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 July 07, 2020 Regular Meeting Minutes

   Documents:

   07 (JUL) RECOMMENDATIONS 2020.PDF

4. Subdivision – Proposed Plainview 5th Addition, Lot 1

   This property is located at 1715 46th Street SE.

   Documents:

   SUBDIVISION-PLAINVIEW 5TH ADDITION.PDF

5. Variance Request – Elmwood Addition, Lots 84 And 85
   Public hearing request on an application by Douglas W. Pfau, Owner, for a variance to Section 21-8, a) of the zoning ordinance, “Special Rules Concerning Accessory Buildings”, to allow an existing accessory building to remain on the property without a principal structure present.

   This property is located at 605 18th Street SE.

   Documents:

   VARIANCE - ELMWOOD ADDITION.PDF

6. Outlot Plat And Rezoning – Proposed Outlot 6, Section 8-155N-82W
   Public hearing request on an application by Todd and Lisa Schriock and William Schriock Jr., Owners, to create an outlot plat to square up existing tracts described as all of Outlot 3 and a portion of the SW Quarter of Section 8-155N-82W into a single outlot to be known as Outlot 6, S8-155N-82W and to rezone said property from AG, “Agricultural District” to RA, “Agricultural Residential District.”

   This property is located at 2020 27th Street NE.

   Documents:
7. Outlot Plat And Rezoning – Proposed Outlot 7, Section 8·155N·82W
Public hearing request on an application by Hallie Lock and William Schriock, Jr., Owners, to create an outlot plat to square up existing tracts described as all of Outlot 4 and a portion of the SW Quarter of Section 8·155N·82W into a single outlot to be known as Outlot 7, S8·155N·82W and to rezone said property from RA, “Agricultural Residential District” and AG, “Agricultural District” to RA, “Agricultural Residential District” only.

This property is located at 1840 27th Street NE.

Documents:

OUTLOT AND REZONE - OUTLOT 6.PDF

8. Subdivision – Proposed Northridge Villas 4th Addition
A request from Northridge Villas, LLC, applicant and owner, for a subdivision plat to adjust interior lot lines for existing Lots 22 and 24-33, Block 1 of Northridge Villas 2nd Addition creating a new subdivision plat to be known as Northridge Villas 4th Addition.

This property is located on the south side of 9th Avenue NW, a private street, where it intersects with 27th Street NW extending over to 28th Street NW, also a private street, with lots arranged around the cul-de-sac.

Documents:

SUBDIVISION - NORTHRIDGE VILLAS 4TH.PDF

9. Other Business
Election of Planning Commission Officers:

• Chairman
• Vice-Chairman
Regular Meeting: Planning Commission

Location: City Hall, Council Chambers, 515 2nd Avenue SW., City of Minot, N.D.

Meeting Called to Order: Tuesday, July 07, 2020, 5:30 p.m.

Presiding Official: Chairman, Charles DeMakis

Members in Attendance: Commissioners Barnett, Baumann (by phone)*, Bullinger, DeMakis, Gates (by phone), Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast

Members Absent: Commissioner Sivertson

City Staff Present: Lance Meyer (City Engineer), Emily Huettl (Assistant City Engineer), Others Present: Rob Berard (Ackerman-Estvold), Ryan Ackerman (Ackerman-Estvold Engineering), Eric Popinga (Central Power Electric Cooperative, Inc.)

* Baumann joined the meeting after approval of the June 02 minutes.

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

Roll Call

Pledge of Allegiance

Approval of the June 02, 2020 Regular Meeting Minutes

Motion by Commissioner Koop to approve June 02, 2020 Planning Commission Meeting minutes, second by Barnett, and was carried by the following roll call vote: ayes: Barnett, Bullinger, DeMakis, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: none

Motion carries

The following are the recommendations of the Planning Commission:

Item #1
Subdivision and Rezoning – Swenson’s Addition

Planning Commission recommends City Council approve a subdivision to be known as Lots 1 and 2 of Swenson’s Addition to construct a levee as part of the Mouse River Flood Control Project. SRJB is purchasing proposed Lot 1 from the owners, Charles & Sandra Swenson. The Swenson’s are retaining ownership of proposed Lot 2.

Planning Commission further recommends the City Council pass an Ordinance on first reading to rezone proposed Lot 1 from AG (Agricultural) to P, (Public) and to rezone proposed Lot 2 from AG (Agricultural) to RA (Residential Agricultural).

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).
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.
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.

Staff Recommendations:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this preliminary plat application for Swenson’s Addition and the request to rezone proposed Lot 1 from AG (Agricultural) to P, (Public) and proposed Lot 2 from AG, (agricultural) to RA (Agricultural Residential), 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.

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval of a lot line adjustment to shift the lot line between two existing outlots. 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.

The two existing lots are under common ownership by the Swenson’s and both of the lots have a few small structures on them. 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 will be located on Lot 1. 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. 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. 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.

Chairman DeMakis opened up comments from the commissioners. No comments/questions from the commissioners.

Chairman DeMakis opened up comments from the public.
Ryan Ackerman (Ackerman-Estvold Engineering) came forward to clarify details on item #1:

- Western Lot (Lot 1) is to be zoned P (Public) not RA (Agricultural Residential)
- Eastern Lot (Lot 2) is being retained by Swenson’s and be zoned zoned RA (Agricultural Residential)
- The levee is wholly located on the Western lot (Lot 1).

Chairman Demakis asked for a motion from the Commissioners.

