

PLANNING COMMISSION

Regular Meeting

April 05, 2022

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Regular Meeting: Planning Commission

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

Meeting Called to Order: Tuesday, April 05, 2022, 5:30 p.m.

Presiding Official: Charles DeMakis

Members in Attendance: Baumann, DeMakis, Faken, Gates, Kibler, Nesdahl, Offerdahl

Members Absent: Barnett, Hochhalter, Iverson, Lider, Wegenast

City Staff Present: Brian Billingsley (Community & Economic Development Director, John Van Dyke (Principal Planner), Peter Baumgartner (Associate Planner), Stefanie Stalheim (Assistant City Attorney), Emily Huettl (Assistant City Engineer), Glenda Sorensen (Administrative Clerk, Senior)

Others Present: Roger Mazurek (YMCA), Sean Weeks (Ackerman-Estvold)

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

Item #1 Roll Call

Item #2 Pledge of Allegiance

Item #3 Planning Commission Intro and Public Hearing Decorum

Item #4 Approval of Minutes

Motion by Commissioner Offerdahl to approve the March 01, 2022 Planning Commission Meeting Minutes, second by Nesdahl, and was carried by the following roll call vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Nesdahl, Offerdahl
nays: none

Motion carries

The following are the recommendations of the Planning Commission:

Item #5 Case # 2022-04.03 – WITHDRAWN

Variance

Item #6 Case # 22022-4.01

Major Subdivision Preliminary Plat

Planning Commission recommends approval based on staff's recommendation and finding of facts to approve the Stein Industrial Addition preliminary plat.

Planning Commission waived staff's oral report on this item. Below is a summary of staff's written report that is attached to the Planning Commission Agenda.

Public hearing request on an application from JaCraig Partners, LLP representing Gravel Products Inc., owner, for a preliminary plat to divide two lots into three lots for the purpose of future development. The subdivision

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is proposed to be known as Stein Industrial Addition. The legal description for the properties is Lot A of Outlot 70 and Outlot 69 Less the East 1,000', Section 21, Township 155N, Range 82W to the City of Minot, North Dakota. The properties are unaddressed, being located east of 205 42nd St. SE and abutting the BNSF mainline.

JaCraig Partners, LLP seeks to subdivide two lots into three for the purpose of future development. An aerial photo of the subject property can be found in **Exhibit 1**.

The preliminary plat for the proposed Stein Industrial Addition provided in **Exhibit 2**.

The property is currently designated as being zoned "M2" Heavy Industrial District on the zoning map, which is provided in **Exhibit 3**. The future land use map of the subject property and surrounding area, provided in **Exhibit 4**, designates this property as Industrial.

Site photos are provided in **Exhibit 5**.

FINDINGS OF FACT:

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

- 1) The applicants have submitted a complete application.
- 2) The property is currently designated as being zoned "M2" Heavy Industrial District on the zoning map.
- 3) The Future Land Use map designates this property as Industrial.
- 4) Stein's Industrial Addition meets the subdivision design standards per Chapter 10.3 subject to conditions.
- 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.

RECOMMENDATION:

Staff recommends the Planning Commission adopt staff findings of fact and recommend approval to City Council of the Stein Industrial Addition preliminary plat, subject to the following conditions:

- 1) No later than 12 months (or 18 months with the concurrence of the City Council) after a Major Subdivision Preliminary Plat has been approved or approved with conditions by the City Council, the Applicant must submit the Major Subdivision Final Plat meeting the requirements provided in this Article. Failure to submit the Major Subdivision Final Plat prior to the Major Subdivision Preliminary Plat expiration shall require the Applicant to submit a new application meeting the requirements contained in this Chapter.
- 2) Development Agreement outlining annexation is required before any building permits may be issued.
- 3) Storm water management plan required prior to development.
- 4) 66' Utility easement must be included on the final plat from 42nd St eastward to the west property boundary of proposed Lot 3.

