

PLANNING COMMISSION MINUTES

Regular Meeting

March 02, 2021

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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, March 02, 2021, 5:30 p.m.

Presiding Official: Chairman Charles DeMakis

Members in Attendance: Kelly Barnett, Tim Baumann, Charles DeMakis, Aaron Faken, Elisha Gates, Tammy Nesdahl, Dustin Offerdahl, Cynthia Sessions, Todd Wegenast

Members Absent: Justin Hochhalter, Todd Koop, Shane Lider, Boyd Sivertson

City Staff Present: Community and Economic Development Director Billingsley, Principal Planner Van Dyke, Assistant Planner Baumgartner, Assistant City Attorney Stalheim, Assistant City Engineer Huettl, Public Works Director Jonasson, Assistant Public Works Director Sorenson.

Others Present: Ron Patten, Concerned Citizen for Item 11; Cimberly Berg-Hooker, Applicant for Item 7; Mike Isles, Representative for Item 7; Dave Howicz, Representative for Item 10; Sean Weeks, Representative for Item 10; Rolly Ackerman, Representative for Item 9 and ZOSC Co-Chair; Rusten Roteliuk Former City Engineer and ZOSC Member; Rob Berard, Representative for Items 5, 6, & 9; Pat Bailey ZOSC Member

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

Item #1 Roll Call

Item #2 Pledge of Allegiance

Commissioner Wegenast moved to approve items 5-10 based on staff findings of fact and recommendation. The motion was seconded by Commissioner Barnett for discussion purposes. Principal Planner Van Dyke responded that we had the items scheduled for public hearing and that we needed to open and close each item and give the public a chance to speak. Wegenast responded that the floor could be opened to allow people to have items pulled for discussion and Chairman DeMakis asked if that is what Principal Planner Van Dyke was saying. Van Dyke responded that he has never seen it done that way and that they would have to be read out loud, open the public hearing, give the public a chance to speak, then close each item and vote on them individually. DeMakis questioned if legal could explore if Planning Commission (PC) could have an approval agenda with a portion that would allow either the Chairman or a Commissioner open the forum and ask if anyone in the audience would like to speak on a specific item, either for or against, and if there was no comment the Commission would then close the item and consider that to be the public hearing. Wegenast then added that that is something that City Council (CC) does quite often. Van Dyke responded that his understanding as to why City Council considers some items under consent is because the public hearing has already occurred at the Planning Commission level. Assistant City Attorney Stalheim then approached the podium and stated that what Van Dyke said was accurate and that public hearings held at PC aren't then duplicated at CC unless something is being contested, appealed, or it is required to have a public hearing under ordinance. Stalheim then suggested that city staff could look at what other cities do to expedite the public process, but for these purposes she recommended opening each one and letting the public comment on it since this would be a new process. Stalheim then explained notice and opportunity to be heard is paramount to this process and if the public hearing was opened on all cases it would be hard to determine which case was being heard in which order, which would cause a flow issue. Currently there is a set process which allows the public to anticipate when they can testify on an item, a process would

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need to be established to allow people to do that with Commissioner Wegenast's proposal. Commissioner Wegenast responded that the process as he knows it, and it has been practiced (at Planning Commission) before, if someone in the public or another commissioner wanted to pull an item, they could request that an item be removed from the consent items he proposed to be discussed individually. Stalheim asked Wegenast if he meant that the Chairman would take one item at a time and hold a vote on it. Wegenast explained that if someone wanted to discuss a specific item then they would request it, it would be pulled from the proposed Consent Agenda and it would be handled separately. Stalheim responded that it would mean that if there was an item that a member of the public or a commissioner didn't request to be pulled that they would then be waiving their right to participate in that public hearing and recommended that this be clearly stated at the outset of the meeting. She ultimately recommended that the present meeting proceed as normal, but the PC can proceed as it wants to, and that the biggest thing is that the people who are present and want to deliver testimony do have an opportunity to be heard and come forward. Stalheim then asked if the Planning Commission wanted legal counsel to look into a procedure like this, Chairman DeMakis responded that they did.

Chairman DeMakis then called a vote of the motion on the floor and it failed by the following vote: ayes: none nays: Barnett, Bauman DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast.

Motion fails.

The following are the recommendations of the Planning Commission:

Item #5

Subdivision – Trestle Ridge 5th Addition

Planning Commission recommends City Council approve a subdivision plat to create a new subdivision from Lot 1, Trestle Ridge 4th Addition. The resulting lots will be known as Lots 1 through 3, Trestle Ridge 5th Addition.

This property is located on the east side of the intersection of 14th Ave SW and 62nd Street SW.

Finding of Facts:

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

- 1) The applicants have submitted a complete application.
- 2) The applicant's requested subdivision is not currently covered by the Future Land Use (FLU) Map of the Comprehensive Plan, this will be addressed during the planned update of the Comprehensive Plan.
- 3) Despite the lack of FLU Map coverage, the proposed subdivision does align with Land Use Goal #2, Policy #2 of the Comprehensive Plan.
- 4) The applicant's request is consistent with the bulk requirements of Minot's Zoning Ordinance.
- 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.