Motion by Commissioner Koop to approve based on finding of facts, staff recommendations and conditions, second by Commissioner Hochhalter, and was carried by the following roll call vote: ayes: Barnett, Baumann, Bullinger, DeMakis, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast, nays: none

Motion carries

Item #2
Subdivision and Rezoning – The Bluffs 14th Addition, Lot 1

Planning Commission recommends City Council approve a subdivision to create a one lot residential subdivision by adding unplatted acreage to an existing lot, said subdivision to be known as The Bluffs 14th Addition.

Planning Commission further recommends the City Council pass an Ordinance on first reading to rezone this property from R1 (Single-Family Residential) and AG (Agricultural) to RA (Agricultural Residential).

This property is located at 504 27th Street NW.

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.
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 a rezoning request to RA and also approval of this preliminary plat application for The Bluffs 14th Addition, 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.

Chairman DeMakis asked the Principal Planner for staff comments.

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 all of the resulting property rezoned from R1 and 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.

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.

**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. 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 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. 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, even though 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. RA zoning allows for keeping of horses for a private stable with certain conditions.

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.

Chairman DeMakis opened up comments from the commissioners. No comments/questions from the commissioners.

Chairman DeMakis opened up comments from the public. There were no comments from the public.

Chairman Demakis asked for a motion from the Commissioners.

Motion by Commissioner Offerdahl to approve based on finding of facts, staff recommendations and conditions, second by Commissioner Koop, and was carried by the following roll call vote: ayes: Barnett, Baumann, Bullinger, DeMakis, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast, nays: none

Motion carries

**Item #3**
**Subdivision – Bel Air 25th Addition, Lot 1**

Planning Commission recommends City Council approve a subdivision 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.

**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.
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 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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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. 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. 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. 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.

Chairman DeMakis opened up comments from the commissioners.

Commissioner Baumann commented on his appreciation to staff for following through with development of sidewalks and walkability throughout the community.

Chairman DeMakis opened up comments from the public. There were no comments from the public.

Chairman DeMakis asked for a motion form the Commissioners.

Motion by Commissioner Offerdahl to approve based on finding of facts, staff recommendations and conditions, second by Commissioner Koop, and was carried by the following roll call vote: ayes: Barnett, Baumann, Bullinger, DeMakis, Gates, Hochhalter, Koop, Lider, Nesdaal, Offerdahl, Wegenast, nays: none

Motion carries

Item 4
Subdivision, Variance & Zone Change – Trinity Health 3rd Addition Lots 1 & 2

Planning Commission recommends City Council approve 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 a future development activity in the southwest Minot area to be known as Trinity Health 3rd Addition.

Planning Commission further recommends the City Council pass an ordinance on first reading to change the zoning on proposed Lot 1 from AG (Agricultural) to P (Public Zone).

Planning Commission also approved a variance to zoning requirements to waive the requirement to pave the parking lot at the substation.

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.
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.

Staff Recommendations:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this Preliminary Plat Application for Trinity Health 3rd Addition and rezone proposed Lot 1 from AG to P 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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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. 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.

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. 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. 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.
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.

Chairman DeMakis opened up comments from the commissioners. No comments/questions from commissioners.

Chairman DeMakis opened up comments from the public.

Eric Popinga (Central Power Electric Cooperative, Inc.) came forward an offered to respond to any questions. There was none.

Chairman Demakis asked for a motion from the Commissioners.

Motion by Commissioner Wegenast to approve based on finding of facts, staff recommendations and conditions, to approve the subdivision to be known as Trinity Health 3rd Addition, to rezone proposed Lot1 to P, Public, and to approve a variance to the hard surface parking requirement for the substation parking lot based on exceptional practical difficulties as follows:

1. A utility substation is distinct from typical land development types.
2. 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.
3. 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.
4. 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.
5. 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.

Second by Commissioner Koop, and was carried by the following roll call vote: ayes: Barnett, Baumann, Bullinger, DeMakis, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: none

Motion carries

With no other business before the committee, Chairman DeMakis adjourned the meeting at 6:01 PM.
**PROJECT DESCRIPTION:**

The applicants are requesting approval to consolidate three lots; Lot 10, Lot 11, and Sublot “A” of Lot 11, Plainview Addition to create proposed Lot 1, Plainview 5th Addition to the City of Minot. The applicants desire to add another accessory building on the lot. These properties are located at 1715 46th St SE (see Vicinity Map exhibit).
**BACKGROUND INFORMATION:**

The three existing lots are under common ownership by the applicant. Lot 10 has a house and detached garage on it while Lot 11 and Sublot “A” of Lot 11 are currently vacant (see Aerial View exhibit).

Proposed Lot 1 will consist of approximately 88,644.35 square feet or 2.03 acres (see Preliminary Plat exhibit). The proposed lot meets the minimum lot size requirements of 3,000 square feet in MH zoning for a single lot. The location of the new lot lines meets all setback requirements in MH zoning bulk regulations.

The properties involved in this subdivision are currently zoned MH, Manufactured Home District, and will remain so (see Zoning Map exhibit). The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as being part of a “Manufactured Home Park.” The requested lot consolidation 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.
PRELIMINARY PLAT OF PLAINVIEW FIFTH ADDITION


1

88048.33 FT$^2$
2.02 Acres

Sublot "A" of Lot 11


55TH CROSSING 2ND ADDITION BLOCK 9 PLUS 1/2 ADJ. VACATED ST

NOTES:

For planning purposes only.

