

PLANNING COMMISSION MINUTES

Regular Meeting

May 28, 2019

Page 1 of 10

Regular Meeting: Planning Commission

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

Meeting Called to Order: Tuesday, May 28, 2019 at 5:30 p.m.

Presiding Official: Chairman, Jon Hanson

Members in Attendance: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast

Members Absent: Bartsch, Baumann, Bullinger, Keller

City Staff Present: Hendershot, Huettl, Joersz, Billingsley, Flanagan, Lang, Sorensen

Others Present: Alderman Podrygula Dawn Anderson, Carma McLaughlin, Tony Brewer, Rob McClellan, Jarett Schatz, Veronica Meyer, Jeff Buchweitz, Mark Black

Meeting Called to Order by Chairman Jon Hanson

Approval of the April 29, 2019 Regular Meeting Minutes.

Motion by Commissioner DeMakis, seconded by Commissioner Koop, to approve the April 29, 2019 regular meeting minutes and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

The following are the recommendations of the Planning Commission:

Item #1:

Southwest Crossing CCRC, Lot 1, Block 1, Lot 2, Block 1, Lot 1, Block 2, Lot 2, Block 2 -

This item is continued until the inaccuracies in the submittal are settled, the conditions required for a PUD application are met, and the funds for amending the future land use map are received.

Finding of Facts:

1. The development team for Southwest Crossing CCRC submitted a PUD application for the Planning Commission meeting last month requesting approval of the entire campus with the understanding that the project will be built out in phases and staff will review the submittals for each phase to insure that each phase is in substantial conformance with the approved PUD package and that the plans and specifications meet the development requirements of the City of Minot ordinance.
2. Planning Commission tabled the item for one month to allow staff and the applicant more time to address areas of concern.
3. Staff prepared a detailed request for additional information and sent it to the applicant.

4. The applicant submitted revised plans and support documents on May 17, 2019, one day after the established deadline.
5. Upon review of the new submittal, staff concluded that some new information has been provided, however, other important information was not provided.
6. Staff informed the applicant that the project was to be held to the June 24 Planning Commission meeting due to an incomplete submittal.
7. The applicant requested an opportunity to present the project to the Commission, even if staff is not in full support of the submittal.

Staff Recommendations and Conditions:

Staff recommends that this PUD application be continued until the inaccuracies in the submittal are settled, the conditions required for a PUD application are met, and the funds for amending the future land use map are received.

Community & Economic Director Brian Billingsley gave his comments regarding the requirements sent to Mark Black via email on May 2, 2019. Billingsley cited several items that were not submitted as requested in the referenced email. He also noted that the Planning Department had initially decided to move the request to the June PC meeting, however the applicant requested a public hearing be heard at the May PC meeting. Staff worked diligently last week to provide the staff report and summary of the project status. This information was distributed to the Planning Commission members and the applicant last Friday, May 24, 2019.

Staff determined that the applicant had appropriately addressed the following items:

- a. The applicant reconfigured the parking spaces in the parking lots and met the minimum requirement.
- b. Met storm water requirements.
- c. Site plan properly indicates the zoning on the site is proposed for RH.
- d. Corrected building heights on most buildings.
- e. Designated the walking path corridor on the site plan, but it does not extend to the east property line of the PUD.

Staff determined that the applicant did not appropriately address the following items:

- f. As of close of business today, the applicant has not filed the Comprehensive Plan Map Amendment application with the Community Development Department and has not submitted the fee.
- g. A conceptual landscaping plan was not submitted. The applicant wrote the word "Landscaping" on the site plan where landscaping is proposed. Commissioner Baumann specifically requested depictions of landscape renderings during the winter season. This was not done either.

- h. The application does not indicate the land use, zoning, and ownership of adjoining parcels of land.
- i. The street legend on the application is still inaccurate.
- j. The applicant was asked to submit front and side elevations for all four buildings and garages. The latest submittal still only has front and side elevations for one building (the A.L.F.) and they have submitted elevations for the parking garages.
- k. At the previous hearing the applicant promised to remove the twin homes from the site plan. They did just that, but the narrative states that the twin homes will be built in the second phase.
- l. Staff asked the applicant to fix discrepancies in the application regarding building heights. One building is labeled as three stories in one section, but it states four stories in another section of the application.

Chairman Hanson opened up comments from the commissioners. None were presented.