Chairman DeMakis opened the public hearing on the item. No public comments.

Chairman DeMakis closed the public hearing and asked for a motion from the commissioners.

Motion by Baumann to approve based on staff's findings of fact and recommendation, second by Kibler and was carried by the following vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Offerdahl, nays: none, abstained: Nesdahl

Motion carries

Item #7 Case # 2022-04.02
Zoning and Future Land Use Map Amendments

Planning Commission recommends approval based on staff's recommendation and findings of fact for a zoning map amendment from "M1" Light Industrial District to "CBD" Central Business District and a future land use map amendment from Industrial to Downtown Mixed Use.

Planning Commission waived staff's oral report on this item. Below is a summary of staff's written report that is attached to the Planning Commission Agenda.

Public hearing request on an application from Kenn and Lynette Simensen, owners for a future land use map amendment from Industrial to Downtown Mixed Use and a zoning map amendment from "M1" Light Industrial District to "CBD" Central Business District. The purpose for the request is to facilitate retail activities, including a commercial kitchen. The legal description for the property is the west 67' of the North 250' of Lot 2, Bayou Addition.

Jessica Mowbray and Rachael Walz seek a zoning map amendment and future land use (FLU) map amendment in order to facilitate the relocation of their business, The Foundry, to downtown. The current zoning designation allows for pubs, bars, and wineries, but does not permit general merchandise. In order to facilitate the relocation, a zoning map amendment and FLU amendment are needed. In addition, numerous businesses are located within the multi-tenant building, including With Room Coffee, a food and drink establishment, and facilitating a zoning map amendment to CBD will bring the site into further compliance than the existing zoning designation of "M1" Light Industrial.

The zoning map and future land use map are provided in **Exhibits 2 and 3** respectively.

Site photos are provided in **Exhibit 4**.

FINDINGS OF FACT:

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

- 1) The applicants have submitted a complete application for a zoning map amendment and future land use map amendment.
- 2) The present zoning is "M1" Light Industrial District.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Industrial.

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- 4) The proposed future land use designation of Downtown Mixed Use is more appropriate than Industrial for the subject properties and prior developments in the area, in large part, have shifted the character of the area as an extension of Minot's downtown core.
- 5) Section 9.1-7 H. 1. is satisfied, as the area has historically been transitioning, in large part, as an extension of Minot's downtown core and away from its industrial roots from long ago.
- 6) Section 9.1-7 H. 2 is satisfied, as the City and other public agencies will be able to provide services to support the request.
- 7) Section 9.1-7 H. 3 is satisfied, as there exists no evidence that the proposed development will substantially diminish the condition or value of property in the vicinity.
- 8) The zoning map amendment is consistent with the purpose of the Minot Land Development Ordinance and other adopted policies of the City, and will be consistent with the City of Minot 2012 Comprehensive Plan, subject to amendment of the Future Land Use Map per Section 9.1-7 H. 4.
- 9) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether 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.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval to City Council for a zoning map amendment from "M1" Light Industrial District to "CBD" Central Business District and a future land use map amendment from Industrial to Downtown Mixed Use with no conditions.

Chairman DeMakis opened the public hearing on the item. No public comments.

Chairman DeMakis closed the public hearing and asked for a motion from the commissioners.

Motion by Baumann to approve based on staff's findings of fact and recommendation, second by Kibler.

Chairman DeMakis then opened the motion up for discussion by the commissioners.

Commissioner Baumann expressed that he is excited to see so much activity in the Central Business District and appreciates the investment the community is making in the Minot's downtown.

With no further discussion, the vote was carried by the following vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Nesdaahl, Offerdahl, nays: none

Motion carries

Item #8 Case # 2022-04.07
Zoning and Future Land Use Map Amendments

Planning Commission recommends approval based on staff's recommendation and findings of facts for a zoning map amendment from "R1" Single-Family Residential District to "C2" General Commercial District and an amendment to the future land use map from Low Density Residential to Commercial.

