

Regular Meeting : Planning Commission

Location: City Hall, Council Chambers, 515 2nd Avenue SW, City of Minot, ND

Meeting Called to Order : Monday, September 30, 2019 at 5:30 p.m.

Presiding Official: Chairman, Charles DeMakis

Members in Attendance: Bartsch, Barnett, Baumann, DeMakis, Hochhalter, Koop, Offerdahl, Wegenast

Members Absent: Bullinger, Larshus, Sivertson

City Staff Present: Brian Billingsley (Community & Economic Development Director), Lance Lang (Principal Planner), Stefanie Stalheim (Assistant City Attorney), Peter Baumgartner (Planner I), Lance Meyer (City Engineer), Stephan Podrygula (Alderman), Glenda Sorensen (Planning Assistant)

Others Present: Sean Weeks (Ackerman-Estvold), Paul Wilkins, Orris Brown, Don Malchose

Meeting Called to Order by Chairman Charles DeMakis

Approval of the August 26, 2019 Regular Meeting Minutes.

Motion by Commissioner Koop to approve August 26, 2019 Planning Commission Meeting minutes, second by Commissioner Baumann, and was carried by the following roll call vote: ayes: Bartsch, Barnett, Baumann, DeMakis, Hochhalter, Koop, Offerdahl, Wegenast, nays: none.

Motion carries

The following are the recommendations of the Planning Commission:

Item #1:

It is recommended that the City Council approve a motion on a request by Bradley Weber, Owner, to subdivide unplatted portions of the SE1/4NE1/4SE1/4 of Section 34-155-82W to create outlot plats for proposed Outlots 22 and 23. This property is zoned RA, Agricultural Residential District located at 3120 72nd Street, SE.

Finding of Facts:

The Minot Planning Commission accepts the following findings of facts:

- 1) The applicant has submitted a complete application for an outlot plat.
- 2) The applicant is subdividing a portion of his unplatted property to transfer ownership to the neighboring property owner, creating two outlots.
- 3) This request meets all of the bulk requirements of Minot's Zoning Ordinance.
- 4) Seventy-five feet (75') from centerline of 72nd Street SE is dedicated as road right-of-way with this outlot plat.
- 5) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

Staff Recommendations and Conditions:

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

- 1) Access point(s) to the county road, 72nd Street SE, must be approved by the Ward County Highway Department.
- 2) No later than six months after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, auditor's outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.

Chairman DeMakis asked the Principal Planner for staff comments.

Principal Planner stated that the applicant is requesting approval of a subdivision plat for two outlots in the two-mile extra-territorial jurisdiction. The property is zoned RA, Agricultural Residential and will remain as such. The property is located at 3120 72nd Street SE.

This item is basically a land swap between two neighboring owners. The applicant has submitted an application to create two outlots in order to sell part of his property to the neighboring land owner. The owner currently has approximately five (5) acres of land and the neighbor would like to purchase as much land as possible, however the outlot plat requires dedication of road right-of-way. Seventy-five (75) feet of right-of-way is being dedicated from the center line to the west side of 72nd Street SE as it abuts these two parcels.

The minimum lots size required in RA zoning is 2.0 acres. The applicant is retaining the minimum two (2) acres and dedicating his portion of the road right-of-way. The resulting lot sizes are 2.00 acres in proposed Outlot 22 and 4.69 acres in proposed lot 23.

The surrounding zoning is RA and Ag, Agricultural.

The Future Land Use Map of the Comprehensive Development Plan does not show any recommended land use designation for properties in this area. The scope of the plan will be expanded to include land use designations for this area as part of the next plan update.

Public Agency Comments:

Staff received comments from the following public agencies:

- 1) Minot Engineering Department
 - a. Access to county road, 72nd Street SE, must be approved by the Ward County Highway Department.
- 2) Minot Park District. None.
- 3) Minot Public Works Department None.

Chairman DeMakis opened up comments from the commissioners.

Commissioner Koop asked if 72nd Street was a township or county road. City Engineer Lance Meyer came forward and stated that 72nd Street is a county road.

Chairman DeMakis opened up comments from the public.

No one from the public came forward.