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Staff Recommendations:

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

- 1) The final plat shall show the current floodplain.
- 2) Draft covenants detailing the private shared access road shall be provided for City Review.
- 3) The final plat shall include an adequate easement for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course, as determined by the City Engineer.
- 4) 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 Assistant Planner Baumgartner for comments.

Assistant Planner Baumgartner provided the following:

Public hearing request on an application from Clint Nesham representing Two Track Acres LLC, owner, to create a new subdivision from Lot 1, Trestle Ridge 4th Addition. The resulting lots will be known as Lots 1 through 3, Trestle Ridge 5th Addition. This property is located on the east side of the intersection of 14th Ave. SW and 62nd St. SW.

The subject property is currently vacant. If the proposed subdivision is approved, Lots 2 and 3 are to be listed for sale while Lot 1 will remain in the applicant's possession.

The preliminary plat for the proposed Trestle Ridge 5th Addition is provided in **Exhibit 2**. The newly created subdivision will consist of three lots: Lot 1 being 29.93 acres; Lot 2 being 20.04 acres; and Lot 3 being 20.16 acres. The proposed lots meet the bulk lot and area requirements for the property per Section 19-6.

Due to topography there are few places in proposed Lots 2 and 3 that are level enough to be buildable while proposed Lot 1 is flatter, it also lies within the floodplain, see **Exhibit 3** for the topographic map and **Exhibit 4** for the floodplain map. Photos of the site further demonstrating the topography are available in **Exhibit 5**.

Chairman DeMakis opened the meeting for comments from the commissioners. None of the Commissioner had a question for staff.

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Chairman DeMakis opened the meeting for comments from the public. No one from the public came forward with a comment for or against the item.

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Wegenast to approve per staff recommendations with conditions based on findings of fact, second by Commissioner Sessions, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays: None.

Motion passes

Item #6

Subdivision – Hacienda Hills 12th Addition

Planning Commission recommends City Council approve a subdivision plat to create a new subdivision from Outlot 38, Section 19, Township 155N, Range 82W, Ward County, North Dakota. The resulting lots will be known as Lots 1 and 2, Hacienda Hills 12th Addition to the City of Minot, North Dakota.

The property is located at 1710 Valley St.

Finding of Facts:

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

- 1) The applicants have submitted a complete application.
- 2) The applicant's requested subdivision is consistent with the Future Land Use (FLU) Map designation of Industrial.
- 3) The proposed subdivision aligns with both Land Use Goal #2, Policy #2 and Commercial/Industrial Land Use Goal #1.
- 4) The applicant's request is consistent with the bulk requirements of Minot's Zoning Ordinance.
- 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 staff findings of fact and recommend approval to City Council subject to the following conditions:

- 1) Access to Lot 1 shall be off of 13th St SE and the exact location shall be approved by the City Engineering Department.
- 2) Connection fees will be required for future development at a rate of \$3,787 per acre.
- 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

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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 Assistant Planner Baumgartner for comments.

Assistant Planner Baumgartner provided the following:

Public hearing request on an application from Ronald LaCount representing DRL Holdings, LLP, owner, to create a new subdivision from Outlot 38, Section 19, Township 155N, Range 82W, Ward County, North Dakota. The resulting lots will be known as Lots 1 and 2, Hacienda Hills 12th Addition to the City of Minot, North Dakota. The property is located at 1710 Valley St.

An 8,100 square foot warehouse is currently located on the proposed Lot 2 of the subject property. The newly created subdivision will consist of 2 lots with Lot 1 being approximately 2.51 acres and Lot 2 being approximately 2.81 acres. The proposed lots meet the bulk lot and area requirements for the property per Section 14-7.

Chairman DeMakis opened the meeting for comments from the commissioners. None of the commissioners came forward with a question or comment for staff.

Chairman DeMakis opened the meeting for comments from the public. No one from the public came forward either for or against the item.

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Bauman to approve per staff recommendation with conditions based on findings of fact, second by Commissioner Nesdahl, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays: None

Motion passes

Item #7

Conditional Use Permit – Medical Clinic

Planning Commission recommends City Council approve a resolution for a Conditional Use Permit for a general care clinic on Outlot 55 of Section 26, Township 155N, Range 83W.

The property is located at 1308 20th Ave. SW.

Finding of Facts:

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

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- 1) The applicants have submitted a complete application, including a written statement that they affirm to the conditional use standards as listed in Section 30-3.
- 2) Operating a clinic requires a conditional use permit (CUP) within the "C2" General Commercial District.
- 3) The property is located within a commercially zoned area of the City of Minot.
- 4) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Commercial.
- 5) All standards set forth in Section 30-3 c) have been met or will be met subject to the following conditions:
 - a. Hours of operation shall be limited to 7:00am to 7:00pm.
 - b. The clinic will be catered to general care, including wellness checks, physicals, women's health, skin conditions, screenings, monitoring, minor injuries/illnesses and similar non-emergent care.
- 6) The items in Section 30-3 d) have already been addressed through prior development review or will be addressed through additional permitting requirements coupled with the conditions noted in finding of fact 5) a. and b.
- 7) 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 a conditional use permit for general care clinic located at 1324 20th Ave. SW to City Council with the following conditions:

- 1) Hours of operation shall be limited to 7:00am to 7:00pm.
- 2) The clinic will be catered to general care, including wellness checks, physicals, women's health, skin conditions, screenings, monitoring, minor injuries/illnesses and similar non-emergent care.
- 3) 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.
- 4) 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.