Chairman DeMakis asked for staff's report.

Public hearing request on an application by Roger Mazurek and Nick Gray on behalf of Young Men's Christian Association of Minot, owner, for a zoning map amendment from "R1" Single-Family Residential District to "C2" General Commercial District for the purpose of aligning the subject property zoning closer with the existing use of indoor/outdoor recreation. In addition, the request includes a future land use amendment from Low Density Residential to Commercial. The legal description for the property is Lot 1, Prairie Green 7th Addition plus ½ a portion of vacated 36th Ave. SW.

The address for the property is 3515 16th St. SW. An aerial view of the property and 300-foot notification area is provided in Exhibit 1 of staff's written report.

Nick Gray and Roger Mazurek seek a zoning map and future land use map amendment to a commercial zoning designation in order to better align zoning for the property with the existing use of a large indoor/outdoor recreation facility (YMCA). While certain uses such indoor/outdoor recreation are allowed within the "R1" Single-Family Residential District, they require a conditional use permit under the new Land Development Ordinance of the City of Minot (LDO). As the applicant desires to erect new signage at the site, a conditional use permit would need to be obtained to facilitate additional signage above and beyond the permitted 4 s.f. that is allowed within the "R1" Single-Family Residential District or any new signage that isn't already grandfathered. Rather than go through the conditional use permitting process for signage or any other changes to the site, the applicant has determined that the "C2" General Commercial District is most appropriate to reflect the scale and scope of the activity on the property.

The zoning map and future land use map are provided in **Exhibits 2 and 3** of staff's written report, respectively.

Site photos are provided in **Exhibit 4** of staff's written report.

Principal Planner Van Dyke noted for the record that he had received a public comment at 5:17pm from Corey Gibbons, address 1407 35th Avenue SW:

Roger Mazurek and the YMCA have initiated re-zoning of the YMCA to C-2 Commercial to avoid doing anything about the air conditioning system that breaks Minot's residential noise ordinance. Understandably the property should have been zoned commercially from the beginning. I do hope the City of Minot asks the YMCA to put some form of sound absorbing fence around this unit to decrease the sound it produces... any good neighbor would.

Principal Planner Van Dyke noted that if the applicant was in attendance that he would be able to address the adjoining property owner's concerns.

FINDINGS OF FACT:

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

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- 1) The applicants have submitted a complete application for a zoning map amendment and future land use map amendment.
- 2) The present zoning is "R1" Single-Family Residential District.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Low Density Residential.
- 4) The proposed future land use designation of Commercial is more appropriate than Low Density Residential for the subject properties.
- 5) Section 9.1-7 H. 1. is satisfied, as a change in conditions does exist due to the continued commercial development along 16th St. SW and 37th Ave. SW, which has further defined this area as a significant series of commercial corridors to the City since the indoor/outdoor recreation use was first established in the early 2000's
- 6) Section 9.1-7 H. 2 is satisfied, as the City and other public agencies will be able to provide services to support the request.
- 7) Section 9.1-7 H. 3 is satisfied, as there exists no evidence that the proposed development will substantially diminish the condition or value of property in the vicinity.
- 8) The zoning map amendment is consistent with the purpose of the Minot Land Development Ordinance and other adopted policies of the City, and will be consistent with the City of Minot 2012 Comprehensive Plan, subject to amendment of the Future Land Use Map per Section 9.1-7 H. 4.
- 9) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether 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.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval to City Council for a zoning map amendment from "R1" Single-Family Residential District to "C2" General Commercial District and a future land use map amendment from Low Density Residential to Commercial with no conditions.

Chairman DeMakis asked if there were questions for staff.

Commissioner Baumann asked if the YMCA, now being rezoned from "R1" to "C2", would be held to any buffering requirements. Principal Planner Van Dyke stated that a zoning map amendment would not trigger those requirements to be established or required after the fact since the existing structure and existing use is already there and is simply moving into a different category of zoning and that any further expansion would be scrutinized if it met thresholds that would require it. However, a simple rezone does not necessarily mean that they are required to do so and that ultimately it is between the property owners to address this issue.

