City of Minot
Regular Planning Commission Meeting
Tuesday, September 01, 2020 at 5:30 PM
City Council Chambers, City Hall

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

1. Roll Call
2. Pledge Of Allegiance
3. Approval Of August 04, 2020 Regular Meeting Minutes

Documents:

08 (AUG) RECOMMENDATIONS 2020.PDF

4. Subdivision And Rezoning – Riverwood 2nd Addition, Lot 1
   Public hearing request on an application from Ron and Karen Thunshelle, applicants and David Kopp, owner, to create a new subdivision from an unplatted portion of the SW ¼ NW ¼ of Section 21·155N·83W to be known as Riverwood 2nd Addition, Lot 1 and to rezone the new lot from AG, “Agricultural District” to RA, “Agricultural Residential District.”

   This property is located near 111 50th Street SW, by the railroad tracks.

Documents:

SUBDIVISION AND REZONE- RIVERWOOD 2ND ADDITION.PDF

5. Variance – North 235’ Of Outlot 1, Section 28·155N·83W
   Public hearing request on an application by Derek Tennyson, Owner, for a variance from Section 21-8, c) of the zoning ordinance, “Special Rules Concerning Accessory Buildings” to allow an accessory building to be placed in the front setback.

   This property is located at 3900 Hwy 2 & 52 West.

Documents:

VARIANCE - OUTLOT 1 S28·155·83.PDF

6. Variance – Brooklyn Addition, Block 47, Lots 1 & 2
   Public hearing request on an application by Delwyn Groninger, Owner, for a variance from Section 7-7 c) of the zoning ordinance, “Lot, Height, Area, and Yard Setback Requirements” to reduce the front yard setback from 25 to 15 feet on property zoned R3B.

   This property is located at 425 5th Ave SW.

Documents:

VARIANCE - BROOKLYN ADDITION, BLOCK 47, LOTS 1 AND 2.PDF
7. Subdivision – Proposed Tita 2nd Addition, Lots 1 & 2
   A request from Tita LLC and Gabriel Holt, Owners, combining Lot 1, Tita Addition and Lot 11, Ehr’s Addition to create a new subdivision to be known as Tita 2nd Addition, Lots 1 & 2.

   These properties are located at 601 and 619 North Broadway.

   Documents:
   [SUBDIVISION-TITA 2ND ADDITION.PDF]

8. Other Business
   Farewell to Lance Lang.

9. Adjournment
Regular Meeting: Planning Commission

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

Meeting Called to Order: Tuesday, August 4, 2020, 5:30 p.m.

Presiding Official: Chairman, Charles DeMakis

Members in Attendance: Kelly Barnett, Tim Baumann (by phone), Charles DeMakis, Aaron Faken, Elisha Gates (by phone), Justin Hochalter, Shane Lider, Dustin Offerdahl, Boyd Sivertson, Tammy Nesdahl-Zietz

Members Absent: Jody Bullinger, Todd Koop, Todd Wegenast

City Staff Present: Principal Planner Lance Lang, Community and Economic Development Director Brian Billingsley, Assistant City Planner Peter Baumgartner, Acting City Manager and Financial Director Dave Lakefield, City Attorney Kelly Hendershot, Assistant City Engineer Emily Huettl, Zoning Code Enforcement Inspector Margie Zietz

Others Present: Jonathan Rosenthal, Daniel Pfau

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

Roll Call

Pledge of Allegiance

Approval of the July 07, 2020 Regular Meeting Minutes

Motion by Commissioner Faken to approve July 07, 2020 Planning Commission Meeting minutes, second by Commissioner Hochhalter, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochalter, Lider, Offerdahl, Sivertson, Nesdahl-Zietz nays: None

Motion carries

The following are the recommendations of the Planning Commission:

Item #1
Subdivision – Proposed Plainview 5th Addition, Lot 1


This property is located on 1715 46th Street SE.

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 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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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.

Proposed Lot 1 will consist of approximately 88,644.35 square feet or 2.03 acres. 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. 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.

Chairman DeMakis opened up comments from the commissioners. None of the commissioners had comments.

Chairman DeMakis opened up comments from the public. No one from the public came forward with comments.

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 Barnett, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochhalter, Lider, Offerdahl, Sivertson, Nesdahl-Zietz nays: None
Motion carries

Item #2
Variance – Elmwood Addition, Lots 84 & 84

Planning Commission recommends City Council deny 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.

Finding of Facts:

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.

Staff Recommendations:

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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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.

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.