Chairman Hanson asked the applicant and/or anyone in the public if they had any comments. Mr. Black, the applicant, came forward and stated his frustration with stipulation that all of the conditions be met at the beginning of the project and not in the development stages as they occur, although he understands that it is somewhat normal and believes it can be worked out. He is willing to have whatever conditions the City feels are appropriate included in a motion to insure future submittals for staff review meet all city regulations and requirements. He also stated that his group had previously attended two DRT (Development Review Team) meetings, and he feels that the process is a constantly moving target. Mr. Black stated that the two main concerns he believes the city has issues with are the landscape plans and the elevations of the buildings. He noted that elevation is very hard to determine and also very costly, although he would like to see a way forward. The PUD requirements ask for building elevations of the front and one side of a representative building. The submittal meets the requirement, but City staff is asking for all buildings. All four of the buildings will look virtually the same as the ALF submitted.

Chairman Hanson asked the commissioners again for comments, and Commissioner Wegenast asked Mr. Billingsley for any additional comments he had. Billingsley stated that he is not in authority to move the project forward at which point Mr. Black again stated his frustration.

Comments were opened again from the public, and Dawn Anderson (representing The Wellington Assisted Living) and Carma McLaughlin (representing Edgewood Vista) came forward to speak about the moratorium on the licensure of nursing home beds in hardship areas. Together they stated that both facilities had difficulty remaining at capacity, and that additional entities, i.e. Visiting Angels, Northland Pace, were sufficient to care for the elderly in the community. They also questioned whether a market analysis has been performed to evaluate the need for such a facility. It was noted by Mr. Black that the legislature does the licensing requirements, and not the Department of Health. Mr. Black noted that they had completed a Feasibility Study by a national company and there are four (4) ways to satisfy the moratorium.

Commissioner Wegenast noted that it is the role of the committee to decide if the PUD (Planned Unit Development) meets the requirements of the ordinance and not to determine whether or not there is a need in the community for certain types of development.

Motion by Commissioner Wegenast was made to continue the item until the inaccuracies are settled, the conditions are met and the funds are received, seconded by Commissioner Larshus and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

Item #2

Section 13-155-83, Outlot 31 Being a Portion of US Hwy 83 Right-of-Way

The City Council approve an outlot described as Outlot 31, Section 13-155-83, (being a portion of US Highway 83 Right-of-Way.)

Finding of Facts:

1. The site design of the proposed Magic City Discovery Center Children's Museum requires a small portion of the Highway 83 right-of-way to locate the facility satisfactorily on the steep site.
2. City of Minot and Minot Park District staff met with NDDOT officials to negotiate an agreeable solution.
3. A right-of-way outlot plat for a portion of the highway right-of-way has been prepared to meet NDDOT specifications and was submitted to the City on behalf of the Minot Park District.

Staff Recommendations and Conditions:

Staff recommends approval of the North Dakota Department of Transportation Right-of-way Plat for Outlot 31 in Section 13-155-83 as presented.

Principal Planner Lang presented this item to the Commission.

Chairman Hanson opened up comments from the Commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. None were presented.

Motion by Commissioner DeMakis to approve based on staff finding of facts and recommendations, seconded by Commissioner Koop, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

Item #3

Prairie Green 2nd Addition, Block 22, Lot 6

The City Council approve a resolution on an application by GR Vending ND Dispensary 4, LLC for a Conditional Use Permit (CUP) to accommodate a clinic, more specifically described as a medical marijuana dispensary.

Finding of Facts:

1. The applicant, GR Vending ND Dispensary 4, has applied to the state of North Dakota for a license to operate a medical marijuana dispensary at 2301 16th Street SW in Minot and has received provisional approval.
2. In addition, the state approval process requires the applicant to meet all local zoning laws pertaining to a dispensary.
3. The Minot Zoning Ordinance classifies medical marijuana compassionate care (dispensary) facilities as a conditional use requiring a Conditional Use Permit (CUP) in C2 zoning districts.
4. The applicant has submitted an application and required materials for a CUP.

Recommendations & Conditions:

Planning Commission recommends approval of a Conditional Use Permit issued to GR Vending ND Dispensary 4, LLC to

operate a compassion care dispensary at 2310 16th Street SW under the following conditions;

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

Principal Planner Lang presented this item to the Commission. Chairman Hanson opened up comments from the Commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. Tony Brewer (GR Vending) came forward and offered to answer any questions and noted that GR Vending had gone to the state before bringing this item to the PC Committee and stated that they have dispensary locations in Minot, Devils Lake, Dickinson and Jamestown and a growing facility based in Fargo.