Motion by Commissioner Koop to approve based findings of fact and recommendations, second by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: Bartsch, Barnett, Baumann, DeMakis, Hochhalter, Koop, Offerdahl, Wegenast, nays: none

Motion carries

Item #2

It is recommended that the City Council pass an ordinance on a request by FMI, Inc., Applicant, to rezone a portion of Outlot 7 in Section 14-155-83 from R3B (Multiple Residential Medium Density) to C2 (General Commercial District). This property is located at 304 4th Avenue NW.

It is also recommended that the City Council approve a motion on a request by FMI, Inc., Applicant, to subdivide Lot 1, Boyce's Addition, together with a portion of Outlot 7 in Section 14-155-83 to create McHenry Addition, Lot 1. This property is located at 304 4th Avenue NW.

Finding of Facts:

The Minot Planning Commission accepts 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. Several conditions are attached to the staff recommendation to address various aspects of the development project.
5. The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied, or to add additional conditions to the recommendation for approval. 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 and Conditions:

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

1. A Stormwater Management Plan is required.
2. A Traffic Impact Study is required and any necessary improvements resulting from said traffic study shall be installed by the developer at the developer's expense.
3. Utility connection fees are required.
4. The existing access point is to be utilized, no new access points on to 4th Avenue NW will be allowed.
5. The development must meet floodplain requirements.
6. All easements and right-of-way dedications are to be determined before the final plat is recorded.
7. Park dedication fees in the amount of 0.001% of the total construction cost shall be paid at the time of building permit.

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

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval of a rezoning request and a one-lot subdivision plat for a proposed restaurant / retail space located at 304 4th Avenue NW.

The applicant describes the project as follows:

The proposed use will be a multi-tenant building (restaurant and retail) on the 1.24 +/- acre property accessed from 3rd Avenue NW. Two (2) restaurants and a central retail space will comprise the 7,000 +/- s.f. gross floor area building. Supporting infrastructure will include 69 off-street parking spaces, access, utilities (water, sanitary sewer, irrigation), drainage, and storm water management facilities well designed and incorporated into construction documents that will be submitted for review as part of the City's Site Plan Review application package.

The subject property is currently zoned C2, General Commercial and a portion is zoned R3B, Multiple Residence District which is now a defunct zone. Since R3B is a residential zone, commercial uses are not allowed and consequently it must be rezoned. The proposed uses are allowed by right in C2 zoning districts. The surrounding zoning is C2 commercial to the north and east, R2B and R3B residential to the west and the flood control pump station to the south is zoned C2.

The Future Land Use Map of the Comprehensive Development Plan depicts this parcel as "Commercial" and there is a significant portion of the site that is shown with a "Conceptual Greenway" overlay. The greenway is associated with proximity to the river. Although the property is not in the 100-year floodplain according to current FEMA maps, it will be in after the

revised maps are created, however this property will be protected from flooding in the future after the flood protection system is complete. The developer must comply with whatever FEMA regulations require at the time of construction.

In the aerial view exhibit a photograph from 2015 shows the former church building and the smaller real estate building on the site as well as Via View Park. The church building has been demolished and the real estate office has not been an active business for several years. It will be removed. Via View Park will provide a nice backdrop for patrons at the proposed restaurant and shops.

Public Agency Comments:

Staff received comments from the following public agencies:

1. Minot Engineering Department
 - a. A Stormwater Management Plan is required.
 - b. A Traffic Impact Study is required and any necessary improvements resulting from said traffic study shall be installed by the developer at the developer's expense.
 - c. Utility connection fees are required.
 - d. The existing access point is to be utilized, no new access points on to 4th Avenue NW will be allowed.
 - e. The development must meet floodplain requirements.
 - f. All easements and right-of-way dedications are to be determined before the final plat is recorded.
2. Minot Park District.
 - g. Park dedication fees in the amount of 0.001% of the total construction cost shall be paid at the time of building permit.
3. Minot Public Works Department. None.

Chairman DeMakis opened up comments from the commissioners.

Chairman Baumann asked if the greenway as shown on the future land use maps is conceptual only? Principal Planner Lang responded that it is an amorphous blob that winds through town following the river, and that it is not very exact but more conceptual in nature, however it establishes intent in the comprehensive plan to provide for more detailed design of amenities in the river corridor in the future.

Chairman DeMakis opened up comments from the public.

Sean Weeks, Ackerman-Estvold, who represents the applicant FMI stated that he was in agreement with the staff recommendations.