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 CodeViolations 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 …private use.”

It has come to the City’s attention that the son of the owner, who lives across the street, may be 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. The Code Enforcement Division issued a violation letter dated July 1, 2020.

The home occupation status is really not a concern for the Planning Commission. City Code Enforcement will continue to work with the owners to bring this matter to resolution.

Chairman DeMakis opened up comments from the commissioners. None of the commissioners had comments.
Chairman DeMakis opened up comments from the public.

Daniel Pfau, the son of the applicant, stepped forward on behalf of the father in favor of the application and stated the following:

- They believe that the house should be torn down,
- There are other houses in the neighborhood with residential zoning, that have only garages on the property, and have businesses being operated out of them,
- The garage has no water, sewer or electric,
- There are no grounds for the assertion that the vehicles are not unregistered
- The lawn is well maintained with the mounds of rock and debris only being there to fill in the basement once the house is torn down.

Chairman Offerdahl asked Mr. Pfau if there were any plans to rebuild to which he responded that they would like to rebuild it one day as a duplex, but it was financially unfeasible at the moment.

With no further comments from the public, Chairman DeMakis closed the hearing to public comments.

Chairman Demakis asked for a motion form the Commissioners.

Commissioner Bauman stated that he didn’t have a motion but wanted to ask if there was mechanism in place to have the Zoning Code Enforcement Inspector examine the property again in the future, to which Zoning Code Enforcement Inspector Zietz responded that there was and that they have been keeping an eye on the property since the first complaint in 2017. Additionally, she clarified that when she looks at these complaints she sends the property the entirety of the relevant zoning sections in the letter to inform them of the possible violations on the property. Zietz concluded that she has been in contact with Doug Pfau, the property owner, and is working with him to clear up the violations, and that as far as the other properties in the neighborhood mentioned by Daniel Pfau go, their Home Based Operations may have been there before the current ordinance was passed. They would need to be investigated.

Commissioner Faken asked about one of the neighboring properties that Daniel Pfau had mentioned but was informed by Chairman DeMakis that it is not relevant to the case at hand and that we should return to topic.

Motion by Commissioner Offerdahl to deny based on lack of hardship, and in accordance with staff recommendations and Sections 21-8 a), 5-4 a-c), and 2-1, Minot Zoning Ordinance and 7-4, f) from the pre2013 ordinance, second by Commissioner Lider, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochhalter, Lider, Offerdahl, Sivertson, Nesdahl-Zietz nays: None

Motion carries

**Item #3**
**Outlot Plat and Rezoning – Proposed Outlot 6, Section 8-155N-82W**

Planning Commission recommends City Council approve 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.

Planning Commission further recommends the City Council pass an Ordinance on first reading to rezone said property from AG (Agricultural District) to RA (Agricultural Residential District).

This property is located at 2020 27th Street NE.
Finding of Facts:

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

1) The applicant has submitted a complete application.
2) The Future Land Use Map of the Comprehensive Plan will need to be addressed for this area when the next update takes place.
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 outlot plat application and rezoning request, subject to the following conditions, to the City Council:

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

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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.

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. 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”. 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.

Chairman DeMakis opened up comments from the commissioners. None of the commissioners had comments.

Chairman DeMakis opened up comments from the public. No one from the public came forward with comments.

Chairman Demakis asked for a motion from the Commissioners.

Motion by Commissioner Baumann to approve based on finding of facts, staff recommendations and conditions, second by Commissioner Lider, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochhalter, Lider, Offerdahl, Sivertson nays: None, abstain: Nesdahl-Zietz

Motion carries

**Item 4**

**Outlot Plat and Rezoning – Proposed Outlot 7, Section 8-155N-82W**

Planning Commission recommends City Council approve 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.

Planning Commission further recommends the City Council pass an Ordinance on first reading to rezone said property from RA (Agricultural Residential District) AG (Agricultural District) to RA (Agricultural Residential District) only.

This property is located at 1840 27th Street NE.

**Finding of Facts:**

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

1. The applicant has submitted a complete application.
2. The Future Land Use Map of the Comprehensive Plan will need to be addressed for this area when the next update takes place.
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 outlot plat application and rezoning request, subject to the following conditions, to the City Council:

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

Chairman DeMakis asked the Principal Planner for staff comments.

This property is just south of the last agenda item so everything is virtually the same. 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.

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. 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.

The land use designation on the Future Land Use Map of the Comprehensive Plan needs to be addressed with the next update of the Comp Plan (see previous agenda item comments regarding this issue).

