

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 2<sup>nd</sup> Avenue SW., City of Minot, N.D.

**Meeting Called to Order:** Wednesday, September 07, 2022 @ 5:30 p.m.

**Presiding Official:** Chairman Dustin Offerdahl

**Members in Attendance:** Commissioners Barnett, Baumann, Hochhalter, Iverson, Kibler, Offerdahl, Wegenast

**Members Absent:** Commissioners DeMakis, Dohms, Faken, Gates, Lider, Nesdahl

**City Staff Present:** John Van Dyke (Principal Planner), Peter Baumgartner (Associate Planner), Glenda Sorensen (Admin), Emily Huettl (Assistant City Engineer), Kelly Hendershot (City Attorney)

**Others Present:** Darrin Mineke (Minot Rural Fire Department), Steve Eberle (Ackerman Engineering), Donna Bye (Houston Engineering), Alexander Harrington

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

**Item #5 Case #2022-09-01**

**Major Subdivision**

Planning Commission adopted staff's findings of fact and recommended approval to City Council of a preliminary plat for the Lenox Park 3<sup>rd</sup> Addition, subject to the following condition:

- 1) A ten-foot (10') utility easement be placed over the centerline of the existing gas line that runs through the alley that is being vacated.

**Item #7 Case #2022-09-03**

**Preliminary Plat and Zoning Map Amendment**

Planning Commission adopted staff's findings of fact and recommended approval to City Council of a zoning map amendment from numerous zoning districts to the "P" Public District and the "RM" Medium Density Residential District and for a preliminary plat for the 4<sup>th</sup> Avenue Addition with no conditions.

**Item #8 Case 2022-09-04**

**Preliminary Plat and Zoning Map Amendment**

Planning Commission adopted staff's findings of fact and recommended approval to City Council of a zoning map amendment from "M1" Light Industrial District, "M2" Heavy Industrial District, and "AG" Agricultural District to "M1" Light Industrial District, "M2" Heavy Industrial District, and "AG" Agricultural District in a different configuration. The Planning

Commission also recommended approval of a preliminary plat for the River Bottom Addition, subject to the following condition:

- 1) An access easement should be provided over the existing gravel access road to Outlot 17 with a width of thirty feet (30'). The Frontage road easement should continue along the southeast line of Lot 2 with a width of forty feet (40').

**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 Offerdahl at 5:40 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 Kibler to approve the August 2, 2022 Planning Commission Meeting Minutes, second by Iverson, and carried by the following roll call vote: ayes: all, nays: none

**Motion carries.**

Chairman Offerdahl moved Item #10 Case #2022-08.02 to the Item #5 due to the item being old business that was moved forward to this meeting.

**Item #10 Case #2022-08-02**

**Conditional Use Permit Revocation**

Continuation of a 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.

Principal Planner Van Dyke gave a brief status update. A revised landscape plan depicting the necessary changes to include evergreen conifers was submitted by the applicant. A revised Spill, Prevention, Control, and Countermeasure plan satisfactory to the Engineering Department (related to diesel fuel storage tanks on site in the event of a spill has also been received.)

Staff recommends Planning Commission should deny Planning Division's initiated revocation.

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

**Chairman Offerdahl opened the public hearing on the item.**

Darrin Mineke (Minot Rural Fire Department) came forward and advised the committee that he has been working with Keller Paving for approximately two (2) years and was on site earlier today. Mineke reported that the work required by the Fire Department is close to 90% completed.

Commission Kibler asked for clarification in making a motion. Principal Planner Van Dyke clarified that a denial of the revocation is actually in favor of the client in this case.

