td><strong>Proposed Legal Description:</strong></td>
<td>The Bluffs 14th Addition into the City of Minot, North Dakota</td>
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<td><strong>Present Address:</strong></td>
<td>4260 37th ST SE</td>
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<td><strong>Entitlement Requested:</strong></td>
<td>Replat- One existing lot plus an unplatted portion of SW1/4 of NE1/4 of Section 6-154-82.</td>
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<td><strong>Existing Zoning Profile:</strong></td>
<td>One R1 Lot and an unplatted portion of AG</td>
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<td><strong>Present Zone:</strong></td>
<td>R1/AG</td>
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<td><strong>Present Use:</strong></td>
<td>AG/Open space and Residential</td>
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<td><strong>Uses Allowed in Present Zone:</strong></td>
<td>See Chapter 5 for residential uses and Chapter 19 for agricultural uses</td>
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<tr>
<td><strong>Future Land Use Map:</strong></td>
<td>Low Density Residential</td>
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</tbody>
</table>
| **Owner:** | Randy Conway  
4260 27th ST SE, Minot, ND, 58701  
(701) 721-0119 |
| **Representative:** | Rolly Ackerman  
1907 17th ST SE, Minot, ND, 58701  
rally.ackerman@ackermansurveying.com  
(701) 838-0786 |
| **Proposed Zoning Profile:** | One RA Lot |
| **Proposed Zone:** | RA |
| **Proposed Use:** | Residential |
| **Uses Allowed in Proposed Zone:** | See Chapter 5.2 for residential uses. |
| **Future Land Use Map:** | Low Density Residential |

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**PROJECT DESCRIPTION:**

The applicant is requesting approval of a subdivision to merge Lot 3 of The Bluffs 7th Addition, with an unplatted portion of land to the west and to also have the resulting property rezoned from R1/AG to RA only. The new lot will be known as Lots 1, The Bluffs 14th Addition. This property is located at 4260 27th Street SE (see Vicinity Map exhibit).
BACKGROUND INFORMATION:

The existing lot is currently owned by the applicant and has a house on it, the unplatted area is currently owned by Ready Builders II, Inc. and is currently vacant (see Aerial View exhibit).

Subdivision Plat.
The new lot line is platted such that approximately four (4) acres of the unplatted portion of the SW ¼ of the NE ¼ of Section 6-154-82 will be combined with the existing lot to create Lot 1, The Bluffs 14th Addition. The remainder of the unplatted area will remain as such. Proposed Lot 1 will contain approximately 1,161,037.14 square feet or 26.65 acres of land (see Preliminary Plat exhibit). The proposed lot area exceeds the minimum lot size requirement of two (2) acres for RA zoning by a considerable margin. The property could be zoned AG as it exceeds the twenty (20) acre minimum lot area required for AG zoning. The location of the new lot lines meets all setback requirements in R1 zoning bulk regulations.

Land Use and Zoning.
The properties involved in this subdivision are currently zoned R1, Single-Family Residential District and AG, Agricultural District. When combined to form the proposed lot the resulting property will be rezoned to a single zoning designation. At the applicant’s request the property is to be rezoned to RA, Agricultural Residential District (see Zoning Map exhibit). Given the relatively large size of the resulting parcel and its somewhat remote location in the ETJ, RA makes more sense for the property than R1 would. R1 is intended primarily for urban residential development, not rural development, although there are quite a few properties in the ETJ zoned as such. Although there is a large expanse of R1 zoning to the north of this property, it is the Country Club Golf Course. The residential lots in this area to the south, east and west are zoned AG or RA. In addition, this property will not likely be served with City services, again making more sense to zone it AG or RA.

The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as “Very Low Density Residential.” The use of these properties is in conformance with the land use map designation (see Future Land Use Map).
VICINTY MAP: This map highlights the subject property.

AERIAL VIEW: This aerial photograph was taken in 2015.
ZONING MAP: This map highlights the current zoning of the subject property and the properties surrounding the subject site.

FUTURE LAND USE MAP: This is the City of Minot’s official comprehensive plan map adopted in 2012.
PRELIMINARY PLAT OF
THE BLUFFS 14TH ADDITION
TO THE CITY OF MINOT, NORTH DAKOTA
(BEING LOT 3, THE BLUFFS 7TH ADDITION TO THE CITY MINOT, NORTH DAKOTA AND
AND UNPLATTED PORTION OF THE SW1/4NE1/4 SECTION 6, TOWNSHIP 154 NORTH,
RANGE 62 WEST, WARD COUNTY, NORTH DAKOTA)

SCALE 1" = 400'
CONSIDERATIONS GOVERNING SUBDIVISION DESIGN APPROVAL AND CONDITIONS:

In approving or disapproving a proposed subdivision design, the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40-48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs. The development, in accordance with present and future needs, which will best promote the amenities of life, health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement. This will also include wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction. Zoning Ordinance of the City of Minot, Section 28-24.

If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public roadways, easements, parks, or other areas reserved or dedicated to the public. Zoning Ordinance of the City of Minot, Section 28-25(a).

SUBDIVISION DESIGN STANDARDS:

The design and layout of all subdivisions shall conform to the standards set forth in this division, to the extent that they are applicable given the nature of the subdivision or the method by which the subdivision is to be accomplished. Zoning Ordinance of the City of Minot, Section 28-40.