Motion by Commissioner Koop to approve the item based on staff finding of facts and recommendations, seconded by Commissioner Sivertson, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

Item #4

Section 14-155-83, Outlot 12, N150' of S250'

The Planning Commission approve an application by O'Reilly Auto Enterprises, LLC for a variance to the rear yard setback as required by the city code due to topographical and dimensional site constraints which restrict the development of the property.

Finding of Facts:

1. The applicant's design team developed a layout for the proposed lot.
2. The site development regulations for setbacks, required off-street parking, landscaping, storm water management, etc. were met.

3. When staff reviewed the plans, it was determined that there is a private school to the west adjacent to this site that is zoned AG and this situation requires a twenty-five-foot setback along that property line.
4. The site plan depicted the setback of the proposed building to the rear property line at fifteen (15) feet.
5. The applicant has requested a ten (10) foot variance to the rear yard setback because the site development regulations can no longer be met with a twenty-five (25) foot rear yard and the site topography limits available options.

Staff Recommendations & Conditions:

Staff recommends approval of a ten (10) foot variance to the rear yard setback for property located at 105 N. Broadway due to the lot configuration and the site topography.

Principal Planner Lang presented this item to the Commissioners.

Chairman Hanson opened up comments from the commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. Robert McClellan came forward to answer any questions. None were presented.

Motion by Commissioner Wegenast to approve based on staff finding of facts and the hardship of the lot configuration and site topography, seconded by Commissioner DeMakis, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

Item #5

Brookview 8th Addition, Block 1, Lot 1

The City Council approve a resolution on an application by Jarett Schatz for a Conditional Use Permit (CUP) to add an additional above ground propane tank at Schatz Crossroads.

Finding of Facts:

1. The applicant would like to locate a second above ground propane storage tank at Schatz's Crossroads to increase storage capacity and provide enhanced customer service for clients.
2. The proposed propane tank is the same size as an existing 30,000- gallon propane tank on site and the new tank will be located right next to the existing tank.
3. The property is zoned General Commercial C2, and storage tanks are a conditional use requiring a conditional use permit (CUP).
4. The applicant has submitted an application for a CUP including all require information.

Staff Recommendations & Conditions:

Staff recommends approval of this Conditional Use Permit authorizing the location and operation of a 30,000-gallon above ground propane storage tank by Schatz Properties, LLC at 1712 20th Avenue SE subject to the following conditions:

1. Licensing
 - a. This Conditional Use Permit (CUP) shall serve as the license from the City of Minot to operate this facility under the terms of the permit at this location only.
 - b. Upon issuance of this permit, the applicant shall be deemed the permittee or permit holder and agrees to the terms of this permit and to follow all ordinances and regulations of the City of Minot and all county, state, and federal laws and regulations.
 - c. A change in ownership shall be cause for an amended or new CUP.
 - d. The CUP can be revoked at any time by the City Council following a show-cause hearing.
2. The City of Minot, its employees, agents, and assigns shall not be liable for any damages caused to neighboring properties as the result of the issuance of this permit and the operation of the propane storage facility.

Principal Planner Lang presented this item to the Commissioners.

Chairman Hanson opened up comments from the commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. Jarett Schatz came forward to answer any questions. None were presented.

Motion by Commissioner Koop to approve based on staff finding of fact and recommendations, seconded by Commissioner Offerdahl, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion passes

Item #6

Roosevelt Heights 3rd Addition

The City Council approve an application by Jeff Luedke for a subdivision to separate existing buildings into two (2) platted lots.

Finding of Facts:

1. The applicant owns two commercial buildings on one parcel.
2. The applicant would like each building to be on a single lot.
3. The applicant has submitted a two-lot subdivision plat with one building on each lot.

Staff Recommendations & Conditions:

Staff recommends approval of this subdivision plat as presented.

Principal Planner Lang presented this item to the Commissioners.

Chairman Hanson opened comments from the commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. None were presented.

Motion by Commissioner DeMakis to approve based on staff finding of fact and recommendations, seconded by Commissioner Hochhalter, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion passes

Item #7

South Park Terrace 4th Addition, N200' of Lots 9, 10 & 11, Less Sublot A of Lot 9

The City Council approve a resolution on an application by Scott Bintz, Red Headed Rebel, LLC for a Conditional Use Permit (CUP) in order to remodel the existing building into climate controlled storage as required in Zoning Ordinance Section 11-4d.

Finding of Facts:

1. The applicant would like to retrofit an existing building to be used for climate-controlled storage.
2. The property is zoned C2, General Commercial.
3. Climate controlled storage is a conditional use in C2 zoning district requiring a conditional use permit.
4. The applicant has submitted a complete application for a conditional use permit for climate-controlled storage at this site.