Commissioner Baumann stated that he loves the location of this project and appreciates that we are building in an area that is densely populated and providing services and restaurants in that part of town. However, from a big picture standpoint he believes we are missing an opportunity based on the design opportunities with the greenway and stated that it would be great to see walking paths or bike paths, and he would like to see our community plan for these things and see them in the conceptual plans.

Motion by Commissioner Wegenast to approve based on staff finding of fact and conditions, second by Hochhalter, and was carried by the following roll call vote: Bartsch, Barnett, Baumann, DeMakis, Hochhalter, Koop, Offerdahl, Wegenast, nays: none

Motion carries

Item #3

It is recommended that the City Council adopt a resolution approving a request by Midwest Capital Group, LLC., Applicant, for a Conditional Use Permit (CUP) for indoor self-service storage and outdoor storage of RVs, boats, automobiles, and related recreational vehicles/items on property zoned M1 (Light Industrial District) located at 3100 County Road 19S.

Finding of Facts:

The Minot Planning Commission accepts the following findings of facts:

- 1) The applicant has submitted a complete application.
- 2) The proposed use is conditionally permitted by the terms of the ordinance and is subject to conditions of approval listed as part of the recommendations.
- 3) The applicant's request is not consistent with Minot's Comprehensive Plan, however this property was previously zoned M1 without amending the comprehensive plan and has been used for industrial and commercial purposes by prior owners/tenants. The land use designation will be amended to coincide with zoning when the comprehensive plan is updated.
- 4) This request meets all of the bulk requirements of Minot's Zoning Ordinance.
- 5) The applicant has requested a delay to installing screening requirements to the 2020 construction season.
- 6) 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 & Conditions:

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

- 1) The applicant is allowed to use a portion of the site for outdoor storage of vehicles, boats, recreational vehicles, campers, etc. until June 1, 2020 without required screening with the understanding that the required screening will be constructed in the 2020 construction season in the form of additional storage buildings along the County Road 19 South frontage along with screening fences between the buildings. Issuance of a building permit for said storage buildings in the spring of 2020 shall show compliance with this condition. If no building permit is issued by June 1, 2020 the owner shall install an alternative method of screening that is approved by the City Planning Department, or all items stored in the outdoor storage area shall be removed from the site until the site can be brought into conformance.
- 2) City staff is requiring a modified site plan that depicts the limits of the area of the site that will be used for outdoor storage during this interim period. This plan has been submitted by the applicant and is acceptable.
- 3) Street trees are required along the frontages of County Road 19 South and 31st Street SE. These trees shall be minimum caliper of 1 ½ inch, of deciduous variety unless there are conflicts with overhead utilities in which case ornamental trees meeting the same size standard can be substituted. The Landscape Plan submitted shows a quantity of 51 trees. The owner may elect to preserve and protect the trees along 31st Street SE during construction as an acceptable substitute to planting new trees. There are three (3) gaps in the existing tree line that need to be filled by planting one (1) tree in each gap. Alternatively, the owner can replace the existing trees with new trees as the original landscape plan depicted.
- 4) No foundation plantings around the building or interior parking lot landscaping are required.
- 5) A buffer yard is required where R1 zoning abuts the subject property on the west side. Beginning at the south end of the property, the first three-hundred (300) feet north is not subject to the buffer yard requirement because the use is established as an electrical power substation. From that point north and then west along the north property line of the residential lot to 31st Street the buffer yard shall be installed. The minimum width of the buffer yard is twenty (20) Feet. The buffer yard shall be planted to turf grass, sod or seed, with one (1) tree per twenty (20) lineal feet, of which fifty percent (50%) shall be conifers at least five (5) feet in height at the time of planting. The remaining trees can also be conifers or deciduous or ornamental trees at 1 ½" caliper. The buffer yard shall not be paved or rocked and shall not be used for outdoor storage.
- 6) A Storm Water Management Plan is required and must be approved by the City of Minot Engineering Department and the Ward County Water Board.
- 7) Access to County Road 19 South must be approved by the Ward County Highway Department.
- 8) If substantial construction has not taken place within one (1) year of the date on which the conditional use permit was granted, the permit is void except that, on application, the council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six (6) months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this title, but the six (6) month period shall not

be deemed to commence until the effective date of this title.