Chairman DeMakis opened up comments from the commissioners. None of the commissioners had comments.

Chairman DeMakis opened up comments from the public. No one from the public came forward with comments.

Chairman Demakis asked for a motion from the Commissioners.
Motion by Commissioner Barnett, based on finding of facts, staff recommendations and conditions, second by Commissioner Sivertson, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochhalter, Lider, Offerdahl, Sivertson nays: None, abstain: Nesdahl-Zietz

Motion carries

Item 5
Subdivision – Proposed Northridge Villas 4th Addition

Planning Commission recommends City Council approve 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.

Finding of Facts:
The Minot Planning Commission should accept the following findings of facts:
1. The applicant has submitted a complete application.
2. 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.

Staff Recommendations:
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
Chairman DeMakis asked the Principal Planner for staff comments.

The existing lots are all currently owned by the applicant and are currently vacant. The new lines are plotted 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.

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. 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.

Chairman DeMakis opened up comments from the commissioners. None of the commissioners had comments.

Chairman DeMakis opened up comments from the public. No one from the public came forward with comments.

Chairman Demakis asked for a motion from the Commissioners.

Commissioner Baumann came forward to thank both the staff and the developers for their efforts to make an infill neighborhood like this, with multiple dwelling styles and efficient use of infrastructure possible.

Motion by Commissioner Offerdahl, based on finding of facts, staff recommendations and conditions, second by Commissioner Lider, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochhalter, Lider, Offerdahl, Sivertson, Nesdahl-Zietz nays: None

Motion carries

Other Business: Election of Officers for the Next Year

For the position of Chairman of the Commission, Commissioner Offerdahl nominated the current Chairman Charles DeMakis to be Chairman for another term. Demakis accepted. The motion was carried by the following roll call vote: ayes: Barnett, Baumann, Faken, Gates, Hochhalter, Lider, Offerdahl, Sivertson, Nesdahl-Zietz nays: None abstain: DeMakis
For the position of Vice Chairman of the Commission, Commissioner Barnett nominated the current Vice Chairman, Commissioner Offerdahl to be Vice Chairman for another term. Offerdahl accepted. The motion was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Hochhalter, Lider, Sivertson, Nesdahl-Zietz nays: None abstain: Offerdahl

With no other business before the committee, Chairman DeMakis adjourned the meeting at 6:18 PM.
**PROJECT DESCRIPTION:**

The applicant is requesting approval to create a subdivision from an unplatted portion of the SW ¼ NW ¼ of Section 21-155N-83W to be known as Lot 1 of Riverwood 2nd Addition and to rezone the proposed lot from Ag, Agricultural District to RA, Agricultural Residential District. This property is located directly east and abutting, the applicant’s existing property at 111 50th Street SW, approximately 1.2 miles west to the West 52 Bypass.(see Vicinity map exhibit).

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**Application Date:** 7/27/2020

**Date of Staff Report:** 8/3/2020

**Status:** New Application

<table>
<thead>
<tr>
<th>Staff Report Item #: 1</th>
<th>Owner: Ron and Karen Thunshelle</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Number:</strong> 8020-8.1</td>
<td>111 50th St SW, Minot, ND 58701</td>
</tr>
<tr>
<td><strong>Project Name:</strong> Riverwood 2nd Addition</td>
<td><a href="mailto:katnd.@icloud.com">katnd.@icloud.com</a></td>
</tr>
<tr>
<td><strong>Current Legal Description:</strong> An Unplatted portion of SW ¼ NW ¼ S21-155N-83W</td>
<td>(701) 720-3328</td>
</tr>
<tr>
<td><strong>Proposed Legal Description:</strong> Riverwood 2nd Addition, Lot 1</td>
<td><strong>Representative:</strong> Same as above.</td>
</tr>
<tr>
<td><strong>Present Address:</strong> 111 50th St SW</td>
<td><strong>Proposed Zoning Profile:</strong> One RA Lot</td>
</tr>
<tr>
<td><strong>Entitlement Requested:</strong> Plat and Rezone</td>
<td><strong>Proposed Zone:</strong> RA</td>
</tr>
<tr>
<td><strong>Existing Zoning Profile:</strong> A portion of unplatted AG land</td>
<td><strong>Proposed Use:</strong> One existing AG parcel and one proposed RA lot with a barn going across the lot line.</td>
</tr>
<tr>
<td><strong>Present Zone:</strong> AG</td>
<td><strong>Uses Allowed in Proposed Zone:</strong> See Chapter 5.2 for residential uses and Chapter 19 for agricultural uses.</td>
</tr>
<tr>
<td><strong>Present Use:</strong> One AG Lot with agricultural structures and some unplatted farmland.</td>
<td><strong>Future Land Use Map:</strong> N/A and Low Density Residential</td>
</tr>
<tr>
<td><strong>Uses Allowed in Present Zone:</strong> See Chapter 19 for agricultural uses.</td>
<td><strong>Future Land Use Map:</strong> N/A and Low Density Residential</td>
</tr>
<tr>
<td><strong>Future Land Use Map:</strong> N/A and Low Density Residential</td>
<td><strong>Present Zone:</strong> RA</td>
</tr>
<tr>
<td><strong>Proposed Use:</strong> One existing AG parcel and one proposed RA lot with a barn going across the lot line.</td>
<td><strong>Uses Allowed in Proposed Zone:</strong> See Chapter 5.2 for residential uses and Chapter 19 for agricultural uses.</td>
</tr>
<tr>
<td><strong>Future Land Use Map:</strong> N/A and Low Density Residential</td>
<td><strong>Proposed Zone:</strong> RA</td>
</tr>
</tbody>
</table>