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Chairman DeMakis asked Principal Planner Van Dyke for comments.

Principal Planner Van Dyke provided the following:

Public hearing request on an application from Cimberly Berg-Hooker, applicant, on behalf of Dakota Upreit Limited Partnership, owner for a conditional use permit for a general care clinic on Outlot 55 of Section 26, Township 155N, Range 83W. The property is located at 1308 20th Ave. SW.

Cimberly Berg-Hooker (applicant) wishes to open a general care clinic to serve her expanding client base and eventually add additional medical practitioners to her staff as is provided in her application, including a letter of intent.

The site itself consists of the west most portion of the Metro Center, an existing, multi-lot strip mall. The portion that the applicant is proposing already contains two insurance providers (Aflac and Blue Cross Blue Shield of North Dakota), a chiropractic office, and a spa. In the rest of the Metro Center to the west is a mix of uses including a law firm, a trucking company, a social security office, and a carpet retailer. South across the highway is the Dakota Square Mall, to the east is a boot dealer and to the North is a residential neighborhood.

Chairman DeMakis opened the meeting for comments from the commissioners. None of the commissioners came forward with any questions for staff.

Chairman DeMakis opened the meeting for comments from the public. No one from the public came forward

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Sessions to approve per staff recommendation with conditions based on findings of fact, second by Commissioner Barnett, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays: None

Motion passes

Item #8

Subdivision, Zoning District Change, Variance – Skjoldal Addition

Planning Commission recommends City Council approve a new subdivision from Outlot 3, Section 17, Township 155N, Range 83W, Ward County, North Dakota to be known as Lots 1 and 2, Skjoldal Addition and pass an ordinance on first reading to change the zone from “AG” Agricultural District to “RA” Agricultural Residential District for Lot 1 and from “AG” Agricultural District to “R1” Single-Family Residential District for Lot 2.

Further, Planning Commission approved a variance to the minimum lot size requirement for Lot 2 to be reduced to one acre.

These properties are located at 4710 County Ro. 15 A.

Finding of Facts:

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

1) The applicants have submitted a complete application.

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- 2) The application for the requested rezone was set to go before Planning Commission at the beginning of October, but soon after it was discovered, the legal description for the property did not match what was depicted on the City and County online parcel maps, leading to a delay in presentation of the application before Planning Commission.
- 3) A plat to reorient the existing two (2) parcels is required to adjust the shared property boundary to what is depicted on the City and County parcel maps. The creation of new lots, where one is non-conforming by way of minimum lot size, requires a variance to said standard.
- 4) The subject properties are comprised of one two-acre property and one one-acre property; the request is to establish a reorientation of one two-acre property and one one-acre property (no change in number of lots or lot sizes). In addition, there exists twenty-seven (27) properties within a one-thousand (1,000) ft. distance of the subject properties zoned R1 and below the two-acre minimum lot size.
- 5) Extraordinary or exceptional situations or conditions per Section 30-2 e) 3) are eligible for a variance. The facts contained within item #4 above when taken together create an extraordinary or exceptional situation and support issuance of a variance to the minimum lot size.
- 6) The applicant's request is consistent with the bulk requirements of Minot's Zoning Ordinance if the variance is approved.
- 7) The zoning amendment request would expand existing and adjacent zoning districts to encompass Lot 1 as "RA" Agricultural Residential District and Lot 2 as "R1" Single-Family Residential District.
- 8) The applicant's requested subdivision is not currently governed by the Future Land Use (FLU) Map of the Comprehensive Plan.
- 9) The proposed subdivision aligns with Housing Goal #1 of the Comprehensive Plan.
- 10) The Minot Planning Commission has the authority to hear this case and either approve or deny the variance. Additionally, the Minot Planning Commission also has the authority to recommend that preliminary plat and zone change 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 staff findings of fact and both approve the variance request of the applicant and recommend approval to City Council the following:

- 1) The preliminary plat for a property to be known as the "Skjoldal Addition."
- 2) A zoning map amendment from "AG" Agricultural District to "RA" Agricultural Residential District on Lot 1 and "R1" Single-Family Residential District on Lot 2.

Subject to the following conditions:

- 1) Access options are subject to approval of the appropriate entity – Harrison Township for 10th Ave NW or Ward County for County Road 15W.
- 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

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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 Principal Planner Van Dyke for comments.

