

Regular Meeting: Planning Commission

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

Meeting Called to Order: Tuesday, May 03, 2022 @ 5:30 p.m.

Presiding Official: Dustin Offerdahl (Vice-Chairman)

Members in Attendance: Barnett, Baumann, Faken (phone), Gates (phone), Hochhalter (phone), Iverson, Kibler, Nesdahl, Offerdahl, Wegenast

Members Absent: Charles DeMakis, Shane Lider

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

Others Present: Josh Wolsky (representing Dennis & Liz Wolsky), Jim Redding (St. John the Apostle Church), Eric Poppinga (Central Power Electric Cooperative), Tyler Oliver (Colby 2022, LLC)

Meeting Called to Order by Vice-Chairman Offerdahl 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 Kibler to approve the April 05, 2022 Planning Commission Meeting Minutes, second by Barnett, and was carried by the following roll call vote: ayes: Barnett, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast, nays: none

Motion carries

The following are the recommendations of the Planning Commission:

Item #5 Case #2022-05-06

Zoning Map Amendment and Future Land Use Map Amendment

The Planning Commission recommends approval based on staff's recommendation and findings of fact for a zoning map amendment from "M2" Heavy Industrial District to "CBD" Central Business District and a future land use map amendment from Industrial to Downtown Mixed Use with no conditions.

Vice-Chairman Offerdahl asked for staff's report.

Associate Planner Baumgartner explained that staff's presentation was going to be waived on the item due to it being similar to multiple zoning map amendments that have occurred within the area and stated that he would

answer any questions that the Planning Commission may have. Below is a summary of staff's written report that is attached to the Planning Commission Agenda.

Public hearing request on an application from Josh Wolsky, representing Dennis & Liz Wolsky Reserve Life Estate for a zoning map amendment from "M2" Heavy Industrial District to "CBD" Central Business District. In addition, the request includes a future land use map amendment from the Industrial to Downtown Mixed Use. The purpose of the application is to facilitate reuse of the property toward uses such as retail, office, restaurant, or other allowed use within the "CBD" Central Business District. The legal description for the property is Lot 9, Block 2, Ramstads 2nd Addition.

The property address is 313 E. Central Ave. An aerial view of the property and 300-foot notification area is provided in **Exhibit 1**.

Josh Wolsky, representing the Dennis and Elizabeth Wolsky Reserve Life Estate, owner, is seeking a zoning map amendment and future land use (FLU) map amendment in order to facilitate the redevelopment of one of the owner's properties in the downtown. The current use of the property is open warehousing/storage for the nearby Pomp's Tire Service.

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 "M2" Heavy Industrial District.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Industrial.
- 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.

RECOMMENDATION:

Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval to City Council for a zoning map amendment from “M2” Heavy Industrial District to “CBD” Central Business District and a future land use map amendment from Industrial to Downtown Mixed Use with no conditions.

Vice-Chairman Offerdahl asked if there were questions for staff. No questions.

Vice-Chairman Offerdahl opened the public hearing on the item. Josh Wolsky came forward to answer any questions.

Vice-Chairman Offerdahl closed the public hearing and asked for a motion from the commissioners.

Commissioner Baumann expressed his concerns that the proposed rezoning might be an illegal spot zoning. Upon being shown a zoning map of the area, his concerns were alleviated.

Commissioner Kibbler then asked what it meant to “waive consideration of the proposal.” Vice-Chair Offerdahl responded that it wasn’t to waive the Planning Commission’s consideration, but instead to waive staff’s normal presentation as it fell in line with what they’ve looked at previously.

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

Vice-Chairman Offerdahl then opened the motion up for discussion.

Commissioner Baumann added that it is exciting to see additional applicants coming into compliance and applying for the signage and Façade Program and he appreciates Wolsky for bringing future development to the downtown area.

Wolsky then approached the podium and gave some background on the item and stated that he was going to consider applying to the Façade Improvement Program next.

Offerdahl noted that the public hearing portion of this item was closed, but that it wasn’t a problem because he’ll allow it.

With no further discussion, the motion was carried by the following vote: ayes: Barnett, Baumann, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast, nays: none.

