

This document serves two purposes: 1) To provide a summary of the Planning Commission meeting and associated recommendations to City Council; and 2) To act as the Planning Commission minutes of the meeting. The minutes of the Planning Commission meeting are generally adopted at the following Planning Commission with or without changes.

Regular Meeting: Planning Commission

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

Meeting Called to Order: Wednesday, July 6, 2022 @ 5:30 p.m.

Presiding Official: Charles DeMakis

Members in Attendance: Chairman DeMakis, Commissioners Barnett, Baumann, Dohms, Gates, Iverson, Kibler, Wegenast

Members Absent: Commissioners Faken, Hochhalter, Lider, Nesdahl, Offerdahl

City Staff Present: John Van Dyke (Principal Planner), Glenda Sorensen (Admin), Emily Huettl (Assistant City Engineer), Stefanie Stalheim (Assistant City Attorney)

Others Present: Pat Kraft, Francis Berdini, Jamie Lach (C&C Plumbing), Sean Weeks (Ackerman-Estvold)

The following are Planning Commission's recommendations to City Council:

Item #5 Case #2022-07-02

Zoning and Future Land Use Map Amendments, and Variance

The Planning Commission adopt staff's findings of fact and recommend approval to City Council a zoning map amendment from "C2" General Commercial District to "R1" Single-Family Residential District (R1) and a Future Land Use Map Amendment from Commercial to Low Density Residential. Further, the Planning Commission approve a variance to Table 2.6-3. to reduce the minimum required lot area of an interior lot in the R1 district from 7,500 s.f. to 5,829.33 s.f. and for a corner lot in the R1 district from 9,500 s.f. to 9,035.28 s.f. subject to the following condition:

- 1) Approval of the associated zoning and future land use map amendments by City Council.

Item #6 Case #2022-07-04

Zoning Map Amendment

The Planning Commission adopt staff's findings of fact and recommend approval to City Council for a zoning map amendment from "C4" Planned Commercial District to "C2" General Commercial District, subject to the following conditions incorporated into a development agreement prior to second reading of the ordinance effecting the zoning map amendment:

- 1) Allowable uses shall be limited to the following and meet the standards and permitting requirements of the City at the time of initiation:
 - Oil Change Facility

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- Religious/Public Assembly
- Administration Offices
- Corporate, Financial, General, and Medical Offices
- Off-Street Parking (Non-Commercial)
- Clinic/Pharmacy

2) Upon any redevelopment of Sublot C of Lot 1, including a change of use (presently enclosed warehousing), a landscape buffer must be incorporated into the design along the south boundary.

The following are the minutes of the Planning Commission meeting. The minutes are in DRAFT form until formally adopted by the Planning Commission:

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 Barnett to approve the June 6, 2022 Planning Commission Meeting Minutes, second by Iverson, and carried by the following roll call vote: ayes: all, nays: none

Motion carries

Item #5 Case #2022-07-02

Zoning and Future Land Use Map Amendments, and Variance

Chairman DeMakis asked for staff's report.

Public hearing request on an application from Curtis Latendresse on behalf of Latendresse Rental Properties LLP, owner for a future land use map amendment from Commercial to Low Density Residential, a zoning map amendment from "C2" General Commercial to "R1" Single-Family Residential for the purpose of facilitating an adjustment of the shared property boundaries between two residential dwellings. The application also includes a variance to Table 2.6-3. surrounding minimum lot dimensions for an interior lot from 7,500 s.f. to 5,829.33 s.f. and for a corner lot from 9,500 s.f. to 9,035.28 s.f. The application is accompanied by a Minor Subdivision Plat to be known as Keyes 3rd Addition. The legal description for the properties is Lots 7 & 8, Block 2, Keyes Amended Plat to the City of Minot, North Dakota. The property addresses are 3823 9th Ave. SE and 816 39th St. SE. An aerial photo of the subject property can be found in **Exhibit 1** of staff's written report.

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The application revolves around the desire to bring the property into legal conforming status. Presently, there exists two lots, both zoned “C2” General Commercial District, with two single-family dwellings located thereon. One of the dwellings crosses the shared property boundary between the two lots. To bring the property into conformity, a zoning and future land use map amendment, variance to lot size, and minor plat is necessary.