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The unplatted area that comprises the proposed lot is currently owned by David Kopp, the applicant’s neighbor. Mr. Kopp has signed the Planning Commission application as Owner. The land is currently vacant and will be purchased by the applicants upon the approval of this subdivision and rezoning (see Aerial View exhibit). A twenty-foot (20’) wide access easement is shown on the plat to allow Mr. Kopp to access across this lot to the remainder of his land to the east.

The proposed property will contain 163,359.54 square feet or approximately 3.75 acres (See Preliminary Plat Map exhibit). The proposed lot does exceed the minimum lot size requirements for RA by a fair margin and the location of the lot lines do meet the setback requirements for RA zoning.

The property involved in this subdivision is currently zoned AG, Agricultural District. At 3.75 acres in size it does not meet the 20 acre minimum lot size for AG, Agricultural and must therefore be rezoned to RA, Agricultural Residential (see Zoning Map exhibit). The Future Land Use Map does not adequately address land use in this area. The proposed lot is partially designated as “Low Density Residential,” but there are no land uses designated to the west. This area must be updated on the Future Land Use Map during the next Comprehensive Plan update.

LOCATION MAP
VICINITY MAP: This map highlights the subject property and the 300-foot notification area.

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.
PRELIMINARY PLAT OF RIVERWOOD 2ND ADDITION
Being an Unplatted Portion of the SW¼NW¼ Section 21, Township 155 N, Range 83 W, to the City of Minot, North Dakota

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.

- Property Corners Found
- Property Corners Proposed
- Traverse Point

Wold Engineering, P.C.
Consulting Engineers & Land Surveyors
913 East 11th Street - PO Box 237 - Bismarck, ND 58502
310 Eau Claire Drive - PO Box 1277 - Bismarck, ND 58502
110 9th Avenue Southeast - Minot, ND 58701

163,359.54 FT²
3.75 Acres

SW¼NW¼ 21-155-83
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 28-23(b).

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

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

**APPROVAL AND ACCEPTANCE OF SUBDIVISON DESIGN:**

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

The applicant states: “This [project] is pretty much the same as the past few plats [at Ramstad] consolidating twin lots into single family with R1S zone change. Mike Hayes will be the developer building the homes, same as the latest lots.”

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

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

**REVIEW BY HEARING BODIES:**

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

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

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

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

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

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

Comprehensive Plan Analysis:
Current Comprehensive Plan Map Classification: N/A and Low Density Residential

Proposed Comprehensive Plan Map Classification: No Change at this time.

Staff finds that this request is consistent with the goals and objectives of the Minot Comprehensive Plan in this sparsely developed area predominated by floodplain.

Public Agency Comments:
Staff did not receive any public agency 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 Comprehensive Plan does not adequately address this area and must be updated in the future. The applicant’s request is consistent with land uses in the area.
3) This request meets all of the bulk requirements of Minot’s Zoning Ordinance.
4) An access easement provides access thru the property to adjacent land to the east.
5) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

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

1. The 100-year floodplain shall be shown on the Final 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 a variance from Section 21-8 c) of the zoning ordinance to allow a detached garage in the front yard setback where the prior garage was located. The property is located at 3900 Highway 2 & 52 W just west of the Flying J Truck Stop (see Vicinity Map exhibit).
BACKGROUND INFORMATION:

The property currently has two structures on it, the applicant’s home and what appears to be a shed. There is also a concrete pad in the back (see Site Plan with Topo Map exhibit). Since the garage burned down, the applicant has acquired a new garage that meets building codes and is ready to be placed on the property as soon as a concrete foundation is poured. According to the Section 21-8 c) of the ordinance it can’t be placed where the previous garage was because an accessory structure can’t be located in the front setback. This is an unconventional lot. Access comes across the neighboring lot by way of a thirty-foot (30”) wide access easement (See Access Easement exhibit). Staff has determined that the westerly lot line is the front yard since this is how access is provided to the site.