Motion carries

Item #6 Case #2022-05-02
Variance

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The Planning Commission adopts staff findings of fact and approves a variance to the lot coverage requirement of 40% to acknowledge the existing lot coverage exceedance of 15.5% and to further exceed the maximum by an additional 4% for the purpose of erecting a rectory onsite with the condition that a stormwater management plan be required.

Vice-Chairman Offerdahl asked for staff's report.

Public hearing request on an application from Jim Redding, representing St. John the Apostle Church, owner, for a variance to Section 2.6-3. related to maximum lot coverage. The request is to vary from the maximum lot coverage of 40% to 59.5% to acknowledge the existing lot coverage exceedance of 15.5% and to further exceed the maximum by an additional 4% for the purpose of erecting a rectory onsite. The legal description for the property is Lot 2, St. Johns Addition to the City of Minot, North Dakota. The property address is 2600 W. Central Ave.

An aerial view of the property and 300-foot notification area is provided in **Exhibit 1** of staff's written report.

The applicant desires relief from lot coverage requirement of 40% to acknowledge the existing lot coverage exceedance of 15.5% and to further exceed the maximum by an additional 4% for the purpose of erecting a rectory onsite. The church, corresponding parking lot, and proposed rectory would require a site that is approximately 10.5 acres in size to accommodate the existing development and the proposed rectory.

The applicant's letter of intent, site plan, and floor plans of the proposed rectory can be found in **Exhibit 2** of staff's written report.

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

Site photos are provided in **Exhibit 5** 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 property is designated as "Low Density Residential" on the Future Land Use Map of the Comprehensive Plan and as "R1" Single-Family Residential District on the Zoning Map.
- 3) The applicants have submitted a complete application for a variance per Section 9.1-3 C.
- 4) Sections 9.1-3 G. 1 & 2 relating to the shape of the property and topography is not applicable.
- 5) Section 9.1-3 G. 3 related to exceptional practical difficulties is satisfied, as developments like churches require a more robust review/development process, including a stormwater management plan with related improvements, to mitigate the impacts to stormwater that other single-family homes are not required to undertake.
- 6) Section 9.1-3 G. 4. relating to a unique hardship is satisfied for the same reasons as Section 9.1-3 G. 3.
- 7) Section 9.1-3 G. 5. relating to adversely affecting the rights of neighboring property owners is satisfied, as the proposed development plans for the church will require a stormwater plan to mitigate any stormwater impacts created by the development.

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- 8) Section 9.1-3 G. 6. relating to the proposed variance not being contrary to the comprehensive plan is satisfied, as staff is unable to identify an appropriate goal or policy that would be countered by approving the variance.
- 9) The Minot Planning Commission has the authority to hear this case and approve or deny the variance. 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 approve the variance to the lot coverage requirement of 40% to acknowledge the existing lot coverage exceedance of 15.5% and to further exceed the maximum by an additional 4% for the purpose of erecting a rectory onsite with no conditions.

Vice-Chairman Offerdahl asked if there were questions for staff.

Commissioner Kibler asked if the total percentage of the variance is 19.5% and Associate Planner Baumgartner responded that yes, that is correct. He further explained that the lot coverage is currently exceeded by 15.5%, and the applicant is asking for another 4%, which totals 19.5%. Kibler asked if the current coverage (15.5%) was because of the parking lot and it being a non-porous surface, and Baumgartner agreed that yes, it is. Kibler inquired about the unique circumstances are for this applicant. Baumgartner stated that this type of use, e.g. church, the permeability is inherently more intense than the typical single-family residence that is found in that district.

Commissioner Baumann asked how the applicant got to the 15.5% overage initially. Baumgartner responded that the applicant does not need a permit for flat-work. The applicant put in the parking lot as necessary and did the stormwater management plan.

Baumann is concerned with the water management plan in this neighborhood, and the planned development of the surrounding properties. Assistant City Engineer Huettl came forward and addressed the issue, indicating that both fire station and the planned residential will have their own stormwater management plan and pond and that the church also has it's own pond that it will be modifying in the future. She also mentioned that the hardship at the heart of this variance is that churches are allowed in R1 zoning, but they act like a commercial use, but not to the same extent. She concluded by stating that planning staff is recommending approval of the variance because of the nature of the unique circumstance of having to go through the same approval process as commercial uses.

