

PLANNING COMMISSION MINUTES

Regular Meeting

September 01, 2020

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Regular Meeting: Planning Commission

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

Meeting Called to Order: Tuesday, September 01, 2020, 5:30 p.m.

Presiding Official: Chairman, Charles DeMakis

Members in Attendance: Kelly Barnett, Tim Baumann, Charles DeMakis, Aaron Faken, Elisha Gates, Justin Hochhalter, Todd Koop, Shane Lider, Tammy Nesdahl, Dustin Offerdahl, Todd Wegenast

Members Absent: Jody Bullinger, Boyd Sivertson

City Staff Present: Community and Economic Director Brian Billingsley, City Planner Lance Lang, Assistant City Planner Peter Baumgartner, Assistant City Engineer Emily Huettl, Assistant City Attorney Stephanie Stalheim

Others Present:

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

Roll Call

Pledge of Allegiance

Approval of the August 04, 2020 Regular Meeting Minutes

Motion by Commissioner Koop to amend the minutes from Elmwood Addition to reflect that the Planning Commission denied Doug Pfau's Variance rather than having recommended denial of it to City Council, second by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: Barnett, Bauman, DeMakis, Faken, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: None

Motion by Commissioner Koop to approve August 04, 2020 Planning Commission Meeting minutes, second by Commissioner Lider, and was carried by the following roll call vote: ayes: Barnett, Bauman, DeMakis, Faken, 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 – Riverwood 2nd Addition, Lot 1

Planning Commission recommends City Council approve a subdivision plat from an unplatted portion of the SW ½ NW ¼ of Section 21-155N-83W to be known as Riverwood 2nd Addition, Lot 1 and pass an ordinance of first reading to change the zone from AG (Agricultural District) to RA (Agricultural Residential District).

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

Finding of Facts:

The Minot Planning Commission accepted 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.

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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.

Staff Recommendations:

Staff recommended and the Planning Commission concurred to 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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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. 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. 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. 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.

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Chairman DeMakis opened up comments from the commissioners. There were none.

Chairman DeMakis opened up comments from the public. There were 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, second by Commissioner Koop, and was carried by the following roll call vote: ayes: Barnett, Bauman, DeMakis, Faken, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: None

Motion carries

Item #2

Variance – North 235' of Outlot 1, Section 28-155N-83W

Planning Commission approves a variance to Section 21-8, c) of the zoning ordinance, "Special Rules Concerning Accessory Buildings", to allow an existing accessory building (detached garage) to be placed in the front setback where a prior garage was located.

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

Finding of Facts:

The Minot Planning Commission accepted 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.

Staff Recommendations:

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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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. Since the garage burned down, the applicant has acquired a

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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. 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 placed 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. 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. 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."

Chairman DeMakis opened up comments from the commissioners.

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Commissioner Wegenast asked staff if there were any conditions on this item to which Principal Planner Lang answered that there were not.

Chairman DeMakis opened up comments from the public. There were none.

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 Lider, and was carried by the following roll call vote: ayes: Barnett, Bauman, DeMakis, Faken, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: None

Motion carries

Item #3

Variance – Brooklyn Addition, Block 47, Lots 1 & 2

Planning Commission approves a variance to 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 Avenue SW.

Finding of Facts:

The Minot Planning Commission accepted the following findings of facts:

1. The applicant has submitted a complete application.
2. The Future Land Use Map of the Comprehensive Plan is compatible with surrounding land uses.
3. This request does not meet all of the bulk requirements of Minot’s Zoning Ordinance, however, if the variance is granted the front yard setback can be legitimately reduced.
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 approve a ten-foot front setback variance, allowing the applicant to build within fifteen feet of the front property line, for the following reasons and with the following condition:

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.

Chairman Demakis asked the Principal Planner for comments.

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.

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The property currently has one structure on it, a residential home. 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. 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.

Chairman Demakis asked if this variance could cause any issues with traffic or vehicle line of site to which Principal Planner Lang said that it wouldn't.

Chairman DeMakis opened up comments from the public. There were 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, second by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: Barnett, Bauman, DeMakis, Faken, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: None

Motion carries

Item 4

Subdivision – Proposed Tita 2nd Addition, Lots 1 & 2

Planning Commission recommends City Council approve a subdivision 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.

This property is located at 601 and 619 North Broadway.

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

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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. A stormwater management plan is required for future development
2. A traffic study is required per NDDOT requirements for future development
3. Access to Broadway shall be limited to a single shared access point at the common lot line as approved by Minot Engineering and NDDOT.
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.

Chairman DeMakis asked the Principal Planner for staff comments.

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.

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. 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. 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. 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. The land use designation on the Future Land Use Map of the Comprehensive

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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.

Chairman DeMakis opened up comments from the commissioners. There were none.

Chairman DeMakis opened up comments from the public. There were none.

Chairman Demakis asked for a motion from the commissioners.

Motion by Commissioner Wegenast, to recommend approval based on finding of facts, staff recommendations and conditions, second by Commissioner Koop, and was carried by the following roll call vote: ayes: Barnett, Bauman, DeMakis, Faken, Gates, Hochhalter, Koop, Lider, Nesdahl, Offerdahl, Wegenast nays: None

Motion carries

Other Business: Farewell to Principal Planner Lance Lang.

Community and Economic Director Billingsley presented a plaque to Principal Planner Lang to celebrate his retirement and the numerous things that he had done for the city in his four years as Principal Planner. Lang retires next Friday, September 11.

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