

## PLANNING COMMISSION MINUTES

Regular Meeting

April 06, 2021

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**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:** Tuesday, April 06, 2021, 5:30 p.m.

**Presiding Official:** Chairman Charles DeMakis

**Members in Attendance:** Tim Baumann, Charles DeMakis, Elisha Gates, Justin Hochhalter, Todd Koop, Shane Lider, Tammy Nesdahl, Cynthia Sessions, Todd Wegenast

**Members Absent:** Kelly Barnett, Aaron Faken, Dustin Offerdahl, Boyd Sivertson

**City Staff Present:** Community and Economic Development Director Billingsley, Principal Planner Van Dyke, Planner 1 Baumgartner, Assistant City Engineer Huettl, Assistant City Attorney Stalheim

**Others Present:** Sean Weeks, Representative for Item #6.

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**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 Commissioner Koop to approve the March 2<sup>nd</sup> Planning Commission Meeting Minutes, second by Commissioner Baumann, and was carried by the following roll call vote: ayes: Baumann, DeMakis, Hochhalter, Koop, Lider, Nesdahl, Sessions, Wegenast nays: none no vote: Gates was inadvertently not called on this one as staff wasn't aware she was there until the last vote.

**Motion Carries**

**The following are the recommendations of the Planning Commission:**

**Item #5**

**Conditional Use Permit Amendment – Climate-controlled Storage**

Planning Commission recommends City Council approve a resolution for a Conditional Use Permit to comply with Resolution No. 3621, a conditional use permit issued on June 3, 2019 for climate-controlled storage that specifies in condition 1. c. that a new or amended conditional use permit must be obtained where a change in ownership occurs. The property is legally known as the North 200' of Lots 9, 10, and 11, Less Sublot A of Lot 9, South Park Terrace Fourth Addition.

This property is located at 1908 Hiawatha St.

**Chairman DeMakis asked Principal Planner Van Dyke for his report.**

Principal Planner Van Dyke provided the following:

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Public hearing request on an application from DeAnn Burns representing Minot Storage, LLC, owner, to comply with Resolution No. 3621, a conditional use permit issued on June 3, 2019 for climate-controlled storage, that specifies in condition 1. c. that a new or amended conditional use permit must be obtained where a change in ownership occurs. The property is legally known as the North 200' of Lots 9, 10, and 11, Less Sublot A of Lot 9.

This property is located at 1908 Hiawatha St.

A conditional use permit was issued for climate-controlled storage condominiums with conditions for the subject property on June 3, 2019 to Red Headed Rebel, LLC. One of the conditions required that an amendment to the conditional use permit be required for any change in ownership. The applicant is requesting to have the conditional use permit reissued based on a recent change in ownership. A copy of the letter of intent is provided.

### **Finding of Facts:**

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

- 1) The applicants have submitted a complete application, including a written statement that they affirm to the conditional use standards as listed in Section 30-3.
- 2) Climate controlled storage condominiums require a conditional use permit (CUP) within the "C2" General Commercial District.
- 3) The property is located within a commercially zoned area of the City of Minot.
- 4) The City of Minot 2012 Comprehensive Plan Future Land Use Map designates this area as Commercial.
- 5) All standards set forth in Section 30-3 c) have been met by the applicant's original site plan submitted to the City coupled with conditions included in the original CUP effected by Resolution 3621 on June 3, 2019.
- 6) The items in Section 30-3 d) were addressed at the time the original CUP was issued in June 3, 2019 and no changes to the site are being requested through this amendment.
- 7) Condition 1 c. of the CUP effected by Resolution 3621 that requires amendment of the CUP for changes in ownership is no longer necessary and should be removed.
- 8) 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.

### **Staff Recommendations:**

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Staff recommends the Planning Commission adopt the staff findings of fact and recommend approval of an amendment to conditional use permit effected by Resolution No. 3621 for climate-controlled storage facility located at 1908 Hiawatha St. Se. with the following conditions:

- 1) All conditions of Resolution No. 3621 will be included within the amended CUP with the exception of 1.c. related to a change in ownership requiring an amended CUP.

### **Chairman DeMakis opened the meeting for comments from the commissioners.**

None of the commissioners came had any questions or comments for staff.

### **Chairman DeMakis opened the meeting for comments from the public.**

No one from the public came forward either for or against the time.

### **Chairman DeMakis asked for a motion from the commissioners.**

Motion by Commissioner Koop to approve per staff recommendations with conditions based on findings of fact, second by Commissioner Lider, and was carried by the following roll call vote: ayes: Baumann, DeMakis, Hochhalter, Koop, Lider, Nesdahl, Sessions, Wegenast nays: none No vote: Gates was inadvertently not called for this one as staff didn't know she was there until the last vote.

### **Motion passes**

#### **Item #6**

#### **Variance – Parking and Landscaping**

Planning Commission approved a variance to utilize shared parking separated by a public Street. Further, the request includes a variance to parking lot berm and street tree requirements along the property boundary abutting Hwy 83. The property is legally known as Lot 1, Block 2, Overlook Park Addition and Outlot 31, Sec 13-155-83.

This property is located at 1545 1<sup>st</sup> Street NW.

### **Chairman DeMakis asked Principal Planner Van Dyke for his report.**

Principal Planner Van Dyke provided the following:

Public hearing request on an application from Wendy Keller representing Magic City Discovery Center and Minot Park District, owner, for a variance to utilize shared parking separated by a public street. Further, the request includes a variance to parking lot berm and street tree requirements along the property boundary abutting Hwy 83. The property is legally known as Lot 1, Block 2, Overlook Park Addition and Outlot 31, Sec 13-155-83.