Baumann continued by asking if the three (3) stormwater management plans work together. Huettl responded yes.

Baumann asked about the large SE corner of the lot, which is a very large area not designated for parking, and asked if there is a specific reason it is not. Associate Planner Baumgartner referred the question to the applicant's representative who is in attendance. Commissioner Kibler asked for clarification on where the rectory is to be built, and if that is where a drainage or runoff field is now. Baumgartner responded that Mr. Kibler is correct.

Community and Economic Development Director Billingsley added that there is still approximately 4 acres of open space and that this is unique because it is a church property and not residential.

Commissioner Kibler asked for clarification on whether this is a church, or a church/school. Baumgartner responded that he would like the applicant representative answer this question.

Vice-Chairman Offerdahl opened the public hearing on the item.

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Jim Redding (St. John's the Apostle Church) came forward to answer questions. He stated that when the church was built it was intended to be a church school, but it is currently only a church now. He also added that the striping on the pavement on the southeast corner is basically a driveway.

Vice-Chairman Offerdahl closed the public hearing and asked for a motion from the commissioners.

Motion by Wegenast to approve based on staff's findings of fact and recommendation with the added condition that a stormwater plan is required, second by Iverson.

Vice-Chairman Offerdahl then opened the motion up for discussion.

Commissioner Wegenast clarified that he added the condition for a stormwater plan as he believed that not including it was possibly an oversight in staff's report and wanted to make sure that it was clear that one was required.

With no further discussion, the motion was carried by the following vote: ayes: Barnett, Baumann, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast nays: none

Motion carries

Item #7 Case #2022-05-07

Major Subdivision Preliminary Plat and Condition Use Permit

The Planning Commission recommends approval based on staff's recommendation and findings of fact for the Mallard Station Subdivision. Further, the Planning Commission approved a conditional use permit based on staff's recommendation and findings of fact for a utility substation subject to the following conditions:

1. Plant an evenly spaced row of shrubs along the eastern lot line of Lot 1 at a rate of five (5) shrubs per fifty (50) lineal feet of lot frontage.
2. A stormwater management plan is required.

Vice-Chairman Offerdahl asked for staff's report.

Public hearing request on an application from Eric Poppinga of Central Power Electric Cooperative, Inc., representative, on behalf of Northern States Power Company and Laurel Berg Trust Etal, owners for a major subdivision preliminary plat to adjust the property boundaries between two unplatted parcels of land. In addition, proposed Lot 1 seeks a conditional use permit for the purpose of expanding the existing utility facility. The proposed subdivision is to be known as Mallard Substation Subdivision and the legal description for the property is a portion of the SE1/4, Section 27, Township 155N, Range 82W, to the City of Minot, Ward County, North Dakota.

The property address is 1600 72nd St. SE. An aerial photo of the site is available in **Exhibit 1** of staff's written report.

Eric Poppinga, representing Northern States Power Company and Laurel Berg Trust Etal, owners, wishes to facilitate the expansion of the existing Mallard Substation through the creation of the Mallard Substation Subdivision. The proposed expansion of the existing utility substation use also requires a conditional use permit (CUP) in the "AG" Agricultural District.

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A letter of intent is provided in **Exhibit 2**, of staff's written report, and the plat and associated site plan/building design are provided in **Exhibits 3 and 4** respectively of staff's written report. The proposed lots meet the bulk lot and area requirements per Chapter 2.4 for the "AG" Agricultural District.

Further, the zoning map, future land use map, and site photos are provided in **Exhibits 5 thru 7** respectively of staff's written report.

