

## PLANNING COMMISSION MINUTES

Regular Meeting

July 07, 2020

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## PLANNING COMMISSION MINUTES

Regular Meeting

July 07, 2020

**Regular Meeting:** Planning Commission

**Location:** City Hall, Council Chambers, 515 2<sup>nd</sup> Avenue SW., City of Minot, N.D.

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

**Presiding Official:** Chairman, Charles DeMakis

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

**Members Absent:** Commissioner Sivertson

**City Staff Present:** Lance Meyer (City Engineer), Emily Huettl (Assistant City Engineer),

**Others Present:** Rob Berard (Ackerman-Estvold), Ryan Ackerman (Ackerman-Estvold Engineering), Eric Poppinga (Central Power Electric Cooperative, Inc.)

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

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

**Roll Call**

**Pledge of Allegiance**

**Approval of the June 02, 2020 Regular Meeting Minutes**

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

**Motion carries**

**The following are the recommendations of the Planning Commission:**

**Item #1**

**Subdivision and Rezoning – Swenson’s Addition**

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

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

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

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### **Finding of Facts:**

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

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

### **Staff Recommendations:**

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

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

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval of a lot line adjustment to shift the lot line between two existing outlots. The two new lots will be known as Lots 1 and 2 of Swenson's Addition. The applicant is also requesting rezoning from "AG", Agricultural District to "P", Public Zoning for Lot 1 and to "RA" Agricultural Residential District for Lot 2. These properties are located at the southwest corner of 5<sup>th</sup> Avenue and 37<sup>th</sup> Street SW.

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

The new common lot line is platted such that all of Outlot 10 and a portion of what was Outlot 16 will make up proposed Lot 2 of Swenson's Addition while the remaining portion of Outlot 16 will comprise proposed Lot 1. Lot 1 will consist of approximately 570,293 square feet or 13.1 acres, while Lot 2 will consist of 202,321 square feet or 4.64 acres with a 32-foot wide easement on the western side of the lot

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being reserved for utilities and drainage. Lot 1 meets the minimum size requirements for P, Public Zoning in the City's Extra-Territorial Jurisdiction (ETJ) of two (2) acres and Lot 2 meets the minimum lot size requirements of two (2) acres for RA zoning. The location of the new lot lines also meets all setback requirements of the P and RA zoning bulk regulations, respectively.

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

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

Chairman DeMakis opened up comments from the public.

Ryan Ackerman (Ackerman-Estvold Engineering) came forward to clarify details on item #1:

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

Chairman Demakis asked for a motion from the Commissioners.

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

**Motion carries**

### **Item #2**

#### **Subdivision and Rezoning – The Bluffs 14<sup>th</sup> Addition, Lot 1**

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

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

This property is located at 504 27<sup>th</sup> Street NW.

#### **Finding of Facts:**

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

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

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posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

### **Staff Recommendations:**

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of a rezoning request to RA and also approval of this preliminary plat application for The Bluffs 14<sup>th</sup> Addition, subject to the following conditions, to the City Council:

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

Chairman DeMakis asked the Principal Planner for staff comments.

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

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

### **Subdivision Plat.**

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

### **Land Use and Zoning.**

The properties involved in this subdivision are currently zoned R1, Single-Family Residential District and AG, Agricultural District. When combined to form the proposed lot the resulting property will be rezoned to a single zoning designation. At the applicant's request the property is to be rezoned to RA, Agricultural Residential District. Given the relatively large size of the resulting parcel and its somewhat remote location in the ETJ, RA makes more sense for the property than R1 would. R1 is intended primarily for urban residential development, not rural development, even though there are quite a few properties in the ETJ zoned as such. Although there is a large expanse of R1 zoning to the north of this property, it is the

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Country Club Golf Course. The residential lots in this area to the south, east and west are zoned AG or RA. In addition, this property will not likely be served with City services, again making more sense to zone it AG or RA. RA zoning allows for keeping of horses for a private stable with certain conditions.

The land use designation on the Future Land Use Map of the Comprehensive Development Plan depicts these properties as "Very Low Density Residential." The use of these properties is in conformance with the land use map designation.

