

**Regular Meeting: Planning Commission**

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

**Meeting Called to Order:** Monday, January 28, 2019 at 6:30 p.m.

**Presiding Official:** Chairman, Jon Hanson

**Members in Attendance:** Randy Bartsch, Timothy Baumann, Charles DeMakis, Jon Hanson, Tim Keller, Todd Koop, Jynette Larshus, Dustin Offerdahl, Boyd Sivertson, Todd Wegenast

**Members Absent:** Jody Bullinger, Justin Hochhalter, Bob Wetzler

**City Staff Present:** Assistant City Attorney, City Engineer, Assistant City Engineer, Traffic Engineer, Park Director, Minot Parks Director of Marketing, Building Official, Principal Planner, Planning Assistant, Alderman Podrygula

**Others Present:** Brett Gurholt (KLJ), Brad Krogstad (KLJ), Crystal & Levi Braach, Alex Shubra, Jim Schultz, Duane Peterson, Ms. Hunter

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**Meeting Called to Order by Chairman Jon Hanson**

**Chairman Hanson welcomed new committee member Timothy Baumann.**

**Approval of the November 26, 2018 Regular Meeting Minutes.**

Motion by Commissioner DeMakis, seconded by Commissioner Larshus, to approve the November 26, 2018 regular meeting minutes and was carried by the following roll call vote: ayes: Hanson, Keller, Koop, Larshus, Offerdahl, Sivertson, Wegenast, Bartsch, Baumann, DeMakis. nays: none

**Motion passed**

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

**Item #1:**

**The City Council approve an application by Brian Niess to pass an ordinance on first reading to change the zone from C2 to M1 on Bridgeview Park Addition, Lot 1; Also adopt a resolution amending the Comprehensive Plan/Future Land Use Map designation for the subject property from “Commercial” to “Industrial.”**

This property is located at 5000 7<sup>th</sup> Avenue, SW.

The applicant approached the City with questions about setting up a spray booth to paint industrial oil field parts at this location, 5000 7<sup>th</sup> Avenue SW. This property is located north of Highway 2/52 just west of the Flying J Truckstop in the two-mile extraterritorial jurisdiction. Staff advised the applicant that the proposed business is classified as an industrial use and the property is zoned C2, General Commercial.

This business does not “fit” in C2 zoning. The applicant stated that the existing tenant business will be moving out, but they are an oil field business too.

As staff continued to discuss zoning issues with the applicant it became apparent that this area west of town along the highway is being used for industrial purposes. Not only the subject property at 5000 7th Avenue SW, but most of the buildings in the area, including highway frontage and even further back are all industrial operations zoned commercially. There is existing industrial zoned land adjacent to the east, northwest and south of this area.

In general, planning staff is not supportive of rezoning properties from a higher use, in this case C2, to a lower use, especially an industrial use. Staff realizes that Minot and the region are critically tied to energy, especially oil and gas, and also agriculture. These types of industries require industrial operations in industrial buildings on industrial sites that are zoned for industry. Staff realizes this is inescapable, a foregone conclusion. There are certainly areas of the City that are well suited for industrial development. There are areas that are already developed with industrial uses on industrial zoned tracts. And then, there are many, actually too many, examples around town of industrial uses on commercially zoned property. This should not happen. All C2 commercial zoned lots should be treated the same whether they are in the two-mile ETJ, adjacent to the highway, along an arterial, next to a collector, or whatever, it does not matter. Commercial standards should be upheld regardless.

In this case, the buildings and site they occupy are more the latter than the former. The uses are definitely industrial by use and the character of the area is a byproduct of the industrial activity. Because the stage is set at this location given the way it has developed, staff is recommending rezoning of the subject parcel from C2 to M1. The other surrounding properties (except for the two residential homes north of the subject property) would also be better suited as industrial, although the City does not rezone property without the owner’s consent.