FINDINGS OF FACT:

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

- 1) The applicant has submitted a complete application.
- 2) The property designated as "AG" Agricultural District on the Zoning District and as "Low Density Residential" on the Future Land Use Map of the Comprehensive Plan.
- 3) The applicants have submitted a complete application for a major subdivision preliminary plat and a conditional use permit.
- 4) The applicant's request is consistent with the bulk requirements of the Minot Land Development Ordinance.
- 5) The subdivision meets the technical requirements of Section 10.3-1 thru 10.3-4 with Sections 10.3- 4, 12, 14, and 22, not being applicable to this application.
- 6) The use of an electrical substation is a conditionally permitted use within the "AG" Agricultural District.
- 7) The standards provided in Sections 9.1-4 F. 1. & 5. through 8. are met without additional conditions.
- 8) A condition to address the aesthetics and noise produced by the utility substation will ensure Sections 9.1- 4 F. 2. through 4. are affirmed.
- 9) The Minot Planning Commission has the authority to hear this case and decide 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 of the major subdivision preliminary plat with no conditions. Further, staff recommends the Planning Commission approve a conditional use permit for a utility substation subject to the following conditions:

1. Plant an evenly spaced row of shrubs along the eastern lot line of Lot 1 at a rate of five (5) shrubs per fifty (50) lineal feet of lot frontage.
2. A stormwater management plan is required.

Vice-Chairman Offerdahl asked if there were questions for staff.

Commissioner Baumann offered his thanks to the planning staff for addressing the landscaping buffer between a less intensive housing zone.

Vice-Chairman Offerdahl opened the public hearing on the item.

Eric Popinga (Central Electric Power Cooperative) came forward to answer any questions.

Commissioner Kibler asked for confirmation on the population density around this station. Popinga confirmed that the area wasn't densely populated and that there will be a barrier of farmland to the south and the west. Kibler responded that he appreciated the landscaping plan and noted that it isn't going to make the site beautiful, but people moving into the area

are going to know that beforehand. Poppinga responded that that is correct and mentioned that it will be an improvement as there is no landscaping there today.

Vice-Chairman Offerdahl 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: Barnett, Baumann, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast nays: none.

Motion carries

Item #8 Case #2022-05-01
Zoning Map Amendment

The Planning Commission recommends approval based on staff's recommendation and findings of fact for a zoning map amendment from "R3C" Townhouse Residential District to "R2" Two-Family Residential District with no conditions.

Vice-Chairman Offerdahl asked for staff's report.

Public hearing request on an application from Harold Stewart, City Manager, on behalf of the City of Minot for a zoning map amendment from "R3C" Townhouse Residential District (R3C) to "R2" Two-Family Residential District (R2). The Land Development Ordinance of the City of Minot, adopted April 5, 2021, no longer permits twinhomes to be constructed within R3C. The purpose of this request is to bring the existing twinhome properties into legal conforming status and to allow the remaining undeveloped lots to be built with twinhomes. The legal description for the properties is Lots 2A through 13B, Block 6, Lots 20A through 30B, Block 5, and Lots 35A through 37B, Block 3, Stonebridge Farms 4th Addition, To the City of Minot, North Dakota. The properties are addressed as follows: 3106-3153 8th St NE, and 90, 92, 94, 96, 98, & 100 Mulberry Loop NE. An aerial view of the property and 300-foot notification area is provided in **Exhibit 1** of staff's written report.

Staff has identified a twinhome development within Stonebridge Farms 4th Addition with now-improper zoning stemming from adoption of the Land Development Ordinance of the City of Minot (LDO). The prior zoning ordinance permitted twinhomes and townhomes within the "R3C" Townhouse Residential District. The difference between the two is the number of units that may be located side-by-side with shared-wall construction. Twinhomes are limited to two units; townhouses are defined as three or more units. The character of the neighborhood is twinhome construction and one of the owners of the vacant lots is desiring to construct twinhomes and is presently unable to do so. The City is pursuing this zoning map amendment on behalf of the aforementioned property owner and other twinhome property owners to bring their properties into conformity of the LDO for twinhome construction.

Staff is not pursuing a future land use map amendment for the affected properties, as the area will be modified through the current comprehensive plan update that is expected to be completed Spring 2023 and no change of use is being proposed.

The zoning map and future land use map are provided in **Exhibits 2 and 3** respectively of staff's written report. Site photos are provided in **Exhibit 4** of staff's written report.