Relation of Streets to Adjoining Street System: The arrangement of streets in new subdivisions shall make provision for the continuance of existing streets in adjoining areas or their proper projection where the land is not subdivided, insofar as they may be deemed necessary by the Commission for public requirements. The street and alley arrangement should also avoid creating hardships to the owners of adjoining property when they plat their own land and seek to provide a convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted. Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked for duplication. Zoning Ordinance of the City of Minot, Section 28-41.

Street and Alley Width, Dead-End Streets: a) The widths and locations of major streets shall conform to widths and locations designated on the plan for major streets. b) The minimum width for minor streets shall be sixty-six (66) feet. When streets adjoin unsubdivided property, a half street at least thirty-three (33) feet in width must be dedicated. c) Dead-ended streets are to be avoided, but if necessary, in the opinion of the Commission, they shall terminate in a circular right-of-way with a minimum diameter of one hundred twenty
(120) feet unless the Commission approves an equally safe and convenient space, provided that, however, no dead end street or street ending in a cul-de-sac shall be more than five hundred (500) feet in length from the point of intersection with the cross street to the beginning of the cul-de-sac. d) Alleys, when provided, shall have a minimum width of twenty (20) feet. e) Necessary utility easements will be provided as required. Specifically, for storm sewers, sanitary sewers or water mains, permanent easements shall be a minimum of twenty (20) feet wide. Also, ten (10) feet wide public utility easements shall be provided along the front lot line of every lot. Zoning Ordinance of the City of Minot, Section 28-42.

Lot Arrangement: a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites and street access, properly related to topography and the character of surrounding development. b) All side lines of lots shall be as near as possible at right angles to straight street lines, or radial to curved street lines, unless a variation from this rule will give a better street and lot plan. Lots with double frontage shall be avoided wherever possible. c) The minimum width and area of residential lots subject to the zoning authority of the City of Minot shall not be less than that specified in the zoning district in which the lot is located. d) All lots shall have at least one lot line abutting a street other than an alley. Zoning Ordinance of the City of Minot, Section 28-43.

Easements Along Streams: Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall provide an adequate easement for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course. Zoning Ordinance of the City of Minot, Section 28-44.

**APPROVAL AND ACCEPTANCE OF SUBDIVISION DESIGN:**

The applicant for subdivision design approval shall submit as part of his application the subdivision design documents referred to in Subsection (c). The Commission shall study the subdivision design documents and the supplemental materials to see whether or not the design conforms to the minimum standards and requirements set forth in this zoning ordinance, and if not, whether any of the requirements should be waived or varied. The Commission shall not grant final approval or disapproval of the design until it has conducted a public hearing thereon. Notice of the public hearing specifying the time and date thereof, the place where held, and the legal description of the premises to be affected by the proposed subdivision design shall be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least seven (7) days prior to the date of the hearing exclusive of the date of publication and the date of the hearing. The public hearing may be continued by the Commission as it deems necessary in order to solicit additional views and opinions concerning the proposed subdivision design. This will allow applicant to submit requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within ninety (90) days of the initial hearing on the design. Zoning Ordinance of the City of Minot, Section 28-23(b).
REZONING & MAP AMENDMENT PETITION REQUIREMENTS:

**PETITION REQUIREMENTS:** All petitions requesting a change, amendment, or supplement of the established zoning districts of the city and regulations connected therewith shall be filed by the person requesting such action and such petition shall contain the street address of the petitioner, the lot number of any real estate owned by him adjacent to the area proposed to be changed and shall also contain an accurate legal description of the district or parts of districts proposed to be so altered. Such petition shall also recite facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this ordinance, and shall further disclose the purpose for which such property is sought to be used. Zoning Ordinance of the City of Minot, Section 30-5(k).

Petitions for rezoning must also include the following information:

1. A generalized location map and aerial photograph showing the location of the proposed site in relation to the overall city.
2. Zoning of the subject parcel and all adjacent properties.
3. The land use designation on the City’s Future Land Use Map of the subject property and all adjacent properties.
4. A boundary survey of the site, drawn to scale, showing the property lines and any improvements present on the site, with dimensions and with north indicated. Other information such as locations of proposed wetlands, existing woodlands, water courses, or other natural features present on the site shall be shown. In some cases, staff may request more information to be shown to aid in evaluation of the development potential of the site such as contour lines or spot elevations.
5. A list of proposed uses, and whether said uses are either permitted, conditional, or interim in nature.
6. Location of all existing buildings, setback lines, structures, easements of record, or other encumbrances on the proposed site.
7. At a minimum, a written description of the applicant’s intent and vision for the development of the property shall be provided of known a conceptual layout of the site depicting proposed improvements including, but not limited to; buildings, parking, access points, outdoor service areas and loading spaces, landscaping, outdoor storage, etc. Applicants are encouraged to submit additional information that may further describe the applicant’s request.

Zoning Ordinance of the City of Minot, Section 30-5(f).