**Finding of Facts:**

1. The applicant is looking for property with a specific use in mind which happens to require industrial zoning.
2. The preferred location the applicant has chosen for this activity is not zoned industrial, it is zoned commercial.
3. The surrounding properties and adjacent area are characterized by industrial uses. There are several businesses and buildings in near proximity to the subject property that are also industrial uses.
4. Several of these sites are zoned commercial just like the subject property. There is adjacent industrial zoning to the east, northwest, southeast and south of the subject parcel including a forty-acre tank farm for oil and gas.
5. Staff recommends that the subject property be rezoned from commercial C2 to industrial M1 to allow the zoning of the property to match the use on the property.

**Staff Recommendation and Conditions:**

Staff recommends approval of the requested rezoning from C2, General Commercial to M1, Light Industrial given the surrounding zoning and use of land and to allow the zoning of the property to match

the use on the property and furthermore to amend the Future Land Use Map designation for the subject property to "Industrial."

Principal Planner Lance Lang gave comments regarding the rezoning. There was discussion between Commissioner Koop and Principal Planner Lang regarding a buffer between C2 and MI to avoid the potential of unsightly businesses in this area. Commissioner Koop initially wanted an amendment, however Mr. Lang noted that the way the ordinance is set up there is no required buffer between Industrial and Commercial, only between Residential and Commercial and Residential and Industrial. Commissioner Wegenast moved to approve the request based on staff's finding of facts. The motion was seconded by Commissioner Koop and carried the following votes: ayes: Bartsch, Baumann, DeMakis, Hanson, Keller, Koop, Larshus, Offerdahl, Sivertson, Wegenast. nays: none

### **Motion passed**

#### **Item #2**

**The City Council approve an application by Minot Park District Executive Director, Ron Merritt, represented by Brett Gurholt, to subdivide the unplatted NW ¼ and N ½ SW ¼ Section 16-155-83 into 1 lot to be known as Family Recreation Addition, Lot 1.**

**The City Council pass an ordinance on first reading to change the zone from AG (Agriculture) District to P (Public) District for the purpose of developing a day use park and a golf course on proposed Family Recreation Addition, Lot 1.**

**The City Council pass an ordinance on first reading to annex into city limits proposed Family Recreation Addition, Lot 1.**

**The City Council adopt a resolution to amend the Future Land Use Map to change from Low Density and Medium Density Residential to Parks and Open Space.**

This property is located north of 4<sup>th</sup> Avenue NW (County Road 15 West) and east of Rolling Hills Drive. The applicant is seeking approval of a subdivision plat to create a one lot subdivision to be known as Family Recreation Addition, Lot 1. This property comprises approximately 240 acres and is located north of 4<sup>th</sup> Avenue NW (County Road 15 West) and east of Rolling Hills Drive in the Two-Mile Extraterritorial Area.

This property is zoned Agricultural and will require rezoning to P, Public District and an amendment to the Future Land Use Map of the Comprehensive Development Plan for the city of Minot. The property is contiguous to the existing city limit line and shall also be annexed into the corporate boundary of the City.

The proposed use of this property will be recreational. This 240-acre parcel will accommodate an 18-hole golf course in the future to be known as Trestleview Golf Course as well as other park and recreation amenities including a day-use park at the southwest corner of the property. The proposed golf course will eventually replace the existing course that will be impacted by the flood control measures proposed in the river basin. The recently amended language for projects in the P, Public zoning district requires a conceptual plan depicting the proposed improvements. Development plans for

these features are in the preliminary phase. Conceptual plans are included to illustrate the potential of these areas.

Currently there are no structures, buildings or other improvements on the property. Although far from finalized, development of the property will likely include construction of a clubhouse, maintenance shop, cart storage building, irrigation pumphouse, public restrooms, and other miscellaneous ancillary buildings. Parking lots, walking paths and extensive landscaping will also be installed. The day-use playground area at the southwest corner of the site will be the first phase of development. The entire property will become a dedicated park space for the use and enjoyment of the public and deed restrictions on the property insure nothing other than parks and open space can ever be developed on the land. At this time, the scope of the development, phasing, and funding have not been finalized. The subdivision, rezoning and annexation on the agenda today comprise the initial step and will set the property up for subsequent park development.