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 "R3C" Townhouse Residential District.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Industrial and Low Density Residential.
- 4) The future land use map will be updated as part of the comprehensive plan update to be finalized in Spring 2023.
- 5) Section 9.1-7 H. 1. is satisfied, as the adoption of the Land Development Ordinance of the City of Minot prohibited twinhomes within the "R3C" Townhouse Residential District and the neighborhood has developed as twinhome construction; not as townhouses.
- 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 Land Development Ordinance of the City of Minot and other adopted policies of the City, and will be consistent with the new comprehensive plan upon its adoption in spring 2023 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 "R3C" Townhouse Residential District to "R2" Two-Family Residential District with no conditions.

Vice-Chairman Offerdahl asked if there were questions for staff.

Commissioner Baumann noted that it is not typical seeing the city manager bring up rezones of private development properties and is curious if it is a request by staff or is this brought up by the developer. Community and Economic Development Director Billingsley stated that this item is similar to a rezone that occurred in the fall of 2020 (Chaparelle subdivision) and it is related to the code change last year that prohibits twinhomes from being built in the R3C zone. Billingsley then referred to Associate Planner Baumgartner on whether or not this was the only subdivision in the city that has twin homes being built in the R3C zoning district. Baumgartner responded that this was the only one that he was aware of that still had space to build them in.

Vice-Chairman Offerdahl opened the public hearing on the item.

Vice-Chairman Offerdahl closed the public hearing and asked for a motion from the commissioners.

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

Motion carries

Item #9 Case #2022-05-05
Zoning Text Amendment

The Planning Commission recommends approval based on staff's recommendation and findings of fact for a text amendment as provided in Exhibit 1.

Vice-Chairman Offerdahl asked for staff's report.

Public hearing request on an application from Harold Stewart, City Manager, on behalf of the City of Minot for a zoning text amendment to Table 2.2. Table of Uses, Section 4.1-6. C., D. & F., Chapter 2.3 Definitions, Table 6.1-4. Stacking Requirements, and Chapter 6.2 – Parking Table. The changes surround select commercial uses to be permitted within the "M1" Light Industrial District in limited circumstances. In addition, the changes include refined buffering standards related to auto maintenance, repair, and car wash uses. Corresponding changes to the use definitions, parking table, and automobile stacking requirements are included as part of the proposed changes. The changes will affect properties within the "C2" General Commercial District and "M1" Light Industrial District throughout the City of Minot and extra-territorial jurisdiction of the City. The proposed changes are provided in **Exhibit 1** of staff's written report.

The proposed changes include a focus on limited uses that are currently permitted within the "C2" General Commercial District and may be considered harmonious within the "M1" Light Industrial District under certain circumstances. In addition, the proposed changes include adjustments to the auto repair/maintenance use standards to bring consistency with how buffering distances are measured between these uses and lesser intense uses.

The proposed changes were reviewed by the Zoning Ordinance Steering Committee (ZOSC) on March 30, 2022.

The ZOSC recommended unanimous approval of the proposed changes.

FINDINGS OF FACT:

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

- 1) The applicant has submitted a complete application.
- 2) Per Section 9.1-8 I. 1., the proposed text amendments will not adversely affect the public health, safety, or welfare.
- 3) Section 9.1-8 I. 2. & 3. are not applicable to the proposed text amendments.
- 4) The purpose of the proposed text amendments is to introduce best practices or make the ordinance easier to understand and therefore Section 9.1-8 I. 4. is applicable and satisfied.
- 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 text amendment as provided in Exhibit 1.

Vice-Chairman Offerdahl asked if there were questions for staff.

Commissioner Kibler asked for the definition of car stacking, Baumgartner responded that it was their required queuing space, like in a drive-thru.

Commissioner Wegenast asked for clarification that this does not change anything in the zone and that what staff is recommending is all additional. Baumgartner confirmed that his statement is correct, and that it only be affecting new uses, the existing uses would not have to come into compliance with them.

Vice-Chairman Offerdahl opened the public hearing on the item. No public comments.