Bearings and Distances may vary from previous plats due to different methods of measurement.

Plat is subject to all prior easements of record.

A 10' utility easement is located on the street side of every lot and where noted.

Wold Engineering, P.C.

915 East 118th Street – PO Box 227 – Bismarck, ND 58501
310 East Dakota Drive – PO Box 1271 – Minot, ND 58701
110 80th Avenue SouthHome – Minot, ND 58701
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:**
Staff did not receive any comments.

**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 for Plainview 5th Addition, 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.
## PROJECT DESCRIPTION:
The applicant is requesting approval of a variance to allow an existing detached garage to remain on the property as the sole structure after the primary residential house has been removed. The property is located at 605 18th St SE (see Vicinity Map exhibit).
BACKGROUND INFORMATION:

The property currently has two structures on it, one blighted home that was damaged by the 2011 flood and a garage that is still in use. In the past, the City of Minot offered to purchase the property and raze both the house and garage as part of the “zombie home’ buyout program. This property and structures were identified as spot blight under the HUD rules and an offer to purchase was made because the house is not livable. The applicant rejected the offer on the grounds that he uses the garage for storage and would like to continue to do so. His son lives across the street and also uses the garage. He planned on removing the house and has applied for a demolition permit which is pending based on the outcome of this variance request.

The applicant has submitted a variance request as shown below (See Variance Request Letter on Page 7).

A variance requires proof of a hardship or exceptional practical difficulties. Hardship is not based on convenience or monetary gain by profit or by saving expenses. The owner or previous owners of the property cannot create a hardship. A hardship is generally a situation that is beyond the control of the owner such as steep topography. Staff does not find a hardship in this case. The applicant did not identify a hardship in his application.

Accessory buildings, as the name implies, are accessory to a primary use. Therefore, they cannot be located on any lot that does not have a primary use, in this case, a house. If the house is demolished the garage cannot remain, unless another house is constructed on the lot, or unless the property containing the garage can be added to another adjacent property under the same ownership that has a house on it and the parcels consolidated to make one lot.

In Chapter 21, Section 8a. of the Zoning Ordinance it states:

“No accessory building shall be permitted on any lot, in any zoning district, prior to the erection of the primary use structure thereon. Also, accessory buildings shall be subordinate to the existing primary building or use, regardless of the zoning district in which the primary or use is located. For example, a subordinate building to a single-family dwelling (use) in a RM District shall comply with accessory building regulations in Chapter 5”

Since the objective here is to avoid accessory structures as stand-alone improvements on residential lots, it holds true that an existing house cannot be removed which would result in the same situation as erecting an accessory building prior to the erection of the house. In either scenario, the end result is an accessory building with no primary use on the lot. Also, if the house were to be razed, the accessory building could not be subordinate to the existing primary building because there would be no primary building. Staff fields numerous requests on this issue. We have had customers that want to put an accessory building on a lot they own to store stuff, or as in this case, want to tear down a house but keep the garage to store stuff. Staff has consistently told these people they could not do that, and they have been compliant.
In addition, there are several other zoning code sections that pertain:

Section 5-4 c) states “all accessory buildings to a residence shall be limited to a total coverage of twelve hundred (1,200) square feet, except the coverage shall not exceed that of primary structure.”

If the primary structure were to be removed from the lot, the garage could not be smaller than the square footage of the primary structure, since there is no primary structure.

Additionally, even if the variance were to somehow invalidate the accessory building requirements of R1 zoning, the existing zoning of R3B (a defunct zone) would still not allow an accessory building in the absence of a primary structure.

Section 7-4 f) of the pre-2013 zoning ordinance regulates “R-3” and “R-3 (B)” Multiple Residence Districts from the prior zoning code. It states, “The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.”

Once again, there is no measure for the size of an allowable accessory building because there is no primary structure.

If, for some reason, the Commission is contemplating approval of this variance, staff cautions to be mindful of the future precedent such an action might establish. There must be a clear and distinct hardship to justify this property and the situation presented as unique and worthy of special consideration. As previously mentioned, the Planning Office has received numerous requests to allow as accessory building on a lot by itself. Staff has consistently said no. If a variance is granted, it will jeopardize the ability of staff to regulate these situations in the future and will create a new trend of development that is not ideal in our residential districts.

In addition, the applicant has imported several mounds of dirt, rock, and debris to the site some time ago to be used as fill when the house is demolished. These piles of debris have been the subject of multiple complaints and nuisance violations, as noted in case number: ZC17-112 from 2017 (see Site Photos from ZC20-87 Exhibit on page 8-9). Additionally, as per case number: ZC20-087, the property is currently subject to Nuisance and Zoning Code Violations for the visual nuisance of piles of debris. Beyond the nuisance violations, this property is also under investigation by the City’s zoning compliance officer for multiple zoning violations including illegal parking of several vehicles and pieces of equipment on the grass and a suspected home-based occupation violation.

Section 5-4 b) states “accessory buildings for single family dwellings may be used for vehicles or other storage, play areas, or private use.”

It has come to the City’s attention that the son of the owner, who lives across the street, is operating a landscaping business from the outbuilding and the lot. Based on past observances and recent photos taken by
the Zoning Code Enforcement Inspector while working on ZC20-087. A possible business may be operating from the garage (See Site Photos from ZC20-087 Exhibit). The Code Enforcement Division issued a violation letter dated July 1, 2020 (see Nuisance and Zoning Code Violation Letter on Pages 10 and 11). (If there is no business currently being conducted from this locale, the garage cannot be used in the future for any such business because it would be in violation of the home occupation regulations as listed below.)