The property is zoned C2 making the residence a legal non-conforming use. Staff discussed whether the addition of a detached garage would constitute expansion of the nonconformance as Section 25-2 states:

“A lawful nonconforming use of land existing as of the date of this ordinance or its predecessors to such land may be continued; provided, however, that no such nonconforming use of land shall be in any way expanded or extended, either on the same or adjoining property.”

Because there was a detached garage in existence as of the date the ordinance was adopted, and the new garage is a replacement for the prior garage, staff determined that replacing the garage is valid, but a variance must be granted to locate the garage in the front setback.

The applicant is requesting a variance to have the restrictions listed in Section 21-8 c) waived to allow the detached garage to be place where the prior garage was located, in the front yard setback. Under Section 30-2 of the zoning ordinance, the granting of a variance shall only be considered if there is:

- an exceptional shallowness or shape of a specific piece of property; if there are
- any exceptional topographic conditions; or if there are
- any other extraordinary conditions or hardships.

The applicant is requesting the variance on the grounds that due to the harsh topographic nature and presence of the 100-year floodplain on his property, the only place he can place his new garage is in the front setback.

A topographic map of the property reveals some unique topographic conditions (see Site Plan with Topo exhibit). On the west side there’s an incredibly steep drop into a creek bed dropping from an elevation of 1565 feet msl to 1551 feet msl over the course of 27 feet which is a gradient of 51.8% making almost a third of the property unusable. After going down a roughly three (3) to six (6) degree slope past the house to the back yard, the property largely flattens out with the rear third of the property varying as little as a one (1) foot across that entire section of the property. In this area there is a concrete pad with a camper and an additional car on it that could conceivably be turned into site for a new garage. Unfortunately, however, this area is actually part of the 100-year floodplain under both the current and proposed FEMA floodplain maps (see Current and Proposed FEMA Map exhibits). It appears, by rough calculation, that approximately three and
one-half to four feet of fill would need to be imported to raise the finished floor of the structure twelve inches (12”) above the anticipated base flood elevation. This situation renders the existing concrete pad useless and the import of 3 to 4 feet of fill is cost prohibitive. Therefore, given the site constraints, the only practical place for a detached garage is in the front setback.

The applicant has submitted the following narrative describing the variance request:

In 2014 the garage that was on the property burned down. The garage we want to put on the property is up to code, vinyl sided, and sheet rocked. Due to the geography of the property, and flood regulations, the only place we can put it is where the old garage was. Old concrete was already removed so that the slab can be poured to code.

Derek Tennyson
3900 Hwy 2 & 52 West
Minot, ND 58701
(701) 721-0401 = Derek
(701) 721-1718 = Krystal

LOCATION MAP
VICINTY MAP: This map highlights the subject property and the 300-foot notification boundary surrounding the subject site.
Variance
The North 235' of Outlot 1, Section 28-155N-83W

ACCESS EASEMENT
AERIAL VIEW: This aerial photograph was taken in 2020.
AERIAL PHOTO FROM 2015 SHOWING FORMER GARAGE LOCATION

Former garage site

Front yard setback
SITE PLAN WITH TOPO: A site plan created by staff for the applicant.
= Previous and Proposed Garage Site

= Applicant’s Home

= Concrete pad
PROPOSED FEMA FLOODPLAIN MAP (TO BE ADOPTED SOON)
VARIANCE REVIEW/HARDSHIP:

100 YEAR FLOODPLAIN

500 YEAR FLOODPLAIN

REQUIRES 3-4 FEET OF FILL
Before granting a variance, the Planning Commission must specifically find that it can be granted without substantial detriment to the public good and without actually impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this ordinance.

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

FLOODPLAIN

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.