9) An amended conditional use permit may be applied for and administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplications for permits that have expired or have been denied, requests for substantial changes in conditions or expansions of use, and as otherwise described in this Ordinance. Applications for conditionally permitted uses which consist of multiple structures to be developed on the property shall include a conceptual development plan showing the structures proposed. The conditional use permit is approved for the use of the property which does not require an amendment each time a structure is proposed; however, once proposed development exceeds the approved conceptual development plan or if the characteristics of use change, an amended application shall be submitted for consideration.

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval of a Conditional Use Permit (CUP) for indoor and outdoor storage on property zoned M1, Light Industrial District, located in the two-mile extra-territorial jurisdiction at 3100 County Road 19 South.

The uses proposed for this site, "self-service storage facility" and "outdoor storage areas" require a conditional use permit in M1 zones. The applicant has submitted a complete application for a CUP. The site consists of three separate parcels under common ownership. The northern most parcel contains 2.93 acres and has two existing buildings on it. The largest parcel is in the middle containing 7.99 acres. The southern parcel is 4.00 acres in size and most of it is going to be a stormwater detention cell. The larger building was the primary office and staging area for the former businesses on this site. The smaller building to the south and parallel to the west property line is a storage building with several overhead doors. The other noticeable fixtures on the site near the middle appear to be cargo containers in the 2015 aerial photo, but they are no longer there.

The build-out of this site will be in phases. Initially, the applicant plans to use the larger of the two existing buildings as office and indoor storage and the existing storage buildings will be used for self-service indoor storage. No additional buildings will be constructed until next year. The applicant also wants to make some of the property available for outdoor storage of vehicles, boats, RV's, campers, etc. He has requested permission to initiate the outdoor storage without the required screening until the buildings are constructed next year. The proposed buildings will be oriented parallel to the county road at the setback prescribed by the Ward County Highway Department. These buildings, along with privacy fencing between them, will provide the required screening once they are built. Staff has addressed the applicant's request in the recommendations and conditions of approval.

Two lots to the west of this property are zoned R1, Single-Family Residential district. The other surrounding zoning is either AG, Agricultural or M1, the same as the subject property. The area is sparsely developed with a fair amount of vacant, unused land, industrial uses to the east and low density housing in the areas to the south and west.

The Future Land Use Map shows the subject property land use designation as “Very Low-Density Residential.” There are some rural residential subdivisions not too far to the south and west. Across the highway the property is designated as “Office Business Park”. The land use category for the subject property should be changed to “Industrial” but there is no rezoning associated with this project. The map will be amended to a different land use designation as part of the next comprehensive plan update.

The landscape chapter of the zoning ordinance requires a twenty-foot (20’) wide landscaped buffer yard when commercial or industrial properties abut land that is zoned or used for residential purposes. The two lots on the west side of the subject property are zoned R1. The southerly lot is occupied by an electric sub-station. Since it is zoned R1 it should require the bufferyard, however with the long-term use established as a power substation Staff is not requiring the buffer adjacent to this lot. The bufferyard is required along the rest of the western property line and along the north property line of the R1 lot with the house on it.

Street trees are required along both streets per Chapter 24 of the Zoning Ordinance. Existing trees along 31st Street SE can be counted towards the street tree requirement if the applicant so desires. The three gaps in the tree row shall be planted with one tree each.

Foundation plantings and interior parking lot landscaping are not required in this zoning district.

Chairman DeMakis opened up comments from the commissioners.

Commissioner Baumann asked if the screening on property 3201 was vegetative or a screened fence. Principal Planner Lang responded that this buffer will be vegetative, twenty feet in width, planted to grass, with one tree per twenty lineal feet of buffer yard. At least 50% of the trees shall be conifers at least five feet tall. The balance of the trees can also be conifers or deciduous trees. The owner will likely erect a security fence around the perimeter of the property, but there is no requirement for the fence to be a screening element in the buffer yard area.

Chairman DeMakis opened up comments from the public.

Sean Weeks, Ackerman-Estvold, who represents this applicant, Mr. Malchose, who is also present but did not speak, stated that they have reviewed the staff recommendations.

Assistant City Attorney Stefanie Stalheim posed a question to Principal Planner Lang, regarding Section 14-4, in any MI District no structure of or land shall be used for the following, under (e) of (f) is it self-service or open storage? Lang responded that it is both, because the applicant is going to do both. Stalheim furthered the conversation by noting under (3) subsection 3, that no outside storage is to be allowed. Lang responded that this is a hybrid by falling under both indoor and outdoor storage. Although outdoor storage is not generally allowed as part of the indoor convenience storage, the applicant has requested both in this case. The outdoor storage will be screened from view with buildings and solid panel privacy fencing.