The residential dwellings were constructed under a previous zoning ordinance that relied on “pyramidal” zoning, where more intense districts such as commercial and industrial would permit less intense uses such as residential. This approach to zoning is not best practice and leads to disharmonious development and the application of atypical development standards such as permitting the construction of a residential building across a shared property boundary as is the case with the subject properties.

Two other applications for similar circumstances have undergone zoning map amendments in the last decade to bring them into conformity with the modernized (non-pyramidal) zoning ordinance. These occurred in 2013 and more recently in 2020 (See **Exhibit 2** of staff’s written report.).

A copy of the application, which includes a detailed site plan illustrating building placement and proposed property boundaries may be found in **Exhibit 3** of staff’s written report.

The zoning and future land use map designation of the subject properties and surrounding area is provided in **Exhibits 4 & 5** of staff’s written report, respectively.

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 property is zoned “C2” General Commercial District on the Official Zoning Map and is designated as Commercial on the Future Land Use Map of the 2012 Comprehensive Plan.
- 3) The dwellings were constructed under prior zoning ordinances that applied “pyramidal” zoning, permitting residential construction within commercial and industrial districts.
- 4) The request for a zoning and future land use map amendment is similar to two other approved applications in the near vicinity sharing similar characteristics with the subject property. These occurred in 2013 and 2020.
- 5) Section 9.1-7. H. 1. relating to a change in conditions justifying the requested zone change is satisfied, as stand-alone residential structures are no longer allowed by right in the “C2” General Commercial District following a shift away from the practice of “pyramidal” zoning.
- 6) As no change in use is proposed, Section 9.1-7. H. 2. requiring the city and other agencies to be able to provide public services to the property is satisfied.
- 7) As no change in use is proposed, Section 9.1-7. H. 3. relating to the approval of the zoning change not substantially diminishing the condition or value of property in the vicinity is satisfied.
- 8) Section 9.1-7. H. 4., which requires the proposed zoning map amendment to be in alignment with the zoning ordinance, Comprehensive Plan, and other adopted policies of the City is satisfied for the following reasons:
 - a. The existing use of single-family residential will align with the requested “R1” Single-Family Residential District.

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- b. The requested zoning map amendment will align with the future land use map subject to its adjustment from Commercial to Low Density Residential.
- 9) The variance criteria from Sections 9.1-3. G. 1, 2, 4., & 6. relating topography, shape of lot, a unique hardship, and comprehensive plan are not applicable to the to the variance request.
- 10) Section 9.1-3. G. 3. related to an exceptional practical difficulty where, without a variance, reasonable use of the property is not possible, is applicable and satisfied for the following reasons:
 - a. The viability of a commercial development on either lot, each being less than the minimum required 10,000 s.f. and located off a local road with low traffic counts and little visibility to the higher-traffic Highway to the north, is very low.
 - b. The current ordinance requires a minimum of 17,000 s.f. to support one corner lot and one interior lot. Given the property boundary bisects one of the existing homes, the adjustment to expand one lot is needed. Inevitably, any configuration of lot lines will create at least one non-conforming lot.
- 11) Section 9.1-3. G. 5. relating to the impact of the variance on the character of the neighborhood and the rights of surrounding property owners is applicable and satisfied, as no change in use is proposed and no additional lots are being requested through the variance.
- 12) The Minot Planning Commission has the authority to hear this case and recommend that the zoning map amendment and future land use map amendment be approved, approved with conditions, or denied. Further, the Minot Planning Commission has the authority to approve, approve with conditions, 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 recommend approval to City Council a zoning map amendment from "C2" General Commercial District to "R1" Single-Family Residential District (R1) and a Future Land Use Map Amendment from Commercial to Low Density Residential. Further, staff recommends that the Planning Commission approve a variance to Table 2.6-3. to reduce the minimum required lot area of an interior lot in the R1 district from 7,500 s.f. to 5,829.33 s.f. and for a corner lot in the R1 district from 9,500 s.f. to 9,035.28 s.f. subject to the following:

- 1) Approval of the associated zoning and future land use map amendments by City Council.

Chairman DeMakis asked if there were questions for staff.