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

Motion by Commissioner Baumann to deny the revocation of the CUP, second by Commissioner Kibler and was carried by the following roll call vote: ayes: all, nays: none

**Motion carries.**

**Item #5 Case #2022-09-01**  
**Major Subdivision**

**Chairman Offerdahl asked for staff's report.**

Public hearing request on an application from Chad Atterton representing Jeremy Evans, owner for a preliminary plat that includes vacation of right-of-way (alley). The plat will amend the boundaries of two lots to incorporate the vacated right-of-way into two new lots to be known as Lenox Park 3<sup>rd</sup> Addition. The legal description for the properties is Lot 1, Lenox Park Addition and the West ½ of Lots 107, 108, 109, 110, and 111, Elbow Park Manor Plus Adjacent Alley to the City of Minot, North Dakota.

The properties are addressed at 1609 and 1613 1<sup>st</sup> Ave. SE. An aerial photo is provided in **Exhibit 1** of staff's written report.

Jeremy Evans, owner, wishes to facilitate the vacation of an alleyway between his two properties through the creation of the Lenox Park 3<sup>rd</sup> Addition. The applicant recently acquired 1613 1<sup>st</sup> Ave. SE (proposed Lot 2) from the City of Minot at auction as part of the Spot Blight eradication program. In accordance with Housing and Urban Development's (HUD) rules and regulations, the applicant was required to choose one of two options: the Urgent Need National Objective, which places a deed restriction in perpetuity for the use of the property, prohibiting any permanent structure from being built; or, the Low/Moderate Income (LMI) National Objective, which requires a single-family home to be constructed on it one foot (1') above the base flood elevation as determined by FEMA, and it must be sold to and occupied by a qualified LMI purchaser. The property owner chose option one (1) and his property was restricted with the deed restriction outlined above.

A preliminary version of the plat is included in **Exhibit 2** of staff's written report.

The zoning and future land use maps are in **Exhibits 3 and 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 applicant has submitted a complete application.
- 2) The properties are designated as "R1" Single-family Residential District on the zoning map and as "Low Density Residential" on the Future Land Use Map of the Comprehensive Plan.
- 3) The applicant has submitted a complete application for a major subdivision preliminary.
- 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 10.3-22 with Sections 10.3-4, 12, 13, 21, and 22, not being applicable to this application.
- 6) The Minot Planning Commission has the authority to hear this case and recommend that the major subdivision preliminary plat 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 of the major subdivision preliminary plat subject to the following condition:

- 2) A ten-foot (10') utility easement be placed over the centerline of the existing gas line that runs through the alley that is being vacated.

**Chairman Offerdahl asked if there were questions for staff.**

Chairman Offerdahl requested staff go back to a slide in their presentation that pictured a stake and yellow lines to get clarification that if the stake represents SRT and the yellow line represents MDU, does SRT have a 10' easement also, or is it five feet (5') for each utility?

Associate Planner Baumgartner replied that staff was not sure exactly what the stake represents, but confirmed that the yellow line depicted in the slide is actually the gas line itself.

**Chairman Offerdahl opened the public hearing on the item.** No Public comments.

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

Motion by Hochhalter to approve based on staff's findings of facts and recommendations to include the 10' utility easement, second by Kibler and was carried by the following vote: ayes: all, nays: none.

**Motion carries.**

**Item #6 Case #2022-09-02**  
**CUP Amendment**

**Chairman Offerdahl asked for staff's report.**

Public hearing request by Steve Eberle representing Fred Bentz on behalf of Capital R.V. Centers Inc. to amend the Conditional Use Permit (CUP) for Case No. 2021-09-07 to allow for additional building types beyond enclosed warehousing. The legal description for the property is Lot 1, Master Block 2nd Addition to the City of Minot, North Dakota. The property is addressed at 2901 14th Ave. SW. An aerial view of the property and 600-foot notification area is provided in **Exhibit 1** of staff's written report.

A conditional use permit (CUP) was approved by the Planning Commission in September 2021 for the open warehousing of excess inventory (RVs) to be stored onsite. One of the conditions of approval limited the uses of onsite structures to enclosed warehousing. This was due to the original plans of the applicant to not pave the site and place a smaller four-hundred s.f. accessory structure to house parts and other smaller-sized inventory. The applicant is requesting this condition be adjusted to permit a larger building related to the maintenance and repair of RVs.