**Finding of Facts:**

1. The applicant would like to develop a recreational facility for the citizens of Minot on a 240-acre parcel in northwest Minot.
2. Development of the property requires a one-lot subdivision, rezoning, annexation and an amendment to the Future Land Use Map of the Comprehensive Development Plan.
3. The land is zoned AG and will be rezoned to P, Public.
4. Public zoning requires a conceptual layout plan which is included.
5. The Future Land Use Map will be amended from "Low and Medium Density Residential" to "Parks and Open Space."
6. This property will be annexed into the city limits.

**Staff Recommendation and Conditions:**

Staff recommends approval of this development proposal as presented, including amendment of the Future Land Use Map, Rezoning, a one-lot subdivision plat and annexation into the City limits subject to the following conditions:

- 1) A stormwater management plan prepared by a licensed civil engineer shall be submitted to the Minot Engineering Department for review and approval.
- 2) The site will conform to floodplain management requirements.
- 3) Sidewalks will be required along urbanized road sections to City specifications.
- 4) Connection fees for access to City utilities are required to be paid.
- 5) A traffic impact study is required.
- 6) A Development Agreement is required. 19<sup>th</sup> Avenue NW must be improved to an urban road section when the golf course is constructed. The extent of improvements shall be determined in the Development Agreement.
- 7) Access to County Road 15 and any required roadway improvements shall be determined by the Ward County Engineer.

Commission Wegenast asked Mr. Lang if any of the conditions or the submitted items had changed since the August meeting. Principal Planner Lang responded no, this is the same submittal.

Commissioner Baumann approached the topic of a compact planned community, and questioned if this is the best site for developing a golf course. Lance responded by saying, this property was acquired with the intent that it would always be zoned for open space use and recreational space only and not used for residential housing or any other use.

Mr. Merritt confirmed Mr. Lang's response.

Commissioner Offerdahl asked what the advantage is of rezoning it now since the funding is not available and he questioned the urgency.

Principal Planner Lang, responded by saying, the Park District knows what it wants to do with this property even though the plans are not finalized, so rezoning is inevitable. As the Park District begins to look for grants or to kick off a capital funding campaign to raise dollars for the park it would make sense to have the zoning, subdivision, annexation, and conceptual plan in place and approved.

Mr. Gurholt, Landscape Architect with KLJ, gave an explanation of the project. It was conceptualized around 2012, after the flood. In 2015 the Park District put out an RFP to study this site. It is more than a golf course, it is also a family recreation area and there is a draw beyond the community. This park is intended to be a regional park. The Feasibility Study was completed in October of 2015; the objective was met and the terms of the sale restricted the use of the land. It can never be transferred or sold and it must serve as perpetual open space and recreational property. This land can never be developed into housing or any other use. The land purchase was completed in 2015. The land was owned by the Department of Mineral Trust Lands. They have a timeframe in which they would like the project completed, which is a 5-year plan. In 2016, the Park District hired a firm (THK), which does golf course studies, to determine demand in different communities. The firm concluded that 27 additional public holes are needed to meet the golf demand for the City of Minot. These are public holes, not private holes like the country club. This is a multi-seasonal park and a diverse park. Mr. Gurholt talked about the access points to the park. There are two separate access points. The proposed golf club house and associated amenities will take access from 19<sup>th</sup> Avenue NW while the day use recreational area will be accessed at the southwest corner. The two access points will not be connected through the park. There is too much topography to navigate. The Park District and KLJ agreed to try as much as possible to maintain the natural features of the park and to minimize grading. The park will close at 10:00pm like the other Park District properties.

Commissioner Keller inquired if the access drive to the day use area could be shifted within the standard right-of-way. Mr. Gurholt responded that it is a platted right-of-way but it could be a possibility.

Commissioner Baumann asked if the access could be altered to branch off the existing road at either 10<sup>th</sup> Avenue NW or 46<sup>th</sup> Street NW. Mr. Gurholt responded by saying, they had looked at both of those options and noted that there are significant topographical restraints in both cases.

