

PLANNING COMMISSION MINUTES

Regular Meeting

February 25, 2019

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Regular Meeting: Planning Commission

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

Meeting Called to Order: Monday, February 25, 2019 at 6:30 p.m.

Presiding Official: Chairman, Jon Hanson

Members in Attendance: Randy Bartch, Tim Baumann, Jody Bullinger, Charles DeMakis, Jon Hanson, Justin Hochhalter, Todd Koop, Jeannette Larshus, Dustin Offerdahl, Todd Wegenast

Members Absent: Boyd Sivertson, Tim Keller, Bob Wetzler

City Staff Present: Tom Barry (City Manager), Kelly Hendershot (City Attorney), Stefanie Stalheim (City Attorney Asst.), Lance Meyer (City Engineer), Stephen Joersz (Traffic Engineer), Ron Merritt (Park Director), Dean Lennertz (Fire Marshall), Chief Olson (Police Chief), Dan Jonasson (Public Works Director) Jason Sorenson (Public Works Director Asst.), Derek Hackett (Public Information Officer), Josh Wolsky (Alderman), Stephan Podrygula (Alderman)

Others Present: John Pietsch, Jerry Odden, Mike Hayes, Deven Mantz, Travis Zablotney, Jeff Emmert, Cindy Springstead, George Withus, Matt Watne, Charles Tuttle

Meeting Called to Order by Chairman Jon Hanson

Approval of the January 28, 2019 Regular Meeting Minutes.

Motion by Commissioner Bartsch, seconded by Commissioner DeMakis, to approve the January 28, 2019 regular meeting minutes and was carried by the following roll call vote: ayes: Hanson, Hochhalter, Koop, Larshus, Offerdahl, Wegenast, Bartsch, Baumann, Bullinger, DeMakis, nays: none

Motion passes

The following are the recommendations of the Planning Commission:

Item #1:

The City Council approve an application by Ward County Farm Bureau submitted by John Pietsch, applicant, to replat Livingston's 6th Addition, Lot 1, into a three-lot subdivision to be known as Livingston's 8th Addition, Lots 1-3.

The applicant is requesting approval to subdivide a tract of land into three (3) lots. This property is located at 2201 6th Street SE. There is an existing building towards the west end that houses the Ward County Farm Bureau office and the North Dakota State Patrol. This property and much of the surrounding property is zoned C2, General Commercial district. The zoning will remain the same. City infrastructure including municipal water and sanitary sewer are available to this site. An engineering consultant prepared a plan and profile sheet for the sanitary sewer to ensure that it can be extended

westward as planned. Otherwise, the subdivision submittal meets all City requirements if all conditions are met.

The applicant, Mr. Pietsch, approached the podium and asked if there were any questions. There were none.

Finding of Facts:

1. The applicant would like to split an existing commercial property into three lots.
2. The applicant has submitted a three-lot subdivision to be known as Livingston's 8th Addition.

Staff Recommendations and Conditions:

Staff recommends approval of the three-lot subdivision to be known as Livingstons 8th Addition subject to the following conditions:

- 1) A stormwater management plan is required for development.
- 2) Erosion Control practices will need to meet State of North Dakota requirements and approved by the City Engineer.
- 3) Developer's Agreement will be in place prior to any site development or work in the City right-of-way.
- 4) Existing sanitary sewer in 21st Ave SE will need to be extended west to serve the proposed lots.
 - a. All work shall be completed in its entirety, to all applicable standards, as specified in the Developer's Agreement.
 - b. This work shall be solely at the cost of the Owner.
- 5) Connection fees are required when connections are made to City utilities.
- 6) Access locations to be approved by the City Engineer as a part of a future site plan.

Motion by Commissioner Bullinger, seconded by Commissioner Koop, and was carried by the following roll call vote: ayes: Larshus, Offerdahl, Wegenast, Bartsch, Baumann, Bullinger, DeMakis, Hanson, Hochhalter, Koop, nays: none

Motion passes

Item #2

The City Council approve an application by Larry D. Johnson to replat Outlot 8, Section 36, TWP 156 North, Range 83 West, into two lots to be known as L. Johnson Subdivision, Lots 1 & 2.

The City Council pass an ordinance on first reading to change the zone from C2 (General Commercial) District to R1 (Single-Family Residential) District.

The applicant is requesting approval to subdivide a tract of land into two (2) lots and to rezone one of the lots from C2 to R1 to accommodate a single-family home. This property is located in the two-mile extraterritorial jurisdiction on the north end of town at 5 53rd Avenue NE.

The existing tract is currently zoned C2 for roughly the west half of the parcel and R2 for the east half. How a single parcel is zoned two different districts is unknown. There is a single-family house on the east half of the property. The applicant would like to rezone the west half to R1, Single-Family Residential District. The other lots in this neighborhood are zoned R1, however the area is characterized by a mixture of zoning districts including C1, Neighborhood Commercial to the north, C2, General Commercial to the south, M1, Light Industrial to the west and Agricultural to the northwest. Keep in mind that this property is on North Broadway hence the prevalence of commercially zoned land. The property will be subdivided into two lots such that each lot will contain roughly half of the existing land and the two zoning designations are split accordingly.