A letter of intent and modified site plan are provided in **Exhibit 2**. The zoning map, future land use map, and site photos are provided in **Exhibits 3 through 5** of staff's written report respectively.

**FINDINGS OF FACT:**

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

- 1) The property is zoned "M1" Light Industrial District.
- 2) The City of Minot 2012 Comprehensive Plan Future Land Use Map does not designate a future land use for the subject properties.
- 3) The property was issued a conditional use permit in September 2021 for Warehousing (Open) related to the storage of RVs.
- 4) The use of open warehousing is a conditionally permitted use within the "M1" Light Industrial District.
- 5) The applicant's request is consistent with the bulk requirements of the Land Development Ordinance of the City of Minot.
- 6) The standards provided in Sections 9.1-4 F. 1. & 4. through 8. are met, subject to the original conditions and replacing condition #12 with the following: "A building is required onsite to meet the requirements of Section 4.1-7. H. 2. and shall follow all standards for development per the Land Development Ordinance of the City of Minot. The building must be constructed within three (3) years of the date of approval of the amended conditional use permit."

- 7) Conditions to address aesthetics, open storage uses, addressing, and platting to mitigate negative externalities will ensure Sections 9.1-4 F. 2. & 3. are affirmed. These are carried over from the original issuance of the conditional use permit in September 2021.
- 8) 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 to amend the conditional use permit to include the original conditions of approval, albeit renumbered, and replace existing condition #12 with the following:

“A building is required onsite to meet the requirements of Section 4.1-7. H. 2. and shall follow all standards for development per the Land Development Ordinance of the City of Minot. The building must be constructed within three (3) years of the date of approval of the amended conditional use permit.”

**Chairman Offerdahl asked if there were questions for staff.**

Vice-Chairman Baumann asked Principal Planner Van Dyke to go through the conditions from the conditional use permit (CUP) that was being amended so the Planning Commission could compare them, highlighting a paved drive, paved parking, and that the landscaping would not be changing. Baumann then asked for clarification on the size of the building, citing that originally the applicant was allowed a 400 square foot (SF) building, and this amendment would allow for a 5000 SF building. Van Dyke clarified that the change wouldn't be limiting the size of the building, but instead allow for a different use of the building; where the 400 SF building was going to be used for storage purposes, the new building was going to be an official extension of their business for maintenance purposes. He further explained that they are still able to add another accessory structure to the site, but they would have to apply with all applicable development standards. Baumann then stated that in the initial CUP they could build a storage shed, and if the amendment was passed they would be able to build a repair shop. Van Dyke responded that that was correct.

Commissioner Wegenast asked if a simple motion would cover it, Van Dyke responded that a motion made in alignment with staff's recommendation, including the condition noted would be fine.

**Chairman Offerdahl opened the public hearing on the item.** No one from the public came forward speak on the item.

After the public hearing was closed, Vice-Chairman Baumann asked if anyone in the audience could comment on the visual impact of the structure. Steve Eberle, representing the applicant came forward, however, as Offerdahl had closed the hearing, Eberle had to return to his seat.

**Chairman Offerdahl asked for a motion from the commissioners.**

Motion by Wegenast to approve based on staff's findings of facts and recommendations to include the 10' utility easement, second by Kibler.

**Chairman Offerdahl then opened the motion for discussion by the Commissioners.**

Vice-Chairman Baumann stated that the site didn't sit well with him due to the first impression that he believed it would have on visitors, and that he would rather see it elsewhere than on one of the main throughfares leading into the community.

With no further comment, the motion was carried by the following vote: ayes: Barnett, Hochhalter, Iverson, Kibbler, Offerdahl, Wegenast, nays: Baumann.