Commissioner Kibler asked what the rationale for the zone changing to Commercial from "R1" would be. Principal Planner Van Dyke responded that it is due to signage requests and that R1 has very limited signage abilities for a site that is really functioning in a commercial intensity. The alternative, and this would apply to all new similar development, would be to

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evaluate a request for a conditional use permit in R1. Planning would evaluate the site, and would probably require the landscaping buffers previously mentioned. However, this use has been there for approximately 20 years. The previous code didn't address the landscaping buffer requirement, but our new code does. We do not go back and retroactively apply new standards to an existing development.

Commissioner Kibler brought up the complaint about the air conditioning noise and asked if there was any corroborating evidence noting the issue and Planner Van Dyke stated that yes, there had been a complaint which was forwarded to the PD so he was unable to comment on it from Planning's perspective. Commissioner Kibler then asked if there was anyone from the YMCA who would be able to responds to the air conditioning issue. Van Dyke noted that during the public hearing component that would be the appropriate time for the comments from the applicant general public.

Commissioner Baumann asked if he should vote on the topic if he was noticed by the Planning Department in the 300' notification area and Van Dyke responded that unless it involves a direct personal or pecuniary interest, like if it was his property, he should vote on the item.

Chairman DeMakis opened the public hearing on the item.

Roger Mazurek, Director of the YMCA, came forward to answer questions. Commissioner Kibler asked Mr. Mazurek if the zone change was just a way to get out of addressing the air conditioning system noise. Mr. Mazurek responded that, as he understand it, that when you are in a commercial zone you fall under the residential zoning requirements if you abut that property. Therefore, it does not change the applicable noise thresholds. Commissioner Kibler followed up by asking for a further explanation and Mr. Mazurek replied that they would not be allowed by ordinance to raise their decibel level, it would remain the same. Mr. Mazurek also added that they have spent approximately \$7000 on insulating their air conditioning compressor units about 12 to 15 years ago, and there were no concerns until last year with this individual, and they have been in dialog with each other. Commissioner Kibler asked if this was the only complaint that they had received and Mazurek responded that they did have a complaint approximately 15 years ago, and that is when they insulated the condenser.

Chairman DeMakis closed the public hearing and asked for a motion from the commissioners.

Motion by Offerdahl to approve based on staff's findings of fact and recommendation, second by Kibler and was carried by the following vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Nesdahl, Offerdahl, nays: none

Motion carries

Item #9 Case # 2022-04.04

Variance, Zoning Map Amendment, and Future Land Use Map Amendment - Tabled

Planning Commission tabled the item, per the applicant's request, to the May 3 Planning Commission meeting at 5:30pm.

Chairman DeMakis asked for staff's report.

Public hearing request on an application from Tyler Oliver on behalf of Colby 2022, LLC, representing Ronald LaCount on behalf of DRL Holding, LLP, owner, for a zoning map amendment from "M1" Light Industrial District to "C2" General Commercial District. The request also includes a future land use map amendment from Industrial to Commercial. In addition, the request includes a variance to the buffer yard requirements between commercial and residential zoning denoted in Table 7.1-4 (a) from 20' to 0'. The legal description for the property is Lot 1, Hacienda Hills 12th Addition.

The property is currently unaddressed and located southeast of the intersection of 13th St. SE and Valley St., west of 1710 Valley St. An aerial view of the property and 300-foot notification area is provided in Exhibit 1 of staff's written report.

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Principal Planner Van Dyke noted that staff does have concerns with spot zoning if this zoning map amendment were approved and highlighted the zoning map, which was provided in Exhibit 3 of staff's written report. He also noted that staff will be presenting a text amendment at the May Planning Commission meeting that would allow the applicant to move forward with their project and this is the preferred means to facilitate the project. The applicant has requested their item be evaluated at the same time as the text amendment and staff is supportive of this request.