Applications for rezoning property which has not been previously platted shall also be required to plat the property in accordance with Chapter 28 of the Zoning Supplement. Additionally, applications for rezoning shall be consistent with the City of Minot’s Comprehensive Plan in terms of land use and be located within the stage growth area plans of the Comprehensive Plan to prevent premature subdivision and development. Zoning Ordinance of the City of Minot, Section 30-5(e).
REVIEW BY HEARING BODIES:

ACTION BY PLANNING COMMISSION: No amendment, supplement, change or modification of this zoning ordinance or zoning map shall be made by the City Council without first a public hearing and consideration of the entitlement by the Planning Commission. Zoning Ordinance of the City of Minot, Section 30-5(h).

The Planning Commission may close the public hearing and forward its recommendations to the City Council at the same meeting at which it initially opens the public hearing, or may continue the item for further consideration or for further public comment, or for both, at a later meeting. Zoning Ordinance of the City of Minot, Section 30-5(a).

No application for a rezoning of a property shall be accepted more than once in any six (6) month period except if the prior application was withdrawn before action was taken by the City Council, or if the Planning Commission determines that the circumstances surrounding a previous application for a rezoning has changed. Zoning Ordinance of the City of Minot, Section 30-5(e).

The Planning Commission approval shall be by majority vote of its members (simple majority of those present at the meeting). Zoning Ordinance of the City of Minot, Section 30-5(h).

Following a public hearing before and consideration by the Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendation shall be of an advisory nature only. Zoning Ordinance of the City of Minot, Section 30-5(h).

ACTION BY THE CITY COUNCIL: After receipt of the recommendation on any amendment from the Planning Commission, or in any event of the failure of the Planning Commission to so report, within ninety (90) days from the time of referral of the proposed amendment to the Planning Commission, the City Council shall hold a public hearing, after which the proposed amendment may be passed. City Council approval shall be by majority vote (four (4) affirmative votes). Zoning Ordinance of the City of Minot, Section 30-5(i).

STAFF ANALYSIS:

Comprehensive Plan Analysis:
Current Comprehensive Plan Map Classification: Low Density Residential

Proposed Comprehensive Plan Map Classification: No Change
Staff finds that this request is consistent with the goals and objectives of the Minot Comprehensive Plan.

Public Agency Comments:

1. Ward County Resource District- If a SWMP exits, it should be checked to assure the new plan for development will still meet the requirements. If one does not exist, it may be required, especially if additional lots and development activities are added in the future. No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
2. North Prairie/North Central Regional Water- Item #2 would be in North Prairie’s service area per their agreement with the City.

FINDINGS OF FACT:

The Minot Planning Commission should accept the following findings of facts:

1) The applicant has submitted a complete application.
2) The applicant’s request is consistent with Minot’s Comprehensive Plan.
3) This request meets all of the bulk requirements of Minot’s Zoning Ordinance.
4) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of a rezoning request amended to RA and also approval of this preliminary plat application, subject to the following conditions, to the City Council:

1) No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
2) No later than six months after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, auditor’s outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.
**PROJECT DESCRIPTION:**

The applicant is requesting approval of a subdivision to merge two lots, currently platted as Lots 10 and 11 of Bel-Air 14th Addition, into one new lot to be known as Lot 1 of Bel-Air 25th Addition. This property is located at 504 27th Street NW (see Vicinity Map exhibit).

**BACKGROUND INFORMATION:**

Both lots are currently owned by the applicant with one of them containing a single-family home while the other is fenced and serves as the applicant’s back yard (see Aerial View exhibit). The applicant would like to...
build a detached garage in this area, but a detached building cannot be located on a stand-alone lot. Consequently, the applicant is requesting lot consolidation of the two lots.

Proposed Lot 1 will consist of the entirety of both lots for a total of approximately 25,375 square feet or 0.56 acres of land (see Preliminary Plat exhibit). The proposed lot exceeds the minimum lot size requirements of 9,500 square feet for a corner lot in R1 zoning by a considerable margin. The location of the new lot lines also meets all setback requirements in R1 zoning regulations.

All property involved in this subdivision will maintain the current R1, Single-Family Residential zoning (see Zoning Map exhibit). The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as “Low Density Residential.” The use of these properties is in conformance with the land use map designation (see Future Land Use Map).

**VICINTY MAP:** This map highlights the subject property.
AERIAL VIEW: This aerial photograph was taken in 2015.

ZONING MAP: This map highlights the current zoning of the subject property and the properties surrounding the subject site.

FUTURE LAND USE MAP: This is the City of Minot’s official comprehensive plan map adopted in 2012.
PRELIMINARY PLAT OF
BEL AIR 25TH ADDITION
TO THE CITY OF MINOT, NORTH DAKOTA
(BEING LOTS 10 AND 11, BEL AIR 14TH ADDITION,
TO THE CITY OF MINOT, NORTH DAKOTA)

NOTES:
FOR PLANNING PURPOSES ONLY AREAS AND
DISTANCES SUBJECT TO FINAL FIELD SURVEY.
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.

PLAT IS SUBJECT TO ALL PRIOR EASEMENTS
A 10’ UTILITY EASEMENT WILL BE ON THE
STREETSIDE OF EVERY LOT.

ACKERMAN SURVEYING
& ASSOCIATES
2011 13TH AVE. W.
MINOT, ND 58701

LOT 1
(2575.01 SQ. FT.)