**Motion carries.**

**Item #7 Case #2022-09-03**  
**Preliminary Plat and Zoning Map Amendment**

**Chairman Offerdahl asked for staff's report.**

Public hearing request by Harold Stewart on behalf of the City of Minot, owner for a preliminary plat and zoning map amendment to several properties to acknowledge the realignment of 4th Ave. NW to accommodate the flood control wall and other flood control-related infrastructure along 4th Ave. NW. Properties addressed at 100, 106, and 110 4th Ave. NW will be consolidated into two lots, where one lot is proposed to be zoned "RM" Medium Residential District and the other is proposed to be zoned "P" Public District. The "RM" Medium Residential District property will encompass the property where the Home Sweet Home dwelling presently resides. All other property a part of this proposal is to be zoned "P" Public District for the purpose of flood control or, where no flood control infrastructure resides, as open space. Some properties abut right-of-way where there no longer exist streets due to the construction of flood control infrastructure. The respective rights-of-way are proposed to be vacated via this proposed plat. The preliminary plat is to be named 4th Avenue Addition, being a Replat of Watnas Addition and Robo Addition, located in the Northeast Quarter of Section 23, Township 155 North, Range 83 West of the Fifth Principal Meridian and a Portion of Ramstad's 3rd Addition; a portion of Subdivision of Outlot 6 River Park Addition, a portion of River Park Addition, a portion of Forsberg's Re-Arrangement of East One Half of Block 3 of River Park Addition, a Portion of Lakeview Subdivision of Blocks 23 And 25, Lakeview Addition, and a portion of Robb's Addition, located in the Southwest Quarter of Section 13, Township 155, North Range 83 West of the Fifth Principal Meridian; Oakland Park Addition, Outlots Sec 24 155 83 Outlot 13, located in the Northwest Quarter of Section 24, Township 155 North, Range 83 West of the Fifth Principal Meridian.

**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 depicted as Commercial, Parks and Open Space, Low Density Residential, Medium Density Residential, and Industrial on the Future Land Use (FLU) Map of the 2012 City of Minot Comprehensive Plan.
- 3) A new FLU map will be adopted in Spring 2023 designating this area with land uses in line with the proposed plat and zoning map amendment.
- 4) A change in zoning from "C2" General Commercial District, "RM" Medium Density Residential District (including R3B),

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and “M2” Heavy Industrial District to “P” Public District for all lots other than Lot 2, Block 2, which will be zoned as “RM” Medium Density Residential, is requested.

- 5) The applicant’s request is consistent with the bulk requirements of the Land Development Ordinance of the City of Minot (LDO).
- 6) A change in conditions does exist due to the construction of the flood control infrastructure and realignment of 4th Ave. NW. Section 9.1-7 H. 1. is satisfied.
- 7) No additional public services will be required to support the request. Section 9.1-7 H. 2 is satisfied.
- 8) As the development is complete, staff finds no evidence that the proposed subdivision and zoning map amendment will substantially diminish the condition or value of property in the vicinity and therefore Section 9.1-7 H. 3 is satisfied.
- 9) The zoning map amendment request is consistent with the purpose of the LDO and other adopted policies of the City, and will be consistent with the comprehensive plan’s broad support of flood control/recover efforts. More specifically, see Chapter 8: Community Character, Aesthetics, & Facilities generalized prioritization of flood control/recovery. Section 9.1-7 H. 4. is satisfied.
- 10) 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 4<sup>th</sup> Avenue Addition preliminary plat, a zoning map amendment from “C2” General Commercial District to “P” Public District for all lots other than Lot 2, Block 2, which will be zoned “RM” Medium Density Residential, and a Master Plan as provided in Exhibit 2 with no conditions.

**Chairman Offerdahl asked if there were questions for staff.**

Vice-Chairman Baumann asked if Principal Planner Van Dyke could talk the Planning Commission through buffer zones and as the properties move in the direction of being zoned public that the residents abutting the properties would be provided buffer zones. Van Dyke responded that 4<sup>th</sup> Avenue NW was going to be the biggest buffer between the abutting residents and the primary flood control infrastructure with everything north of 4<sup>th</sup> Ave NW being largely to remain as open space that is seeded with grass or planted with trees, which is a relatively benign use. He further explained that the properties were remnant pieces of platted lots that were acquired for the project that were too small to be developed and/or are unable to be developed due to how they were acquired. As a result of this, they will act naturally as a buffer to the more intense uses on the south side of the road.

