

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: Tuesday, August 2, 2022 @ 5:30 p.m.

Presiding Official: Charles DeMakis

Members in Attendance: Chairman DeMakis, Vice-Chair Offerdahl, Commissioners Barnett, Dohms, Hochhalter, Iverson, Kibler, Lider, Wegenast

Members Absent: Commissioners Baumann, Faken, Gates

City Staff Present: Brian Billingsley (Community & Economic Development Director), John Van Dyke (Principal Planner), Peter Baumgartner (Associate Planner), Glenda Sorensen (Admin), Emily Huettl (Assistant City Engineer), Kelly Hendershot (City Attorney)

Others Present: Dave Forthun (Minot Restaurant Supply), Dustin Keller (Keller Paving)

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

Item #5 Case #2022-06-04

Zoning and Future Land Use Map Amendments

Planning Commission adopted staff's findings of fact and recommend approval to City Council of a zoning map amendment from "C2" General Commercial District to "M1" Light Industrial District and a future land use map amendment from Commercial to Industrial with no conditions.

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 Offerdahl to approve the July 6, 2022 Planning Commission Meeting Minutes, second by Lider, and carried by the following roll call vote: ayes: all, nays: none

Motion carries

Chairman DeMakis modified the agenda order and moved “Other Business” - Chair/Vice-Chair Selection to the first item of business.

Motion by Commissioner Wegenast to nominate Vice-Chair Offerdahl to Chairman, and was carried by the following vote: ayes: all, nays: none.

Motion by Commissioner Barnett to nominate Commissioner Baumann to Vice-Chairman, and was carried by the following vote: ayes: all, nays: none.

Item #5 Case #2022-06-04

Zoning and Future Land Use Map Amendments

Chairman DeMakis asked for staff’s report.

Public hearing request on an application from Crystal Braach representing L & C Holdings, LLC, owner for a future land use map amendment from Commercial to Industrial and a zoning map amendment from “C2” General Commercial District to “M1” Light Industrial District for the purpose of expanding the trucking operation located on an adjoining property. The legal descriptions for the properties are Outlot 41 of Section 27, Township 155 North, Range 83 West and Block 1, Lafarge Second Addition to the City of Minot, North Dakota. One property is addressed at 1134 18th St SW and one property is unaddressed, being located immediately south of 1134 18th St. SW. An aerial view of the property and 300-foot notification area is provided in **Exhibit 1** of staff’s written report.

This application is similar to the applicant’s previous application from 2019, which rezoned the abutting property to the north from “C2” General Commercial District to “M1” Light Industrial District and changed the Future Land Use Map (FLU) designation of the property to Industrial to allow them to establish their trucking business on the abutting property to the north. Through the proposed zoning and future land use map amendment request, the applicant hopes to combine their three abutting properties into one and eventually expand their existing business. The associated plat, would be processed as a minor plat if the FLU and zoning map amendments are approved, is not part of the application under consideration at this time.

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

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

Associate Planner Baumgartner also addressed some questions that were submitted by a member of a public, who was questioning if (the City) wanted to rezone more properties to Industrial in that area, and to what extent the property owner was seeking to expand their business, with the member of the public indicating that they would either be for or against the request based on the answer to those questions. Baumgartner deferred the question on the extent of the

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business expansion to the applicant if they were in attendance that evening and posed the question on whether more of the area should be rezoned to Industrial to the Planning Commission, explaining that the area could redevelop either as commercial or industrial in the future due to its proximity to the bypass. Planner Baumgartner then addressed the member of the public's desire to potentially put commercial condos on the property, noting that there was a difference between an office condo and a "pole building with vacant bays for someone to move into, ultimately recommending that the inquirer have a Development Review Team (DRT) meeting.

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 "C2" General Commercial District.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Commercial.
- 4) Staff finds that the proposed future land use designation of Industrial is more appropriate than the Commercial designation for the subject properties due to the inherently industrial nature of the neighborhood that it is in. The amendment would be in alignment with the designation of the property that they are wishing to combine them with.
- 5) Section 9.1-7 H. 1. is satisfied, due to the applicant's desire to consolidate their three lots into one, which requires a zoning map amendment to have them all be the same zoning designation.
- 6) 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. Zoning standards for any new development will apply.
- 7) 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 City of Minot 2012 Comprehensive Plan, subject to amendment of the Future Land Use Map per Section 9.1-7 H. 4.
- 8) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether it be approved, approved with conditions, 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 "C2" General Commercial District to "M1" Light Industrial District and a future land use map amendment from Commercial to Industrial with no conditions.

Chairman DeMakis asked if there were questions for staff. None of the commissioners had any questions for staff.

Chairman DeMakis opened the public hearing on the item.

Dave Forthun (Minot Restaurant Supply) came forward and expressed concern about the zone change to “M1” Light Industrial District. Mr. Forthun owns a business in the area would like to see more retail/commercial. He also noted that the applicant’s original fence blocked access. In summation, Mr. Forthun is wondering where does “industrial” end in this area.