Principal Planner Van Dyke provided the following:

Public hearing request on an application from Randi Wurgler, owner, to adjust the shared property boundary of two lots within Outlot 3, Section 17, Township 155N, Range 83W, Ward County, North Dakota via subdivision plat. The resulting lots will be known as Lots 1 and 2, Skjoldal Addition. In addition, the owner is requesting a Zoning District Change from "AG" Agricultural District to "RA" Agricultural Residential District for Lot 1 and from "AG" Agricultural District to "R1" Single-Family Residential District for Lot 2. Finally, the owner is requesting a variance to the minimum lot size requirement for Lot 2 to be reduced to one acre.

These properties are located at 4710 County Rd. 15 W.

The applicant's brother, who is also party to this application, currently owns both properties subject to this application. There is an existing single-family home with an accompanying detached garage on what is proposed Lot 1. The property lies within the extra-territorial jurisdiction and is not adjacent to city limits.

This application originally came in for just a rezone to "R1" Single-Family Residential of the Southeast portion of Outlot 3, which was legally described as "OLT 3 N2SE LS SW'LY 228'; S17-155-83 HARRISON-S1 A 1.0." As part of the normal planning application procedure, planning staff created a 300' notification map to illustrate where the property in question is in relation the properties being notified to send out with the notification letters and had engineering staff give it a once over before it was sent out. One of the engineering staff members thought that the legal description seemed off and upon further investigation discovered that the legal description was not describing what was being shown on the City of Minot and Ward County parcel maps. Engineering staff then drew a rendition of how Outlot 3 should have looked based off of the legal description. This exhibit shows that the legal layout of the property is rotated 90 degrees counter clockwise from how it is on the current city map. City staff then informed the applicant that the legal description for her property was incorrect and that she would have to hold her application as her application to rezone would not be rezoning what she thought it would be. Staff also recommended that she contact a surveyor to redraw the plat, and informed her that she would have to rezone the portion of Outlot 3 that was going to remain undisturbed away from "AG" Agricultural District zoning as any replatting would make it nonconforming based on the minimum lot area for "AG" being 20 acres.

After further evaluation of the application, it was realized that the minimum requirement for "R1" Single-Family Residential zoning in the Two-Mile Extraterritorial Jurisdiction is two (2) acres and that the applicant would need a variance to reduce the minimum size requirement for "R1" down to the one (1) acre that she planned it to be. The applicant was informed of this and is now moving forward with the variance as well as the subdivision and rezoning.

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The preliminary plat for the proposed Skjoldal Addition is provided in **Exhibit 3**. The newly created subdivision will consist of two (2) lots with Lot 1 being two (2) acres and Lot 2 being one (1) acre. The proposed Lot 1 meets the bulk lot and area requirements for an "RA" zoned property per Section 5.2-7; Lot 2, as mentioned above, is seeking a variance From Section 5-7 d) 3) to reduce its minimum required size. To that end, the applicant has submitted a letter explaining why she needs a variance from the lot size.

Chairman DeMakis opened the meeting for comments from the commissioners. Commissioner Wegenast asked of Lot 2 was going to be buildable and if city staff had any concerns over sewer systems for the property. Principal Planner Van Dyke responded that First District Health was invited to a Development Review Team (DRT) in the late fall and that planning staff did not have any concerns. He also explained that the two (2) acre lot area minimum is more of a rule of thumb than hard rule and that ultimately it would be up to First District Health to evaluate the soils to determine if the soils there are adequate to support septic on a one (1) acre lot. He concluded that, based on the amount of similarly sized lots in the area that it shouldn't be a problem and he had no concerns.

Chairman DeMakis opened the meeting for comments from the public. No one from the public stepped forward with a comment either for or against the item. With no public input, Chairman Demakis closed the public hearing.

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Wegenast to approve per staff recommendation with conditions based on findings of fact, second by Commissioner Baumann, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays: None.

Motion passes

Item #9

Subdivision, Zoning District Change, Future Land Use Map Amendment – Galusha Ranch 2nd Addition

Planning Commission recommends City Council approve a new subdivision from Lot 3, Galusha Ranch Addition to the City of Minot, North Dakota and an unplatted portion of the SW1/4 of the NE1/4, Section 6, Township 154N, Range 82W, Ward County, North Dakota to be known as Galusha Ranch, 2nd Addition, adopt a resolution to amend the Comprehensive Land Use Map from a mix of Very Low Density Residential and Low Density Residential to solely Very Low Density Residential, and pass an ordinance on first reading to change the zone from "AG" Agricultural District to "RA" Agricultural Residential District.

This property is located northwest of the intersection of 24th Street SE and 43rd Avenue SE.

Finding of Facts:

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

- 1) The applicants have submitted a complete application.
- 2) The subject area is currently depicted as both Very Low and Low Density Residential on the Future Land Use (FLU) Map of the Comprehensive Plan.

