

**Regular Meeting: Planning Commission Committee**

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

**Meeting Called to Order:** April 25, 2016 at 6:32 p.m.

**Presiding Official:** Vice Chair Pam Karpenko

**City Clerk:** Kelly Matalka

**Members in Attendance:** Wallace Berning, Jon Hanson, Larry Holbach, Brenden Howe, Pam Karpenko, Todd Koop, Kevin Mehrer, Tyler Neether, Todd Wegenast, Travis Zabloutney

**Members Absent:** Jody Bullinger, Bob Wetzler, John Zimmerman

**City Staff Present:** Asst. City Planner, City Attorney, City Engineer, Assistant City Engineer, Chief Resilience Officer, Traffic Engineer, Building Official, Public Works Director, Asst. Public Works Director; Police Chief, Public Information Officer.

**Others Present:** Aldermen Connole, Hatlelid, Hedberg, Olson, Pankow, Schuler, Shomento, and others.

**Meeting Called to order by Vice Chair Pam Karpenko**

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Prior to the regular agenda, the Assistant City Planner took time to educate the Commissioners on a section of the Zoning Ordinance regarding legally non-conforming lots. She stated, as soon as a subdivision is requested with a zone change the lot must be brought into compliance with the current zoning ordinance. There have been several requests recently to waive conditions that are simply attempting to comply with the City ordinance.

**Approval of the March 28, 2016 Regular Meeting Minutes.**

Motion by Neether, seconded by Koop, to approve the March 28, 2016 regular meeting minutes, and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zabloutney. nays: none

**Motion passed**

**RECOMMENDATIONS**

**Approval of Agenda Items 1, 3 & 4 included in the Consent Agenda.**

Motion by Wegenast, to approve items 1, 3 & 4 on consent.

**Motion failed due to lack of a second**

**Approval of Agenda Items 3 & 4 included in the Consent Agenda**

Motion by Wegenast, seconded by Neether, to approve consent items with staff finding of fact(s) and condition (s); and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast. nays: none. abstain: Zabloutney

**Motion passed.**

**Item # 1:**

**The City Council approve an application by Ed and Paulette Nush to subdivide Glacial Point Addition, Lots 35 & 36 into 2 lots to be known as Glacial Point 3rd Addition, Lots 1 & 2 for a lot line adjustment.**

This property is located at 1108 & 1112 Glacial Drive.

**Finding of Facts:**

1. Subject property is zoned R1, Single Family Residential.
2. Proposed subdivision meets the R1 zoning lot size requirements.

**Condition (if approved):**

1. Sidewalks will be required.

Paulette and Ed Nush came before the Commission to explain their application. Paulette stated they are trying to straighten the property line between their property and their neighbor's and they are looking for a waiver for the condition that requires sidewalks.

Upon questioning by Commissioner Zabloutney, Mr. Nush replied, the purpose of replatting the property is because they thought the line was adjusted in 1982 but recently found out, half of his shed is located on his neighbor's property.

The City Engineer stated, when an existing subdivision is replatted, it must be brought into compliance with the current City ordinance. Staff cannot waive the requirement, it must be approved by Council. He continued by saying, the Commission can act on the item tonight and recommends the Nush's speak to their Alderman to have the item pulled and discussed at the City Council meeting.

Upon Questioning by Commissioner Zabloutney, the City Engineer stated, all setback requirements are compliant.

Mr. Cromwell spoke in favor of the waiver for the sidewalk requirement, explaining there are no other properties in the neighborhood with sidewalks.

Whereupon a vote was taken on the motion by Neether, seconded by Koop, to approve the item with staff finding of fact(s) and condition(s); and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zabloutney. nays: none

**Motion passed.**

**Item #2:**

**The City Council approve an application by Jay Lundeen, represented by KLJ-Brice Nelson, to subdivide Northdale 3rd Addition, Lots 1 & 2 plus ½ vacated alley; Polaris Addition, Lot 1; Northgate Subdivision, Lot 2 into three lots to be known as Lundeen's Addition, Lots 1-3 for the purpose of expanding a current business.**

**Also, to change the zone from C2 (General Commercial) District and R3 (Multiple Residence) District to C2 (General Commercial) District on proposed Lundeen's Addition, Lot 1. Also, to change the zone from R3 (Multiple Residence) District and C2 (General Commercial) District to R3 (Multiple Residence) District on proposed Lundeen's Addition, Lot 3. Proposed Lundeen's Addition, Lot 2 will remain C2 (General Commercial) District.**

**Also, the Planning Commission approve a variance to the required landscaping and buffer per Section 24-1 h) on proposed Lundeen's Addition, Lot 1.**

This property is located at 2705 & 2911 N Broadway and 300 27th Ave NW.