Municipal water and sanitary sewer stop short of this location and are located approximately 1,000 feet south of the subject property. The property will be served by rural water and septic. Part of the 100-year floodplain traverses this tract.

Finding of Facts:

1. The applicant has decided to split the parcel in half and change the zoning on the west half to allow a single-family home.
2. A two-lot subdivision known as L. Johnson Subdivision has been prepared and submitted.
3. A rezoning request from C2, General Commercial District to R1, Single-Family Residential District has also been submitted.
4. There is a mixture of zoning districts in the area including R1, and this property is part of a residential subdivision extending east where properties are zoned R1.

Staff Recommendations and Conditions:

Staff recommends approval of the two-lot subdivision to be known as L. Johnson Subdivision and further recommend approval of the rezoning request from C2 to R1 for proposed Lot 1, L. Johnson Subdivision subject to the following conditions:

- 1.) Development shall be in accordance with City zoning ordinance Chapter 20 – Flood Protection Requirements.
- 2) No SWMP required for single residential construction.
- 3) NPRW service area and septic.
- 4) Roadway dedication is shown on the plat.

Motion by Commissioner Koop, seconded by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: Wegenast, Bartsch, Baumann, Bullinger, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, nays: none

Motion passes

Item #3

The City Council approve an application by Mike and Sheila Hayes to combine Lots 6A through 10B of Oak Park Place into one lot to be known as Pak Park Place, 2nd Addition, Lot 1.

The City Council pass an ordinance on first reading to change the zone from R4 (Planned Residence) District (which is a defunct zone) to R2 (Two-Family Residential) District.

The subject property is currently comprised of ten (10) existing vacant lots and associated ingress-egress easements located at 41 to 61 16th Street NW. These lots will be consolidated, and part of the access easements will become vacated, part will be retained, all to be replatted as shown on the subdivision plat for Oak Park Place 2nd Addition. The property is kind of hidden, tucked back from the street and accessible by access easements and an alley.

The current zoning is R4- Planned Residential District which is a defunct zone. The applicant is requesting rezoning to R2, Two-Family Residential District. The applicant intends to build a single duplex on the proposed lot.

Finding of Facts:

1. The applicant wants to consolidate ten (10) exiting lots to plat one new lot to be known as Oak Park Place 2nd Addition.
2. The applicant has submitted a plat for Oak Park Place 2nd Addition.
3. The property is currently zoned R4 and needs to be rezoned to R2 so that the applicant can construct a duplex on the property. A single-family home could be constructed on this lot instead of a duplex.
4. The applicant has submitted a rezoning request.
5. The proposed zoning is in conformance with the Future Land Use Map of the comprehensive plan.

Staff Recommendations & Conditions

Staff recommends approval of this subdivision and rezoning subject to the following conditions:

- 1) Existing utilities are located in 16th St NW and services will be needed when the proposed lot is developed.
 - a. All work shall be completed in its entirety, to all applicable City of Minot standards.
 - b. This work shall be solely at the cost of the Owner.
- 2) Connection fees are required when connections are made to City utilities.

Discussion regarding current eastement was introduced by Commission DeMakis. Jerry Odden, long time resident, noted that traffic in the alley was hazardous, stating that he had witnessed several accidents involving both himself and children in the area.

Principal Planner asked if Mr. Odden is aware that ten lots are being combined into one lot, which is a significant reduction in density, and therefore potential cars, children, etc. Only one building with two living units will be built here, not several.

Mr. Hayes (petitioner) replied that the traffic is irrelevant with only two more living units being added. The property will be fenced, the access driveway across the property will be relocated south to where it is supposed to be.

Commissioner Baumann added that he appreciates the infill development of that area.

Motion by Commissioner Wegenast, seconded by Commissioner Koop, and was carried by the following roll call vote: ayes: Larshus, Offerdahl, Wegenast, Bartsch, Baumann, Bullinger, DeMakis, Hanson, Hochhalter, Koop, nays: none

Motion passes

Item #4

The City Council approve an application by Deven Mantz to replat Outlots 18 & 19 of Section 34, TWP 155 North, Range 82 West, to become two new outlots known as Outlot 20 & 21, by adjusting the common lot line between proposed Outlots 20 & 21, fifty feet (50') east of its current location.

The City Council pass an ordinance on first reading to change the zone from MH (Manufactured Home) District to RA (Agricultural Residential) District for the east fifty feet (50') of proposed Outlot 20.

The Planning Commission approved a request for a variance from the minimum lot area of two (2) acres required for lots in the two-mile extraterritorial jurisdiction served by septic drain fields.