Chairman DeMakis noted that come & go storage is not allowed under subsection 3. Stalheim read subsection (f) out loud. Lang responded that the CUP will meet the conditions for both indoor self and open storage.

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

Motion carries

Item #4

It is recommended that the City Council deny a request by Eugene Kraft, Owner, for a zone change from R1 (Single-Family Residential District) to MH (Manufactured Home District) to locate a manufactured home on property located at 3465 47th Street, SE.

Finding of Facts:

Staff recommends that the Minot Planning Commission accept the following findings of facts:

1. The applicant has submitted a complete application for rezoning.
2. The status of the applicant's request cannot be determined for consistency with Minot's Comprehensive Plan in terms of land use. No future land use category is shown.
3. Its location is within the planning area of the two-mile extra-territorial jurisdiction. The surrounding land has been previously subdivided.
4. When this subdivision was originally platted by Ward County, manufactured housing was an allowable use.
5. When the City of Minot incorporated these properties into the two-mile zoning jurisdiction, the zoning of the land was established as R1, Single-Family Residential District.
6. Manufactured housing is not allowed in the City of Minot R1 zone.
7. There are at least twelve (12) existing manufactured homes in the petition area.

8. Research shows that manufactured homes were allowed in this subdivision when it was under the jurisdiction of Ward County.
9. The applicant submitted a petition in favor of allowing a manufactured home on the lot in question as part of the rezone application.
10. The proposed rezone from R1 to MH constitutes rezoning of a single parcel in a neighborhood containing 90 plus lots that are all consistently zoned R1. Staff cannot determine if the proposed rezone will affect property values in the area, or be detrimental to the general public interest and the purposes of this ordinance because roughly 47 percent of property owners within about a 1,000-foot radius have executed a petition to not protest this rezoning request. At the time this report is written there have been no phone calls or letters received by the City in opposition, however 52 property owners within the same area did not sign the petition. It is unclear whether all of the property owners were offered a chance to sign or not sign the petition and whether or not the people that did not sign are opposed or simply neutral to the rezoning request.
11. The applicant has disclosed the purpose for which such property is sought to be used if this rezoning is successful (manufactured housing unit).
12. 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 in the Minot Daily News and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

Staff Recommendations and Conditions

Staff recommends that the Planning Commission adopt the staff findings of fact and make a recommendation to City Council for approval pending the results of the public hearing.

Attachments:

1. Petition

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval of a rezoning request from R1, Single-Family Residential District to MH, Manufactured Home District for a single lot located at 3465 47th Street SE in the two-mile extra-territorial jurisdiction. The neighborhood is known as Eastside Estates and was originally platted by Ward County in the 1960's. It is currently zoned R1, Single-Family Residential District although it is a neighborhood characterized by a mix of housing types including several manufactured homes scattered throughout the other houses. The Future Land Use Map does not address this area of the extraterritorial jurisdiction and therefore provides no guidance for future land use or zoning.

When City staff met with the applicant two approaches to rezoning were discussed. A request to rezone the lot in question from R1 to MH, or a request to rezone the lot in question plus several other properties from R1 to MH, assuming there would be other willing participants to the rezoning. The first approach is an example of “spot” zoning, not necessarily an illegal use of zoning, unless the rezoning request is protested and found by the court system to be illegal. Any rezoning request is for a “spot” of land, it depends on how big the spot is and what the circumstances are. The negative implications of spot zoning are that it represents favorable treatment of a single parcel of land, usually a small parcel, that is not available to other surrounding properties and not in context with the neighborhood nor in compliance with the comprehensive plan. In this case, the comprehensive plan does not extend out to this area so there is no direction provided in terms of highest and best land use or zoning.

The second approach to rezoning, where multiple properties seek rezoning on one application, remedies the spot zoning concerns to some degree because more properties are involved and the participation from those owners indicates acceptance and support of the proposed zoning. Staff suggested that this approach may be more advantageous in this regard, but there were no additional applicants included on the rezoning application. Staff also discussed the potential for a variance, but use variances are not allowed. Another possibility, a special permit such as a Conditional Use Permit was discussed, however manufactured homes are not listed as an acceptable use in the conditional uses in R1 zoning. The zoning ordinance would need to be amended to allow this and Staff felt such an amendment would have little chance for success.

