

CITY OF MINOT ZONING ORDINANCE STEERING COMMITTEE

Meeting Minutes
April 10, 2019

Attendance

Committee: Rolly Ackerman, Josh Wolsky, Pat Graner, Rusten Roteliuk, Gloria Larsgaard

Absent: Tyler Neether, Tim Baumann

Staff: Brian Billingsley, Community & Economic Development Director
Lance Lang, Principal Planner
Glenda Sorensen, Planning Assistant
Stefanie Stalheim, Assistant City Attorney

Consultants: Scott Harmstead, Timothy Magnusson (via telephone)

Guests: Stephan Podrygula, City Council
Cindy Snay, Coughlin Construction
Aleesha Head, Minot Area Builders Association

Chairman Ackerman called the meeting to order at 8:06 a.m.

Chairman Ackerman introduced Brian Billingsley the recently hired Director of Community & Economic Development Department for the City. Mr. Billingsley expressed his appreciation of City Manager Barry and the City Council in offering him this opportunity and he is excited to be here. He asked the members to briefly introduce themselves and who they represent.

Ackerman asked if there are any changes or additions to the minutes of March 27, 2019. Hearing none, Wolsky made a motion to approve, seconded by Graner. All votes in favor, no nays. Motion passes.

Review today's agenda

No additions. Motion by Wolsky to approve the agenda, second by Graner. Motion passes.

Chairman's Comments

Ackerman missed the last meeting due to illness. He wants to make a few points. Not directed to anyone in particular, but this is a staff matter. The committee needs to receive the information packet well in advance of the meeting, he suggests one week prior. Receiving it the afternoon prior does not give the committee adequate time to do their job. The Chairman recognized that the planning function has been understaffed

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for some time and he added he wasn't sure how to get it done, but the information has to come from staff and out to the committee members in a timely fashion each time if this committee is going to continue with this work effort. Wolsky echoed the Chairman's concerns and suggested that Friday prior to the meeting might give staff a couple of extra work days while still affording the weekend for the committee members to review and organize the material. He also expressed concern that the version of the zoning ordinance that is available on-line is not the current version. It dates back to 2017. Sorensen said she and the City Clerk did post the latest version that is labeled February 2019 on the webpage. The committee concluded that different versions must be posted in different places. Sorensen is to get with the City Clerk and clean this up.

SRF Update and Approach Document

Harmstead stated he would make some comments, but his intent is to keep it short so that the committee can concentrate on the artificial turf and signage amendments.

Harmstead mentioned that the contract is set up for him to attend the first meeting of the month in person, but today he has a conflict and he was going to send Magnusson, but then decided that both would attend via phone and Harmstead will come to the next meeting.

He continued that the focus today is really on the Nonconforming and Administrative Procedures chapters. He introduced an 8.5 x 11-inch sheet with a color diagram to provide an example of simple process oriented graphics. The proposed graphics throughout the ordinance will be similar to this.

Harmstead continued discussing the schedule and approach noting that these chapters are also important given the reinstatement of the Board of Adjustment.

Lang stated that the B of A direction has not been decided. Wolsky asked to add it to the agenda at City Council last week for discussion. The direction from the City Manager was to allow staff some time to research the history of the B of A in Minot and the pros and cons of establishing it again. Ackerman said he would be glad to address the Council regarding B of A if they so wish. Wolsky said the intent at the last council meeting was a teaser, a heads up for the future that this issue is coming our way.

Magnusson had a couple questions regarding the nonconforming chapter. Why is the threshold to repair or demolish a nonconforming structure 60/40 percent instead of 50/50 percent like most other ordinances? There is a discrepancy in the document because the floodplain regs for nonconforming structures apply the 50/50 ratio. No one knew why. This needs to be addressed.

Magnusson also questioned the time deadline of 24 months to repair or maintain a nonconforming structure? Why would there be a time limit? If the repairs are complete within 24 months but additional repairs are required a year later is there another 24-month window? Wolsky said there is insufficient information available for the committee

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to know why these questionable items are in the current ordinance. We need to pick one or the other and be consistent, 50/50 or 60/40.

Lang mentioned there is also disparity in the ordinance in regard to nonconforming uses in a few more instances, maybe SRF is unaware? In almost every residential zoning chapter there is a "loophole" that overrides the 60/40 rule. In those chapters the language states that a nonconforming structure may be rebuilt to its original footprint as long as it is no taller and of the same general architectural character as the original structure. 60/40 does not apply.

In commercial zoning chapter no such relief is offered. So, residential structures in commercial zones are nonconforming and are subject to the 60/40 rule.