Vice-Chairman Offerdahl 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 Barnett and was carried by the following vote: ayes: Barnett, Baumann, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast nays: none

Motion carries

Item #10 Case #2022-04.04

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

The Planning Commission recommend denial based on staff's recommendation and findings of fact for a zoning map amendment from "M1" Light Industrial District to "C2" General Commercial District and a future land use map amendment from Industrial to Commercial. Further, the Planning Commission approved a variance based on staff's recommendation and findings of fact to reduce the required landscape buffer of twenty feet (20') per Table 7.1-4 (a) to zero feet (0').

Vice-Chairman Offerdahl 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.

The applicant seeks to construct a Dollar General on the subject property. This use falls under the general merchandise land use type in Table 2.2. of the Land Development Ordinance of the City of Minot. This use is not permitted outside of our commercial zoning designations ("C1", "C2", and "CBD") and therefore a zoning map amendment must be obtained to move forward with the project. The future land use designates this property as Industrial and must be amended to commercial in order to facilitate the zoning map amendment request. Finally, the applicant seeks relief from the landscape buffer yard requirements of Table 7.1-4 (a), as a residential district adjoins the property to the south.

The letter of intent, site layout, and proposed building elevations are included in **Exhibit 2** of staff's written report.

The zoning map and future land use map are provided in **Exhibits 3 and 4** of staff' written report, respectively.

Site photos are provided in **Exhibit 5** 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 for a variance, 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.
- 4) Section 9.1-7 H. 1. is not satisfied, as a change in conditions does not exist since the adoption of the Comprehensive Plan in 2012. The area has historically been utilized as industrial and the industrial character of the subject property and surrounding properties along Valley St. remains.
- 5) 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.
- 6) There exists no evidence that the proposed development will substantially diminish the condition or value of property in the vicinity per Section 9.1-7 H. 3.
- 7) The zoning change is not consistent with the purpose of the Zoning Ordinance, Comprehensive Plan, and other adopted policies of the City per Section 9.1-7 H. 4. due to "spot zoning" concerns.
- 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 variance criteria provided in Sections 9.1-3 G. 1., 3., 4., 5, and 6. are not applicable.
- 10) The variance criteria provided in Section 9.1-3 G. 2. relating to topography is applicable, as the elevation change between the subject property and property abutting to the south is approximately 90'.
- 11) A landscape buffer would not act to obscure from sight, dampen noise from, or mitigate any other negative externality that may spillover to the adjoining district/property to the south.
- 12) 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 denial to City Council for a zoning map amendment from "M1" Light Industrial District to "C2" General Commercial District and a future land use map amendment from Industrial to Commercial.

Staff recommends approval of the variance to reduce the required landscape buffer of twenty feet (20') per Table 7.1-4 (a) to zero feet (0').

Vice-Chairman Offerdahl asked if there were questions for staff.

Commissioner Baumann stated his concern over the lighting and there is no buffer zone to dim the lighting. Associate Planner Baumgartner responded that there are specific requirements to address lighting issues. Baumann asked if a lighting study could be considered to make sure that light pollution is not producing a negative impact. Baumgartner has not been involved in or seen a lighting study conducted, but does not rule it out as a possibility. Baumann looked to Billingsley for his insight. Billingsley responded that there were similar standards at the previous community that he worked at, but they never went to the level of a lighting study.

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Commissioner Kibler asked if pod lighting is the standard in the city of Minot. Baumgartner responded that the city's lighting standards were new with the adoption of the new Land Development Ordinance in April of 2021, and that while staff can require downward facing lighting that is shielded, it was too early to say what is standard. Kibler then asked if the downward facing light is required, Baumgartner responded that that was correct. Lastly, Commissioner Kibler asked if there would be no need to insist on pod lighting for the project because it would be required anyway. Baumgartner responded that that was correct, they would have to follow all of our lighting standards.

The height of the lighting was questioned by Baumann. Baumgartner indicated that the applicant may be able to speak to the height of the lighting on this item and that he is unaware of a height standard.

Vice-Chairman Offerdahl opened the public hearing on the item.