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- 3) The FLU map is requested to be amended to solely Very Low Density Residential based on the subdivisions proposed density, reliance of onsite septic systems, and topographical limitations (steep/unlevel terrain).
- 4) The proposed subdivision aligns with Housing Goal #1 and Land Use Goal #2, Policy #2 of the Comprehensive Plan.
- 5) The change in zoning from "AG" Agricultural District to "RA" Agricultural Residential District will be in alignment with the FLU map, if amended to Very Low Density Residential.
- 6) The applicant's request is consistent with the bulk requirements of Minot's Zoning Ordinance.
- 7) 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 staff findings of fact and recommend approval to City Council of subject to the following conditions:

- 1) An amendment to the Galusha Ranch Developers Agreement is required prior to recording the plat.
- 2) The final plat shall show the current floodplain.
- 3) A stormwater management plan is required for future development.
- 4) The roadways are to be initially gravel with paving to take place in the future.
- 5) A 15' utility and trail easement shall be placed along the western portion of 23rd St SE, connecting with the cart path easement.
- 6) The developer shall pay a fee of \$381.00 per lot to the City of Minot at the time of building permit issuance.
- 7) The final plat shall include an adequate easement for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course, , as determined by the City Engineer.
- 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.

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Chairman DeMakis asked Assistant Planner Baumgartner for comments.

Assistant Planner Baumgartner provided the following:

Public hearing request on an application from Stacey Abel representing Ready Builders II, LLC, owner, to create a new subdivision from Lot 3, Galusha Ranch Addition to the City of Minot, North Dakota and an unplatted portion of the SW1/4 of the NE1/4, Section 6, Township 154N, Range 82W, Ward County, North Dakota. The resulting lots will be known as Galusha Ranch 2nd Addition. In addition, the owner is requesting a Zoning District Change from "AG" Agricultural District to "RA" Agricultural Residential District and a Future Land Use Map Amendment from a mix of Very Low Density Residential and Low Density Residential to solely Very Low Density Residential. The property is located northwest of the intersection of 24th St. SE and 43rd Ave. SE.

Both properties are currently vacant, with a portion having been platted during the first Galusha Ranch Addition plat. Both properties are currently owned by the applicant.

The preliminary plat for the proposed Galusha Ranch 2nd Addition is provided in **Exhibit 2**. The newly created subdivision will consist of 11 properties with areas ranging from 2.02 to 13.73 acres. The properties are within the extra-territorial jurisdiction of the City and adjacent to City limits. However, there exists no direct road access and the properties will be served by rural water and septic. The proposed lots meet the bulk lot and area requirements for the property per Section 5.2-7.

Chairman DeMakis opened the meeting for comments from the commissioners. Commissioner Wegenast asked Assistant Planner Baumgartner to clarify if it was condition #6 of the presentation that was being added to the list of conditions for the project to which Baumgartner responded that it was.

Chairman DeMakis opened the meeting for comments from the public.

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Wegenast to approve based on staff findings of fact and recommendations, and to add an item denoted as item recommendation #6 in the presentation to the list of recommendations to be approved, seconded by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: Barnett, Baumann DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays: None

Motion passes

Item #10

Conditional Use Permit – Outdoor Display, Open Storage, and Hazardous Material Storage

Planning Commission recommends City Council approve a resolution for a Conditional Use Permit for the outdoor display of merchandise, open storage, and hazardous material storage on the east side of Block 4, Livingston's 7th Addition and more specifically known as proposed Lot 2, Livingston's 9th Addition.

The property is along 21st Avenue SE south of 905 21st Avenue SE.

Finding of Facts:

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

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- 1) The applicants have submitted a complete application, including a written statement saying that they affirm to the conditional use standards as listed in Section 30-3.
- 2) The use of a retail store is a permitted use in "C2" General Commercial District; the open display of merchandise, the outdoor storage of materials, and storage of hazardous materials are conditionally permitted uses.
- 3) Section 11-4 l) provides City Council the ability to determine if a use is similar to another allowed or conditionally permitted use. The open display of agricultural and lawn care equipment is most similar to the conditionally permitted use of open vehicle sales within Section 11-4 a) and associated conditions should be included in any conditional use permit issued, if approved.
- 4) The applicant's proposal, when subject to conditions imposed by code and recommended by staff, does meet the standards and considerations required by Section 30-3 c) & d) for issuance of a conditional use permit.
- 5) The applicant's site plan is preliminary and all city standards, such as landscaping and obscuration, must be addressed prior to final site plan approval. Pertinent conditions included with a conditional use permit shall be subject to meeting all other city standards.
- 6) The property is located within a commercially zoned area of the City of Minot.
- 7) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Commercial.
- 8) 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 to City Council:

- 1) Issuance of a Conditional Use Permit for the open display of merchandise, the outdoor storage of materials for sale to the public, and hazardous material storage for an on-site propane storage tank, subject to the following conditions:
 - a. The open display areas are limited to two locations as follows:
 - i. Up to a 4,200 sq. ft. area running along 21st. Ave. SE situated in front of the onsite parking area.
 - ii. Up to 3,958 sq. ft. area near the front of the building.
 - b. Any expansion of the display areas after the approval of the final site plan, whether in area or by the creation of new displays shall be considered to be a modification under Section 30-3 f) and will require renewal of the conditional use permit.
 - c. If the open display areas are used for all-terrain vehicles then the pertinent standards provided by Section 11-4 a) shall apply. They are:
 - i. No outside repair or maintenance of vehicles.