**Chairman Offerdahl opened the public hearing on the item.**

Donna Bye, applicant representative from Houston Engineering, stood for questions. With no questions from the Planning Commissioners, she returned to her seat.



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

Motion by Kibbler to approve based on staff's findings of facts and recommendations to include the 10' utility easement, second by Iverson, carried by the following vote: ayes: all nays: none.

**Item #8 Case 2022-09-04**  
**Preliminary Plat and Zoning Map Amendment**

**Chairman Offerdahl asked for staff's report.**

Public hearing request by Justin Thurn representing Keller Paving and Landscaping Inc., D & DK Properties LLP, and Orlan and Mary Rovig, owners for a preliminary plat and zoning map amendment. The preliminary plat to be known as River Bottom Addition will consolidate multiple lots into three. The existing zoning of "AG" Agricultural District, "M1" Light Industrial District, and "M2" Heavy Industrial District will be modified as follows: Lot 1 – "M1" Light Industrial District, Lot 2 – "M2" Heavy Industrial District, and Lot 3 – "AG" Agricultural District. The legal description for the properties is a portion of Outlot 34, all of the Outlots 4, 11, 12, Lot A of Outlot 12, 36 and 37 of Section 29, Township 155N, Range 82W, Ward County, North Dakota. The properties are addressed as 1820, 1826, 1900 Hwy 2 Bypass E and include additional unaddressed properties. The properties are located between Hwy 2 Bypass E and 27th St. SE, northeast of the tracks, and southwest of the Souris River.

An aerial photo of the subject property can be found in **Exhibit 1** of staff's written report.

The application includes several properties located across three separate and distinct sites, one being Keller Paving and Landscaping's industrial site and another being an industrial site owned by Orlan and Mary Rovig. Agricultural property owned by the Rovig's is also included in this plat and zoning map amendment request. The property owners desire to exchange land and clean up the property boundaries. The resulting plat, if approved, will create three lots; one for each of the zoning designations sought. The agricultural land north of the oxbow will remain agricultural while the remainder will be zoned to expand the industrial sites to the south and east.

A copy of the preliminary plat is provided in **Exhibit 2** of staff's written report. Lot 1 is Keller's property and proposed to be zoned "M1" Light Industrial District. Lot 2 is the other industrial site presently zoned "M2" Heavy Industrial District. The area comprising Lot 2 will remain as "M2" Heavy Industrial District. Lot 3 is presently "AG" Agricultural District and will remain as agricultural property.

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

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- 1) The applicants have submitted a complete application.
- 2) The property is zoned “AG” Agricultural District, “M1” Light Industrial District, and “M2” Heavy Industrial District on the Official Zoning Map and is designated as Industrial and Commercial on the Future Land Use Map of the 2012 Comprehensive Plan.
- 3) The Commercial future land use designation is unlikely to be included on the newly adopted future land use map of the ongoing comprehensive plan update to be completed Spring 2023.
- 4) Section 9.1-7. H. 1. relating to a change in conditions justifying the requested zone change is satisfied, as the request is prompted by a preliminary plat application to adjust shared property boundaries and dissolve numerous properties into three Lots.
- 5) 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.
- 6) 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.
  - a. 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, as the proposal substantially aligns with the Industrial future land use designation.
- 7) The subdivision adheres to the subdivision design standards provided in Chapter 10.3 of the Land Development Ordinance of the City of Minot.
- 8) The Minot Planning Commission has the authority to hear this case and recommend that the zoning map amendment and preliminary plat 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 staff findings of fact and recommend approval to City Council of the preliminary plat to be known as River Bottom Addition and a zoning map amendment to coincide as follows: Lot 1 - “M1” Light Industrial District; Lot 2 – “M2” Heavy Industrial District; and Lot 3 – “AG” Agricultural District and subject to the following conditions:

1. An access easement should be provided over the existing gravel access road to Outlot 17 with a width of thirty feet (30’). The Frontage Road easement should continue along the southeast line of Lot 2 with a width of forty feet (40’).