Debra Hunter came forward and noted to the committee that her house is at the corner where the access point is planned. She asked the committee to pull up several exhibits from KLJ and also provided photographs she has taken. Ms. Hunter noted that Green Thumb Greenhouse and Pumpkin Patch are located directly to the south and that in the fall it is full of cars. She believes the access point is just a

traffic accident waiting to happen. Ms. Hunter also asked where the water is coming from for the golf course.

Mr. Gurholt responded by saying a traffic study is required by the City as part of this project. Ward County Highway Engineers are also involved since this location is in the two-mile jurisdiction. The county would most likely require a deceleration lane for the access point. He further addressed Ms. Hunter's water concern by saying, there are several options. One being harvesting rain on site with storage on the site using proposed ponds as reservoirs. Another option is getting approval to decommission the water credits that the park district is using for Souris Valley golf course and apply them to this site. Easement documents have been sent to the neighbor to the south to try to get a water line easement through his property. Ms. Hunter inquired who that neighbor was and she informed Mr. Gurholt that the neighbor is her brother-in-law and that she is sure he is not going to grant the easement. Gurholt said that the team has been in active conversation with him, but it is unknown what action he will take.

Jim Schultz, property owner to the west of the section line, stated that he is opposed to the whole project, not just the access road. He feels it will devalue his property. The commissioners did not have any questions for Mr. Schultz.

Ron Merritt, Executive Director of the Minot Park District, came forward to offer his assistance with any further questions. He stated he would like to move forward with the project due to funding and timeliness. There is a grant from the North Dakota Heritage Fund that has a spring and fall deadline for applications.

Commissioner Baumann asked what the biggest changes in the southwest corner would be. Mr. Merritt noted that it would be primarily a trailhead system through that area to begin with. Funding for full development of any aspects of the park is not available at this time, but they would like to proceed with some of the lesser cost options as soon as money is available.

Commissioner DeMakis addressed Mr. Lang with his concerns about moving forward with several unknowns. This is not a known plan and he is not comfortable approving it, with the exception of the request rezoning the land to Public. He would like to see more concrete plans. Mr. Lang responded that the conceptual plan for the project was just on the screen. The designers have spent considerable time analyzing the site and looking into design alternatives that will accommodate the projected amenities, a golf course and a day use park. In the end, there will likely be changes to the design, but the purpose of the concept plan is to show feasibility. Many of the details will need to be worked out later in the process. This is why the Rezoning and Public designation chapters of the Zoning Code were recently amended; the requirements were too detailed. Commissioner DeMakis also requested information from Mr. Merritt, who explained how the project would proceed in phases as funding becomes available.

Principal Planner Lang asked Commissioner DeMakis if he had any additional input. Mr. DeMakis asked if the Planning Commission would be updated regarding the plan along the process and Mr. Lang answered no, not only this project, but all projects do not come back to Planning Commission except for Planned Unit Developments. Staff will review the plans for compliance at a later date. Engineering does a site plan review, the building department does a building permit review, etc.

Commissioner Wegenast moved to approve the request based on finding of facts and staff recommendations. Motion seconded by Commissioner Keller.

After the vote was called there were additional questions from Commissioners DeMakis and Baumann regarding updates. Principal Planner Lang reiterated that the Planning Department would not necessarily be involved unless a request came forward, or a change to the plan that would require Planning Commission involvement.

Chairman Hanson asked Ms. Hunter if the committee could keep the pictures she presented for the record and she indicated yes, but she would like KLJ plan returned to her.

Commissioner Bartsch asked if the access point was strictly to the recreation area and not access to the golf course. The Principal Planner stated, there are two access points to the 240-acre tract, one for the golf course and the other for the play area. They do not connect internally.

Commissioner Baumann asked if Ms. Hunter or other citizens have any other options to be heard and was advised that this matter will be forwarded to City Council with a recommendation and another public hearing will be held at that time.