The applicant was before the Commission last summer to subdivide and rezone this land located at 2820 72nd Street SE. At the time, the property was one parcel and it was split into two outlots, Outlots 18 and 19 of 34-155-82 and the west outlot which contains a manufactured home, was rezoned accordingly to MH, Manufactured Home District. The remainder of the property remained RA, Agricultural Residential District.

The applicant has now approached the City with a request to alter the previously approved outlots by moving the common line between them fifty (50) feet to the west. Therefore, two new Outlots are created proposed as Outlots 20 and 21 of 34-155-82.

As a result of the lot line adjustment two consequences are created which must be addressed.

1) The boundary of the two zoning districts is no longer correct. The fifty feet that was part of Outlot 18 was zoned RA and is now to become part of proposed Outlot 21 (formerly Outlot 19) which is zoned MH. Therefore, this fifty (50) foot strip of land must be rezoned from MH to RA

2) The lot line adjustment reduces the area in existing Outlot 19 from 2.0 acres to only 1.6 acres for proposed Outlot 21. The minimum lot size for residential lots platted in the two-mile ETJ is 2.0 acres. This minimum size standard was adopted to ensure that lots that are served by septic systems will have adequate lot area available to meet required separations and to install a back-up drain field when the first field fails. In reality there are many lots in the two-mile ETJ that are smaller than 2.0 acres. Staff revised the zoning ordinance in 2016 to set the minimum at 2.0 acres to avoid problems in the future. The applicant is requesting a variance to allow Outlot 21 to be platted at only 1.6 acres instead of the required 2.0 acres.

Variances are to be based on a hardship which is a circumstance beyond the owner's control. There does not appear to be a clear hardship in this case, but a significant part of the applicant's land was taken for dedication of roadway purposes when the first two outlots were created. The resulting lots just meet the 2.0-acre threshold for minimum lot size. Septic systems are not reviewed and approved or denied by the City of Minot. Even in the two-mile ETJ, First County Health District is responsible for managing septic systems. In the information packet there is a letter from Jim Heckman, Director of the Environmental Health Division at First District Health Unit. Mr. Heckman is the person responsible for managing septic systems and he writes in his letter:

"First District Health Unit would approve the re-plat of the two lots. There will be adequate space on both lots for additional septic systems should there be need."

With Mr. Heckman's approval staff is willing to allow the plat of these outlots to be approved if the Commission and Council so desire.

Finding of Facts:

1. The applicant would like to adjust the common lot line between two parcels that he owns.
2. These parcels are platted as outlots and a new outlot plat needs to be created for each lot.
3. The applicant has submitted two new outlot plats.
4. Because the interior line is to be adjusted it affects the zoning limits for the two parcels as they are zoned differently from one another.
5. The applicant has submitted a rezoning request to correct the zoning issue.
6. Because the interior line is to be adjusted, one of the resulting lots at 1.6 acres will be too small to meet the minimum required lots size by code of 2.0 acres.
7. The applicant has applied for a variance for the smaller lot size. The applicant claims hardship based on the amount of land that was taken by Ward County for dedication of roadway purposes. The applicant owns both properties. Also, the applicant has submitted a letter from the proper authority that regulates septic systems stating in writing that the proposed outlots are acceptable in size.

Staff Recommendations & Conditions:

Staff recommends approval of the Outlot Plats for Outlots 20 and 21, the rezoning request from MH to RA and the variance request to plat Outlot 21 at 1.6 acres instead of the minimum lot size required in the ordinance of 2.0 acres based on written approval of the lot size by First District Health Unit.

Mr. Mantz (petitioner) addressed the issue of hardship stating that there are several large trees on the property in a grouping. He stated that the mature trees are 45' into the west outlot and if the lots are split down the center it leaves the 45 feet of lot area basically unusable and detached from the house because of the position of the trees, unless a person were to cut the trees down. He really does not want to cut the trees down. Also, when the property was platted into outlots last summer he did not realize the Ward County Highway Department would be taking so much of his land for right-of way dedication. The road dedication is 75' on one side and 33' on the other side. Even with the reduction in size of the west lot there would be well over two acres, like 2.6 acres, if the road right-of-way was part of the equation. He stated there is plenty of room on both lots to have a septic system and future replacement fields. He has a letter from First District Health Unit that says this.

Motion by Commissioner Wegenast to approve the subdivision and rezoning based on staff findings and recommendation and also approve the variance based on a hardship of unique circumstances, that the configuration of the lots and the amount of land taken for roadway purposes is a unique hardship to this property. Seconded by Commissioner Larshus, and was carried by the following roll call vote: ayes: Offerdahl, Wegenast, Bartsch, Baumann, Bullinger, DeMakis, Hanson, Hochhalter, Koop, Larshus, nays: none

Motion passes

Principal Planner noted that the variance decision is a Planning Commission action, so it is decided tonight, the other rezoning and subdivision goes on to City Council.