**Chairman Offerdahl asked if there were questions for staff.**

Vice-Chairman Baumann asked a clarifying question to confirm that it was a lot consolidation to consolidate the various lots down into three, and that there weren’t any changes in what was going on there. Principal Planner Van Dyke confirmed that that was correct.

Commissioner Wegenast then asked about the access to proposed Lot 3. Van Dyke explained that Lot 3 takes access off of 27<sup>th</sup> St SE and he further explained that the curved lot line follows along the oxbow, which made sense as the uses would be separated by topography, and that they otherwise wouldn't be able to use a land that they could not access.

Commissioner Kibbler then asked if an access road was required for each original part of a lot consolidation. Principal Planner Van Dyke responded that in this case they were requiring (the easement) to be in the general vicinity of Outlot 17 due to there being so many different properties there, and that the access easement would allow for unimpeded access along the shared property boundary.

**Chairman Offerdahl opened the public hearing on the item.**

No one from the public came forward to speak either for or against the item.

**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 facts and conditions, second by Baumann, carried by the following vote: ayes: all nays: none.

**Motion carries.**

**Item #9 Case #2022-09.05**  
**Variance**

**Chairman Offerdahl asked for staff's report.**

Public hearing request by Eric Thoenke, owner for a variance to the rear yard setback from eighteen feet (18') to four feet (4') to accommodate the construction of a detached garage. The legal description for the property is North Minot Addition Subdivision of Block 14, Lot 11, Block 2.

The property address is 830 University Ave. W. An aerial photo of the subject property can be found in **Exhibit 1** of staff's written report.

The applicant desires a variance to the required minimum setback of eighteen feet (18') from an alley for a garage of less than 600 square feet (SF) in area to four feet (4') for the purpose of having it align with the garage located on the property to the east.

The applicant's letter of intent and site plan 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** of staff's written report, respectively.

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

**FINDINGS OF FACT:**

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- 1) The applicants have submitted a complete application.
- 2) The property is zoned "R3B" Multiple Residence District on the Official Zoning Map and is designated as Medium Density Residential on the Future Land Use Map of the 2012 Comprehensive Plan.
- 3) The variance criteria from Section 9.1-3. G. 1. relating the exceptional shallowness or shape of the property is applicable, but not satisfied. The property is slightly narrower, but much longer than the minimum lot sizes, which is more accommodating for a garage to meet the minimum setback.
- 4) The variance criteria from Section 9.1-3. G. 2. relating topography is not applicable to the to the variance request.
- 5) 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 not applicable as the applicant is able to have the size garage that they desire complying with the minimum setback, while meeting all the other bulk requirements for the "R3B" Multiple Residence District.
- 6) Section 9.1-3. G. 4. Related to there being a unique hardship under which the strict application of the applicable standards would constitute an unreasonable hardship due to circumstances unique to the property that were not created by the landowner, not including economic or fiscal hardship is not applicable.
- 7) 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 not satisfied as allowing the variance would be in character with the surrounding neighborhood, but may result in impedance of alleyway access for surrounding property owners.
- 8) Section 9.1-3. G. 6. relating the variance not being contrary to the comprehensive plan is not satisfied as it would conflict with Land Use Goal 2, Policy 2, which is to ensure that developments meet the standards specified with the land use plan and official controls, including the zoning and subdivision ordinances and official maps, as the approval of this variance would result in a violation of Section 28-21 of the Code of Ordinances relating to the site triangle.
- 9) 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 deny the request for a variance to reduce the rear yard setback from eighteen feet (18') to four feet (4') to accommodate the construction of a detached garage.