15TH

27TH STREET SW

BEL AIR

10TH

LOT 2

14TH

5TH AVENUE SW

BEL AIR

23RD

LOT 3

BEL AIR

LOT 4

10’ UTILITY EASEMENT WILL BE ON THE STREETSIDE OF EVERY LOT.
CONSIDERATIONS GOVERNING SUBDIVISION DESIGN APPROVAL AND CONDITIONS:

In approving or disapproving a proposed subdivision design, the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40-48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs. The development, in accordance with present and future needs, which will best promote the amenities of life, health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement. This will also include wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction. Zoning Ordinance of the City of Minot, Section 28-24.

If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public roadways, easements, parks, or other areas reserved or dedicated to the public. Zoning Ordinance of the City of Minot, Section 28-25(a).

SUBDIVISION DESIGN STANDARDS:

The design and layout of all subdivisions shall conform to the standards set forth in this division, to the extent that they are applicable given the nature of the subdivision or the method by which the subdivision is to be accomplished. Zoning Ordinance of the City of Minot, Section 28-40.

Relation of Streets to Adjoining Street System: The arrangement of streets in new subdivisions shall make provision for the continuance of existing streets in adjoining areas or their proper projection where the land is not subdivided, insofar as they may be deemed necessary by the Commission for public requirements. The street and alley arrangement should also avoid creating hardships to the owners of adjoining property when they plat their own land and seek to provide a convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted. Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked for duplication. Zoning Ordinance of the City of Minot, Section 28-41.

Street and Alley Width, Dead-End Streets: a) The widths and locations of major streets shall conform to widths and locations designated on the plan for major streets. b) The minimum width for minor streets shall be sixty-six (66) feet. When streets adjoin unsubdivided property, a half street at least thirty-three (33) feet in width must be dedicated. c) Dead-ended streets are to be avoided, but if necessary, in the opinion of the Commission, they shall terminate in a circular right-of-way with a minimum diameter of one hundred twenty
(120) feet unless the Commission approves an equally safe and convenient space, provided that, however, no dead end street or street ending in a cul-de-sac shall be more than five hundred (500) feet in length from the point of intersection with the cross street to the beginning of the cul-de-sac. d) Alleys, when provided, shall have a minimum width of twenty (20) feet. e) Necessary utility easements will be provided as required. Specifically, for storm sewers, sanitary sewers or water mains, permanent easements shall be a minimum of twenty (20) feet wide. Also, ten (10) feet wide public utility easements shall be provided along the front lot line of every lot. Zoning Ordinance of the City of Minot, Section 28-42.

Lot Arrangement: a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites and street access, properly related to topography and the character of surrounding development. b) All side lines of lots shall be as near as possible at right angles to straight street lines, or radial to curved street lines, unless a variation from this rule will give a better street and lot plan. Lots with double frontage shall be avoided wherever possible. c) The minimum width and area of residential lots subject to the zoning authority of the City of Minot shall not be less than that specified in the zoning district in which the lot is located. d) All lots shall have at least one lot line abutting a street other than an alley. Zoning Ordinance of the City of Minot, Section 28-43.

Easements Along Streams: Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall provide an adequate easement for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course. Zoning Ordinance of the City of Minot, Section 28-44.

**APPROVAL AND ACCEPTANCE OF SUBDIVISION DESIGN:**

The applicant for subdivision design approval shall submit as part of his application the subdivision design documents referred to in Subsection (c). The Commission shall study the subdivision design documents and the supplemental materials to see whether or not the design conforms to the minimum standards and requirements set forth in this zoning ordinance, and if not, whether any of the requirements should be waived or varied. The Commission shall not grant final approval or disapproval of the design until it has conducted a public hearing thereon. Notice of the public hearing specifying the time and date thereof, the place where held, and the legal description of the premises to be affected by the proposed subdivision design shall be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least seven (7) days prior to the date of the hearing exclusive of the date of publication and the date of the hearing. The public hearing may be continued by the Commission as it deems necessary in order to solicit additional views and opinions concerning the proposed subdivision design. This will allow applicant to submit requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within ninety (90) days of the initial hearing on the design. Zoning Ordinance of the City of Minot, Section 28-23(b).
STAFF ANALYSIS:

Comprehensive Plan Analysis:
Current Comprehensive Plan Map Classification: Low Density Residential

Proposed Comprehensive Plan Map Classification: No Change

Staff finds that this request is consistent with the goals and objectives of the Minot Comprehensive Plan.

Public Agency Comments:
1. Ward County Resource District- If a SWMP exits, it should be checked to assure the new plan for development will still meet the requirements. If one does not exist, it may be required, especially if additional lots and development activities are added in the future. No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
2. City of Minot Engineering Department- Sidewalks are required to be installed on 27th St NW. Sidewalks will be required to be installed on 5th Ave NW when the street is improved to an urban section.