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

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

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

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 does not meet all of the bulk requirements of Minot’s Zoning Ordinance, but it will if the variance is approved.
4) 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.
5) 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 approve this variance request to allow a detached garage in the front yard setback, for the following reasons:

1. Due to the exceptional topographic conditions on the property and the presence of the 100-year floodplain across a significant portion of the lot, staff has determined that there is justifiable hardship to support a variance to Section 21-8 c) and allow the accessory building to be located in the front yard setback.
### Planning Commission
#### Staff Report

#### PROJECT DESCRIPTION:

The applicant is requesting approval of a variance to waive the requirements of Section 7-4 c) 1) of the pre-2013 zoning ordinance, or Section 7-7 c) of the current ordinance, that establishes required setbacks from property lines. Generally, the front setback in R3B, and in most zoning districts, is twenty-five feet (25’). The applicant is requesting a ten-foot (10’) variance to allow him to build to within fifteen feet (15’) of the front property line. The property is located at 425 5th Ave SW (see Vicinity Map exhibit).

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<table>
<thead>
<tr>
<th>Application Date: 7/27/2020</th>
<th>Staff Contact: Lance Lang, Principal Planner &amp; Peter Baumgartner, Planner I</th>
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<tbody>
<tr>
<td>Date of Staff Report: 8/6/2020</td>
<td>Staff Recommendation: Approval</td>
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#### Status:
New Application

**Staff Report Item #**: 3 (Agenda Item # 5)

**Project Number**: 8020-8.3

**Project Name**: Brooklyn Addition

**Current Legal Description**: Brooklyn Addition, Block 47, Lots 1 & 2

**Proposed Legal Description**: No Change

**Present Address**: 425 5th Ave SW

**Entitlement Requested**: A 10-foot variance to reduce the front setback from 25’ to 15’

**Relevant Zoning Code Sections**: Section of 7-4 c)
1) of the pre-2013 zoning ordinance for R3B,
Section 7-7 c) of the current ordinance for RM

**Existing Zoning Profile**: 1 R3B lot

**Proposed Zoning Profile**: No Change

**Present Zone**: R3B

**Present Use**: Residential Home

**Uses Allowed in Present Zone**: See Chapter 7 of the old ordinance for residential uses in R3B,
Chapter 7 current ordinance for RM

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

**Proposed Zone**: Same

**Proposed Use**: Same

**Uses Allowed in Proposed Zone**: Same

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

**Owner**: Delwyn Groninger
15815 4th Ave NW, Burlington, ND 58722
Delwyn.groninger@k12.nd.us
(701) 725-4654

**Representative**: N/A
**BACKGROUND INFORMATION:**

The property currently has one structure on it, a residential home (see Aerial Photo). The applicant has purchased the property from his uncle’s estate and would like to tear down the small 560 square foot home and build something a bit more substantial. However, in the process of rebuilding he would have to meet the required front setback of twenty-five feet which would limit the proposed home to an excessively narrow width of twenty feet. This lot is also affected by the steep topography on the east side of the lot which would limit the length of the proposed house. The current structure on the property is a legal non-conforming structure with the twenty-five-foot front setback line about a third of the way through the house.

In order to build a new house or renovate the existing one to suit his needs, the applicant is requesting the front yard variance. Under Section 30-2 of the zoning ordinance, the granting of a variance shall only be considered if there is:

- an exceptional shallowness or shape of a specific piece of property;
- any exceptional topographic conditions; or if there are
- any other extraordinary conditions or hardships.

The applicant is requesting the variance on the grounds that he can only reasonably develop the lot by building into the current front yard setback due to the topographic nature of the rest of the property.

The topographic map of the property reveals some unique topographic conditions on the property (see 2020 Aerial Photo/Topographic Map exhibit). The area contained within the yellow border on the exhibit consists of steep slopes. On the east side of the lot the property drops some sixteen feet in elevation over a distance of some 36 feet which is a gradient of about 44%. On the North side of the property there’s a retaining wall and an even steeper slope down to the street.

As part of this variance request, the applicant has submitted a site plan that shows the footprint for the home that he would like to build on the property (see Site Plan exhibit). The 900 square foot residence will be approximately twelve feet from the retaining wall and occupy a portion of the site of the original home. Attached to that on the west side of the proposed house will be a 546 sq. ft. garage and a 15’ cement apron to access the alleyway. All together his proposal would take up approximately 36% of the total lot area which is less than the 40% maximum allowed by the ordinance.
VICINTY MAP: This map highlights the subject property and the 300-foot notification boundary surrounding the subject site.
AERIAL VIEW: This aerial photograph was taken in 2020.