Tyler Oliver, representing Colby Capital, came forward stating that the company's intent was to build a Dollar General and that he was fine with the text amendment that was passed by Planning Commission and with the recommendation for denial on the rezoning from M1 to commercial. Referring to the questions on lighting, he stated that almost every set of plans that they turn in to cities has a lighting study included so that they don't have light pollution bleed into the neighboring properties. Regarding the question on the height of the light poles, he didn't have an answer on that, but they should be comparable to what is found at Walmart. He then touched on the topography and distance from the store to the residential to the south noting that it was 90' up the hill and several hundred to 1000' back.

Vice-Chairman Offerdahl asked if the lighting is based on luminaires per square foot and would be applicant be willing and open to adding additional light poles if you could shorten them. Oliver stated that they are open to that idea.

Commissioner Baumann thanked the applicant for being willing to be flexible.

Vice-Chairman Offerdahl closed the public hearing and asked for a motion from the commissioners.

Motion by Wegenast to deny the zoning change request and the future land use map request, based on staff's findings of fact and recommendation, second by Barnett and was carried by the following vote: ayes: Barnett, Baumann, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast nays: none

Motion denied

Motion by Wegenast to approve the variance to reduce the required landscape buffer per Table 7.1-4 (s) to zero on the buffer based on staff's findings of fact and recommendation, second by Barnett.

Vice-Chairman Offerdahl opened the motion up for discussion.

Commissioner Baumann offered an amendment to the motion that a lighting study be done as a condition to ensure there is no light pollution into the surrounding R1 areas.

Vice-Chairman Offerdahl asked Assistant City Attorney Stalheim if the commission would need to vote on the amendment first and Stalheim indicated yes and that the motion would require a second. If the amendment fails the original motion will be in effect.

Commissioner Barnett asked for a clarification on the presentation from the applicant regarding that a light study was provided in their documentation and the applicant responded that she was correct.

Vice-Chairman Offerdahl asked Chairman Baumann to clarify what his amendment was.

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Motion by Baumann to amend the original motion to add a condition to require that a light study be done to ensure there is no light pollution into surrounding "R1" areas, second by Gates

Vice-Chairman Offerdahl then opened the amendment up for discussion.

Commissioner Wegenast stated that he thinks it will open up another can of worms for future building or construction and asked if a light study would be required for everything going forward and it sets a precedence for him and he would not be supporting this motion.

Commissioner Kibler questioned if this would not be considered a friendly amendment. Vice-Chairman Offerdahl clarified that it was an amended motion and that if it passed then it passed, and if it did not, then they would go back to Commissioner Wegenast's original motion. Assistant City Attorney Stalheim confirmed that Offerdahl was correct.

Baumann added that he is not trying to set a precedence with the condition on the amendment and he does not think this is an overreach.

Associate Planner Baumgartner pulled up the lighting ordinance and explained that the lighting requirements would be evaluated at the time of submission of the building, electrical, or sign permit application.

Vice-Chairman Offerdahl noted that he is leaning towards the original motion since staff already has a development plan already in place and the applicant was willing to take into consideration the commission's concerns.

Commissioner Wegenast noted that the R1 housing around this area is a significant distance from this property and Offerdahl added that there is a drop of roughly 132 feet down.

Baumann appreciates the discussion and noted that there is rarely M1 next to R1 without significant buffering.

With no further discussion, Baumann's amendment failed by the following vote: ayes: Baumann, Gates nays: Barnett, Faken, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast.

Motion fails

Motion by Wegenast to approve the variance to reduce the required landscape buffer of twenty feet (20') per Table 7.1-4 (a) to zero feet based on staff's findings of fact and recommendation, second by Barnett and carried by the following vote: ayes: Barnett, Baumann, Faken, Gates, Hochhalter, Iverson, Kibler, Nesdahl, Offerdahl, Wegenast nays: none

Motion passes

Commissioner Baumann noted that the city-wide cleanup is happening this coming weekend and it is a great opportunity to give a little back to the community and get ready for spring and summer.

Adjournment

With no further business, Vice-Chairman Offerdahl adjourned the meeting at 7:09 PM.