RECOMMENDATION:

Staff recommends the Planning Commission table the item to be presented at the May 3, 2022 Planning Commission meeting at 5:30pm.

Chairman DeMakis asked if there were questions for staff.

None of the commissioners had any questions or comments for staff.

Chairman DeMakis opened the public hearing on the item.

Motion by Baumann to table the item until the May 3, 2022 Planning Commission meeting at 5:30pm in City Hall Chambers, second by Offerdahl and was carried by the following vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Nesdahl, Offerdahl, nays: none

Motion carries

Item #10 Case # 2022-04.05

Preliminary Plat, Zoning Map Amendment, and Future Land Use Map Amendment.

Planning Commission recommends approval based on staff's recommendation and findings of fact for the Minot HS 2 Addition, the zoning map amendment from "C2" General Commercial District to "P" Public Zone, a Future Land Use Map amendment from Commercial to Public/Semi-Public, and a Master Plan as provided in Exhibit 5 of staff's written report.

Chairman DeMakis asked for staff's report.

Public hearing request on an application from Sean Weeks representing Jared Edwards and Scott Moum on behalf of Minot Public Schools, owner, for a preliminary plat to be known as Minot HS 2 Addition to consolidate three lots into one and simultaneously vacate the adjoining portions of unimproved right-of-way denoted as 23rd Ave. NW and 22nd St. NW. The application also requests a zoning map amendment request from "C2" General Commercial to "P" Public Zone and a future land use map amendment from Commercial to Public/Semi-Public for the purpose of constructing a new high school with athletic facilities. The legal description for the properties is Lots 1 through 3, ING Addition.

The address for the properties is 2100 21st Ave. NW. An aerial view of the property is provided in **Exhibit 1** of staff's written report.

This application follows the successful bond referendum that was passed in December 2021 to add a third middle school and create two 9-12 grade high schools. The subject building is the former site of the cognizant call center, which will be retrofitted to accommodate part of the new high school. In addition, a 160,000 s.f. expansion will be added that

will include indoor sport facilities. Other improvements include a football field with track, two soccer practice fields, and an approximately 7,000 s.f. expansion of the building located near the southwest corner of the property.

The preliminary plat for the proposed Minot HS 2 Addition is provided in **Exhibit 2** of staff's written report. The proposed lots meet the bulk lot and area requirements per Chapters 2.22 for the "P" Public Zone.

The zoning and future land use designation of the subject property and surrounding area is provided in **Exhibits 3 & 4** of staff's written report, respectively.

A Master Plan of the proposed improvements are included in **Exhibit 5** of staff's written report.

Site photos are provided in **Exhibit 6** of staff's written report.

FINDINGS OF FACT:

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

- 1) The applicants have submitted a complete application.
- 2) The subject area is currently depicted as Commercial on the Future Land Use (FLU) Map of the 2012 City of Minot Comprehensive Plan.
- 3) The FLU map is requested to be amended to Public/Semi-public.
- 4) A change in zoning from "C2" General Commercial District to "P" Public Zone will be in alignment with the FLU map, if amended as requested by the applicants.
- 5) The applicant's request is consistent with the bulk requirements of the Minot Land Development Ordinance.
- 6) A change in conditions does exist due to the recently passed referendum in December 2021. Section 9.1-7 H. 1. is satisfied.
- 7) No additional public services will be required to support the request. A traffic impact study and lighting analysis will be required and improvements, if needed, will be the responsibility of the developer. Section 9.1-7 H. 2 is satisfied.
- 8) Staff finds no evidence that the proposed development substantially diminish the condition or value of property in the vicinity per Section 9.1-7 H. 3.
- 9) Per Section 9.1-7 H. 4., the zoning change is consistent with the purpose of the Zoning Ordinance and other adopted policies of the City, and will be consistent with the comprehensive plan, subject to amendment of the Future Land Use Map. More specifically, the proposal is consistent with Community Character and Aesthetics Strategies and Recommendations Goal 1, Policy 1.
- 10) 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.