FINDINGS OF FACT:

The Minot Planning Commission should accept the following findings of facts:
1) The applicant has submitted a complete application.
2) The applicant’s request is consistent with Minot’s Comprehensive Plan.
3) This request meets all of the bulk requirements of Minot’s Zoning Ordinance.
4) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this preliminary plat application, subject to the following conditions, to the City Council:
1) No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
2) Sidewalks shall be installed on 27th St NW. Sidewalks shall be installed on 5th Ave NW when the street is improved to an urban section.
3) No later than six months after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall
submit the final form of the original of the appropriate instrument of conveyance, auditor’s outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.
PROJECT DESCRIPTION:
The applicant is requesting approval of a two-lot subdivision to purchase one of the proposed lots from Trinity Health Systems to construct an electrical substation to provide redundant electrical service to the Trinity Hospital facility and expand service capacity for future residential and commercial development in the southwest area of town. Rezoning of one of the lots is requested as well as a variance to paving requirements. The proposed subdivision is located immediately south of the new Trinity Hospital site along 37th Avenue SW (see Vicinity Map exhibit).
The second proposed lot will remain in Trinity ownership and there are no development plans for this lot at this time. Both lots are currently vacant (see Aerial View exhibit). Proposed Lot 1 of Trinity Health 3rd Addition will contain the substation and will be rezoned from AG, Agricultural to P, Public Zoning District while proposed Lot 2 will remain in the AG, Agricultural Zoning District. Additionally, the applicant is requesting a variance to waive the requirement to pave the substation parking lot as generally required in P zoning.

**BACKGROUND INFORMATION:**

Proposed Lot 1 is situated at the southwest corner of existing Lot 1 of the Trinity Health 2nd Addition and contains approximately 130,643 square feet or 3.00 acres. It will be rezoned to P, Public and the electrical substation will be located here (see Zoning Map exhibit). Proposed Lot 2 will remain under Trinity ownership, will remain AG, and consists of the remainder of the currently platted lot. It will contain approximately 1,269,414 square feet or 29.14 acres see (see Preliminary Plat exhibit). The proposed properties greatly exceed the minimum lot size requirements for their respective zoning districts of 10,000 square feet in P and 20 acres in AG zoning. The location of the lot lines meets all setback requirements for P and AG zoning regulations.

The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as “Low Density Residential.” The future land uses in this area are unknown at this time, however staff feels that the use of these properties is in conformance with the land use map designation which can always be modified in the future if need be (see Future Land Use Map).

Properties zoned P, Public are subject to the development regulations for C2, General Commercial district. A Landscape Plan is provided. Pine trees will be planted around the perimeter of the facility to provide visual screening. Also in the C2 chapter, new developments are required to meet certain standards for architectural design and construction materials of the building(s). In this case, the sole building is a small equipment building near the center of the site. The size of this building is less than 120 square feet and therefore, no permits are required and the architectural standards are moot. The building will be constructed with pre-cast concrete panels with exposed aggregate finish, a typical look for these types of small utility buildings.

In Section 23-6e of the zoning ordinance it states that “except in the AG, RA, R1, and R2 districts, a parking lot or motorized vehicle storage area must be hard-surfaced so as to be free of dust and mud” and that materials such as decorative rock, gravel, sand, or bare soil are prohibited as acceptable materials for paving. The applicant is requesting relief from these requirements and has requested a variance to the zoning regulations to allow the parking lot to be gravel, rock, or crushed concrete. The applicant bases the variance request on the grounds of practical difficulty and offers justification for the request as follows:

1) Due to the size, weight, and type of equipment used to deliver and set transformers and other equipment, including the use of track-driven equipment inside and outside of the fenced area. All of this equipment turns and pivots optimally on a gravel surface.
2) There will only be one or two vehicles parked at the site once a month for routine substation checks. This is not like a business that has daily demand for customer parking. The only parking is both limited in use but also only consists of solely of employees, not customers.

3) The access road leading to the substation will be gravel and the interior of the substation within the security fence will be crushed rock. It seems inconsistent to require an island of paved parking between two areas that are allowed to remain unpaved.

(see Variance Request exhibit from Applicant).

VICINTY MAP: This map highlights the subject property.
AERIAL VIEW: This aerial photograph was taken in 2015 before construction of the hospital commenced.

ZONING MAP: This map highlights the current zoning of the subject property and the properties surrounding the subject site.
FUTURE LAND USE MAP: This is the City of Minot’s official comprehensive plan map adopted in 2012.
VARIANCE REQUEST: The following forms were submitted by the applicant for as part of his variance request.
City of Minot Planning Department  
1025 31st Street SE  
PO Box 5006  
Minot, ND 58702

RE: Section 30-2 Variance Request for a parking area located on Lot 1, Trinity Health 3rd Addition to the City of Minot, in the N1/2 of Section 3, T154N, R83W, Ward County, ND.

Central Power Electric Cooperative, Inc. is requesting a variance to the hard-surfaced parking space requirement as listed in Section 23-6E of the July 2017 Zoning Supplement to the City of Minot. This variance request is being presented for three reasons under the premise of practical difficulty: 1) The size, weight, and type of equipment used to deliver and set transformers and other equipment, to include the use of track-driven equipment inside and outside of the fenced area. Once offloaded, this equipment turns and pivots most optimally on a gravel-type surface. 2) Once the substation is constructed and operational, there will typically only be a single vehicle or a couple of vehicles parked on site once per month for routine substation checks. The only exception to this would be emergencies or equipment failure needing repair, either on the transmission or distribution equipment. 3) The access road to the facility, along with the fenced area of the substation property will be a graveled and crushed rock surface. The requirement of a hard-surfaced parking area would place a concrete pad (island) of .459 acres between the access road (graveled) and the fenced substation area (crushed rock).