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- ii. No auctions shall be permitted.
- d. All open storage shall be one hundred percent (100%) screened, at a minimum of six (6) feet in height, or to the height of storage racking, (up to a maximum of ten (10) feet), at the time of installation. The screening must be from ground level view from public streets, along any property line abutting a residential district, or in the event the storage faces the abutting lot's front yard or the entrance area of an adjoining building.
- e. Open storage of materials shall not exceed the height of the screening provided.
- f. All open storage shall be paved with concrete or bituminous surface (no recycled materials permitted).
- g. The open display areas and open storage areas are subject to all other city standards, including but not limited to landscaping, obscuration, and overall site design.
- h. The hazardous material to be stored onsite is propane. Any changes to the approved hazardous material as defined in Title 49 of the Code of Federal Regulations at Sec. 171.8 exceeding the reportable quantities defined in the same title Sec. 171.101 requires review by both the Building Official and Fire Department for compliance with the building and fire codes in effect at the time of the requested change and the permitted structure shall be modified as necessary prior to the storing of any new hazardous material.
- i. Any change in ownership requires renewal of the hazardous materials conditional use permit.
- j. 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.
- k. 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.

Chairman DeMakis asked Principal Planner Van Dyke for comments.

Principal Planner Van Dyke provided the following:

Public hearing request on an application from Chris Canarie representing STNL Minot, LLC on behalf of John Coughlin, owner for a conditional use permit for the outdoor display of merchandise, open storage, and hazardous material storage on the east side of Block 4, Livingston's 7th Addition and more specifically known as proposed Lot 2, Livingston's 9th Addition. The property is along 21st Ave. SE south of 905 21st Ave. SE. An aerial view of the property and 300-foot notification area is provided in **Exhibit 1**.

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The applicant has had multiple pre-application meetings with city staff leading up to their submission. This is the second submission as part of this project, with the first being for the platting of Livingston's 9th Addition that went before Planning Commission in February 2021.

Chris Canarie (applicant) wishes to construct a 21,930 square foot Tractor Supply Company retail store on proposed Lot 2 of the pending Livingston's 9th Addition to relocate the an existing Minot business to a larger site for expansion. As part of their business model they have open storage, the open display of merchandise, and the storage of hazardous materials in the form of propane tanks. These three uses require a Conditional Use Permit (CUP) under Section 11-4 c), j), & l). Section 11-4 l) provides staff the ability to determine if the use is similar to another allowed or conditionally permitted use. Staff has determined that open display of agricultural and lawn care equipment is most similar to the conditionally permitted use of open vehicle sales within Section 11-4 a). The applicant has submitted a letter of intent with their application and is provided in **Exhibit 2**.

The site itself is vacant, being relatively flat near 21st Ave. SE dropping significantly to the south by 60' to the Puppy Dog Coulee.

Chairman DeMakis opened the meeting for comments from the commissioners. Chairman Demakis requested that Principal Planner Van Dyke Clarify square footage change in the report was, Van Dyke responded that the change was from 2,863 square feet to 3,958 square feet.

Chairman DeMakis opened the meeting for comments from the public.

Sean Weeks, the representative of the applicant came forward to ask the Planning Commission and Planning Staff consider the open storage area be a fenced display in alignment with his clients business model and have the requirement for screening that particular area be removed. Commissioner Wegenast asked for some clarification as to whether or not the area in question is indeed a storage area to which Mr. Weeks responded that his client would consider it to be a display area and said that the situation is a "semantics battle." Chairman DeMakis responded that they are two different things and asked Principal Planner Van Dyke what he considered it to be to which Van Dyke responded that it was staff's opinion that it was an open storage area. DeMakis then asked Van Dyke what are the requirements to treat that area as display, such as a cap on square footage, Van Dyke responded that there isn't a cap on area but instead that there is a definition related to open storage and he offered to look up the definition. While the Principal Planer was looking up the definition, Commissioner Wegenast asked Mr. Weeks if the point of contention was whether or not the eight foot (8') security fence would be slatted. Mr. Weeks responded that it was and that access to (the open storage area) would be controlled through the building. Van Dyke then read off the definition of an open storage area and said that the conditions associated with were what was listed during his presentation. He further explained that staff is treating it like a garden center, such as what is in existence at Menards. Commissioner Sessions then asked if Mr. Weeks request would be changing the screening requirements to which he responded they would, the security nature of the fence would still be there, but it would not be opaque. Commissioner Sessions then asked staff if they knew what the nearby buildings were, to which Van Dyke responded that he did not. Mr. Weeks responded that Trinity Health does have a facility to the east, which Community and Economic Development Director Billingsley confirmed. Commissioner Sessions then clarified that she was wondering how the proposed site would be fitting into the overall area and if the screening was changing, she was wondering if the existing business would have another opportunity to review the applicant's request. Chairman DeMakis then asked the Principal Planner if they were to treat that portion of the site as open storage, as it was applied for, and it has a requirement for screening, would it need a variance that is separate and distinct from what is before the Planning Commission. Van Dyke responded that that is correct, and if the applicant did apply for a variance to that requirement then it would be noticed to the neighboring properties again and they would be able to comment on it when it came before the commission again. Commissioner Wegenast then commented that in Exhibit 6 of the written staff report that area is referred to as "Figure 2" Open Storage Area."

