

PLANNING COMMISSION MINUTES
Regular Meeting
March 03, 2020

Regular Meeting: Planning Commission

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

Meeting Called to Order: Tuesday, March 03, 2020

Presiding Official: Chairman, Charles DeMakis

Members in Attendance: Tim Bauman, Jody Bullinger, Charles DeMakis, Justin Hochhalter (By Phone), Todd Koop, Dustin Offerdahl, Todd Wegenast

Members Absent: Kelly Barnett, Boyd Sivertson

City Staff Present: Brian Billingsley (Community Development Director), Lance Lang (Principal Planner), Peter Baumgartner (Planner I), Stefanie Stalheim (Assistant City Attorney), Stephen Joersz (Traffic Engineer)

Others Present:

Meeting Called to Order by Chairman Charles DeMakis.

Approval of the February 04, 2020 Regular Meeting Minutes

Motion by Commissioner Koop to approve February 04, 2020 Planning Commission Meeting minutes, second by Baumann, and was carried by the following roll call vote: ayes: Baumann, Bullinger, DeMakis, Hochhalter, Koop, Offerdahl, Wegenast nays: none.

Motion carries

The following are the recommendations of the Planning Commission:

Item #1

Section 25-156N-83W, Outlot 15 – Subdivision Plat Land Use Map Amendment to “Commercial” and Rezone from AG & C2 to C2 only

Planning Commission recommends that the City Council approve a subdivision to subdivide a portion of the NW Quarter of the NW Quarter and a portion of the SW Quarter of the NW Quarter in Section 25, Township 156 North, Range 83 West to create proposed Outlot 15 containing 50.00 acres, more or less, and to amend the Future Land Use Map of the Comprehensive Development Plan to designate the land use category for Outlot 15 as “Commercial”, and also to pass an ordinance on first reading to change the zone from AG (Agricultural District) and C2 (General Commercial District) to C2 (General Commercial District) only.

This property is located on the east side of U.S. Highway 83 from approximately 700 feet south of 72nd Avenue NE, extending south for 1,980 lineal feet, more or less.

Finding of Facts:

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

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

Staff Recommendations:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this land use map amendment, rezoning, and preliminary plat application for an outlot, subject to the following conditions, to the City Council:

- 1) All access point(s) on US Hwy 83 and associated frontage/access roads must be approved by the NDDOT, in coordination with the City, as a part of a future site plan.
- 2) A stormwater management plan is required for future development.
- 3) No later than six months after a subdivision design has been approved by the City Council, the applicant for design approval may submit the final form of the instrument or document to the City Engineer which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, auditor's outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.

Chairman DeMakis asked the Principal Planner for staff comments.

Principal Planner stated that the applicant is requesting approval of the platting of an outlot to be subdivided from the remainder of the property, located at 800 72nd Ave NE, to be known as Outlot 15 lying in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25-156-83. Additionally, the applicant has also requested that the new outlot be rezoned to C2 from AG & C2 as it currently contains two zoning districts which is not allowed. The original property is located at 800 72nd Ave NE and the new outlot will be located on the east side of Highway 83 North.

The property is currently owned by the applicant. The east side of the property has a home and several agricultural buildings on it while the west side of the property that is going to be split off into the outlot is currently vacant.

The new common lot line dividing the property will run from 200 feet west of the Southeast most corner of Sublot B of Outlot 4 and extend to the southern border of the original property. Outlot 15 will contain approximately 2,174,428 square feet of lot area or 50.0 acres and is

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approximately 1098.08 feet in width with approximately 1980.21 feet of street frontage along Highway 83 North. The remainder of the property that is staying with the 800 72nd Ave NE address will contain approximately 3,441,675 square feet or 79.01 Acres. Proposed Outlot 15 meets the minimum requirements of 10,000 square feet of lot area and the minimum lot width of 100 feet. The remainder of the property meets the minimum requirement of 20 acres to remain AG. The location of the new lot lines meets all setback requirements in the C2 and AG zoning bulk regulations.

The property involved in this outlot plat and rezone is currently shown as being zoned AG & C2 on the City's website. However, the east side of the property is zoned AG, Agricultural while the west side of the property that will make up Outlot 15 is primarily zoned AG, but has a strip of C2 zoning parallel to the highway that is a holdover from when it was originally zoned by Ward County. The proposed outlot cannot consist of two different zoning districts, so the land contained in proposed Outlot 15 will be rezoned C2 while the remainder of the property will stay AG. The land use map designation on the Future Land Use Map of the Comprehensive Development Plan does not address this area of the two-mile jurisdiction. Therefore, the proposed land use for this property is not defined; however, the separation of AG and C2 zoning into distinct lots is the proper thing to do for these parcels. The land use designation for proposed Outlot 15 shall be designated as "Commercial" on the Future Land Use Map.

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

Chairman DeMakis opened up comments from the public. No one came forward to speak on this matter.

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

Motion carries

Item #2

Zone Change – C2 to R1 and Future Land Use Map Amendment to “Low Density Residential” – Roses Subdivision, Outlot 15 in Section 20-155N-82W.

Planning Commission recommends that the City Council pass an ordinance on first reading to change the zone from C2 (General Commercial District) to R1 (Single-Family Residential District), and furthermore, to approve a resolution to amend the Future Land Use Map of the Comprehensive Development Plan of the City of Minot to from "Commercial" to "Low-Density Residential".

This property is located at 811 37th Street SE.

Finding of Facts:

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

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

Staff Recommendations:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of this land use map amendment and rezoning application to the City Council, subject to the following condition:

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

Chairman DeMakis asked the Principal Planner for staff comments.