For these reasons, it is the request of Central Power Electric Cooperative, Inc. to receive a variance from the requirement of a hard-surfaced parking area to allow a gravel surface for best practices and to eliminate practical difficulty. We thank you sincerely for your consideration of this variance request.


Eric Popinga  
Real Estate Administrator  
Central Power Electric Cooperative, Inc.  
525 20th Ave. SW.  
Minot, ND. 58701  
ericp@centralpwr.com  
701-837-7412 (direct line)  
701-340-4528 (cell)

A Touchstone Energy Cooperative

VARIANCE REQUESTED FOR SHADED AREA
CONSIDERATIONS GOVERNING SUBDIVISION DESIGN APPROVAL AND CONDITIONS:

In approving or disapproving a proposed subdivision design, the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40-48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs. The development, in accordance with present and future needs, which will best promote the amenities of life, health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement. This will also include wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction. Zoning Ordinance of the City of Minot, Section 28-24.

If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public roadways, easements, parks, or other areas reserved or dedicated to the public. Zoning Ordinance of the City of Minot, Section 28-25(a).
SUBDIVISION DESIGN STANDARDS:

The design and layout of all subdivisions shall conform to the standards set forth in this division, to the extent that they are applicable given the nature of the subdivision or the method by which the subdivision is to be accomplished. Zoning Ordinance of the City of Minot, Section 28-40.

Relation of Streets to Adjoining Street System: The arrangement of streets in new subdivisions shall make provision for the continuance of existing streets in adjoining areas or their proper projection where the land is not subdivided, insofar as they may be deemed necessary by the Commission for public requirements. The street and alley arrangement should also avoid creating hardships to the owners of adjoining property when they plat their own land and seek to provide a convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted. Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked for duplication. Zoning Ordinance of the City of Minot, Section 28-41.

Street and Alley Width, Dead-End Streets: a) The widths and locations of major streets shall conform to widths and locations designated on the plan for major streets. b) The minimum width for minor streets shall be sixty-six (66) feet. When streets adjoin unsubdivided property, a half street at least thirty-three (33) feet in width must be dedicated. c) Dead-ended streets are to be avoided, but if necessary, in the opinion of the Commission, they shall terminate in a circular right-of-way with a minimum diameter of one hundred twenty (120) feet unless the Commission approves an equally safe and convenient space, provided that, however, no dead end street or street ending in a cul-de-sac shall be more than five hundred (500) feet in length from the point of intersection with the cross street to the beginning of the cul-de-sac. d) Alleys, when provided, shall have a minimum width of twenty (20) feet. e) Necessary utility easements will be provided as required. Specifically, for storm sewers, sanitary sewers or water mains, permanent easements shall be a minimum of twenty (20) feet wide. Also, ten (10) feet wide public utility easements shall be provided along the front lot line of every lot. Zoning Ordinance of the City of Minot, Section 28-42.

Lot Arrangement: a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites and street access, properly related to topography and the character of surrounding development. b) All side lines of lots shall be as near as possible at right angles to straight street lines, or radial to curved street lines, unless a variation from this rule will give a better street and lot plan. Lots with double frontage shall be avoided wherever possible. c) The minimum width and area of residential lots subject to the zoning authority of the City of Minot shall not be less than that specified in the zoning district in which the lot is located. d) All lots shall have at least one lot line abutting a street other than an alley. Zoning Ordinance of the City of Minot, Section 28-43.

Easements Along Streams: Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall provide an adequate easement for the purpose of widening,
deepening, sloping, improving, or protecting the stream or drainage course. Zoning Ordinance of the City of Minot, Section 28-44.

**APPROVAL AND ACCEPTANCE OF SUBDIVISON DESIGN:**

The applicant for subdivision design approval shall submit as part of his application the subdivision design documents referred to in Subsection (c). The Commission shall study the subdivision design documents and the supplemental materials to see whether or not the design conforms to the minimum standards and requirements set forth in this zoning ordinance, and if not, whether any of the requirements should be waived or varied. The Commission shall not grant final approval or disapproval of the design until it has conducted a public hearing thereon. Notice of the public hearing specifying the time and date thereof, the place where held, and the legal description of the premises to be affected by the proposed subdivision design shall be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least seven (7) days prior to the date of the hearing exclusive of the date of publication and the date of the hearing. The public hearing may be continued by the Commission as it deems necessary in order to solicit additional views and opinions concerning the proposed subdivision design. This will allow applicant to submit requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within ninety (90) days of the initial hearing on the design. Zoning Ordinance of the City of Minot, Section 28-23(b).

**REZONING & MAP AMENDMENT PETITION REQUIREMENTS:**

**PETITION REQUIREMENTS:** All petitions requesting a change, amendment, or supplement of the established zoning districts of the city and regulations connected therewith shall be filed by the person requesting such action and such petition shall contain the street address of the petitioner, the lot number of any real estate owned by him adjacent to the area proposed to be changed and shall also contain an accurate legal description of the district or parts of districts proposed to be so altered. Such petition shall also recite facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this ordinance, and shall further disclose the purpose for which such property is sought to be used. Zoning Ordinance of the City of Minot, Section 30-5(k).