Home occupations are a permitted use in R1 zones, but they must meet certain criteria to be legal. If, in fact, a business is operating from this locale the business is illegal because it does not meet the following requirements for a home-based occupation (underline added for emphasis and Staff comments in blue):
Chapter 2, Definitions.

**Home Occupation:** Any occupation or activity that meets all of the following tests:

- **The occupation is managed and owned by a person residing on the premises and not more than one other person is employed by the owner/manager on the premises.** Exceptions can be made for members of the immediate family of the owner/manager who also lives on the premises.  
  If the house is removed, there will be no one residing on the property. In fact, no one has lived in the house since the flood.

- The occupation does not occupy more than twenty-five percent (25%) of the floor area of the principal building (including attached garage). **The home occupation shall not be conducted in any detached or accessory structures.**
  The business is being operated from the garage and on the lot, not in the house.

- **No alteration of the principal building that changes the character thereof as a residential dwelling.**
  The principle building is being demolished.

- **The exterior of the premises used for the home occupation is indistinguishable from any other residential dwelling of like design and character, in that no commercial displays, show windows, exterior storage areas, parking area, or the conduct of the business itself may be viewed from outside the premises, except that a non-illuminated name plate or non-illuminated business sign not more than four (4) square feet in area may be exhibited, which is attached flush to the side of the building.**
  The premises is easily distinguishable as something other than a typical residence and trucks, trailers, etc. are parked on the grass illegally and materials are stored outside.

- The home occupation does not generate pedestrian traffic or vehicular parking substantially greater or substantially different in character than that ordinarily associated with a similar dwelling which is used solely for residential purposes. The
The home occupation combined with all other activities on the same premises does not generate more than (i) thirty (30) vehicular trips per day or (ii) the number of vehicular trips per day equal to three percent (3%) of the average per day vehicular traffic past the premises, whichever is greater.

- The home occupation is no more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to premises used solely for residential purposes. No loud or unpleasant noises, bright or glaring lights, offensive or noxious fumes, or odors, or perceptible vibrations attributable to the home occupation are emitted from the premises.

- The home occupation does not require as an incident thereto that a permit for the storage of flammable liquids or flammable gases be issued pursuant to the Fire Code - Chapter 13 of the Code or Ordinances.

AERIAL VIEW: This aerial photograph was taken in 2020.
ZONING EXHIBIT: This is a map of the current zoning for the property and the surrounding area.

VARIANCE REQUEST LETTER: This letter was written by the applicant to explain his request for a variance.
June 21, 2020

City of Minot

Dear Planning Commission:

The reason for the attached application is that I want to raze the house located at 605 18th St. SE, Minot ND, leaving the garage structure as is.

This property contains a flooded house deemed “blighted”, as determined by the city of Minot. It also contains a garage structure currently in use for storage. The city has previously indicated their intent to purchase the property and ultimately raze the house. The house contains rodents and pigeons that have been seen at the property. I have rejected the city’s offer to purchase because I use the garage structure for storage and would like to continue.

I have recently hired a contractor to raze the house, fill in the basement, and return the area to greenspace. The cost of all of this would be paid for by me. Only after the contractor had applied for the demo permit did I learn that I would have to start construction on a new house within 30 days. I think all of you would agree that this would not be feasible due to the requirement that the structure would have to be one foot above the flood plain. An extraordinary amount of fill would have to be brought in to accomplish this. Contractors inform me it is unadvised to construct a dwelling on fresh fill dirt. At this point the demo process was halted with me paying all the costs incurred.

My request to the Planning Commission is to approve this application. By doing so, the city will have one less blighted house to contend with that is currently a liability to the owner, the neighborhood and the city. If denied, the house will stay.

Thank you

Douglas Pfau
1400 53rd Ave SW
Minot, ND 58701
SITE PHOTOS FROM ZC20-087: These photos are from the current nuisance and zoning violation case at the property.

City of Minot
Planning Department

07/01/2020

ref: ZC20-087

Doug Pfau
605 18th St SE
Minot, ND 58701-4950

RE: Nuisance and Zoning Code Violation
Physical address: 605 18th St SE, Minot ND

For a period of time the city has received complaints on the above-mentioned property which includes zoning and visual nuisance violations. There are several vehicles and equipment parked on the grass, piles of rocks and debris, and unregistered vehicles. Zoning violation also includes a homebased occupation in which no one is residing in the residence. Listed below are the pertinent ordinances:

Municipal Code defines the following regulations:
Section 22-1: Declaration of Nuisances Generally:
(1) Nuisances per se:
   a. Any accumulation of (i) organic materials or (ii) inorganic materials, or (iii) combination of both, which is located on private property, and which, because of the circumstances in which it is stored or accumulated, presents a hazard to the health or safety of any person or which presents a hazard to any other property, private or public.
   Without limiting the generality of the foregoing, there is included within this category the following substances or items:
   1. Garbage, as defined in Section 14-1 of the Code of Ordinances;
   2. Refuse, as defined in Section 14-1 of the Code of Ordinances;
   3. Rubbish, as defined in Section 14-1 of the Code of Ordinances;
   (2) Visual nuisances: An accumulation or pile of unsightly materials which constitute an eyesore, such as, by way of illustration and not of limitation, the following:
   a. Junked, abandoned, disassembled, inoperative or unregistered automobiles (excluding, however, automobiles which are currently licensed, registered, and operable.