RECOMMENDATION:

Staff recommends the Planning Commission adopt staff findings of fact and recommend approval to City Council of the Minot HS 2 Addition preliminary plat, zoning map amendment from "C2" General Commercial District to "P" Public Zone, a Future Land Use Map amendment from Commercial to Public/Semi-public with no conditions, and a Master Plan as provided in Exhibit 5 with the following conditions:

- 1) Extend a pedestrian access to the north off of 12' service access route to provide connection directly to MI10.D64.000.0010. Location should be simple for future development to tie into upon development. Utilize existing right-of-way area or alternative approved by Engineering Department.
- 2) Ensure morning access is orderly for the Market at North Hill Addition residential development. Morning access should be controlled to disallow use of the east access point and only be used for egress in the afternoons to reduce impact to property owners north of 23rd Ave. NW.
- 3) A utility easement of a sufficient width as determined by the Engineering Department, is required for an 8" watermain loop to run across the property within vacated 23rd Ave.
- 4) A lighting analysis on rural section of 21st Ave NW at the driveway intersections is required. Improvements, if needed, are the responsibility of the developer.
- 5) A traffic impact study is required and any improvements to mitigate impacts will be the responsibility of the developer.
- 6) A Developer Agreement is required for the installation of public improvements in easements and rights-of-way.
- 7) A stormwater management plan required.

Chairman DeMakis asked for questions from the commissioners.

Commissioner Kibler asked if it was necessary to vacate those rights-or-ways in order build those structures.

Principal Planner Van Dyke deferred the answer to Sean Weeks (Ackerman-Estvold). Commissioner Kibler added that his question was procedural regarding if it is policy to replat and vacate right-of-ways or if it can just be replatted without having to vacant anything. Planner Van Dyke confirmed that yes that is how it is codified in our planning requirements for vacating right-of-way, so all adjoining property owners are notified.

Commissioner Baumann expressed his thanks for the planning staff for their particular detail for access to pedestrian access, especially students who will not have their driver's license for the first year or two that they attend this high school.

Chairman DeMakis opened the public hearing on the item.

Sean Weeks (Ackerman-Estvold) representing Minot schools came forward to answer any additional questions and stated that they concur with staff's findings.

Commissioner Baumann shared his personal thoughts that although this is a preliminary plat and they have 20 additional parking spaces, he is always in favor of less pavement and more grass or permeable space.

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Chairman DeMakis asked for a motion from the commissioners.

Motion by Commissioner Kibler to approve based on staff's findings of fact and recommendation, second by Commissioner Offerdahl, and was carried by the following vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Nesdahl, Offerdahl nays: none.

Motion Carries

Other Business

Planning Staff recommends the Minot Planning commission consider and extension from six (6) months to twelve (12) months for the submission of the final, recordable plat Section 10.2-4 B of the pre-December 6, 2021 City of Minot Land Development Ordinance for the following subdivision plats:

1. Don's 2nd Addition (Extended to September 20, 2022)
2. Master Block 2nd Addition (Extended to September 20, 2022)
3. The Bluff's 18th Addition (Extended to November 15, 2022)
4. St. John's 3rd Addition (Extended to November 15, 2022)
5. Outlot 5, being all of Outlot 4, a Portion of the NW1/4 of the NW1/4, and a Portion of the NE1/4 of the NW1/4, all within Section 9, Township 155N, Range 82W, Ward County, North Dakota (Extended to June 7, 2022)

Motion by Commissioner Offerdahl to approve the extension of 12 month as submitted by the City Staff, second by Commissioner Baumann, and was carried by the following vote: ayes: Baumann, DeMakis, Faken, Gates, Kibler, Nesdahl, Offerdahl, nays: none.

Motion carries

Adjournment

With no further business, Chairman DeMakis adjourned the meeting at 6:09 PM.