Petitions for rezoning must also include the following information:

1. A generalized location map and aerial photograph showing the location of the proposed site in relation to the overall city.
2. Zoning of the subject parcel and all adjacent properties.
3. The land use designation on the City’s Future Land Use Map of the subject property and all adjacent properties.
4. A boundary survey of the site, drawn to scale, showing the property lines and any improvements present on the site, with dimensions and with north indicated. Other information such as locations of proposed wetlands, existing woodlands, water courses, or other natural features present on the site
shall be shown. In some cases, staff may request more information to be shown to aid in evaluation of
the development potential of the site such as contour lines or spot elevations.
5. A list of proposed uses, and whether said uses are either permitted, conditional, or interim in nature.
6. Location of all existing buildings, setback lines, structures, easements of record, or other encumbrances on the proposed site.
7. At a minimum, a written description of the applicant’s intent and vision for the development of the property shall be provided of known a conceptual layout of the site depicting proposed improvements including, but not limited to; buildings, parking, access points, outdoor service areas and loading spaces, landscaping, outdoor storage, etc. Applicants are encouraged to submit additional information that may further describe the applicant’s request.

Zoning Ordinance of the City of Minot, Section 30-5(f).

Applications for rezoning property which has not been previously platted shall also be required to plat the property in accordance with Chapter 28 of the Zoning Supplement. Additionally, applications for rezoning shall be consistent with the City of Minot’s Comprehensive Plan in terms of land use and be located within the stage growth area plans of the Comprehensive Plan to prevent premature subdivision and development. Zoning Ordinance of the City of Minot, Section 30-5(e).

REVIEW BY HEARING BODIES:

ACTION BY PLANNING COMMISSION: No amendment, supplement, change or modification of this zoning ordinance or zoning map shall be made by the City Council without first a public hearing and consideration of the entitlement by the Planning Commission. Zoning Ordinance of the City of Minot, Section 30-5(h).

The Planning Commission may close the public hearing and forward its recommendations to the City Council at the same meeting at which it initially opens the public hearing, or may continue the item for further consideration or for further public comment, or for both, at a later meeting. Zoning Ordinance of the City of Minot, Section 30-5(a).

No application for a rezoning of a property shall be accepted more than once in any six (6) month period except if the prior application was withdrawn before action was taken by the City Council, or if the Planning Commission determines that the circumstances surrounding a previous application for a rezoning has changed. Zoning Ordinance of the City of Minot, Section 30-5(e).

The Planning Commission approval shall be by majority vote of its members (simple majority of those present at the meeting). Zoning Ordinance of the City of Minot, Section 30-5(h).

Following a public hearing before and consideration by the Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council
within sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendation shall be of an advisory nature only. Zoning Ordinance of the City of Minot, Section 30-5(h).

ACTION BY THE CITY COUNCIL: After receipt of the recommendation on any amendment from the Planning Commission, or in any event of the failure of the Planning Commission to so report, within ninety (90) days from the time of referral of the proposed amendment to the Planning Commission, the City Council shall hold a public hearing, after which the proposed amendment may be passed. City Council approval shall be by majority vote (four (4) affirmative votes). Zoning Ordinance of the City of Minot, Section 30-5(i).

VARIANCE REVIEW/HARDSHIP:
Before granting a variance, the Planning Commission must specifically find that it can be granted without substantial detriment to the public good and without actually impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this ordinance.

☐ Narrows or Shallowness or shape of lot. ☒ Exceptional practical difficulties.
☐ Exceptional topographical conditions.
☐ Property rights enjoyed by neighbors.
☐ Other exceptional situation (explain below).
☐ Does NOT meet criteria for a variance

Zoning Ordinance, Section 30-2 a
Granting of Variances: The granting of variance shall be considered under the following conditions: Whereby, a reason of:
1. Exceptional shallowness or shape of a specific piece of property;
2. Exceptional topographical conditions, or
3. Other extraordinary or exceptional situation or condition of a specific piece of property the strict application of any provision of this ordinance would result in:
   - Exceptional practical difficulties (without the variance reasonable use of the property is not possible); or
   - Unreasonable hardships (due to circumstances unique to the property not created by the landowner, that would otherwise allow for reasonable use of the property) upon or fundamental unfairness to the owner of such property (as opposed to mere or even substantial inconvenience); or
   - The denial to a property owner of a similar property right enjoyed by other property owners in the neighborhood – the Planning Commission may authorize, after notice and hearing, a variance to the strict application of the terms of this ordinance to the extent that justice may be done.