Lang continues, there is also what he considers to be a loophole in the nonconforming chapter for manufactured homes. A paragraph states that a nonconforming manufactured home may be removed from the site and replaced with another manufactured home of equal size provided it is done within 30 days. Lang does not understand why this is in the ordinance? It has been beneficial to a couple of people who have been able to take advantage of it. We need to consider these issues; do we want them in the code?

Ackerman stated we don't want to add anything to the code that is unenforceable. We will get into detailed discussion when we go chapter by chapter.

Chairman Ackerman stated his take on the approach document.

- He expected a summary overview only, not so much detail. The City Council does not want the consultants rewriting the ordinance, they want the committee to fix what we have. He reiterated that it is a fact that the position of staff, City Council, and the Mayor is not to rewrite this ordinance or to make it more restrictive. The direction from them is to make it easier to use, better and more understandable by the public.

Ackerman went through the document and noted his areas of concern:

GOALS.

- Aesthetics. Goals 1 and 2 regarding design standards he does not agree with.
- Subdivision Regs. This is really up to Lance Meyer as City Engineer. What does he want here? For example, Development Agreements are commonly used now in conjunction with subdivision plats, which is a vast improvement. But, they are not addressed in the ordinance.
- Infill and Redevelopment. He is interested to see what comes of this.
- Sustainability/Resilience. He questions whether these topics are really part of the scope of this work?

SUGGESTED CHANGES BY CHAPTER.

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- Chapter 4. Defunct zoning districts. Ackerman is concerned about property rights of the owners in those zoning district.
- Chapter 5-19. Design Guidelines. This topic is controversial. SRF proposes to research commercial and industrial design standards from other communities in the Upper Midwest. Ackerman does not like this idea. Minot is Minot, we should decide what standards are appropriate for Minot, not copycat some other town.
- Chapter 23. Parking. SRF states the committee could identify areas within the city where parking minimums could be reduced or eliminated, such as downtown. Ackerman stated in the current ordinance off-street parking is not required in downtown C3 zoning. Lang said this is mostly true, but there is an off-street parking requirement for upper floor residential units in C3. Also, SRF again suggests comparing potential parking demand to other cities and Ackerman does not agree.
- Chapter 24, Landscaping. Ackerman said that this chapter was completely overhauled approved by the committee, approved by City Council in 2017. The process included numerous meetings and much discussion. The number of pages comparison to landscape chapters in other cities is irrelevant.
- Chapter 25. Nonconforming. Ackerman said former Planning Director Robert Davis was supposed to gather information on any applicable state statutes of case law related to nonconformances in other states or cities as potential justification with what we do here. He never saw anything on this.
- Chapter 27. Certificates of Occupancy. SRF proposes moving this language to Chapter 20, Floodplain Protection Requirements because it has to do with FEMA and NFIP. Ackerman agrees.
- Chapter 28. Subdivision Regs. Ackerman said he believes the committee should rely on Lance Meyer and the Engineering Department on these issues. Again, the Development Agreements need to be added here. Wolsky asked if it was handshake agreements prior and Ackerman said yes, pretty much. The written Development Agreements protect the City. Lang added that the Development Agreements are recorded at the Recorder's Office along with the subdivision plat.

Lang also mentioned that he had done some work on revisions to Chapter 28 and will forward them to Lance Meyer and Emily Huettl in Engineering so they can start reviewing.

PLAN AND POLICY DIRECTION FOR ZONING

- Ackerman stated, in his opinion, this is a whole separate work effort. The comp plan was updated in 2014 and can be updated in the future, but not as part of this

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work effort. The committee should not use the time and money allocated to the Z.O. update to revisit the comp plan. As a committee we can discuss this to determine how to proceed so that we are all on the same page.

Harmstead said this discussion provides good general direction for SRF.

Ackerman said he believes the schedule looks good, attainable. There is a lot to digest. Once again, not to berate staff because we know planning is under staffed, but the committee needs information in a timely manner. This is absolutely essential to the success of this project. There will be additional items that come up that need to be addressed. We have to be accountable to the City Council to stay on task, on budget. The City Council has faith in this committee.

Artificial Turf amendment to Chapter 24, Landscaping

Lang stated there are two handouts for Artificial turf (A.T.) One is the version from the last steering committee meeting, and the other is the draft to be presented today. Lang went through the proposed amendment in order, summarizing each section.