Commissioner Kibler noted that Ward County taxes property on their usage, rather than the zoning of the property, and asked if that was the case with the city. Principal Planner Van Dyke responded that he believed that to be generally true, but if the Assessor were present he would defer that question to them. There was no representative from the Assessor's office at the meeting. Commissioner Kibler then asked what would be the advantage of for the homeowner rezoning the property to R1. Van Dyke gave an example to explain that under the commercial standards (which it is currently zoned), if the building were to burn down they would not be able to rebuild, the property owner would have to rebuild to commercial zoning uses and standards.

Chairman DeMakis opened the public hearing on the item.

Pat Kraft came forward and asked for clarification on the rezoning to residential when the surrounding properties to the west and the north are zoned commercial. Mr. Kraft has property in this area (3800 Burdick Expressway East), which is zoned commercial, and is concerned about a physical separation between the commercial lots and residential lots, such as a fence. Mr. Kraft also brought up a concern regarding the intersection of 11th Avenue where the trees create a sight

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concern. Chairman DeMakis stated that the discussion of 11th Avenue was not relevant to the item and directed Mr. Kraft to the City Council.

Jamie Lach (C & C Plumbing) came forward and stated that they own property adjacent to this property and have always had a good working relationship with all of the neighbors. He is concerned about any potential future owners who might have a different view of things could somehow cause problems for them.

Commissioner Kibler asked if the property to the east is still identified as commercial. Principal Planner Van Dyke confirmed that it is still zoned commercial with a residential use. Principal Planner Van Dyke elaborated on the history of the subdivision as a byproduct of pyramidal zoning, where residential uses were permitted to be constructed in commercial zones creating the situation that is present today. Commissioner Kibler added that he believes this was a valid question/concern raised by Mr. Lach, and asked if there would be a high fence or any sort of apparatus that would create a break that would be required going forward because of this change. Van Dyke responded that the city landscaping standards apply to adjoining residential uses or residential districts. The change to a district would not create any difference towards the commercial property owner at this time as the code is written. What triggers the landscape buffer would be a 75% increase in overall construction of the commercial lot. If this were to occur then the commercial property would need to be brought into compliance. This trigger applies whether or not the requested zoning amendment is approved.

Commissioner Wegenast asked a question regarding a point that Mr. Kraft had brought up. If Mr. Kraft were to acquire these properties in the future, how difficult would it be to rezone it back to commercial? Principal Planner Van Dyke responded if that were to occur, the application would be evaluated by staff at the time of application and brought back to the Planning Commission for a recommendation to City Council. Wegenast asked if Planning could foresee any issues with that. Van Dyke replied that the benefit of rezoning and going through the process is that it provides the City a chance to establish a dialogue with the property owner and mitigate issues. A development agreement might address maintaining access off Jefferson Drive versus coming in and bypassing the approach to the residential structure to the east or establishing a fence along the south boundary of the property. There's a lot of things Planning can do to mitigate issues and it helps having a dialogue with the developer at the front-end.

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

Motion by Commissioner Wegenast to approve based on staff's findings of fact and recommendation, second by Kibler and was carried by the following vote: ayes: all, nays: none.

Motion carries

Item #6 Case #2022-07-04

Zoning Map Amendment

Chairman DeMakis asked for staff's report.

Public hearing request on an application from Metro Developers LLC, owner for a zoning map amendment from "C-4" Planned Commercial District to "C2" General Commercial District for the purpose of facilitating the use of the structure as an Oil Change Facility. The legal description for the property is Southwest Knolls Addition Sublots B & C of Lot

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1. The property addresses are 1115 16th St. SW and 1400 11 ½ Ave. SW. An aerial view of the property and 300-foot notification area is provided in **Exhibit 1** of staff's written report.

Metro Developers LLC, owner, is applying to rezone the subject property from "C4" Planned Commercial District (C4) to "C2" General Commercial District (C2) to facilitate a new Lightning Lube oil-change facility, who has offered to purchase the subject properties. A copy of the application documents may be found in **Exhibit 2** of staff's written report. Sublot B of Lot 1 of the Southwest Knolls Addition served as an oil change facility until 2008, when Metro Developers had the C4 plan amended, and the building converted to attract "office or retail use." The original C4 plan can be found in **Exhibit 3** of staff's written report. The building is currently occupied by AE2S, an engineering firm, and Elwood Staffing, a staffing agency, with AE2S being relocated and Elwood Staffing to remain in-place.