Whereupon a vote was taken on the above motion by Commissioner Wegenast seconded by Commissioner Keller and carried the following vote: ayes: Bartsch, Baumann, DeMakis, Hanson, Keller, Koop, Larshus, Offerdahl, Sivertson, Wegenast. nays: none

### **Motion passed**

#### **Item #3**

**The City Council approve an application by Crystal Braach by passing an ordinance on first reading to rezone LaFarge Addition, Block 2 from C2 (General Commercial District) to M1 (Light Industrial District) to accommodate a small trucking operation.**

**The City Council adopt a resolution to amend the Comprehensive Plan/Future Land Use Map from “Commercial” to “Industrial” on LaFarge Addition, Block 2.**

This property is located at 1110 18<sup>th</sup> Street, SW.

The applicant is requesting rezoning from C2 to M1 for property located on the southwest corner of the intersection of West Burdick Expressway and 18<sup>th</sup> Street SW. The company that is interested in this location is a trucking company that provides services to oil and gas rigs in the field. Similar to the first item on the agenda today, the proposed business is classified as an industrial use and the property is zoned C2, General Commercial. This business does not “fit” in C2 zoning, however the surrounding businesses are industrial in nature and there is M1 zoning existing across 18<sup>th</sup> Street to the east.

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

1. The applicant wants to use this property for an oil field trucking company.

2. The site is zoned commercial, but the trucking business requires industrial zoning.
3. The surrounding properties along West Burdick Expressway and the adjacent area to the east across 18<sup>th</sup> Street SW are characterized by industrial uses.
4. It is unclear why this property was zoned commercial or how it came to be used for industrial purposes, but that is the case.
5. Staff recommends that the subject property be rezoned from commercial C2 to industrial M1 to allow the zoning of the property to match the use on the property and surroundings.

**Staff Recommendation and Conditions:**

Staff recommends approval of the requested rezoning from C2, General Commercial to M1, Light Industrial for Block 2 of LaFarge Addition given the surrounding zoning and use of land and to allow the zoning of the property to match the proposed use of the property and further recommends that the Future Land Use Map designation for the subject property be amended from “Commercial” to “Industrial”.

Commissioner Bartsch raised a question regarding the Industrial Zoning and Future Land Map. The future land use map shows this property to be best suited for “commercial” so he asked why it would be rezoned to industrial when it is currently commercial. Principal Planner Lang responded by saying there are several properties around town that are categorized in different zones but are not being used that way. Some of these are legal non-conforming, some are zoning violations. The land use map is a guide for growth so at some point the planners decided that this parcel and others along Burdick should be developed with commercial uses thus the commercial designation is on the land use map. There are some commercial uses further to the west from the subject property. The subject property and other uses around it, especially to the east are industrial in nature. Is it likely that these industrial uses will someday be replaced with commercial? If not, the land use map should be amended to industrial so that the zoning matches the use.

There was additional discussion regarding the C2 zoning.

Commissioner Offerdahl asked if the Planning Department had received any negative feedback from the neighbors in the area, to which Mr. Lang answered no.

There was an additional question posed regarding development in this area, as many businesses operate as commercial businesses. Mr. Lang said that the weird “tail” on the west side of this lot is an abandoned rail spur. Rail spurs are associated with industrial property.

Commissioner Larshus asked if the applicant was changing the use of the lot or just rezoning it. Mr. Lang answered that at this time the applicant is operating a commercial trucking business.

Commissioner Baumann noted that Spartan Nash truck terminal is in this area also as well as other retail businesses.

Crystal Braach, the applicant, offered to clarify any questions. She explained that they have a small trucking company, which sounds more complex than what it is. They utilize smaller trucks (2 ton pickup trucks). They are not rezoning the small spur on the bottom, rather just the larger area. They did not

choose it due to affordability or locations, but they chose it because it is a semi-industrial area. They intend to improve the area and maintain it. Mr. Lang asked if they were going to build any structures and Ms. Braach answered by saying, not at this time, but perhaps in the future. They will convert the scale house to an office and eliminate the railroad. They would also like to get it fenced in the spring for security and to screen the site from view of the roads. Mr. Levi Braach added, the rail line that crosses West Burdick on the SW end has been discontinued through the roadway and the same across 18<sup>th</sup> Street. If we annexed into [rezoned to] M1, if we had to go through and leave that area as C2, the rail spur would be more beneficial to someone adjoining that property, not for the rail access but as additional land to add to their lots. They would like to split that area off and give the adjacent property owners the first option to extend their property 40-60 feet and put the bulk of the property into M1. Mr. Lang commented that a new owner would need to have it replatted to add additional property to existing lots. They would be open to selling the property. Also, they may add an easement for easy access in the future.