The applicant’s son-in law decided to circulate a petition amongst the neighboring property owners to hopefully gain their support for the manufactured home. The petition was submitted along with the rezoning request. The petition asks the petition signers to allow the manufactured home to be located on the applicant’s lot. In essence, this means the petitioners are not protesting rezoning of the applicant’s lot to MH, but the petition does not beg the question of rezoning their own property. The petition language reads as follows:

“We, the petitioners, AGREE to allow GENE KRAFT to move a manufactured home onto his land located on 47th St. SE, Minot, Town of Nedrose, EASTSIDE ESTATES, ND.”

Analysis of the petition reveals the following statistics for consideration:

	SIGNED THE PETITION	DID NOT SIGN
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Signatures	60	
Parcels (lots)	43	47
Percentage of total by lots	47%	52%
Land Area (NIC street right-of-way)	26.33 acres	28.75 acres

The numbers show a fairly even split, almost 50/50, however it is impossible to know if the people that did not sign the petition are opposed or simply neutral. The discrepancy between the number of signatures and the number of lots is because in some cases, one person or family owns more than one lot, and in some cases, more than one person signed the petition for the same lot, as in husband and wife. Some signers may be renters and not owners as well, since a few of the names on the petition do not match ownership data in the GIS system. Some of the addresses may not have been shown the petition, or perhaps no one was home to sign or not sign. We do not know.

Planner Lang also read an email he had received from Chris Heringer, who lives on the east of the property owned by Mr. Kraft and was not able to attend the meeting. In summary, Mr. Heringer is opposed the rezoning to MH. He stated that he moved out there because there were to be no more mobile homes put out there and that mobile homes do not retain their value. He further stated that Mr. Kraft told him that he would be raising the height of the property in question, thus potentially flooding him or sending excessive water his way. He also has a concern about the septic system and which way it will flow. Mr. Heringer believes Mr. Kraft will turn it into a rental property as he has to other properties. He believes the foundation has not been inspected. Also, Mr. Kraft had stated that he can “do whatever he wants”. Mr. Heringer asks that we do not approve the changes because if the city does it for one, they will have to do it for all. Mr. Heringer’s address is 4801 35th Avenue SE.

Mr. Lang then showed a graphic presentation of the results of the petition on a map of Eastside Estates. The light blue line represents the boundary of the petition area. The green-shaded lots represent properties that are on the petition while the white (uncolored) lots chose not to be on the petition. The lot where the applicant would like to locate the manufactured home is outlined in red and the two adjacent lots outlined in orange are also owned by the applicant.

The dark blue outline indicates more than one lot under common ownership and the pink stars indicate the location of existing manufactured housing units within the petition area.

City records and the history of this development account for the presence of existing manufactured homes in an area that would seem to prohibit them. According to archives in the Planning Department five of the existing manufactured homes were authorized by special use permits in the years 1979, 1981, 1987, 1993, and 1999, years ago. The reasoning for approval of these special permits is uncertain, but the archives clearly indicate they were approved. In more recent times, research of the Building Department records shows ten manufactured homes were replaced with another manufactured home on the same lot, some as a result of the flood, some before the flood, in years 1999, 2003, 2005, 2006, 2010, 2012 and 2018. There is a provision in the zoning ordinance that allows for this. Chapter 25, Nonconforming Uses, Section 25-11 allows a nonconforming home to be replaced as follows:

Section 25-3. Nonconforming Manufactured Home:

Notwithstanding any other regulations to the contrary in this zoning ordinance, a nonconforming manufactured home may be removed from its site and replaced on the same site with another manufactured home of equal size provided the replacement unit is placed on the site in less than thirty (30) days after the removal of the first unit. Otherwise, the use of the site shall thereafter be conforming to the zoning district in which the site is located.

The lot in question does not have a pre-existing manufactured home on it. It is undeveloped, so the option to replace a manufactured home for another is not valid.