- There are three definitions to be added to Chapter 2, Definitions and Use Types.
- As before, this amendment is adding a new section for A.T. in 24-3.
- A.T. is allowed in athletic fields.
- A.T. shall be considered impervious unless the applicant demonstrates otherwise to the City Engineer.
- A.T. can be used in any zone as part of the impervious cover so long as it is clearly indicated on all the plans.
- A.T. is allowed in residential zoning districts as long as it is not visible from the street.
- A.T. cannot be installed in any zoning district within the public street right-of-way or over a recorded easement unless an encroachment agreement and permit are authorized by Council and permission is granted in writing by the City Engineer. The wording recorded "city" easements was included, Graner wanted "city" removed.
- A.T. is allowed in commercial and industrial districts as follows:
 - A.T. shall not be visible for any public street classified as a major or minor arterial or a major collector unless permission is granted. Graner did not like the wording. Is this front yard? What about street side yard? What if there is a hill and drivers can see into the site? Maybe it should be prohibited in the front yard? What if there is a privacy fence on the street side yard, then it could not be seen? Wolsky said he understands the general intent, on the right track but his is too confusing. Lang said maybe

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we are kind of “double dipping” here as we just said you can have it in the street right-of-way with permission and an encroachment agreement, and now we are saying you can’t have it visible from the street which would certainly include the right-of-way. Ackerman said this language would generally prohibit A.T. everywhere. Broadway, bypass, Burdick, etc., etc. Larsgaard said who wants to put it in the back for commercial development? No one will see it? Discussion followed regarding Qdoba on South Broadway.

The committee decided to delete the language related to visibility from collector and arterial roads.

- In commercial zoning districts, no A.T. permitted in the four-foot wide foundation planting bed and no A.T. in the 20-foot wide bufferyard if a bufferyard is required.
- In industrial zoning districts, A.T. can be used as impervious cover up to the maximum allowable.
- Minimum Quality Standards.
 - Synthetic fill materials must meet ASTM standards.
 - Organic infill is permitted.
 - A.T. must have a natural appearance including a blend of three green colors, blade length of 1 ½ inches minimum and 60 ounces of pile weight or greater.
- Minimum Installation Standards
 - Proposed location of A.T. shall be clearly marked on all plans.
 - Except for single-family property owners who are exempt, owners shall conduct a stormwater analysis as required in Chapter 28.1 and approved by the Engineering Department.
 - Subgrade standards.
 - Allowance for open space around tree trunks.
 - A.T. must meet manufacturer’s installation requirements.
 - Where A.T. is installed adjacent to curbing or sidewalks it shall be one inch lower than the concrete.
- Minimum Maintenance Standards
 - Clean, orderly, no holes, rips, snags, fading, discoloration, stains, etc.
 - If A.T. is installed in areas where public or private utility lines are installed, maintained or repaired the property owner assumes all liability as set forth in the encroachment agreement.

The committee discussed all of the information Lang presented. Ackerman asked Roteliuk his opinion on standard specs, who should review and approve? Roteliuk

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responded that the judgement should be on the professional engineer. Ackerman said this will be Lance Meyer. We should probably make sure he is on board with all of this.

Roteliuk said, to him, this all about aesthetics. He is not in favor of A.T. in front yards, but he realizes there are differing opinions.

Wolsky reminded everyone that these are our commercial standards. We need to stay on the right side of the line.

Discussion was held on whether A.T. should be allowed in areas visible from the roadways. With the encroachment agreements it is probably ok from a liability standpoint but is that the look we want? Back to aesthetics as Roteliuk mentioned a few minutes ago.

What about Qdoba? You really don't even notice it. Ackerman said the area is really small. Wolsky said, in that case the narrow patch of dirt was covered with snow in the winter and a weed patch in the summer. What else would you put there, maybe rock? Lang said pavers work well in that situation and can provide a contrast in color as in red brick pavers, not just additional concrete.

Ackerman said he could see where an owner has a narrow strip along the street and every winter it builds up with snow and ice, and sand and whatever and in the summer it is hard to grow grass or keep landscaping alive. The owner has to maintain it, but he can't use it?

Wolsky said maybe we should specify where A.T. is allowed and everywhere else it is not allowed. Can we provide some kind of product spec sheet? Harmstead asked what are the objective criteria that will determine where it is allowed? Maybe the information should be presented in a chart format, kind of like the zoning matrix Lang came up with? Ackerman said, yes you could look at the zoning chart and we will add that and then a person would know where it can be used. Lang said it doesn't make any sense to put it in Chapter 4, Zoning Matrix. The chart there is based on zoning districts and use types, like a convenience store, or self-storage, or a drive-thru bank. This chart will be different and will not be part of the use and zoning matrix. Lang asked Harmstead and Magnusson if they thought they could put some ideas together on this chart and they said they would. Perhaps a separate chart in the Landscape chapter depicting where A.T. is allowed would be good.

In terms of industrial land use and A.T. Harmstead said industry is not intended to be everywhere and oftentimes it is located on the fringes or out of the mainstream commercial business corridors and residential neighborhoods. A.T. is ok in these industrial settings.