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

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

Chairman Demakis asked for a motion from the Commissioners.

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

### **Motion carries**

#### **Item #3**

#### **Subdivision – Bel Air 25<sup>th</sup> Addition, Lot 1**

Planning Commission recommends City Council approve a subdivision to combine existing Lots 10 and 11, Bel air 14<sup>th</sup> Addition into one lot to be known as Bel Air 25<sup>th</sup> Addition to build a garage.

This property is located at 504 27<sup>th</sup> Street NW.

#### **Finding of Facts:**

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

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

#### **Staff Recommendations:**

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

- 1) No development as a result of this subdivision should obstruct any watercourse or divert surface water flows.
- 2) Sidewalks shall be installed on 27<sup>th</sup> St NW. Sidewalks shall be installed on 5<sup>th</sup> Ave NW when the street is improved to an urban section.

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

Chairman DeMakis asked the Principal Planner for staff comments.

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

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

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

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

Chairman DeMakis opened up comments from the commissioners.

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

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

Chairman Demakis asked for a motion from the Commissioners.

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

**Motion carries**

**Item 4**

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### **Subdivision, Variance & Zone Change – Trinity Health 3<sup>rd</sup> Addition Lots 1 & 2**

Planning Commission recommends City Council approve a two-lot subdivision plat to create a lot for a new electrical substation to provide redundant electrical service to Trinity Hospital along with capacity for a future development activity in the southwest Minot area to be known as Trinity Health 3<sup>rd</sup> Addition.

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

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

### **Finding of Facts:**

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

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

### **Staff Recommendations:**

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this Preliminary Plat Application for Trinity Health 3<sup>rd</sup> Addition and rezone proposed Lot 1 from AG to P subject to the following conditions, to the City Council:

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

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points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.

Staff further recommends the Planning Commission adopt the staff findings of fact and approve the request for a variance as follows:

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

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval of a two-lot subdivision to purchase one of the proposed lots from Trinity Health Systems to construct an electrical substation to provide redundant electrical service to the Trinity Hospital facility and expand service capacity for future residential and commercial development in the southwest area of town. Rezoning of one of the lots is requested as well as a variance to paving requirements. The proposed subdivision is located immediately south of the new Trinity Hospital site along 37<sup>th</sup> Avenue SW.

The second proposed lot will remain in Trinity ownership and there are no development plans for this lot at this time. Both lots are currently vacant. Proposed Lot 1 of Trinity Health 3<sup>rd</sup> Addition will contain the substation and will be rezoned from AG, Agricultural to P, Public Zoning District while proposed Lot 2 will remain in the AG, Agricultural Zoning District. Additionally, the applicant is requesting a variance to waive the requirement to pave the substation parking lot as generally required in P zoning.

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

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



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

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

- 1) Due to the size, weight, and type of equipment used to deliver and set transformers and other equipment, including the use of track-driven equipment inside and outside of the fenced area. All of this equipment turns and pivots optimally on a gravel surface.
- 2) There will only be one or two vehicles parked at the site once a month for routine substation checks. This is not like a business that has daily demand for customer parking. The only parking is both limited in use but also only consists of solely of employees, not customers.
- 3) The access road leading to the substation will be gravel and the interior of the substation within the security fence will be crushed rock. It seems inconsistent to require an island of paved parking between two areas that are allowed to remain unpaved.

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

Chairman DeMakis opened up comments from the public.

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

Chairman Demakis asked for a motion from the Commissioners.

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

1. A utility substation is distinct from typical land development types.
2. A substation does not provide direct service to customers so there is no need for parking for customers. Only employees park at the substation on a sporadic basis, approximately once per month and limited to one or two vehicles at a time.
3. The type of heavy equipment and track vehicles used to make repairs and perform maintenance at a facility such as this one, are best suited for maneuvering on a loose surface, such as gravel or rock.
4. There is no requirement to pave the road accessing this facility nor the enclosed yard containing the electrical equipment. Hard surface parking should not be required between these areas where it is not required.

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5. Most other similar substations and utility related buildings in the past have not been required to pave parking areas unless the facility was accessible to the public or receiving routine deliveries to the site.

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

**Motion carries**

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