Item #5

The City Council approve an application by the Minot Park District, applicant Ron Merritt, for subdivision platting to define the fifty-foot (50') wide corridor for dedicated 1st Street, NW Right-of-Way and establish property extents of proposed lots and blocks.

The City Council pass an ordinance on first reading to change the zone from R1 (Single-Family Residential) District to P (Public) District to support use of a proposed 21,000 +/- square foot children's museum.

The Planning Commission approved a request for a variance for relief from the 25' front yard setback to accommodate the footprint of the building on steep slopes.

Staff has been working with the Minot Park District and consultants over the past several months as we prepare the way for the new Magic City Discovery Center (Children's Museum) at 25 15th Avenue, on the big hill. The design team took the opportunity to look at the "big picture" while tackling this project as

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this area of town has never been platted. Even portions of the street right-of-ways for 1st Street NW, 15th Avenue NW, 3rd Street NE and Airport Road have never been dedicated. Therefore, work on this project includes:

- Platting the land holdings of the City of Minot and the Park District in this area including the ball fields, the streets, and the future site of the children's museum.
- Platting requires acquisition of a portion of North Dakota Department of Transportation right-of-way along North Broadway.
- Rezoning part of the property from R1, Single-Family Residential District to P, Public District.
- Request for a variance to the front yard setback due to the extremely steep slopes at the children's museum site.

Reference to the Existing Zoning Exhibit shows the existing ball fields and the airport property are zoned Public but the highlighted area slated for the children's museum is zoned R1, Single-Family Residential. The R1 zoning will be rezoned to Public.

The Park District will take ownership of the children's museum and surrounding property while the City of Minot will own the ball fields.

The subdivision plat for this property is a two-lot subdivision to be known as Overlook Park Addition. Proposed Lot 1, Block 1 contains the ball fields on 30.62 acres while Lot 1, Block 2 contains the children's museum site at 4.52 acres. The fifty (50) foot wide right-of-way for 1st Street NW which curves south and then east becoming 15th Avenue NE is shown on the plat. The other required street right-of ways are dedicated with this plat as well.

The children's museum building will be three stories and approximately 21,000 square feet. The building is going to be built into the side of the hill west of the ball fields. The hill provides a panoramic view of the City that is quite spectacular. The hill is also quite steep sloping from the top westward towards Broadway. The Park District negotiated with the state Department of Transportation to pick up extra area that is now state right-of-way in order to deal with the steep topo. The line shown in red on the Museum Site Plan depicts the additional area while the heavy black line is the existing right-of-way/property line. The area of state right-of-way is outlined in green. The NDDOT will prepare a right-of-way plat to convey this property to the Park District. No building permits will be issued until the plat is recorded. The parking areas for the facility are shown on the site plan. Additional Park District projects in the future, such as a playground, may be located to the north of the parking area. In the packet there are several drawings submitted by the Park District to fulfill the requirement for a Conceptual Plan that is now required for rezoning applications and projects in the Public zoning districts. This project was reviewed by the DRT, Development Review Team as required by the ordinance as well.

The final item to discuss is the request for variance. Variances are based on a hardship, an insurmountable situation that is no fault of the owner but makes it impossible to develop the property without some relief from the rules and regulations of the zoning ordinance. In this case, the Parks

District is requesting a variance to the required twenty-five (25) foot front yard setback of the building from the street. The area on the exhibit that is shaded red is the area that the overhead portico encroaches into the setback, approximately thirteen (13) feet. The portico is an important element, especially in North Dakota weather, for dropping off and picking up children in a somewhat protected area. The building cannot be pushed back on the site to accommodate the setback because of the severe slope on the back side. Staff opinion is that the presence of the slope makes this a very difficult site to work with and the variance to the front yard setback is justified.

Finding of Facts:

1. The Minot Park District and City of Minot have been working together to develop a new children's museum on north hill.
2. The entire area had never been platted so a subdivision plat for a new two-lot subdivision was created to be known as Overlook Park Addition which includes the museum site, the existing ballfields and portions of the existing streets.
3. The Park District is working with NDDOT to secure a portion of the Broadway right-of-way.
4. The property where the museum is slated to locate is zoned R1 Residential, so the applicants submitted a rezoning application from R1 to P, Public district.
5. Projects in the Public district require a conceptual site plan with review by the Development Review team (DRT) which has been done for Overlook Park Addition.
6. The applicant has submitted a request for a variance to the required 25-foot front yard setback, requesting permission to encroach some thirteen (13) feet into the setback, said variance the result of a hardship caused by the steep slope on this site.