TOPOGRAPHIC MAP
SITE PLAN: A site plan created by the applicant for his variance request.
VARIANCE REQUEST LETTER:

FOREWORD: I, Delwyn Groninger, am buying a 50' x 100' lot with a 560 sq. ft. house from my uncle Arnold Groninger’s estate ... specifically from his only child, Connie Moore-Hall, who lives in Roy, UT. I need a variance consideration because current regulations would not allow a new house to be built on this lot, nor would it allow major renovation of the current house.

The variance is needed specifically because of the topography (the east side of this lot slopes downward toward Park St. and the north side of this lot slopes downward to 5th Ave. SW). With this corner lot already being smaller in size than current allowed regulations for a corner city lot in Minot along with the prior landscaping of ground to provide proper slopes toward the city street / avenue there is significant limitations on building new or major remodeling to the current house to create an up-to-date residence without one variance setback needed on north side.

Variance Checklist:

A. Documentation From Property Owner Showing Purchase Agreement

See copy of communication stating I agree to buy this lot, providing I can build or do major renovations to the current house, from Connie Moore-Hall.

The communication is labeled exhibit “A”.

B. Met With Planning Department

On June 24, 2020, Delwyn Groninger met with City of Minot Planning Office members Lance Lang and Peter Baumgartner along with City of Minot Building Inspector Luke Tilema at the City of Minot Public Works Building at 3:30 p.m.

With a R3B property zoning the three gentlemen indicated that the lot legally can have a 5 foot setback on the backside (south), a 25 foot setback from Park St. (east), a 15 foot setback from the alley (west); but a new residence or major remodel of current house would not make the 25 foot setback regulation in front of 5th Ave SW (north) unless it was a long, narrow residence. Mr. Lang also determined that using the proposed residence dimensions that Delwyn Groninger provided the lot would still legally allow rainwater / groundwater absorption within City of Minot regulations.

C1. Written Description of General Floor Plans

On west side of lot east of alley road a 15' long by 26' wide cement apron is proposed to be built in front of a proposed garage. Then continuing east a 21’ long by 26' wide attached one story garage would be next and would include the front door to the entire structure on the north west corner facing 5th Ave SW. Then lastly, continuing east a 30' long by 30' wide one story proposed residence would be built.
The garage is a two-car garage plus room for storage and access to basement. Entrance to the residence from the garage (all being one level) the first room is kitchen and with an open floor plan east of kitchen will be living room. Immediate room to right of kitchen will be bathroom / laundry room, to east of bathroom will be Bedroom #1 and then to east next will be Bedroom #2.

After reviewing proposed plans with contractors the desire is to remove the current house and save the basement. If that can occur no further disturbance to ground as I will not build a newer, larger basement. The new residence would be placed on a foundation. Steel support beams and metal pans made for pouring concrete into would be used to cover the current basement with cement for the new garage floor.

C2. Written Description of Drainage Plan Of The Proposed Site

Because this corner lot is surrounded on three sides by roadway while construction pursues with limited space on the lot itself materials will need to be brought onto the lot only when they are ready to be used in construction. I would require the licensed contractors to follow any EPA and City of Minot regulations on placement of runoff prevention materials in areas where rainfall could carry loosened dirt and debris away from building site. The current drainage, which goes mostly east on 85% of the lot (toward Park St.) will not be modified to go another direction during construction. The ability to absorb rainwater / groundwater is toward the east.

D1. Site Plan and Description: Scaled Plan, North Arrow and Site Dimensions

See Attachment “D1”. Ackerman placed boundary markers for visual inspection.

D2. Site Plan and Description: All Types of Proposed Uses

To be a family residence with myself, a widower, being the occupant under my current life style. I am currently 63 years old and as I age if I need to temporarily or permanently enter an assisted living home or bring in a renter to live with me to also help take care of me I would look to sell or rent the residence. I eventually will have dementia that will affect my lifestyle, but hopefully it will be many years from now.

D3. Site Plan and Description: Location of all Existing and Proposed Structures

See Attachment label “D1” for location of existing structures.

For proposed structures I propose a 900 sq. ft. house with a 546 sq. ft. attached garage. I may place a small composite material deck off east end of residence. It would be 6’ long by 12’ wide or if not built square would be up to 72 sq. ft. in size. No other outbuilding to house garden and lawn items or other storage is proposed.
E. Other Factors

City of Minot Engineering Office raised a question that if this lot is built on what are the chance that the ground could slide underneath the residence.

Lance Meyer, City of Minot Engineer, said he wanted mainly to make Delwyn Groninger aware that ground dynamics on lot that are built on could slide on some properties and that the owner of this lot should weigh that possibility.