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

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

Motion carries

Item #6 Case #2022-08-02
Conditional Use Permit Revocation

Chairman DeMakis asked for staff’s report.

Public hearing request by the Planning Division of the City of Minot to initiate the revocation of two conditional use permits permitted via Resolutions 3594 and 3712 due to nonconformance with requisite conditions. The legal description for the property is Outlot 37 of the NE ¼ of the SW ¼ and the NW ¼ of the SE ¼ of Section 29, Township 155 North, Range 82 West.

The property is addressed at 1820 Highway 2 Bypass East. An aerial view of the property is provided in **Exhibit 1** of staff’s written report.

The property owner was issued a conditional use permit for a portable asphalt batch plant on June 4, 2018 subject to conditions. On May 17, 2021, the property owner was issued another conditional use permit subject to conditions. At the time of the issuance of the second conditional use permit, the Planning Commission (PC) raised concerns about issuing a second conditional use permit when there remained unfulfilled conditions of the first conditional use permit. The applicant provided assurances to PC that the conditions would be fulfilled by October 30, 2021 of that year. The conditions were not fulfilled and an extension was requested by the property owner at the February 1, 2022 PC meeting to extend the deadline to June 15, 2022. A copy of the staff report from the February 1, 2022 PC meeting is provided and summarized the unfulfilled conditions at that time (See **Exhibit 2** of staff’s written report). A copy of the meeting minutes is also included for context (See **Exhibit 3** of staff’s written report).

Staff received an inquiry on May 20, 2022 noting the property owners were going to miss the deadline and a revised timeline for completion of July 22, 2022 was submitted to the City on May 31, 2022 (See **Exhibit 4** of staff’s written report). The earliest application deadline for the Planning Division to initiate the conditional use permit revocation process was for the August 2 Planning Commission meeting, with an application deadline of June 27, 2022. The Planning Division determined that should the property owners fulfill the conditions within their revised timeline then the Planning Division would simply withdraw the initiated revocation prior to the Planning Commission meeting on August 2. The Planning Division did not delay initiation of the revocation of the conditional use permits based on the perceived expectations of the Planning

Commission and concerned neighboring property owner(s) that this matter would be presented as soon as possible following the June 15, 2022 deadline and a lack of certainty that the property owner would fulfill the conditions by their revised timeline. A list of the unfulfilled conditions may be found in **Exhibit 5** of staff's written report.

Site photos taken June 27, 2022 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 Planning Division has initiated a revocation of two conditional use permits established via Resolution 3594 and Resolution 3712.
- 2) The zoning and future land use designations of "M1" Light Industrial District and Industrial have not changed since the Conditional Use Permits were applied for.
- 3) The property owner did not meet the June 15, 2022 deadline for completion of all of the conditions.
- 4) The property owner did not fulfill the conditions of approval at the time of initiation of the conditional use permit revocation by the Planning Division on June 27, 2022.
- 5) The Minot Planning Commission has the authority to hear this case and either approve, deny, or continue the meeting to the next scheduled Planning Commission meeting. 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 provided three (3) alternative recommendations depending on the state of fulfillment of the conditions by the property owner. They are as follows:

Recommendation A

If the property owner has fulfilled all of the conditions by the time of the public hearing on August 2, 2022 then Planning Commission should to deny Planning Division's initiated revocation.

Recommendation B

Staff's recommendation is that if the property owner will only require minor efforts to fulfill the conditions by the next scheduled Planning Commission meeting on September 7, 2022 then Planning Commission should continue the item to the next Planning Commission meeting.

Recommendation C

Staff's recommendation is that if the property owner is unlikely to fulfill the requirements by the next scheduled Planning Commission meeting on September 7, 2022 then Planning Commission should approve the Planning Division's initiated revocation.

Chairman DeMakis asked if there were questions for staff.

None of the commissioners had questions for staff.

Chairman DeMakis opened the public hearing on the item.

Dustin Keller (Keller Paving) came forward and walked the commissioners through a slide show that depicted the progress Keller Paving has recently completed towards compliance with the CUP conditions.

Chairman DeMakis asked Keller where he was regarding spill mitigation plan and Keller replied that it is 95% finished by Ackerman and they expect completion within the week. DeMakis asked who they were working with at Ackerman and Keller responded that they are working with Justin.

Planner Van Dyke reminded DeMakis that if the meeting was going to be continued, then he shouldn't close the public hearing as it would also be continued and picked up at the next meeting.

Leaving the public hearing open, Chairman DeMakis asked for a motion. A motion was made by Commissioner Wegenast to continue this item at the next Planning Commission meeting on September 7, 2022 at 5:30pm, second by Offerdahl.

Chairman DeMakis then opened up the motion to discussion amongst the commissioners.

Vice-Chair Offerdahl urged Keller Paving to "keep their foot on the gas pedal on this one" and Commissioner Wegenast noted that he was opposed to the last extension and indicated that this will be the last attempt to see the project completed that he would support.

With no further discussion, the motion carried by the following roll call vote: ayes: all, nays: none

Motion carries

Adjournment

With no further business, Chairman DeMakis adjourned the meeting at 6:03 pm.