Chairman Ackerman mentioned the expansion at AGT Foods a couple of years ago. They are a large industrial facility with strict restrictions on landscaping because they

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mill flour and grains and birds or rodents are a major concern. A.T. could provide a nice green area that would otherwise not be possible.

Ackerman asked about the maintenance paragraph at the end, is that maybe overkill? We already say that the applicant needs an encroachment permit and we also have this language about working around utilities, etc.? Stalheim felt it is ok to keep it in there, it may be somewhat redundant. Lang said sometimes redundancy is desirable.

Ackerman asked if Neether or Baumann provided any comments via email? Lance noted that he possibly had notes/comments from Baumann and Neether, but did not have them at the meeting.

Ackerman asked Cindy (Snay) is she agrees with the committee comments and she indicated that she is.

This matter will go to the May Planning Commission meeting.

Proposed Amendment to Wall Signs in C3 (Central Business District)

Ackerman opened discussion on this amendment.

The committee discussed this item at the last meeting.

Lang explained that a downtown developer with a successful track record recently gained approval from the Renaissance zone for a multitenant remodel downtown. He spoke with Margie Zietz about potential signs and learned that the sign he proposes will not be allowed under the current sign code. His building is set back from two streets with direct frontage on a third street. He does not own any of the adjacent property, only the interior space contained in the footprint of the building

The sign ordinance is specific to zoning districts, so C3, Central Business District sign regs limit wall signage to a band no more than three (3) feet in height, at least ten (10) feet from the ground, but no more than fifteen (15) feet from the ground. This scenario works well for the majority of downtown business that are located on the sidewalk in a continuous block with store front windows. The signage is consistent within the five (5) foot strip of allowable space, visible above the cars, pedestrians, and street clutter. The size of the allowable sign is based on the lineal feet of street or parking lot frontage the business occupies.

This scenario does not work well for buildings that are set back from the street. In this case, the building is a multi-tenant building with up to five (5) separate businesses that conceivably each want advertising in some fashion on a sign. C3 sign regs allow a pole sign downtown with multi-tenant signage, but the developer does not own any of the property around the building and is thus limited to wall signage.

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His concept is to stack the individual signs one above the other which cannot be achieved with the three (3) foot limitation on height for wall signs. In addition, the building is 265 feet from one street, and 150 feet from another street. A third street is directly adjacent to the building, but he does not want a sign on that façade. He could put signage there between the ten and fifteen foot range that complies with code. The other facades are far from the street so a larger sign is desirable.

At the last committee meeting the group decided to allow alternative placement for wall signs on buildings located more than fifty (50) feet back from the curb. Also, the amount of signage is increased from 1.5 feet of sign area per lineal feet of frontage to 2.5 feet of sign area per lineal foot of frontage.

Motion by Wolsky, second by Graner to approve the amendment as presented. Motion passes.

The final version looks like this:

b) Wall signage:

- 1) Signs on street facing facades must be within a horizontal band no more than three feet (3') in height, at least ten feet (10') and no more than fifteen feet (15') above the ground, except when the building is setback from the street curb a distance of fifty (50) feet or more, the wall signage may be located in an area outside of the area prescribed above.
- 2) Wall signage shall be either:
 - a. Attached to the wall: Flat and parallel to the surface of the building and projecting no more than one foot (1') from it, or
 - b. Projecting from the wall: Perpendicular to the surface of the building and no more than one foot (1') in thickness.
- 3) Attached wall signage shall consist of individual letters or script logos mounted on the building.
- 4) Allowable area of wall signs is one and one-half (1 1/2) square feet of signage per linear foot of building frontage on a public street, public open space, or private parking area. In cases where the building is set back fifty (50) feet or more from the street curb the allowable wall signage shall be two and one-half (2 1/2) square feet of signage per linear foot of building frontage. Each wall shall be calculated individually, and sign area may not be transferred to another side of the building. In calculating the amount of signage for tenants in a multi-tenant building, the exterior facade adjacent to the individual tenant bay shall be the basis for calculating the maximum area of signage allowed for that tenant, or the maximum allowable square footage shall be based upon the entire length of the façade and allocated in equal shares or proportionately to each tenant sign.

c) Projecting or Flag signs:

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- 1) Projecting or Flag signs may be erected with a sign face of not more than fifty (50) square feet. The sign shall not extend above the top of the wall or façade to which it is attached. The sign shall be located a minimum of eight (8) feet above ground level. Projecting signs may not extend over a public right of way or public property unless by permit issued by the City Council. Projecting signs may not extend over a designated parking space or loading area.

Motion to adjourn at 9:56 am by Wolsky, seconded by Graner.