Staff Recommendations & Conditions:

Staff recommends approval of Overlook Park Additions and the rezoning from R1 to P, Public as presented. In addition, staff recommends approval of the variance requested for a thirteen (13) foot encroachment into the font yard setback based on the hardship caused by the steep slopes on the site. These approvals are subject to the following conditions:

- 1) A stormwater management plan is required for development.
- 2) Erosion Control practices will need to meet State of North Dakota requirements and approved by the City Engineer.
- 3) Developer's Agreement will be in place prior to the plat being recorded.
- 4) Water and sanitary sewer will need to be extended to serve the proposed development.
 - a. All work shall be completed in its entirety, to all applicable standards, as specified in the Developer's Agreement.
 - b. This work shall be solely at the cost of the Owner.
- 5) Connection fees are required when connections are made to City utilities.
- 6) Access locations to be approved by the City Engineer as a part of a future site plan.
- 7) Lighting and sidewalks will be required.

8) No building permits will be issued until the NDDOT right-of-way plat is recorded transferring part of the Broadway right-of-way to the Park District.

Commissioners Offerdahl and Wegenast opened a discussion regarding the overhang (portico) to permit drive-through drop off children during inclement weather conditions and also asked about snow removal. Can't the building be redesigned or altered somehow so a variance is not required? Is the front overhang really necessary? Seak Weeks from Ackerman-Estvold addressed this issue. He approached the Commissioners and distributed artist renderings of all four sides of the proposed building. The renderings clearly show the portico on the north side of the building. It is an integral part of the building design and a necessity for protection from the weather. The building cannot be pushed back any further because of the steep slope of the hill. As far as snow removal, Mr. Weeks drew attention to the site plan and explained where snow is to be stockpiled.

Commissioner Baumann thanked the applicant for the walkability and trails worked into the design development.

Travis Zablotney stated that the variance meets hardship requirements for a true topographical variance (true example).

Jeff Emmert, Minot Church of Christ, 1315 1st Street NE., stated that he was concerned about the entrance to his parking lot and drainage in the area. Lance Meyer, City Engineer, assured Mr. Emmert that the city staff will work to make sure access and drainage issues with properties are taken care of when we get further into the civil design of the project.

Motion by Commissioner Wegenast to approve the variance due to exceptional topographical condition, seconded by Commissioner DeMakis, and was carried by the following roll call vote: ayes: Hanson, Hochhalter, Koop, Larshus, Offerdahl, Wegenast, Bartsch, Baumann, Bullinger, DeMakis, nays: none

Motion passes

Item #6

The City Council approve a resolution on an application by Rebecca Lee for a Conditional Use Permit (CUP) to accommodate a clinic, more specifically described as a medical Marijuana dispensary.

The City Council pass an ordinance on first reading to change the zone from C4 (Planned Commercial) District (which is defunct zone) to C2 (General Commercial) District.

In April 2017 the North Dakota legislature approved a medical marijuana law for the state. The program is regulated by the North Dakota Department of Health (NDDOH). Since that time official rules and regulations have been developed by NDDOH. The medical marijuana program consists of two major components, both referred to as compassion care facilities; manufacturing facilities (growers/producers)

and dispensaries (retail stores). The law restricts growing/manufacturing facilities to a total of two locations in the state which have been selected as Bismarck and Fargo, and dispensaries limited to eight (8) total with four (4) in each of two (2) regions. The four locations selected for the first region are; Bismarck, Fargo, Grand Forks, and Williston. Region two includes Minot as well as Devils Lake, Dickinson, and Jamestown.

During this time period, the state directed local governments (cities and counties) to develop appropriate zoning controls for medical marijuana at the local level, recognizing the NDDOH will be the licensing agency in charge of regulating the day to day activity of the program. The City of Minot planning staff consulted with other communities across the state and brought a draft amendment to the zoning ordinance to the steering committee and ultimately to the Planning Commission and City Council for approval. Like many other communities Minot is requiring a CUP for both manufacturing and dispensary locations. Only two (2) manufacturing facilities were approved by the state and Minot is not one of them. Minot is eligible for a dispensary. Staff decided to treat dispensaries for medical marijuana in the same fashion as a pharmacy, categorizing "Compassionate Care Facilities" under the use type "Clinics." Clinics are a conditional use in C1, Neighborhood Commercial District; C2, General Commercial District; C3, Central Business District (downtown); M1, Light Industrial District; and M2, Heavy Industrial District.

In order to become licensed by the state, an applicant must obtain a CUP from the City of Minot. In terms of process, whether the City permit comes first or the state application is applied for first seems not to matter. The state will review applications as they are submitted until the deadline of February 26 and may grant only provisional approval if the CUP from local government is still pending.

The site selected by the applicants at 2301 16th Street SW is in a high traffic, highly visible location. Access to the site from the busy street can be challenging. The off-street parking requirement for clinics is four (4) spaces per 1,000 square feet of floor area. At 4,590 square feet of floor area, this building requires eighteen (18) off-street parking spaces. The number of available off-street parking spaces is uncertain, but the aerial photograph of the site shows more than eighteen, perhaps in the range of thirty to forty spaces. Access points and on site traffic circulation will remain unchanged.