**Finding of Facts:**

1. Property rights enjoyed by others

**Conditions (if approved):**

1. Sidewalks will be required on proposed Lundeen's Addition, Lot 1 - 3
2. Buffer would be required along the north portion of Lot 1 and there will be a requirement to remove the fence and plant grass on Lot 1.
3. A detailed drawing of existing and proposed easements on all properties to be included in the replat. Drawing must show easement type, width, and location.

Brice Nelson of KLJ, came forward to represent their client, Jay Lundeen. He explained the purpose of the request is to create a space for the company to drive on and store vehicles while they are waiting to be worked on. It would be located around the back of the building and would be surrounded by a privacy fence in order to prevent neighboring residents from having to see all of the vehicles. He stated the proposed area is not large enough for landscaping but he would install a privacy fence instead. The variance is being requested in order to remove the landscape requirement and change the buffer from 20' of required space to a 10' buffer on the back of the lot.

Jay Lundeen stated he has made arrangements with both of his neighbors to swap land in order to expand the width of the vacated alley behind the business. He shared the letters of written consent from the property owners and explained they would exchange equal quantities of land but in areas more beneficial to each property. He continued by saying, the zone changes would be required so that the swap of land would correlate with the current zoning. They want to be able to keep the vehicles behind the shop rather than in front of it. By shifting the vehicles to the back of the building, it would create a 200' by 300' area in the front for grass and development and would be more aesthetically pleasing.

The Assistant City Planner explained the staff's concerns with the requests by Mr. Lundeen. She stated the fence would not be a sufficient substitute for landscaping since there is a two story building that

would see over it. She also explained, the C2 zone does not permit outside storage for vehicles. She continued by saying, according to the zoning ordinance, the zone change for the swap of land would require a 20' buffer and has a sidewalk requirement.

Upon protest by Mr. Lundeen to the fact that all shops in Minot store vehicles outside, the Assistant City Planner stated the Commission is there to consider the application before them using the applicable ordinance. Mr. Lundeen's application includes a subdivision and therefore is required to comply with the current ordinance as it is an illegally non-conforming lot.

Upon questioning by Commissioner Neether, Mr. Lundeen stated he will pave the alleyway if necessary. He also said the fencing will go all the way to the northwest corner of the lot where a restaurant will potentially go. The applicant is proposing Lot 2 to be a future restaurant and Lot 1 to be a storage yard with a major repair shop.

Commissioner Zablotney also stated for the record that the C2 requirements should be analyzed to consider the repair shops in town that cannot comply with the requirement that vehicles are not permitted to be stored outside. Vice Chair Karpenko stated the Steering Committee will review those requirements at their next meeting.

Motion by Zablotney, seconded by Mehrer, to approve the request to finding of fact(s) and condition(s); and was carried by the following roll call vote: ayes: Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Zablotney. nays: Berning, Wegenast

**Motion passed.**

**Item # 3: As part of a consent motion, it is recommended  
The City Council approve an application by Sue Zane T. Durand to subdivide Outlot 11 and an unplatted portion of the S1/2NW1/4, Section 5-154-82 into 3 lots to be known as Meadowbrook Estates 9th Addition, Lots 1-3.**

**Also, to change the zone from AG (Agricultural) District to R1 (Single Family Residential) District on proposed Meadowbrook Estates 9th Addition, Lots 2 & 3. Proposed Meadowbrook Estates 9th Addition, Lot 1 will remain AG.**

This property is located along 27th St SE and north of 43rd Ave SE.

**Finding of Facts:**

1. Subject property is zoned AG, Agricultural District.
2. Proposed subdivision meets both R1 and AG zoning district lot size requirements.
3. The subject property is guided Low Density Residential by the Comprehensive Plan and Future Land Use Map.

**Conditions (if approved):**

1. Storm Water Management Plans will be required and approved by the City Engineer and Ward County Water Resource Board.
2. 27<sup>th</sup> St SE shall be constructed to township standards from 43<sup>rd</sup> Ave to the north most

- driveway.
3. Sidewalks will be required when roadways are built to urban road standards.
  4. A Rural Septic Sewer study will be required.

Motion by Wegenast, seconded by Neether, to approve consent items with staff finding of fact(s) and condition (s); and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast. nays: none. abstain: Zabloutney

**Item # 4: As part of a consent motion, it is recommended**

**The City Council approve an application by Earl Allen, Jr. represented by Tim Knutson to subdivide West Minot, Block 22; and Outlot A, Section 23-155-83 into 5 lots to be known as Oak Park Village, Lots 1-5.**

This property is the Oak Park Shopping Center; along 4th Ave NW, just north of Oak Park.