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Dave Howicz, another representative for the project, then commented that he would comply with the definition in the code and obscure the fence if he is required to by commission. He also asked the commission that a decorative fence may be more aesthetic, but he will comply if committee requires him to put up the opaque fence.

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Wegenast to approve based on staff findings of fact and recommendations and with the amendment to condition 2a) as presented, second by Commissioner Baumann, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays:

Motion passes

Item #11

Masterplan Amendment, Variance

Planning Commission recommends approval to City Council of the two proposed master plan amendment alternatives.

Further, the Planning Commission approves a request to vary paving, landscaping, and screening requirements for "C2/P" zoning.

Finding of Facts:

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

- 1) The applicants have submitted a complete application.
- 2) The necessary pre-application Development Review Meeting was held as required by Section 16-7.
- 3) The applicant's masterplan includes two (2) alternatives that include the relocation of the recycling transfer station and associated scale house, and the approach location onto County Road 14/37th Ave. SW.
- 4) Part of the variance request surrounds paving of the parking stalls, aisles, and driveways and is similar to a request that was approved for a substation at Trinity Health Third addition in July of 2020.
- 5) The use of the subject property is more closely aligned with "M2" Heavy Industrial District whereas "P" Public Zone properties must follow higher design standards of the "C2" General Commercial District.
- 6) The masterplan includes a vegetative buffer which will provide landscaping and obscuration for the site as a whole. The requirement of this buffer is unique and eliminates the need for site specific landscaping and the obscuration of trash enclosures.
- 7) A variance to the paving, landscaping, and trash enclosure requirements is appropriate per Section 30-2 e) 3) b and may be granted without the substantial detriment to the public good and without impairing the general purpose and intent of the comprehensive plan.
- 8) The Minot Planning Commission has the authority to hear this case and either approve or deny the variances. Additionally, the Minot Planning Commission also has the authority to recommend that master site plan be approved or denied. The public notice requirements were met, the hearing was legally

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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 staff findings of fact and recommend approval to City Council of the two (2) masterplan amendment alternatives and the variance requests related to parking, landscaping, and trash enclosure obscuration standards subject to the following conditions:

- 1) A footnote for each alternate should be included that states, "The locations of the transfer facility, scale house, perimeter fence, screening, sedimentation pond, and interim and future roadways are shown as an illustration and represent a close approximation of the final design."
- 2) The masterplan will be modified to accommodate up to a 150 ft. setback for fencing /trees from County Road 14/37th Ave. SW as required by Ward County Highway Department.
- 3) The masterplan is required to amend the vegetative buffer to include the area highlighted in Exhibit 4.
- 4) The masterplan is required to denote that two-to-three (2-3) tree rows will be utilized for the vegetative buffer.

Chairman DeMakis asked Principal Planner Van Dyke for comments.

Principal Planner Van Dyke then provided the following:

Public hearing request on an application from Jason Sorenson, Assistant Public Works Director, representing City of Minot for a masterplan amendment of the city landfill site to designate alternatives for a proposed transfer facility. A variance to design standards related to onsite road improvements, trash enclosure obscuration requirements, and landscaping requirements surrounding the immediate location of the transfer facility is also being requested. No change to the broader vegetative buffer along the south boundary near 37th Ave. SW is being sought. The masterplan encompasses the following properties: S1/2 S1/2 SW1/4; S1/2 N1/2 S1/2 SW1/4; SW1/4 SE1/4 Less N330' and Less Sorenson's 4th Addition, all in Section 28-155-83; and NE1/4 Section 33-155-83; and NW1/4 Section 33-155-83; and SW 1/4 Section 33-155-83, Less County Road Right-of-Way; and Sorensen 4th Addition Lot 1-3, 5, 6; and Outlot 18 of Section 28-155-83; Outlot 20 of Section 28-155-83. The address for the landfill is 3500 19th Ave SW, Minot, ND 58701.

The existing masterplan, including the two proposed alternates, went through Planning Commission and City Council in early 2019 as part of the rezoning of two quarters of land to "P" Public Zone to facilitate expansion of the landfill. Moving forward with a recycling transfer facility, the masterplan plan requires amendment due to a proposed relocation of the recycling transfer facility and associated scale house, and the approach location along County Rd. 14. Two alternates have been provided which illustrate moving these items closer toward County Rd. 14/37th Ave. SW. Other minor modifications are proposed.

As necessitated with any new construction in the "P" Public Zone per Section 16-11 a), any new building constructed or remodeled shall meet specified design standards set forth in the "C2" General Commercial District. Design standards are found in Section 11-8 and landscaping requirements are outlined in Chapter 24. The applicant desires a variance to some of these requirements.

Chairman DeMakis opened the meeting for comments from the commissioners.

None of the commissioners came forward with any questions for staff.

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Chairman DeMakis opened the meeting for comments from the public.