The Principal Planner stated that the applicant is requesting approval to rezone this property from C2, Commercial to R1, Single-Family Residential. In addition, the Future land Use Map is being amended to reflect the change from "Commercial" to "Low Density Residential."

The property currently has a residential home on it with a detached garage and a shed in the back. It is in a location just south of East Burdick Expressway where the zoning districts transition from commercial highway frontage to a large residential neighborhood to the south. This lot is currently zoned C2, but the lot abutting it to the south is zoned R1. The applicant has requested R1 zoning so that the zoning is in conformance with the use of the property. If the rezoning is approved, this property will no longer be a legal non-conforming residential use in commercial zoning. The land use designation on the Future Land Use Map of the

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Comprehensive Development Plan will be amended to reflect the zone change and use of the property as “Low Density Residential, or LDR.”.

In approving or disapproving a proposed subdivision design, the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40- 48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs. The development, in accordance with present and future needs, which will best promote the amenities of life, health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement. This will also include wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction. Zoning Ordinance of the City of Minot, Section 28-24.

If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public roadways, easements, parks, or other areas reserved or dedicated to the public. Zoning Ordinance of the City of Minot, Section 28-25(a).

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

Chairman DeMakis opened up comments from the public. No one approached the podium to speak on this matter.

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

Motion carries

Item #3

Zone Change – R1 to MH – Shady Dell Addition and a portion of vacated 42nd Street SE cul-de-sac

It is recommended that the City Council deny an ordinance on first reading to change the zone from R1 (Single-Family Residential District) to MH (Manufactured Home District) to locate a manufactured home on this property based on testimony during the public hearing and concern that this rezoning may not be a fair imposition on other property owners in the area

This property is located at 1015 42nd Street SE.

Finding of Facts:

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

- 1) The applicant has submitted a complete application.
- 2) The applicant's request is consistent with Minot's Comprehensive Plan as a mixed-use area predominated by low density housing with commercial and industrial uses to the west.
- 3) This request meets all of the bulk requirements of Minot's Zoning Ordinance.
- 4) The rezoning request is in character with the surrounding zoning and use of land.
- 5) This request may be considered "spot" zoning.
- 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 the staff findings of fact and recommend approval of this rezoning request based on the mixed-use character of the neighborhood, subject to the following conditions, to the City Council:

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

Chairman DeMakis asked the Principal Planner for staff comments.

The applicant is requesting approval to rezone his property from R1, Single-Family Residential District to MH, Manufactured Home District. The property is located at 1015 42nd Street SE.

The property is currently vacant and is surrounded on all sides by other developed properties with an easement giving it access to 42nd Street SE. There is a house shown in an aerial photo from 2017, however, it was demolished in 2017.

While this property does not meet the bulk requirements for an entire mobile home park, it does exceed the minimum lot requirements for a single manufactured home lot as outlined in Chapter 17 of the Zoning Supplement to the Minot Code of Ordinances.

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The subject property is currently zoned R1, Single Family Residential District and is proposed to be changed to MH, Manufactured Home District. The land use designation on the Future Land Use Map of the Comprehensive Development Plan currently has this area projected as being "Low Density Residential". Normally staff would recommend that the land use designation should be changed to Manufacture Home Park, however, since it is a single manufactured home rather than an entire park, city staff believes that the current land use designation is acceptable for the proposed use as a single dwelling unit in a mixed-use, low density setting.

Chairman DeMakis opened up comments from the commissioners.

Commissioner Baumann asked if the rezoning would be considered illegal spot zoning, to which Assistant City Attorney Stalheim responded it is only illegal if there are not any reasonable conditions to allow it and that Principal Planner Lang provided some in his report and it was up to the Commission to decide if they were enough.

Chairman DeMakis opened up comments from the public.

Mathew Kremer, the property owner, told the Commissioners that he bought this property in 2016 and it had a run-down house on it which he has since removed from the site. The former owner was a "hoarder" and Mr. Kremer had to do quite a bit of work to the property to clean it up. He was planning to build a home, but those plans fell through, so he has been trying to sell the property for the past couple of years. The only interest he has gotten in the property has been people that own a manufactured home in a manufactured home park that would like to own their own property instead of paying lot rent. He said the property is unique because it is surrounded by trees and other development such that a person cannot even see it from the road.

Larry Platz, the person interested in purchasing this property from Mr. Kremer, came forward to address the Commissioners. He said he and his wife are living in a manufactured home park and the owner keeps raising the lot rent to where it is becoming a financial hardship for them to remain there. The unit they own is a single-wide manufactured home and he realizes there is some negative notions attached to single-wide trailers, however he has updated his manufactured home with new siding, windows, doors, and flooring. He and his wife are proud of their manufactured home and they think of it truly as a home and not just a trailer.

Ms. Ehel told the commission that she is opposed to this rezoning because she is living in the single-family house abutting this property to the east and she is concerned about the effect on property values.

Mrs. Arne, the mother of Ms. Ehel stated that her daughter lives at the location, but her and her husband purchased these two lots to the east some time ago and have been working on the properties to make this a nice neighborhood. She does not feel that a manufactured home is appropriate here.

Motion by Commissioner Wegenast to deny based on the testimony heard today and based on the concern that this rezoning may not be a fair imposition on other property owners in the area, second by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: DeMakis, Hochhalter, Koop, Wegenast nays: Baumann, Bullinger, Offerdahl

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Motion carries

With no other business before the committee, Chairman DeMakis adjourned the meeting at 6:05 PM.