**Finding of Facts:**

3. Subject property is zoned C2, General Commercial.
4. Proposed subdivision meets the C2 zoning district lot size requirements.

**Conditions (if approved):**

2. 30' access easement would be dedicated for river access.
3. Sidewalks will need to be repaired if damaged.
4. Recorded cross parking agreement will be required.

Motion by Wegenast, seconded by Neether, to approve consent items with staff finding of fact(s) and condition (s); and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast. nays: none. abstain: Zabloutney

**Motion passed**

**Item #5:**

**The City Council approve an application by JaCraig Partners, represented by Jay Stein, for an appeal to approve a variance to the building design requirements as stated in Section 15-9 of the Zoning Ordinance to construct a building approximately 100' x 60' on Outlot 70 less Lot A, Section 21-155-82.**

This property is located at 205 42nd St SE.

**Finding of Facts:**

1. The subject property is zoned M2 Heavy Industrial District Special Use Permit. With a Special Use Permit to place two above ground fuel tanks, 1,000 gallon of diesel fuel and 100 gallons of methanol.
2. The proposed building is an allowable use within the M2 zoning district.
3. The request demonstrates a hardship on a legal-non confirming lot as a property right enjoyed by others.

**Conditions** (if approved):

1. 10% of the proposed new CUP landscaping will be required and approved by the Planning Department.
2. The applicant will have to provide the 10% landscaping from the previously approved CUP.
3. Pond and erosion control measures on site need to be brought into compliance with storm water management plan.

Craig Stein of JaCraig Partners came before the Commission to appeal their request for a variance under the basis of property rights enjoyed by others. He explained, as he did in the previous meeting, their company began adding buildings to their property in 2008 in a location zoned heavy industrial. They have been in compliance in the past and want to construct another building in the same material and design as the others. He listed examples of properties with buildings along public roads that have the same design that he is proposing. He then stated, exposed fasteners are a common building practice and he should be permitted to use them.

The City Attorney reminded the Commission, they can make a recommendation to forward to Council but since it is an appeal, City Council will make the final decision.

Commissioner Zabolotney stated for the record, there may be an appropriate exception to consider including in the ordinance to refine the language in order to make this type of situation a legal use. He stated, for the application before them, external fasteners will be permitted on the building.

Motion by Zabolotney, seconded by Koop, to approve the item with staff finding of fact(s) and condition(s); and was carried by the following roll call vote: ayes: Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zabolotney. nays: Berning

**Motion passed.**

**Item # 6:**

**The City Council approve an application by Lenny Behm represented by Ackerman-Estvold Engineering to subdivide Trestle Ridge 2nd Addition, Lot 1 into 4 lots to be known as Trestle Ridge 4th Addition, Lots 1-4.**

**Also, to change the zone from AG (Agricultural) District to RA (Agricultural Residential) District on proposed Trestle Ridge 4th Addition, Lots 2-4. Proposed Lot 1 will remain AG (Agricultural)**

This property is located between 61st and 62nd St SW and north of 16th Ave SW.

**Finding of Facts:**

1. Subject property is zoned AG, Agricultural District.
2. Proposed subdivision meets both RA and AG zoning district lot size requirements.

**Conditions** (if approved):

1. Access will be granted to lots on 61st St SW only.

2. Any roadway improvements constructed to township standards.
3. Storm Water Management Plans will be required and approved by the City Engineer and Ward County Water Resource Board.
4. Sidewalks will be required when roadways are built to urban road standards.
5. A Rural Septic Sewer study will be required.

The City Engineer explained, this item was pulled because there was an error in the agenda regarding the zone changes. Sean Weeks of Ackerman Estvold clarified, proposed lots 2, 3, and 4 will be zoned RA, and proposed lot 1 will remain AG.

Motion by Wegenast, seconded by Koop, to approve the item with staff finding of fact(s) and condition(s); and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zablotney. nays: none.

**Motion passed.**

**Item #7:**

**The Planning Commission put the public hearing on hold until next month, regarding amendments to the Zoning Code of Ordinances.**

Alderman Pankow explained there will be a presentation next month to better explain all of the changes that will be addressed in the amended ordinance.

Motion by Neether, seconded by Koop, to hold the item; and was carried by the following roll call vote: ayes: Berning, Hanson, Holbach, Howe, Karpenko, Koop, Mehrer, Neether, Wegenast, Zablotney. nays: none.

**Motion Passed**

Meeting adjourned at 7:39 pm.