Municipal Zoning Code defines the following regulations:
Section 23-2. Licensed Motorized Vehicle and Equipment Parking in Residential Districts:
c) Currently licensed personal vehicle or equipment parking on residential lots may be parked in the following described areas:
1) One space in each garage stall.
2) Two spaces in driveway (length) per stall provided no vehicle extends into the public right-of-way including the sidewalk.
3) No parking shall be permitted on the grass.
4) No parking shall be permitted in the rear yard.
5) If no garage exists on site, parking shall be allowed as wide as the driveway (meeting city definition) and two vehicles deep (in length) outside of the right-of-way.
d) Required Side Yard: Parking or storage of one additional vehicle may occur on an improved parking surface adjacent to the garage, within the required side yard provided that a twelve (12) foot setback is maintained on the street side of a corner lot and a three (3) foot setback is maintained from the side lot line on interior lot lines. This requirement may be waived along interior lot lines where written agreement authorizing this waiver is made between abutting neighbors to either side of the subject property and thereupon presented to the Planning Director for recording. This requirement may also be waived should a six (6) foot privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the required side yard lot line. Vehicles or equipment over twenty-five (25) feet in length shall
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be parked behind the nearest portion of a building to the street unless written authorization is given by the neighbors in accordance with the process as described above. Should this authorization be given and recorded, these vehicles and equipment may extend no more than twenty-five (25) feet past the nearest portion of a building to a street and be parked on an improved parking surface. However, under no circumstance shall vehicle or equipment parking occur within three (3) feet of the sidewalk or, where no sidewalk exists, one (1) foot from the front lot line. No such vehicle or equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

**Home Occupation: Any occupation or activity that meets all of the following tests:**

- The occupation is managed and owned by a person residing on the premises and not more than one other person is employed by the owner/manager on the premises. Exceptions can be made for members of the immediate family of the owner/manager who also lives on the premises.
- The occupation does not occupy more than twenty-five percent (25%) of the floor area of the principal building (including attached garage). The home occupation shall not be conducted in any detached or accessory structures.
- No alteration of the principal building that changes the character thereof as a residential dwelling.
- The exterior of the premises used for the home occupation is indistinguishable from any other residential dwelling of like design and character, in that no commercial displays, show windows, exterior storage areas, parking area, or the conduct of the business itself may be viewed from outside the premises, except that a non-illuminated name plate or non-illuminated business sign not more than four (4) square feet in area may be exhibited, which is attached flush to the side of the building.
- The home occupation does not generate pedestrian traffic or vehicular parking substantially greater or substantially different in character than that ordinarily associated with a similar dwelling which is used solely for residential purposes. The home occupation combined with all other activities on the same premises does not generate more than (i) thirty (30) vehicular trips per day or (ii) the number of vehicular trips per day equal to three percent (3%) of the average per day vehicular traffic past the premises, whichever is greater.
- The home occupation is no more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to premises used solely for residential purposes. No loud or unpleasant noises, bright or glaring lights, offensive or noxious fumes, or odors, or perceptible vibrations attributable to the home occupation are emitted from the premises.
- The home occupation does not require as an incident thereto that a permit for the storage of flammable liquids or flammable gases be issued pursuant to the Fire Code - Chapter 13 of the Code or Ordinances.

In order to comply with the ordinances and avoid any further legal action on this matter, please address these violations promptly as we will allow until July 31st, 2020 to ensure compliance. Your attention and cooperation in this matter is appreciated. If you have any questions or would like to make other arrangements feel free to contact me at 701-837-3657 or email margie.zietz@minotnd.org

Sincerely,

Margie Zietz
Code Enforcement Officer

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PO Box 5006 • Minot, North Dakota 58702-5006 • (701) 857-4100 • Fax (701) 857-4130
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.

☐ Narrownness or Shallowness or shape of lot. ☐ Exceptional practical difficulties.
☐ Exceptional topographical conditions. ☐ Unreasonable hardship.
☐ 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 variance requested and a statement demonstrating that the variance would conform to the requirements necessary for approval.
   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 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:
      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.

г) 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.
Comprehensive Plan Analysis:
Current Comprehensive Plan Map Classification: Medium Density Residential

Proposed Comprehensive Plan Map Classification: No Change

Staff finds that this request is not consistent with the following goals and policies of the 2012 Minot Comprehensive Plan (staff analysis is in blue):

Housing – Goal #1: Ensure housing is compatible with existing and adjacent land uses while providing accessibility to public infrastructure, key community features and natural amenities.
Staff finds that this variance will create a situation that will be incompatible with adjacent land uses.

Aesthetics – Goal #1: Ensure that the City’s aesthetic character for residents, visitors, and passersby is enhanced through high quality infrastructure and the visual attractiveness of properties.
Staff finds that this variance will not enhance the neighborhood and could lead to further nuisances and code violations.

Aesthetics – Goal #3: Work with properties that detract from or are contrary to the established image desired for Minot.
Policy #1: Promote compliance with all building and zoning codes through effective enforcement strategies and follow through directly with the property and/or building owner.
Staff finds that approving this variance would hinder our responsibility to beautify dilapidated properties with zoning violations and nuisances.