Staff is not pursuing a future land use map amendment for the affected properties, as the area will be modified, if necessary, through the ongoing comprehensive plan update that is expected to be completed Spring 2023. A future land use designation of neighborhood commercial is very unlikely due to the proximity to an arterial roadway (16th St. SW) and existing commercial development in the immediate vicinity that does not conform to the neighborhood commercial designation.

The zoning map and future land use map are provided in **Exhibits 4 and 5** of staff's written report, respectively.

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 for a zoning map amendment and future land use map amendment.
- 2) The present zoning is "C4" Planned Commercial District (C4), which is now considered to be a "legacy" district.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use (FLU) Map designates this area as Neighborhood Commercial.
- 4) The FLU Map will be updated as part of the ongoing comprehensive plan update to be finalized in spring 2023.
- 5) The property operated as an oil change facility until 2008, when the property owner amended the C4 Plan and the building was remodeled to attract "office and retail use."
- 6) A rezoning from C4 to "C2" General Commercial District (C2) alone is appropriate, as the proposed change in use of the property meets the qualifications to be a major change to the C4 Plan under Section 2.23-8. B. but it does not align with the purpose of a Planned Unit Development (PUD) under Section 2.23-3. Purpose.
- 7) Section 9.1-7 H. 1. is satisfied due to a change in conditions by way of the declaration of the C4 as a "legacy district" and the proposed major changes to the existing C4 plan, which were outlined in the "Zoning Equivalency Table and Planned Unit Developments" section of this report.
- 8) 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.
- 9) Section 9.1-7 H. 3 is satisfied, subject to the approval of conditions limiting certain uses and requiring landscape buffering for Sublot C of Lot 1 upon its redevelopment.

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- 10) The zoning map amendment is consistent with the purpose of the Land Development Ordinance of the City of Minot and with Economic Development Goal 2, which is to “Support, enhance, and expand existing businesses and promote new businesses in Minot.”
- 11) 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 “C4” Planned Commercial District to “C2” General Commercial District, subject to the following conditions incorporated into a development agreement prior to second reading of the ordinance effecting the zoning map amendment:

- 1) Allowable uses shall be limited to the following and meet the standards and permitting requirements of the City at the time of initiation:
 - Oil Change Facility
 - Religious/Public Assembly
 - Administration Offices
 - Corporate, Financial, General, and Medical Offices
 - Off-Street Parking (Non-Commercial)
 - Clinic/Pharmacy
- 2) Upon any redevelopment of Sublot C of Lot 1, including a change of use (presently enclosed warehousing), a landscape buffer must be incorporated into the design along the south boundary.

Chairman DeMakis asked if there were questions for staff. There were no questions for staff.

Chairman DeMakis opened the public hearing on the item.

Mr. Berdini, stating that he lived across the street from this area, came forward with concerns regarding turning left onto 11th ½ Avenue as well as congested traffic throughout the day. He stated that he had spoken to the planning staff about 2 weeks ago and was told that they would not be able to use impact wrenches. Mr. Berdini is concerned about noise pollution overall in this area. Van Dyke responded that the recent text amendment where the city classified oil change facilities, separate from just auto maintenance, has the restriction that impact drivers or similar noise making tools is in the amendment.

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

Commissioner Kibler inquired about a traffic study and Van Dyke responded that the project is not significant enough to warrant a traffic study.

Motion by Commissioner Baumann to approve based on staff's findings of fact and recommendation and conditions, second by Wegenast, and was carried by the following roll call vote: ayes: all, nays: none

Motion carries

Item #7 Case #2022-07-05.
Conditional Use Permit

The Planning Commission approved a Conditional Use Permit for Educational Facilities in the "P" Public District as provided in Exhibit 4 of staff's written report, with the following condition:

- 1) Parking shall meet, at a minimum, the requirements provided in Chapter 6.2 – Parking Table. Any requested administrative deviation or variance shall follow the procedures as outlined in Section 6.1-2. E. Parking Requirement Alternatives or Section 9.1-3 Variances respectively. The installation of additional parking, if needed, shall be constructed prior to the issuance of the certificate of occupancy and evaluated in conjunction with site plan approval for the proposed expansion.