Section 30-2. Variances:
a) Purpose: The Planning Commission may grant a variance from the strict application of this title only in instances where their strict enforcement would cause undue hardship in complying with the official
control, because of circumstances unique to the individual property under consideration. A variance may be granted only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variance(s) are consistent with the comprehensive plan. The Planning Commission may impose conditions in the granting of variances. A condition must be directly related to the impact created by the variance.

b) Application: An application for a variance shall be filed with the Planning Director and shall state the unique circumstances claimed as a basis for the variance. The application shall contain at least the following information:

1) The signature of each owner of affected property or his agent.
2) The legal description of the property and the common address.
3) A description of the property and the common address.
4) The present use.
5) A site plan drawn to scale demonstrating the requested variance.
6) Meeting with City Planning staff prior to submittal of the application.

c) Referral to Planning Commission: The application shall be referred to the Planning Commission for study concerning the effect of the proposed variance upon the comprehensive plan, and upon the character and development of the surrounding neighborhood. The planning commission shall make a decision to grant or deny the variance, and may impose conditions in the granting of the variance. The conditions may include considerations such as location, character and other features of the proposed building.

d) Approval; Denial: Variances require the approval of a majority vote of the Planning Commission. Variances may be denied by motion of the Planning Commission and such motion shall constitute a determination that the findings required for approval do not exist. No application for a variance which has been denied in whole or in part shall be resubmitted within six (6) months of the date of the order of denial, except upon grounds of new evidence or upon proof of change of conditions.

e) Granting of Variances: The granting of variance shall be considered under the following conditions: Whereby, a reason of:

1) Exceptional shallowness or shape of a special piece of property;
2) Exceptional topographic conditions, or
3) Other extraordinary or exceptional situation or condition of a specific piece of property the strict application or any provision of this ordinance would result in:
   a. Exceptional practical difficulties (without the variance reasonable use of the property is not possible); or
   b. Unreasonable hardships: (due to circumstances unique to the property not created by the landowner, that would otherwise allow for reasonable use of the property) upon or fundamental unfairness to the owner of such property (as opposed to mere or even substantial inconvenience); or
   c. The denial to a property owner of a similar property right enjoyed by other property owners in the neighborhood – the Planning Commission may authorize, after notice and hearing, a variance to the strict application of the terms of this ordinance to the extent that justice may be done.
f) Before granting a variance, the Planning Commission must specifically find that it can be granted without substantial detriment to the public good and without actually impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this ordinance.

g) Any variance approved by the Planning Commission shall have a time limit of one (1) year after the Commission’s approval, during which the variance must be put into effect by the owner. Alternatively, the Planning Commission may establish a different time limit for any variance implementation if special circumstances warrant the same. If the time limit should expire before the variance is put into effect, the Planning Director, upon the owner’s written request, may grant additional time, not to exceed the number of days originally allowed by the Commission.

h) Variances shall be approved by a majority vote of the Planning Commission (and majority vote of the City Council (4 affirmative votes) in the event of an appeal

i) The Planning Commission, or such city official as it may delegate, shall maintain as a public record open for inspection all variance applications. If an application was granted or modified and as modified granted, the Planning Commission shall prepare a written memorandum setting forth the reasons or justifications for the issuance of the variation which shall be attached to the application.

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**STAFF ANALYSIS:**

**Zoning Analysis:**
The requested zoning is P, Public. Development standards in the P district are based upon the requirements in C2, General Commercial

**Comprehensive Plan Analysis:**
Current Comprehensive Plan Map Classification: Low Density Residential

Proposed Comprehensive Plan Map Classification: No Change

Staff finds that this request is consistent with the goals and objectives of the Minot Comprehensive Plan. This area is not developed enough to anticipate what uses may be attracted to the area by the presence of the hospital.

**Public Agency Comments:**
1. Ward County Resource District- If a SWMP exits, it should be checked to assure the new plan for development will still meet the requirements. If one does not exist, it may be required, especially if additional lots and development activities are added in the future. No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
FINDINGS OF FACT:

The Minot Planning Commission should accept the following findings of facts:
1) The applicant has submitted a complete application.
2) The applicant’s request is consistent with Minot’s Comprehensive Plan.
3) This request meets all of the bulk requirements of Minot’s Zoning Ordinance.
4) The applicant has identified justifications for the variance requested.
5) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this Preliminary Plat Application and Zone Change subject to the following conditions, to the City Council:

1) No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
2) A Development Agreement between Trinity Health Systems and the City shall be prepared by the City Engineering Department, executed by all parties, approved by City Council, and recorded at the Recorder’s office before the Final Plat is recorded. At a minimum, the agreement shall contain the following elements:
   a. No construction permitted on Lot 2 Trinity Health 3rd Addition until Crossing Street right of way is extended to the east property line.
   b. A Storm Water Management Plan is required.
   c. Public sidewalks required as part of the right-of-way dedication.
3) No later than six months after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, auditor’s outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.
Staff further recommends the Planning Commission adopt the staff findings of fact and approve the request for a variance as follows:

1) A variance to the requirement for hard-surfaced paving of the substation parking lot based on exceptional practical difficulty and past protocol when compared with other similar facilities.
   a. A utility substation is distinct from typical land development types.
   b. A substation does not provide direct service to customers so there is no need for parking for customers. Only employees park at the substation on a sporadic basis, approximately once per month and limited to one or two vehicles at a time.
   c. The type of heavy equipment and track vehicles used to make repairs and perform maintenance at a facility such as this one, are best suited for maneuvering on a loose surface, such as gravel or rock.
   d. There is no requirement to pave the road accessing this facility nor the enclosed yard containing the electrical equipment. Hard surface parking should not be required between these areas where it is not required.
   e. Most other similar substations and utility related buildings in the past have not been required to pave parking areas unless the facility was accessible to the public or receiving routine deliveries to the site.