Delwyn Groninger approached several companies. He contacted surveyors, in Minot, who indicated that they don’t offer the service of determining ground sliding. Material Testing was contacted June 25th, 2020, about helping to provide their expertise on probability of ground sliding. They outwardly said that the probability was low, but would look into what they could do. As of July 27th, 2020, no followup has happened from Material Testing. Nor have they indicated they are busier than all get out.

Since Delwyn Groninger is familiar with the property as it has been in the Groninger family since the 50’s his uncle has had no issues with his cement block basement. The apartments right above the lot (to the south) has not had any issues, including water issues, according to residents living in the bottom apartments. To the south of the 506 Park St. apartments that I just mentioned is a 10” thick retaining wall that looks go with some shifting. The portion of that 5’ wall that sticks out of the ground may have moved an inch as it stands straight, but not perfectly straight.

I am aware of the engineering office’s concern, but I have faith from the history of the area that the ground is stable and would like the planning office to grant my variance understanding the concern for me by the city engineer.

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.

☐ Narrowsness 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.

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

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

j) 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.

**STAFF ANALYSIS:**

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

Proposed Comprehensive Plan Map Classification: No Change

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

**Public Agency Comments:**
1. Minot Engineering Department
   a. The City Engineer made the applicant aware, before the time of his application, that the ground dynamics on the lot could be a concern given the slope and that the ground could potentially slide underneath the proposed property.
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 does not meet all of the bulk requirements of Minot’s Zoning Ordinance, but relief may be granted through approval of the requested variance.
4) 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.
5) 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.

Staff recommends the Planning Commission adopt the staff findings of fact and approve of a ten-foot front setback variance, allowing the applicant to build within fifteen feet of the front property line, for the following reasons:

1. Due to the exceptional topographic conditions on this property, the requirement for a twenty-five-foot front setback is unreasonably restrictive to allow development of this lot.
2. The garage shall be set back at least eighteen feet (18’) from the alley property line.
PROJECT DESCRIPTION:
The applicants are requesting approval to consolidate two existing lots, Lot 1, Tita Addition and Lot 11 less the DOT right-of-way, Ehr’s Addition into a two-lot subdivision to be known as Lots 1 & 2, Tita 2nd Addition. These properties are located at 601 and 619 North Broadway (see Vicinity Map exhibit).

BACKGROUND INFORMATION:
The two existing lots are under common ownership by the applicant. Lot 1 of Tita Addition is vacant, while Lot 11 of Ehr’s Addition contains a small office building that will be removed (see Aerial View exhibit).
The new common lot line is plotted such that the north 105.6’ of Tita Addition, Lot 1 will make up Lot 1 of the proposed subdivision, while the remainder of Tita Addition and Ehr’s Addition, Lot 1 will comprise Lot 2. Proposed Lot 1 will consist of approximately 25,754.02 square feet or 0.59 acres. Proposed Lot 2 will consist of approximately 34,999.45 square feet or 0.80 acres (see Preliminary Plat exhibit). The proposed lots meet the minimum lot size requirements of 10,000 square feet in C2 zoning for a single lot. The location of the new lot lines meets all setback requirements in C2 zoning bulk regulations.

Additionally, there is a 5,668.46 square foot section of proposed Lot 1 that was formerly described as the south ½ of Lot 8, Block 1, North Minot Addition that is deed restricted (See Approximate Area of Deed Restriction exhibit). This property is prohibited from having a structure placed on or built on it because of the deed restriction enacted by the City of Minot as part of the floodplain buyout process in the past. This property could be paved and used for surface parking or be landscaped.

The properties involved in this subdivision are currently zoned C2, General Commercial District, and will remain as such (see Zoning Map exhibit). The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as “Commercial.” 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 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.

APPROXIMATE AREA OF DEED RESTRICTION
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: Commercial

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:**
Minot City Engineer
1. A stormwater management plan is required for future development.
2. A traffic study per NDDOT requirements for Future Development.
3. A single access location to Broadway shall be at the common lot line with a 40’x20’ access easement.
4. Any other existing accesses to Broadway are to be removed by the applicant/owner at the time of development

**FINDINGS OF FACT:**

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

**RECOMMENDATION:**

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

1) A stormwater management plan is required for future development
2) A traffic study is required per NDDOT requirements for future development
3) A single access location to Broadway shall be at the common lot line with a 40’x20’ access easement.
4) Any other existing accesses to Broadway are to be removed by the applicant/owner at the time of development.

5) 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.