Public Agency Comments:
1. Minot Engineering Department
   a. Property is approximately 1548, current floodplain elevation 1546.75, future floodplain elevation 1551.
   b. Applicant states that it is not feasible to rebuild due to the requirement that the structure be one foot above the floodplain, therefore extraordinary amounts of fill would have to be brought in. This is not accurate. The City is regulating to the current effective floodplain and therefore the structure can be rebuilt on the property without additional fill or elevating. It could even have a basement if they wanted.
   c. If a structure is rebuilt, there are future flood insurance implications associated with the new floodplain. The structure will be in the future revised floodplain and the insurance rate would be calculated based on the elevation of the lowest floor compared to the future floodplain elevation. So while it may be prudent to rebuilt at a higher elevation, it is not currently a requirement.

2. City of Minot Inspection Department
a. The applicant hired Krema Designs to demolish the single-family dwelling in April. The permit application was denied by the Building Official due to the fact that there is also an existing accessory building located on the property that the applicant wished to keep. The demolition of the primary structure and not the accessory building would cause a zoning violation, unless the applicant would begin building a new primary structure in a reasonable amount of time after the demolition was complete. The applicant stated he would not be rebuilding the primary structure in the near future. The Building Official, then, directed the applicant to the Planning and Zoning Department to inquire about a variance application.

**FINDINGS OF FACT:**

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

1) The applicant has submitted a complete application.

2) Per the staff’s analysis of this case, the applicant’s request is not consistent with Minot’s Comprehensive Plan.

3) There are no grounds for a hardship in this matter.

4) There are no topographical conditions.

5) There are no exceptional practical difficulties.

6) The property has active nuisance and zoning violations such as tall grass and weeds, piles of debris, unlicensed vehicles, and vehicles parked on the lawn. In addition, staff strongly suspects a commercial business is being operated from a residentially zoned property and the business does not meet the requirements for a legal home-based occupation.

7) The Minot Planning Commission has the authority to hear this case and decide whether it is 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.

8) If the request is denied the applicant has the right to appeal it to the Minot City Council, which can only grant an appeal with a majority vote.

**RECOMMENDATION:**

Staff recommends the Planning Commission adopt the staff findings of fact and deny this variance application for the following reasons:

1) There is currently an active nuisance and zoning violation case (Case No. ZC20-087) on the subject property for piles of debris, having licensed personal vehicles and equipment parked on the lawn, and the suspected operation of an illegal home occupation on the premise. Additionally, the debris complaint was noted in a case from 2017 (Case No. ZC17-112).

2) There are no grounds for hardship in this case.

3) Even if the variance were approved, the applicant’s property would still be in violation of several other sections of the zoning ordinance:
   a. Section 7-4.f. from the pre-2013 zoning ordinance states for R3B that “The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.” (emphasis added)
   b. Section 5-4 Parts a), b), and c) from the current zoning ordinance say the same for R1 zoning.
c. Section 2-1 from the current ordinance outlines the requirements for a home occupation, namely that the occupation is managed and owned by a person residing on the premise. By removing the single-family home, maintaining that it is a home occupation would be impossible. It would then be considered an illegal commercial business operating out of a residential district. If there is no business currently being conducted from this locale, the garage cannot be used in the future for any such business because it would be in violation of the home occupation regulations.
**Planning Commission**

**Staff Report**

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**PROJECT DESCRIPTION:**

The applicant is requesting approval of the creation of a new outlot from land comprised of an existing outlot, Outlot 3, and a portion of the SW ¼ of Section 8-155N-82W. This new outlot will be known as Outlot 6 of Section 8-155N-82W. The applicant is also requesting to have the property rezoned from “AG” Agricultural District to “RA” Agricultural Residential. This property is located at 2020 27th Street NE (see Vicinity Map exhibit).

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<table>
<thead>
<tr>
<th>Application Date: 6/29/20</th>
<th><strong>Staff Contact:</strong> Peter Baumgartner, Planner I &amp; Lance A. Lang, AICP, Principal Planner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Staff Report: 7/1/20</td>
<td><strong>Staff Recommendation:</strong> Approval</td>
</tr>
</tbody>
</table>

**Status:** New Application

**Staff Report Item #: 3 (Agenda Item # 8)**

<table>
<thead>
<tr>
<th>Project Number: 8020-8.3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Name:</strong> Outlot 6</td>
</tr>
</tbody>
</table>

**Current Legal Description:** Outlot 3 and a portion of SW ¼ of Section 8-155N-82W

**Proposed Legal Description:** Outlot 6 Section 8-155-82

**Present Address:** 2020 27th Street NE

**Entitlement Requested:** Outlot Plat and Rezone

**Existing Zoning Profile:** One AG Outlot and an unplatted portion of AG land

<table>
<thead>
<tr>
<th>Present Zone: AG</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Present Use:</strong> Two structures, one of which is a home</td>
</tr>
</tbody>
</table>

**Uses Allowed in Present Zone:** See Chapter 19 for residential uses.

**Future Land Use Map:** Low Density Residential

**Proposed Zoning Profile:** 1 RA Outlot

<table>
<thead>
<tr>
<th>Proposed Zone: RA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposed Use:</strong> Two structures, one of which is a home</td>
</tr>
</tbody>
</table>

**Uses Allowed in Proposed Zone:** See Chapter 5.3 for residential uses.

**Future Land Use Map:** Low Density Residential

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**Owner:** WM Todd & Lisa Schriock and William Schriock JR

2020 27th Street NE Minot, ND 58701

halliel@gravelproductsinc.com

(701) 720-4249

**Representative/Architect/Surveyor:** Tom Leshovsky – Wold Engineering

701-852-0338  tomsky@srt.com

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BACKGROUND INFORMATION:

The existing outlot, Outlot 3 is currently owned by the applicant while, while the unplatted portion of Section 8-155N-82W is currently owned by the applicant’s father. Outlot 3 currently has the applicant’s home on the property, while the portion of 8-155N-82W being added to the new outlot has an accessory building on it (See Aerial View Exhibit).