Staff did some further research into the history of Eastside Estates subdivision and found the following interesting information that may be of some value in determining a recommendation for City Council:

- The subdivision plat for Eastside Estates was originally approved by Ward County in 1962, well outside the city jurisdiction.
- The property was zoned R-3 by the county at the time. R-3 county zoning is “General Residential District” which allows all R1 type uses including “all single-family residential uses.”
- The Ward County zoning ordinance does not differentiate manufactured homes as being different from other single- family housing types. R-3 thus allowed manufactured housing as well as modular and stick-built homes by right. It is uncertain how many manufactured homes existed in that era in Eastside Estates.
- Around 1975, the exact date is not clear, the City of Minot incorporated Eastside Estates into the two-mile zoning jurisdiction and rezoned it to R1, Single-Family Residential District. Through this

action the City “inherited” whatever mix of housing that existed at the time, including any manufactured homes.

- The manufactured homes that the city took in were considered legal, but nonconforming or, in layman’s terms; “grandfathered.”
- Manufactured homes are not an allowed use in Minot’s R1 zones, however the nonconforming units are allowed to remain because they are legal non-conforming, and can also be replaced as described above.

This history helps to explain why there are several manufactured homes existing in a subdivision that is zoned R1.

Chairman DeMakis opened up comments from the commissioners.

Vice-Chairman Offerdahl asked if there was an application for a building permit at all throughout the process. Principal Planner Lang responded no, not to his knowledge.

Chairman DeMakis stated that the 12 existing structures referred to in the report had not been granted permission by the PC Commission since the 1990s and asked for clarification that he was correct. Lang indicated that he was correct, but noted that there had been activity in in this area for many years, dating back to at least 1979 and also around time of the flood.

Chairman DeMakis also asked if every lot in this area was zoned residential and Planner Lang agreed that the statement was correct, R1, Single-Family Residential.

Chairman DeMakis opened up comments from the public.

Paul Wilkins came forward. He is the representative for the property owners and applicants, Mr. & Mrs. Kraft. He stated that he was not aware that the email sent to Mr. Lang from Mr. Heringer existed and that he had made attempts to speak with Mr. Heringer and ask for his input, but during all conversations he denied or was unwilling to commit any opinion or signature towards the petition, therefore Mr. Wilkins believed it was of importance to Mr. Heringer. He further stated that Mr. Heringer also lives in a manufactured home. The request that is being made for individual rezoning was made to be that way so that the neighborhood would not have to comply or request rezoning as well. Wilkins stated that as to the future use of the home that it will be used as a primary residence, not a rental and his in-laws are in poor health and need a house that is all on one level.

Commissioner Wegenast asked if the 52 people who did not sign the petition were contacted. Mr. Wilkins indicated that the 52 people in question were not contacted because he simply did not have time to get to those places and knock on their door.

Orris Brown came forward and stated that he lives next to Mr. Heringer and that there has been a dirt pile in that lot (Kraft lot) about 15 feet high filled with weeds ever since the flood, and there has been junked vehicles pushed up against the lot line. Brown stated that Mr. Kraft asked him for his signature and that he said no. Brown also stated that he has never met Mr. Wilkins nor has he seen him in the area asking for signatures. Brown further states that his parents lived up by the park and that Gene Kraft owned a house by them, raised it up years ago and it was a mess. Mr. Kraft had wanted to change the zoning at that time also to bring in houses from the base, one of which they live in now and one is a rental. The rental house was never painted for 10 years. Recently a new renter moved in and Kraft did paint it, and it did look good. The renter wanted to buy the house but Kraft wanted more money, so the renter moved out. Mr. Brown stated that he is proud of his neighborhood. Years ago it was a mobile home estate place. Mr. Brown brought up the covenant which states that you have 30 days to pull it out and bring in something everyone is ok with. Everything that has happened out there has happened with no permits, and that the signatures that were not gathered were because people gave up, gave up on "you people" {implying the city}. Mr. Kraft always gets what he wants and the rest of us have to look at the mess. Mr. Brown reiterated that they do not want a zoning change. He stated that if that is what the city wants, then it's up to him to sell.

Motion by Commissioner Wegenast to deny the application, second by Commissioner Bartsch. and carried by the following roll call votes: Ayes Bartsch, Barnett, Baumann, DeMakis, Hochhalter, Koop, Offerdahl, Wegenast, nays: none

Motion carries

With no other business before the committee, Chairman DeMakis adjourned the meeting at 6:37.

Minutes prepared by: Glenda Sorensen & Lance Lang