Assistant Public Works Director Sorenson then came forward to stand for any questions that the commission had for him, with no questions he returned to his seat.

Ron Patten, a concerned neighbor who lived nearby then approached the dais to voice his concerns over trash blowing in the wind and asked for buffer zones to be placed in the northern portion of the site as well.

Chairman DeMakis asked for a motion from the commissioners.

Commissioner Bauman then asked Assistant Director Sorenson if Public Works could put up a buffer in that area as requested by Mr. Patten. Sorenson responded that they can look into it, that a perimeter fence in that area already fences off the area, and that the terrain does drop off around there. He concluded that he would have to look into if there are any reasons as to why they could or could not put some additional buffering there.

Motion by Commissioner Wegenast to approve per staff recommendation with conditions based on findings of fact, second by Commissioner Barnett, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Sessions, Wegenast nays: None.

Motion passes

Item #12

Zoning Ordinance Text Amendment – Zoning Supplement to the City of Minot

Planning Commission recommends City Council pass an ordinance on first reading to amend the text of the Zoning Supplement to the Minot Code of Ordinances with the proposed overhaul that was presented by planning staff.

Finding of Facts:

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

- 1) The applicant has submitted a complete application.
- 2) The Zoning Ordinance Steering Committee (ZOSC) is represented by city staff from multiple departments such as Engineering, Planning, Economic Development, Inspections, City Attorney, and Airport. The ZOSC also includes members of the public with a variety of development-related backgrounds, such as surveying, engineering, architecture, finance, and general contracting. Finally, the ZOSC includes an elected official and planning commissioner.
- 3) The ZOSC held 38 meetings since March 2019 to discuss changes to the Zoning Supplement to the City of Minot Code of Ordinances.
- 4) The meetings were facilitated by Scott Harmstead, SRF Consulting Group who has extensive experience assisting communities in North Dakota and beyond with similar efforts.
- 5) These meetings were posted and open to the public and numerous community members and industry specialists were invited to give input on proposed changes and make recommendations on further desired modifications.

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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:

Staff recommends the Planning Commission adopt staff findings of fact and recommend approval to City Council of the proposed Zoning Supplement to the City of Minot Code of Ordinances where a link to the document is provided in Exhibit 1.

Chairman DeMakis asked Principal Planner Van Dyke for comments.

Principal Planner Van Dyke then passed off the presentation to Community and Economic Development Director Billingsley who delivered a report and provided the following:

The City of Minot, in collaboration with numerous stakeholders and the Zoning Ordinance Steering Committee (ZOSC), present the new Zoning Supplement to the City of Minot Code of Ordinances.

The effort to overhaul the Zoning Ordinance began in March of 2019, when the Zoning Ordinance Steering Committee (ZOSC), City Planning Staff, and SRF Consulting Group first sat down together to work on the City of Minot Code of Ordinances (Zoning Ordinance). The last major update to the Zoning Ordinance occurred in 2013 along with minor amendments since that time.

The Zoning Ordinance Steering Committee (ZOSC) is an important component of zoning text amendments in the City of Minot and reviews all proposed text amendments prior to presentation to the Planning Commission and City Council. The ZOSC is represented by city staff from multiple departments such as Engineering, Planning, Economic Development, Inspections, City Attorney, and Airport. The ZOSC also includes members of the public with a variety of development-related backgrounds, such as surveying, engineering, architecture, finance, and general contracting. Finally, the ZOSC includes an Alderman and planning commissioner.

The ZOSC met 38 times since work began in January 2019. The effort was facilitated by a consultant, Scott Harmstead, SRF Consulting Group who has extensive experience assisting communities in North Dakota and beyond with similar efforts.

The ZOSC met for the last time on January 27, 2021 following an open comment period which commenced in December 2020. The ZOSC recommended the Zoning Ordinance be presented to Planning Commission with a recommendation to approve.

Chairman DeMakis opened the meeting for comments from the commissioners.

Chairman DeMakis opened the meeting for comments from the public.

Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Wegenast to approve per staff recommendation with conditions based on findings of fact, second by Commissioner Baumann, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Wegenast nays: None N/A: Sessions (Commissioner Sessions was inadvertently left out of the vote on this item.

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Motion passes.

Item #4 Approval of the February 02, 2020 Regular Meeting Minutes

Motion by Commissioner Barnett to approve the February 02, 2021 Planning Commission Meeting Minutes, second by Commissioner Sessions, and was carried by the following roll call vote: ayes: Barnett, Baumann, DeMakis, Faken, Gates, Nesdahl, Offerdahl, Wegenast nays: None N/A: Sessions (Commissioner Sessions was inadvertently left out of the vote on this item.

Motion carries

Item #3 Planning Commission Intro and Public Hearing Decorum

Item #13 Other Business:

Commissioner Baumann directed staff to investigate rooftop wind power for residential homes with regard to zoning.

Principal Planner Van Dyke informed the commissioners about a training opportunity through the North Dakota Planning Association on non-conformities and how to access it.

Item #14 Adjournment

With no further business before the committee, Chairman DeMakis adjourned the meeting at 7:20 PM.