The new common lot line is platted such that all of Outlot 3 and a portion of the unplatted SW ¼ of Section 8-155N-82W will make up Outlot 6, while the remainder of the unplatted area will remain as is. Outlot 6 will consist of 451,282.6 square feet or approximately 10.36 acres. The proposed property will be rezoned from AG, Agricultural to RA, Agricultural Residential District (see Zoning Map Exhibit). The property does not meet the minimum lot size requirement of twenty (20) acres to remain in AG zoning. It does, however, meet the minimum lot size requirements of two (2) acres for RA. The location of the new lot lines meets all setback requirements in the RA zoning bulk regulations.

The land use designation on the Future Land Use Map of the Comprehensive Plan depicts these properties and a vast area on the east side of 27th Street NE as “Industrial”. (see Future Land Use Map Exhibit). With the next Comprehensive Plan update staff will study this area with the consultant to determine whether these properties would best be depicted as “Low Density Residential” or remain “Industrial.” At this time, it seems more prudent to delay amendments to the Future Land Use Plan as the likelihood of more low density residential in the immediate area is low. At some point in the future vacant land in this area may well develop as industry. The MADC Minot Industrial Park abuts this area to the east and there is access to rail spurs in this area. When the Land Use Map is amended it may make sense to show all the property between 27th Street and the rail spur low density residential as the street and rail provide good physical boundaries.
VICINTY MAP: This map highlights the subject property.
AERIAL VIEW: This aerial photograph was taken in 2020.
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.
OUTLOT PLAT

PLAT OF OUTLOT 6

all of Outlot 4
of and a Portion of the SW 1/4, Section 8, Township 155 N., Range 82 W.

Owners William Todd & Lisa Schriock (Outlot 3) William Schriock JR (Portion of SW 1/4)

W 1/4 Cor. 8-155-82
RR Spike
Quarter Line

S 89°39'11" E 5292.02 FT

OUTLOT 1

S 89°38'57" E 75.00 FT

S 89°38'57" E 120.00 FT

P.O.B.
805.55 FT

OUTLOT 6
Area = 10.36 Acres

OUTLOT 3

Area = 3.71 Acres

SW 1/4 = 6.65 Acres
TOTAL = 10.36 Acres

AREA BREAKDOWN:

NOTES:
Basis of Bearing and Coordinates obtained from NGS OPUS Solution NAD 83 North Dakota North (3301) US Feet.

Bearings and Distances may vary from previous plats due to different methods of measurement.

Plat is subject to all prior Easements of record.

- Denotes Property Corners Set
18" #5 Rebar with PLS Cap #6134

- Denotes Property Corner Found

- Denotes Property Corner Offset Set
18" #5 Rebar

- Denotes Section Corners

- Denotes Quarter Corners

Thomas R. Leshovsky
Registered Land Surveyor
North Dakota

DATE: 1/8/2018

Scale: 1" = 250'

250
0
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 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).

**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: Industrial

Proposed Comprehensive Plan Map Classification: No Change

The Future Land Use Plan will be revisited in the future.

**Public Agency Comments:**
1. City of Minot Engineering Department
   a. Show current floodplain on plat.

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 outlot plat application and rezoning request, subject to the following conditions, to the City Council:

1) The floodplain must be shown on the plat.
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 the creation of a new outlot from property comprised of an existing outlot, Outlot 4, and a portion of the SW ¼ of Section 8-155N-82W. This new outlot will be known as Outlot 7 of Section 8-155N-82W. The applicant is also requesting to have the property rezoned from “AG” Agricultural District to “RA” Agricultural Residential. This property is located at 1840 27th St NE (see Vicinity Map exhibit).
BACKGROUND INFORMATION:

The existing outlot, Outlot 4 is currently owned by the applicant, while the unplatted portion of Section 8-155N-82W is currently owned by the applicant’s father. Outlot 34 currently has the applicant’s home on the property, while the portion of 8-155N-82W being added to the new outlot has an accessory building on it (See Aerial View Exhibit).

The new common lot line is platted as such that all of Outlot 4 and a portion of the unplatted SW ¼ of Section 8-155N-82W will make up Outlot 7, while the remainder of the unplatted area will remain as such. Outlot 7 will consist of 485,248.4 square feet or approximately 11.14 acres.

Outlot 4 is zoned currently zoned RA, Agricultural Residential District while the unplatted portion of Section 8-155N-82W is zoned AG, Agricultural District, the proposed outlot will be rezoned to RA only while the remaining unplatted area will remain AG (see Zoning Map Exhibit). The proposed combined property meets the minimum lot size requirements of two (2) acres to be zoned RA. The location of the new lot lines meets all setback requirements in the RA zoning bulk regulations (see Outlot Plat Exhibit).

The land use designation on the Future Land Use Map of the Comprehensive Plan depicts these properties and a vast area on the east side of 27th Street NE as “Industrial.” (see Future Land Use Map Exhibit). With the next Comprehensive Plan update staff will study this area with the consultant to determine whether these properties would best be depicted as “Low Density Residential” or remain “Industrial.” At this time, it seems more prudent to delay amendments to the Future Land Use Plan as the likelihood of more low density residential in the immediate area is low. At some point in the future vacant land to the east will likely develop as industry. The MADC Minot Industrial Park abuts this area to the east and there is access to rail spurs in this area. When the Land Use Map is amended it may make sense to show all the property between 27th Street and the rail spur low density residential as the street and rail provide good physical boundaries.
VICINTY MAP: This map highlights the subject property.

