



TO: Mayor Shaun Sipma

Members of the City Council

FROM: *Damon Druse, Asst City Assessor*

DATE: *5/19/2020*

SUBJECT: **2018 & 2019 Abatement request for 2 vacant parcels. The owner of record for these 2 properties is JoAnn Schmaltz & Larry L & Kathleen E Revocable Trust with a Contract for Deed to HL Development, LLC. The parcel numbers for the 2 properties are MI 34 C89 000 0090 & MI 34 C89 000 0100.**

I. RECOMMENDED ACTION

The City Assessor's office recommends denial of the abatement request in its entirety.

II. DEPARTMENT CONTACT PERSONS

Asst City Assessor, Damon Druse
damon.druse@minotnd.org

857-4160

III. DESCRIPTION

A. Background

Property owners have the right to appeal their assessment through the form of an abatement per NDCC 57-23-04. This abatement request goes back to the tax years 2018 & 2019 for the vacant land parcels identified as MI34C890000090 & MI34C890000100. Additional attachments and information are included with this agenda item regarding the parcels that are the subject of this abatement request and our recommendation. The City of Minot Assessor's Office recommends denial of the application based on the following reasons:

The owner is requesting the lots be classified as Agricultural rather than Commercial. The City of Minot Assessor's Office has reviewed the applicant's request and has determined the property does not comply with the requirements to be classified as Agriculture for ad valorem taxation. The requirements are listed below:

CHAPTER 57-02 GENERAL PROPERTY ASSESSMENT

57-02-01. Definitions.

As used in this title, unless the context or subject matter otherwise requires:

1. "Agricultural property" means platted or unplatted lands used for raising agricultural crops or grazing farm animals, except lands platted and assessed as agricultural property prior to

March 30, 1981, shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals. Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of the greenhouse. The time limitations contained in this section may not be construed to prevent property that was assessed as other than agricultural property from being assessed as agricultural property if the property otherwise qualifies under this subsection. A property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:

- (1) The land is platted by the owner.*
 - (2) Public improvements, including sewer, water, or streets, are in place.*
 - (3) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops or graze farm animals.*
 - (4) Property is zoned other than agricultural.*
 - (5) Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.*
 - (6) The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.*
 - (7) The property sells for more than four times the county average true and full agricultural value.*
- b. Land that was assessed as agricultural property at the time the land was put to use for extraction of oil, natural gas, or subsurface minerals as defined in section 38-12-01 must continue to be assessed as agricultural property if the remainder of the surface owner's parcel of property on which the subsurface mineral activity is occurring continues to qualify for assessment as agricultural property under this subsection*

B. It is the City of Minot Assessor's Office's opinion that the property meets four of the conditions to exclude it from assessment as Agricultural Land.

- (1) The subject property was platted after March 30, 1981 (recorded on March 30, 2012).
- (2) Public improvements such as streets (37th Ave SW paved and 30th St SW gravel) water and sewer available located in the right of way along 37th Ave SW and 30th St SW.
- (4) MI 34 C89 000 0090 is zoned C-2 (General Commercial District) & MI 34 C89 000 0100 is zoned C-1 (Neighborhood Commercial District) which differs from AG zoning.
- (7) The subject property was part of a multi-parcel transaction from 2017 containing approximately 308 acres. The sale price reported to the State Tax Department was \$9,000,000. Using the \$9,000,000 sale price that would calculate to approximately 46 times the county average true and full value for agricultural land. The county average true and full value for agricultural land for 2018 was \$628.77 and for 2019 it was \$588.68 per the Ward County Tax Equalization Office.

C. It is the City of Minot Assessor's Office's opinion that the property was assessed fairly with consideration to its location, and improvements as compared to other similar properties. Secondly, it is our position that the property was assessed properly within the property tax assessment laws of the State of North Dakota. See **attachments for maps showing location of water and sewer locations.**

IV. IMPACT:

Any financial impact for the city or other governing body should not be considered in the deliberation of the 2018 & 2019 assessment of the parcels attached to this memo as the issue is whether the assessment was fair, equitable, and a reasonable estimate of the True and Full Value as defined by NDCC, 57-02-0.15 "True and full value" means the value determined by considering the earning or productive capacity, if any,

the market value, if any, and all other matters that affect the actual value of the property to be assessed..... and 57-02-11.1 All real property subject to taxation must be listed and assessed every year with reference to its value, on February first of that year.

It is the City of Minot Assessor's Office's position that a granting of the request would place this property below a reasonable estimate of market value, which existed as of February 1, 2018 and February 1, 2019 regarding similar properties in the City of Minot. It would also give them a lower assessment for 2018 & 2019 then other similar properties.

V. TIME CONSTRAINTS

The deadline for notifying the applicant of their hearing was met and the date of the hearing was scheduled within the deadline based on NDCC 57-23-04. The Minot City Council's recommendation determined on June 1st, 2020 will go forward to the Ward County Commission for their final action.

VI. LIST OF ATTACHMENTS

- 1. Packet of information from the City of Minot Assessor's Office related to this abatement request**
- 2. Packet of information from the applicant.**