Staff Recommendations and Conditions:

Staff recommends approval of a Conditional Use Permit to remodel an existing commercial building and operate an enclosed climate-controlled cold storage facility at 1908 Hiawatha Street SE subject to the following conditions:

1. Licensing
 - a. This Conditional Use Permit (CUP) shall serve as the license from the City of Minot to operate this facility under the terms of the permit at this location only and shall not be transferrable to another location.
 - b. Upon issuance of this permit, the applicant shall be deemed the permittee or permit holder and agrees to the terms of this permit and to follow all ordinances and regulations of the City of Minot and all county, state, and federal laws and regulations.
 - c. A change in ownership shall be cause for an amended or new CUP.
 - d. The CUP can be revoked at any time by the City Council following a show-cause hearing.
2. The City of Minot, its employees, agents, and assigns shall not be liable for any damages caused to neighboring properties as the result of the issuance of this permit and the operation of the climate-controlled storage facility.
3. Landscaping Plan. The following items shall be addressed to Planning Staff satisfaction with the building permit submittal for this project:
 - a. A detailed Landscape Plan, drawn to scale, shall be submitted indicating the proposed location and species of all plant material along with a plant list summarizing the quantity, species and size of all trees, shrubs and other plant material.

- b. Show limits of seeding or sodding for turf grass.
 - c. Include a planting bed at least four (4) feet in width along the entire lineal footage of the east facing façade with foundation plantings, such as shrubs, groundcovers, perennials, ornamental grasses, turf grass or a combination. Include these plants in the plant list.
 - d. Add four (4) additional trees along the west property line for a total quantity count of ten (10) trees in this area. At least five (5) of the ten (10) trees must be conifers. The balance can be conifers or deciduous trees.
 - e. All plant material must meet minimum size standards as set forth in Chapter 24, Landscaping, of the Minot Zoning Ordinance.
4. Any outdoor storage shall comply with all screening requirement of the Minot Zoning Ordinance for C2 zoning districts.

Principal Planner Lang presented this item to the Commissioners.

Chairman Hanson opened up comments from the commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. Veronica Meyer, representing Red Headed Rebel, LLC, came forward to answer any questions. None were presented.

Motion by Commissioner Wegenast to approve based on staff finding of fact and recommendations, seconded by Commissioner Hochhalter, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

Item #8

Subdivision of Block 7 of Ramstad's Riverview Subdivision, Block 2, W20' of Lot 3 and all of Lot 4

The City Council approve an application by Jeffrey and Hope Buchweitz for a six-inch (6") variance to the twenty-five foot (25') front yard setback (east) and a five-foot (5') variance to the twenty-foot (20') rear yard setback (west) to allow the owner to construct a garage addition approximately 30 feet x 30 feet in the front yard of the lot due to steep topography and site drainage.

Finding of Facts:

1. The applicant would like to construct a garage addition to an existing house to park vehicles and store possessions out of the weather.
2. The applicant's lot is affected by the site topography. A steep hill is located in the back part of the property making that area an unsuitable place to construct a garage. In addition, the steep hill creates drainage issues on this lot. Any type of structure to the rear of the lot would block the natural drainage patterns of the property.
3. The only suitable location to construct the garage is in the front yard which will require a variance to both the front and rear yard setbacks.
4. The applicant has submitted an application for the variances including justification for a hardship.

Staff Recommendations and Conditions:

Staff recommends approval of two variances for property located at 414 / 416 7th Avenue SE as follows:

PLANNING COMMISSION MINUTES

Regular Meeting

May 28, 2019

Page **10** of **10**

- 1) a six-inch (6") variance to the twenty-five foot (25') front yard setback (east) and,
- 2) a five-foot (5') variance to the twenty-foot (20') rear yard setback (west).

These variances will allow the owner to construct a garage addition approximately 30 feet x 30 feet in the front yard of the lot due to steep topography and site drainage.

Principal Planner Lang presented this item to the Commissioners.

Chairman Hanson opened up comments from the commissioners. None were presented.

Chairman Hanson opened up comments from the applicant/public. Applicant Jeff Buchweitz asked the Commission if they had any questions. No questions were presented.

Motion by Commissioner Wegenast, to approve based on staff finding of fact, seconded by Commissioner Larshus, and was carried by the following roll call vote: ayes: Barnett, DeMakis, Hanson, Hochhalter, Koop, Larshus, Offerdahl, Sivertson, Wegenast, nays: none

Motion carries

With no other business before the Commission, the meeting was adjourned at 6:40pm.