Finding of Facts:

1. The applicant seeks to establish a medical marijuana dispensary in the jurisdiction of Minot.
2. Such facilities have been authorized by the State of North Dakota, Department of Health (NDDOH) and Minot has been approved for a dispensary, subject to compliance with local and state laws.
3. NDDOH will regulate any such facility within Minot however, as part of the state application, the applicant is required to gain zoning approval in writing from the local zoning authority.
4. When the City Council amended the zoning ordinance in consideration of medical marijuana, such facilities became limited to commercial and industrial zones and require a conditional use permit.

5. The applicant has applied for a CUP for a medical marijuana dispensary at 2301 16th Street SW.
6. Staff has completed the state zoning document.

Staff Recommendations & Conditions

Staff recommends approval of a Conditional Use Permit to operate a compassion care dispensary at 2310 16th Street SW under the following conditions;

- a) The facility shall comply with all applicable rules and regulations of local, state, and federal government,
- b) Issuance of this conditional use permit does not authorize the sale or dispensing of recreational marijuana at this location in the future if recreational marijuana is approved by the State Legislature.

And furthermore, staff recommends approval of the rezoning request from C4, Planned Commercial District to C2, General Commercial District.

Commission Wegenast stated he was concerned about law enforcement. Principal Planner asked the Police Chief if he would comment. Police Chief Olson, who was in attendance, had attended previous meetings with staff when the City was formulating the approach to medical marijuana for the City of Minot and he noted that the applicant was in compliance with the state law.

Cindy Springstead came forward in favor of the conditional use permit for medical marijuana. She also stated that CVS Pharmacy was on the same street. Cindy noted that she has a medical condition to which medical marijuana is helpful and has been advised by professionals.

George Withus, who represents the applicant company, Solevo, came forward and offered to answer any questions.

Commissioner Baumann asked if Solevo had received any public discourse, and Mr. Withus noted that there had been none.

Commission Wegenast asked what is allowed regarding signage and a document was passed out by Mr. Withus. The state rules prohibit any design that depicts marijuana leaves or plants, any direct or colloquial reference to marijuana, etc. Mr. Withus said the only signage on the building will say "Solevo Wellness." Commissioner Wegenast was comfortable with the minimal signage.

Mr. Zablone asked the commissioners what zones permit medical marijuana dispensaries. Mr. Lang cited the zones in which dispensaries are allowed, all commercial zones and Industrial Zones M1 and M2, always with a conditional use permit.

Motion by Commissioner Wegenast to approve, seconded by Commissioner Larshus, and was carried by the following roll call vote: ayes: Offerdahl, Wegenast, Bartsch, Baumann, Bullinger, DeMakis, Hanson, Hochhalter, Koop, Larshus, nays: none

Motion passes

Item #7

The City Council pass an ordinance on first reading to change the zone from AG (Agricultural) District to P (Public) District on the SW1/4 & NE1/4, Section 33-155-83.

The City Council adopt a resolution to amend the Future Land Use Map designation from “Industrial”, “General Mixed Use” and “High Density Residential” to “Public” on the SE1/4 & NE1/4, Section 33-155-83.

In November 2017 City staff brought a rezoning request before the Planning Commission to rezone two quarter sections of land from AG to P, Public District. This rezoning was to be the first in several steps to gain approvals to expand the existing sanitary landfill in southwest Minot. The rezoning request was met with opposition from people who lived in the area. City administration ultimately withdrew the rezoning request and held a series of public meetings and listening sessions to hear citizens’ comments and to attempt to address any concerns before moving forward with the rezoning request. City administration also established a Focus Group, which was comprised of concerned citizens and neighboring property owners; that group met with City staff and consultants numerous times and worked to identify and discuss concerns with the proposed expansion project.

Consultants were hired to analyze the proposed project, investigate alternative courses of action, and evaluate associated costs of the proposed project and alternative courses of action. City staff and consultants presented findings to the City Council relating to the proposed project and alternative courses of action. Over the course of several public meetings, citizens had the opportunity to ask questions and offer comments relating to the findings and staff recommendations.

While the landfill has existed at this location since the 1970’s, and the intention has always been to continue to expand the facility based on community need, some individuals and businesses feel the landfill should be relocated. After multiple meetings and lengthy conversation, the City Council unanimously approved the following motion:

1. Direct staff to move forward with rezoning the entire 320 acres to “Public” by filing an application with the Planning Commission;
2. Direct staff to move forward with permitting and expansion into approximately 80 acres (approximately 50 acres in the north half of the south quarter for MSW; approximately 10 acres in the southwest quarter for MSW; and approximately 20 acres to the northeast for inert) of the 320 acres; and
3. Direct staff to conduct a comprehensive siting and financial impact analysis for a new landfill in the 2020 City budget.

In sum, the City Council determined the long term plan involves considering new sites for a landfill, but that the rezoning and limited expansion are necessary to address the immediate concern relating to the City's landfill capacity during the new site evaluation, negotiation, and permitting processes. In its motion, the City Council also directed staff to reduce the area included in the landfill expansion permit application from 320 acres to approximately 80 acres; the reduction increases the space between actual landfill activities and neighboring properties.