Duane Peterson came forward to voice his support for this project. He stated he doesn't see how this property was ever zoned C2 as the former uses were a concrete plant (industrial) and a fracking sand operation (industrial).

Commissioner DeMakis added that he is in favor of this personally as he lives in the area and this site needs to be cleaned up.

Commissioner Baumann said, abandoned rail way right-of-ways like that are prime areas for conversion to walking and biking trails.

It was suggested by the committee that the Principal Planner follow up on areas around town such as this one where the use does not meet the zoning or land use plan. Lang said the next update of the comprehensive plan would be the best time or such an undertaking.

Commissioner Wegenast moved to approve the request based on staff's findings of fact and recommendations. The motion was seconded by Commissioner Koop and carried the following roll call vote: ayes: Bartsch, Baumann, DeMakis, Hanson, Koop, Larshus, Offerdahl, Sivertson, Wegenast. nays: Keller

### **Motion passed**

### **Item #4**

**The City Council approve an application by Kathy Somerville to subdivide an existing one lot plat known as Terrace Heights 14<sup>th</sup> Addition, Lot 1 into two lots known as Terrace Heights 15<sup>th</sup> Addition, Lots 1 & 2 to allow an existing house to remain on one lot and existing outbuilding to be remodeled into a house on the other lot.**

This property is located at 1805 Terrace Drive.

There are two structures on this property, a single-family home and an accessory building. The house is located to the south side of the property while detached building is located on the north and is used as a shop building. The owner would like to subdivide the property so that each structure is on its own lot. The zoning ordinance does not allow an accessory building to stand alone on a lot. As the name “accessory” implies, there must be a principal use on the same lot, in this case a house would be the principle use. The owner has decided to modify the accessory building to make it into a house. A building permit to do so has been applied for and will be issued once the subdivision is approved by City Council and recorded at Ward County. The yellow line on the “Aerial View-Lot Split” exhibit shows approximately where the common lot line will be located. The plat document that will be filed at the recorder’s office known as Terrace Heights 15<sup>th</sup> Addition, Lot 1 is shown in the “Subdivision Plat” exhibit.

**Finding of Facts:**

1. The applicant owns a single R1 residential lot with a house and an accessory building beside it.
2. The applicant would like to subdivide the existing lot into two lots, with each lot containing one of the buildings.
3. The proposed lot containing the house is allowed by the zoning ordinance, but the second proposed lot cannot contain the accessory building without a primary use (a house).
4. The applicant has applied for, and a building permit has been issued, to renovate the accessory building into a residential house.
5. Once the two-lot subdivision is approved by City Council and recorded at the County, the building permit can be issued and renovation work can commence to upgrade the accessory building to a home.

**Staff Recommendation and Conditions:**

Staff recommends approval of the proposed two-lot subdivision to be known as Terrace Heights 15<sup>th</sup> Addition, Lots 1 & 2 and also recommends approval for the building permit to be issued to begin renovation of the accessory building into a single-family home on its own lot once the plat of Terrace Heights 15<sup>th</sup> Addition, Lots 1 & 2 is recorded at Ward County Recorder’s Office.

Alex Shubra came forward to note that the vicinity map is showing the wrong property. Principal Planner Lang noted that he was correct.

Commissioner DeMakis moved to approve the request based on staff’s findings, facts and recommendations. The motion was seconded by Commissioner Offerdahl and carried the following votes: ayes: Hanson, Keller, Koop, Larshus, Offerdahl, Sivertson, Wegenast, Bartsch, Baumann, DeMakis. nays: none

**Motion passed**

With no other business before the Commission, the meeting was adjourned at 8:07pm.