Proposed Outlot and Rezone

**Outlot 7**

Being all of Outlot 4 and a Portion of The SW 1/4 of Section 8-155N-82W

Map Created June 30, 2020
AERIAL VIEW: This aerial photograph was taken in 2020.
**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.
PLAT OF OUTLOT 7

all of Outlot 4
of and a Portion of the SW¼, Section 8, Township 155 N, Range 82 W

Owners: Hallie Lock (Outlot 4) William Schriock Jr (Portion of SW¼)

Area = 11.14 Acres

OUTLOT 4
Ward Co. Doc. #737417
Recorded 1/2/1996
N 0°35'45" E 2644.97 FT
75.00 FT

N 459267.13
E 1785849.27

OUTLOT 5
Ward Co. Doc. #2940504
Recorded 5/15/2012
N 89°35'50" W 111.61 FT

SW Sec. Cor. 8-155-82 RR Spike

Existing 40' Road Dedication

NOTES:
Basis of Bearing and Coordinates obtained from NGS OPUS Solution NAD 83 North Dakota North (3301) US Feet.

Bearings and Distances may vary from previous plats due to different methods of measurement.

Plat is subject to all prior Easements of record.
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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.

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**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).

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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: Industrial

Proposed Comprehensive Plan Map Classification: No Change

The Future Land Use Plan will be revisited in the future.

**Public Agency Comments:**
1. City of Minot Engineering Department
   a. Show current floodplain on plat.

**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 outlot plat application and rezoning request, subject to the following conditions, to the City Council:

1) The floodplain must be shown on the plat.
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.
Application Date: 6/29/20
Date of Staff Report: 7/15/20
Status: New Application
Staff Contact: Peter Baumgartner, Planner I & Lance A. Lang, AICP, Principal Planner
Staff Recommendation: Approval

**Project Name:** Northridge Villas 4th Addition

**Current Legal Description:** Lots 22 and 24-33, Block 1, Northridge Villas 2nd Addition

**Proposed Legal Description:** Northridge Villas 4th Addition

**Present Address:** 800, 804, 808, 809, and 812 28th St NW; 2705, 2717, and 2721 9th Ave NW and three unaddressed lots

**Entitlement Requested:** Subdivision Plat

**Existing Zoning Profile:** 11 R2 PUD Lots

**Present Zone:** R2 PUD

**Present Use:** 11 Vacant Lots

**Uses Allowed in Present Zone:** See Chapters 6 for residential uses.

**Future Land Use Map:** N/A

**Proposed Zoning Profile:** 17 R2 PUD Lots

**Proposed Zone:** R2 PUD

**Proposed Use:** 17 Vacant Lots to be built on later

**Uses Allowed in Proposed Zone:** See Chapter 6 for residential uses.

**Future Land Use Map:** N/A

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**PROJECT DESCRIPTION:**

The applicant is requesting approval to subdivide Lot 22 and Lots 27-33 of Northridge Villas 2nd Addition into seventeen (17) new lots to be known as Northridge Villas 4th Addition. These properties are located at 800, 804, 808, 809, and 812 28th St NW and 2705, 2717, and 27219th Ave NW. Additionally, there are three (3) unaddressed lots located along 9th Ave NW (see Vicinity Map exhibit).

**BACKGROUND INFORMATION:**

The existing lots are all currently owned by the applicant are currently vacant (See Aerial View Exhibit).
The new lines are plotted as such that:
Lot 32 becomes Lots 2a and 2b
Lot 30 becomes Lot 4a and 4B
Lot 28 becomes Lots 6a and 6b
Lots 33 and 34 become Lots 7a and 7b
Lot 25 becomes Lots 9a and 9B
Lot 22 becomes Lots 11a and 11B.
The remaining lots had their property lines modified to accommodate the lots that were split. Lots 1, 3, 5, 8, and 10 are all between approximately 7,653 and 10,759 square feet or between .18 and .25 acres. The split lots are all between 4,102 and 9,156 square feet or .09 and .21 acres The proposed combined property meets the minimum lot size requirements of 3,500 square feet for R2 zoning. The location of the new lot lines meets all setback requirements in the R2 zoning bulk regulations (see Subdivision Plat Exhibit).

The proposed lots are currently zoned R2/PUD, or Two-Family Residential District with a Planned Unit Development Overlay and that is how they are going to remain (see Zoning Map Exhibit). At this time, the Future Land Use Map of the Comprehensive Plan does not depict this property with any designation which will need to be fixed when the Comprehensive Plan is updated. As it currently is, the proposed residential uses fit within the context of the neighborhood in which they are currently located (see Future Land Use Map Exhibit).

VICINTY MAP: This map highlights the subject property.
AERIAL VIEW: This aerial photograph was taken in 2020.
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.
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: N/A

Proposed Comprehensive Plan Map Classification: No Change

Staff finds that this request is consistent with the goals and objectives of the Minot Comprehensive Plan. The Future Land Use Map does not address this area and must be revisited in the future.

Public Agency Comments:
Staff did not receive any.

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 the goals and objectives of the Minot Comprehensive Plan. The Future Land Use Map does not address this area and must be revisited in the future.
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 the subdivision plat for Northridge Villas 4th Addition 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.