The City's rezoning request is before the Commission today; staff has recommended some conditions to the zone change. The rezoning from AG to P must be approved to support the permitting process for the reduced landfill expansion project. While the City Council and City staff continue to work through the issues relating to the landfill relocation, the question before the Planning Commission today is whether the two quarter sections should be rezoned from AG to Public. Pursuant to section 30-5(h), the Planning Commission shall make a recommendation to the City Council and that recommendation is of an advisory nature only.

If, in the future, the City Council determines it is appropriate to expand the landfill further, section 16-7 provides, that any such change of use of land or building on land zoned P shall require submittal of a conceptual master plan to the Planning Commission. Upon submittal, the Planning Commission would be required to review and make a recommendation, on the change of use of land or building, to the City Council.

The City is requesting rezoning of two quarter section tracts of agricultural land, from AG to P, for future expansion of the sanitary landfill. This property is comprised of the south west quarter section and the north east quarter section of Section 33, Township 155, Range 83.

Finding of Facts:

1. The sanitary landfill needs to be expanded in the future to meet future demand.
2. The City acquired two quarter sections to reserve for future expansion of the landfill and has requested the quarter sections be rezoned from AG to P, Public.
3. Over the course of several months, City staff met with concerned citizens at public input meetings and hired a consultant to evaluate the current landfill and other alternative sites.
4. City staff and the consultant presented their findings to the City Council, and the City Council directed staff to move forward with rezoning the entire 320 acres to "Public" by filing an application with the Planning Commission; to move forward with permitting and expansion into approximately 80 acres (approximately 50 acres in the north half of the south quarter for MSW; approximately 10 acres in the southwest quarter for MSW; and approximately 20 acres to the northeast for inert) of the 320 acres; and to conduct a comprehensive siting and financial impact analysis for a new landfill in the 2020 City budget.
5. The City's application for rezoning meets the requirements of the ordinance.
6. A municipal landfill is a permitted use in the P, Public zone.

7. This application has a minimal effect on the City's Comprehensive Plan because the landfill existed at this location at the time the Comprehensive Plan was last reviewed and updated and the landfill continues to exist at this location.

Staff Recommendations and Conditions (if approved):

Based on the Findings of Fact described above, City staff recommends approval of the rezoning and land use map amendment as presented, with the following condition:

1. The City shall include buffering between the City properties and neighboring properties as identified in the City's application documents.

Assistant Public Works Director, Jason Sorenson, gave a presentation after which he took questions. During the presentation he covered the history of the landfill at its present site, the initial hearing to rezone this property in 2017 that was met with opposition, and what has happened since that time. Mr. Sorenson explained that the City withdrew the rezoning application in January 2018 after the Planning Commission recommended denial of the request. City staffed then embarked on a 13-month period during which listening sessions were held with the general public, a task force comprising a cross-section of various community leaders was established and met for a combined total of approximately twenty (20) plus hours of discussion over several meetings. The City also worked with a consulting firm to look at alternatives including expansion of the current landfill, relocation to a new landfill site, and hauling waste directly to another non-Minot location. The consultants prepared cost estimates for the various scenarios over a twenty (20) year and forty (40) year time period. The findings were presented to the City Council recently and the Council directed staff to do three things.

- 1) to move forward with rezoning the entire 320 acres to "Public" by filing an application with the Planning Commission;
- 2) to move forward with permitting and expansion into approximately 80 acres (approximately 50 acres in the north half of the south quarter for MSW; approximately 10 acres in the southwest quarter for MSW; and approximately 20 acres to the northeast for inert) of the 320 acres; and
- 3) to conduct a comprehensive siting and financial impact analysis for a new landfill in the 2020 City budget.

Mr. Sorenson explained that staff was carrying out the directive of City Council for the first step of requesting rezoning the 320 acres so that staff can move forward with the applications for the state to permit the reduced area for landfilling purposes.

Commissioner DeMakis noted that MSW was built in 1993 and was expected to be viable for 15-20 years.

Commissioners Offerdahl and Wegenast questioned the policy to rezone the complete area to "P". Could the area to be rezoned be reduced to reflect only the area that will be permitted with the state? Is it preferred or mandatory policy? Lance Lang responded that is preferred, but it is up to the City Council. The City Council sets policy to direct staff, the Planning Commission does not make policy and staff does not make policy. In this case, the clear directive from the Council is to rezone the entire 320 acres.

Alderman Wolsky stood for questions that the Planning Commission had regarding City Council's directives to staff. Alderman Wolsky answered questions from the Commissioners.

Commissioner Baumann brought up a discussion regarding the life span of the expansion.