Chairman DeMakis asked for staff's report.

Public hearing request on an application from Sean Weeks, representing Minot Public School District, owner, for a conditional use permit for an expansion of the Magic City Campus. The expansion will include a gym, locker room, and related site improvements. The legal description for the property is Outlots 18 & 19 Less the South 7' and All of Outlots 20-29 in the W 1/2 of the SE 1/4 of Section 23, Township 155N, Range 83W.

The property address is 1100 11th Ave. SW. 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 existing Minot High School Magic City Campus, which, as part of the broader Minot Public School system project, will include an expansion of the existing gymnasium and other indoor athletic facilities.

The New High School project was approved under a previous version of the code and did not require a conditional use permit for approval. The recently adopted change to the code requires all educational facilities to obtain a conditional use permit. Given the timing of the request by Minot Public Schools for this component of their project, a conditional use permit is necessary to move forward.

The zoning and future land use designation of the subject property and surrounding area is provided in **Exhibits 2 & 3** staff's written report respectively.

A site plan of the proposed improvements and overall Minot High School Magic City Campus and Jim Hill Middle School complex are included in **Exhibit 4** staff's written report.

Site photos are provided in **Exhibit 5** staff's written report.

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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 designated as a Public/Semi-Public on the Future Land Use (FLU) Map of the 2012 City of Minot Comprehensive Plan.
- 3) The property is zoned "P" Public District on the Official Zoning Map.
- 4) Staff finds the proposed development satisfies Sections 9.1-4. F. 1. *through 5., 7., and 8. With no conditions.*
- 5) Staff finds the proposed development satisfies Section 9.1-4. F. 6. with the inclusion of a condition requiring assurance that parking meet the requirements of Chapter 6.2 Parking Table.
- 6) The Minot Planning Commission has the authority to hear this case and: approve, approve with conditions, or deny the request. 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 Land Development Ordinance of the city of Minot.

RECOMMENDATION:

Staff recommends the Planning Commission adopt staff findings of fact and recommend approval to City Council of the Conditional Use Permit for Educational Facilities in the "P" Public District as provided in Exhibit 4 with the following condition:

- 1) Parking shall meet, at a minimum, the requirements provided in Chapter 6.2 – Parking Table. Any requested administrative deviation or variance shall follow the procedures as outlined in Section 6.1-2. E. Parking Requirement Alternatives or Section 9.1-3 Variances respectively. The installation of additional parking, if needed, shall be constructed prior to the issuance of the certificate of occupancy and evaluated in conjunction with site plan approval for the proposed expansion.

Further, staff included a second condition to include the site plan presented during the oral presentation (Exhibit 4 of staff's written report).

Chairman DeMakis asked if there were questions for staff.

Commissioner Wegenast asked if the parking study will be done before the gym moves forward. Principal Planner Van Dyke clarified that what the Planning Department is asking for is to have the consultant count spots to look at how much they are losing. The student body composition is changing and planning wants to make sure that they understand how many parking stalls are there, and whether or not it meshes with our requirements. Wegenast followed up by asking for clarification on the additional condition, being that it is just to incorporate the site plan, and Van Dyke verified that his statement is correct.

Chairman DeMakis opened up the public hearing on the item.

Sean Weeks came forward and stated that, as requested, Ackerman-Estvold will be filing a site plan review application which will contain full civil documents and will provide an overall parking analysis, which will demonstrate that they are code compliant

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

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Motion by Commissioner Wegenast to approve based on staff's findings of fact and recommendation and two conditions, adding the second condition to incorporate the site plan, second by Kibler and was carried by the following vote: ayes: all, nays: none.

Motion carries

Principal Planner Van Dyke took a moment to "plug" the comprehensive planning efforts. The city is in the middle of updating the comp plan and this is a chance for residents and those residents in the ETA to provide input. Van Dyke provided the link to the interactive input map onscreen and will be e-mailing the link directly to the Planning Commissioners for their input. The link should be available for the next 30 days.

Adjournment

With no further business, Chairman DeMakis adjourned the meeting at 6:05 pm.