**Chairman Offerdahl asked if there were questions for staff.**

Chairman Offerdahl asked if, during the notification process, were there any comments by the neighbors, either for or against. Associate Planner Baumgartner responded that there was a comment from a neighbor, and as they were there that night, he would let them speak for themselves on the topic.

Vice-Chairman Baumann asked if Baumgartner could go back to the site photos and asked if the green shed on the subject property was in compliance with the required distance away from the alley. Baumgartner responded that the 18' setback from the alley only applies to garages with doors that open toward the alley and gave the example that if the property was zoned "R1" Single-Family Residential District (R1), and the garage was parallel to the alley, they could go up to three feet (3') from the property line along the alley, as long as they were less than 600 square feet (SF) in area. Baumann then asked if the slate-colored garage in the foreground of the photo was in compliance. Baumgartner responded that it was due to a variance that it had received in 2012. He further explained that it was built between 1970 and 2000 and it was in compliance with the code until the property owner had installed the door on the back of the structure after the flood. Planning staff was in the area at the time, noticed the door, and wrote the property owner a letter to notify them that they were out of compliance with the ordinance. The property owner then came in for a variance and had obtained one on the grounds that University Avenue was getting busier and that there were issues for the existing driveway that was lined up with the one across University. Baumgartner concluded that it was granted under another ordinance, but it did have a variance. Baumann, then asked about the white garage in the previous photo, to which Baumgartner responded that it, and the other garages on the alley were considered to be legal-nonconforming, meaning that they were presumably in compliance at the time they were built, and that as ordinances have changed, they can continue to exist as they are, but anything new would have to abide by the new standards. Baumann then asked Baumgartner, if, in his professional opinion, that if the plans submitted by the applicant, if enacted, would look and get a similar outcome to the others along the alley. Baumgartner responded that, in his professional opinion, it would, and that was why staff had found that the proposed garage would be in character for that area.

Commissioner Kibbler asked if it was possible for the owner to offset the garage and be in compliance with the ordinance. Associate Planner Baumgartner responded that if they offset it the 18' minimum, and they built the same 24' deep structure, then the property owner would still have an approximately 30' x 50' yard between the garage and the house.

Vice-Chairman Baumann then followed up by asking if there were any additional financial burden or hardship to the owner being in compliance versus executing in a variance. Baumgartner responded that are not and specifically with variance criteria 4, the variance cannot be on grounds of financial difficulties.

**Chairman Offerdahl opened the public hearing on the item.**

Alexander Harrington, another property owner on the alley, spoke in opposition to the item. Mr. Harrington stated that there has been issues where vehicles have been parked side-by-side. He also noted issues in which the owners of the property with the white fence park by their fence, and owners of the slate colored garage park where they are shown in the photo, it constricts the alley. If they park a foot further into the alley, he does have issues with getting into the garage. Mr. Harrington continued on, stating that when the applicant has contractors working on his home, his wife has issues getting out of the alley due to them blocking it, which he stated was not the fault of the applicant. He further mentioned that, due the alley not being a through alley, the residents on the University Avenue side treat it as a private alley, with the residents on that side parking in front of his neighbor's property. Harrington concluded that he has had issues where the alley was blocked off or it has become more difficult at times and he felt that, if the variance were approved, and the applicant were able to have the garage that far into the alley, then it would make it even more difficult at times

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

Motion by Commissioner Kibbler to deny the request for the variance based on staff's findings of fact and recommendation, second by Iverson and was carried by the following vote: ayes: all, nays: none.

**Motion carries**

**Item #11 Other Business**

Principal Planner Van Dyke announced that this meeting would be Associate Planner Peter Baumgartner's last Planning Commission meeting and that he would like to present him a plaque of appreciation for his three years of service with the City of Minot. Chairman Offerdahl commented that he voted for a Vikings jersey, but they said no. Vice-Chairman Baumann stated that he voted for a Packer's jersey.

**Adjournment**

With no further business, Chairman Offerdahl adjourned the meeting at 6:48 pm.