Matt Watne come forward to state that he is opposed to the "P" zoning, due to the fact that it keeps expanding and it would encourage expansion of the landfill. He was concerned about the 37th Avenue entrance due to the new hospital being built.

Discussion was presented regarding zoning on the specific portion earmarked for permitting, approximately 80 acres. Mr. Sorenson showed the areas in question on the concept plan. Mr. Sorenson explained that, based on the City Council direction, the City would be applying for a permit of the limited area and, if the permit is approved, landfilling would only be allowed in the limited area. If, at some time, the City wants to expand the landfilling area, the City would need to file a new permit application with the State Health Department.

City Attorney Hendershot quoted Section 16-7 of the Zoning Ordinance. It was noted that if the use of land outside of the permitted area were to be changed from essentially open space to landfill, City staff would need to present a conceptual master plan depicting the change of use to the Planning Commission; the Planning Commission would then have an opportunity to review and consider that master plan at a public meeting and make a recommendation on the change of use of the land or building to the City Council.

Commissioners Wegenast and Baumann inquired if the city was getting calls or questions regarding the landfill. Baumann also inquired if there were mechanisms or conversations taking place regarding expansion of the landfill's life span. Mr. Sorenson responded and informed the Planning Commission that the City Council is currently reviewing potential recycling programs.

Mr. Zabolney reminded the Planning Commission that they represent the public and he does not feel that rezoning of the 320 acres is what the public wants. If the city leaders knew the public does not want the landfill expanded why did they wait more than a year to get to this point? They spent \$90,000 on consultants whose results only support City staff's recommendations.

Discussion continued regarding rates. Mr. Zabolney alleged that Circle Sanitation collects and transfers waste from Rugby to Minot at the same rate Minot citizens pay. He suggested Minot should be able to collect and transfer waste at a similar rate.

Charles Tuttle noted for the record that he takes issue with Mr. Wolsky's facts and presentation.

City Manager Tom Barry came forward to address several topics. Mr. Barry acknowledged that this is a very tough decision. He noted that the landfill was opened in the 1970s and that the City of Minot has grown towards the landfill. He explained that in the research he conducted, he found documents from as early as 2003 establishing that the City leaders instructed staff to pursue expansion of the landfill at its present location, to look for adjacent land for sale, and to purchase it for this purpose. Mr. Barry continued that this has always been the direction provided by Council and everyone seemingly

understood that was the plan until just a year ago when the opposition started. Mr. Barry emphasized that expansion of the landfill is not a new idea sprung recently on the citizens of Minot. He corrected Mr. Zabolotney and noted that \$150,000, not \$90,000, has been spent on a consultant. Mr. Barry explained that this reduced expansion is a short term option for a long term plan. He closed by stating the issue before the Commission is whether the application for rezoning meets the requirements of the City codes and ordinances, and he suggested it does, so he encouraged the Commission to approve the request.

Discussion began on the topic of zoning all public land to "P". Mr. Zabolotney rebutted Mr. Barry's response and noted that he had lived here his entire life, while Mr. Barry had only been here a few years.

Mike Hayes questioned the opposition's comments regarding statements about the public not wanting the landfill to expand at this location. He questioned where are all of the people against the landfill expansion were if so many were against it. He explained that he got to the meeting early because he was expecting standing room only, but that was not the case. He also suggested that if citizens knew how much it would cost to relocate the landfill and how much that would increase citizen costs, there would be a lot of people present to speak against relocating the landfill.

Mr. Watne added that no one knows that this meeting is about the landfill. Mr. Watne suggested that only the areas to be permitted should be zoned "P".

Mr. Sorenson stated that the total land area to be permitted is actually about 95 acres and that the 80 acres would be the active landfilling portion.

Commissioner Larshus asked questions about platting.

Motion by Commissioner Wegenast to approve the rezoning request, but only for the approximate 80 acres to be permitted for landfill, seconded by Commissioner Offerdahl.

City Engineer Meyer noted that to allow Public zoning only parts of the quarter sections would present a technical problem because there is no legal description of the property to be rezoned, whereas the two quarter sections are already described. Discussion regarding the creation of outlots also took place and concerns regarding access and ROW designations were highlighted.

The motion then failed by the following roll call vote: ayes: none, nays: Wegenast, Bartsch, Baumann, Bullinger, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl

Motion fails

After further discussion, a motion was made by Commissioner Wegenast to approve the rezoning request for the 320 acres, with a condition that if there is any expansion of the landfill use outside of the approximate 80-acres (as shown on the conceptual master plan presented by the City), the City shall submit a conceptual master plan showing the proposed expansion of the landfill to the Planning

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Commission for review and a public hearing prior to any expansion of the landfill use, seconded by Commissioner Demakis, and was carried by the following roll call vote: ayes: Hanson, Hochhalter, Koop, Larshus, Wegenast, Bartsch, Baumann, DeMakis, nays: Bullinger, Offerdahl

Motion passes

With no other business before the Commission, the meeting was adjourned at 8:50pm.