The property is located at 1545 1st St. NW.

The future Magic City Discovery Center (MCDC) site is located between 1st St. NW and North Broadway at the top of a ridge that lies between the two roads. The site itself is currently vacant, save for a gravel parking area and a sign denoting its status as a park. The MCDC is phase one of a two-phase project, where the MCDC will approx. occupy the south half of the property and the north half will develop at an unspecified time in the future.

The property is currently zoned "P" Public Zone and is designated as "Parks and Open Space" on the Future Land Use Map. The topographically level area that the MCDC building is going to be built upon is

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approximately 60' higher in elevation than the adjacent portion of North Broadway, with the far end of its parking lot being 15' above the highway.

As necessitated with any new construction in the "P" Public Zone per Section 16-11 a), any new building constructed or remodeled shall meet specified design standards set forth in the "C2" General Commercial District. Design standards are found in Section 11-8 and landscaping requirements are outlined in Chapter 24. Additionally, according to Section 23-1 p) of the zoning code, the project is required to have *"one (1) parking space per 250 square feet of floor area, or one (1) space per four (4) patrons to the maximum occupancy load, whichever is greater, plus 1 space per employee on the largest working shift."* According to the provided Site Plan they are going to provide 109 spaces to meet the code requirements. However, due to topographic restrictions, they are only capable of providing 73 spaces onsite and desire to utilize parking across the street, also owned by Minot Park District, for the remaining 36 required spaces.

The applicant also desires relaxation to the street tree and berming requirements for the west property boundary which apply to parking lots abutting the right-of-way (Hwy 83/N. Broadway).

### **Finding of Facts:**

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

- 1) The applicants have submitted a complete application.
- 2) The necessary pre-application Development Review Meeting was held as required by Section 16-7.
- 3) The MCDC is in phase one of a two-phase project, where the MCDC will approx. occupy the south half of the property and the north half will develop at an unspecified time in the future.
- 4) The site maintains significant limitations related to sloping topography abutting Hwy. 83/N. Broadway, where elevations decline between 15 and 60'. In addition, the subject property is of an irregular shape. Together, the property is both exceptional in shape and topography per Section 30-2 e) 1 & 2.
- 5) A variance to the shared parking, street landscaping, and parking lot berm requirements may be granted without substantial detriment to the public good and without impairing the general purpose and intent of the comprehensive plan.
- 6) The Minot Planning Commission has the authority to hear this case and either approve or deny the variances. Additionally, the Minot Planning Commission also has the authority to recommend that the master site plan 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.

### **Staff Recommendations:**

Staff recommends the Planning Commission adopt staff findings of fact and approve the variance requests related to shared parking, parking lot berms, and street trees with the following conditions:

- 1) A shared parking agreement will be established between the subject property and the Minot Park District property to the east.

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2) Street tree requirements along Hwy 83/N. Broadway will be calculated at a rate of 25%, resulting in seven (7) trees required which may be clustered in a sensible location on the subject property.

3) The applicant shall construct a crosswalk on 1st St. NW connecting the subject property to the offsite parking lot to the satisfaction of the City Engineering Department.

### **Chairman DeMakis opened the meeting for comments from the commissioners.**

Commissioner Baumann started by thanking staff for finding a way to make shared parking work for the project.

Chairman DeMakis then asked if the crosswalk to the proposed shared parking would be elevated or at grade, Van Dyke responded that it would be at grade.

Commissioner Baumann then asked how the 25% of trees being added to the project came to be. Van Dyke responded that due to the topographic nature of the area that adding all 28 of the trees would be a hardship and that between the existing trees on the hillside and the topography, the 25% was a good compromise.

### **Chairman DeMakis opened the meeting for comments from the public.**

Sean Weeks, the representative for the project, came forward and said that he agreed with the staff recommendation, said it was good to work with Mr. Van Dyke and Mr. Baumgartner, and that the crosswalk would be maintained by the special assessment district that was responsible for the paving and maintaining of the street.

### **Chairman DeMakis asked for a motion from the commissioners.**

Motion by Commissioner Baumann to approve per staff findings of fact and recommendations, but to also modify condition 2 and have them distribute 100% of the trees required by code across the property, rather than the 25% being suggested, second by Commissioner Nesdahl.

Commissioner Baumann explained that he was excited for the project but, when looking at the code, the landscaping code is about quality of life and he didn't want to lose the chance to improve the area.

Commissioner Lider asked if there was even room for 28 trees on the property, Mr. Weeks approached the dais and responded that they plan on complying with their portion of the project, but the northern portion of the property will be developed separately as part of the Park Districts Master Plan. He went on to say that they are asking for relief from the 28 trees that were required by the code but said that he would work with staff to comply, including adding more to their proposed "Magic Pathway" Area.

Assistant City Engineer Huettl then approached the podium and said that she had attended a public meeting held by the Minot Park District where they presented their ideas and future plans for the northern portion of the site. She then explained that when they get to point of implementing these plans they will submit another site plan to the city for review and that one will go through the process as well.

Baumann asked if his proposal were to be approved and the full number of trees were required, would the park district have enough time to go through the process and supply the trees. Van Dyke responded that if push came to shove that they would be able to find a way, even if it just in a double row abutting the church to the south, anything is possible, but there are good grounds to provide the requested variance

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based on the topography and irregular shape of the lot. He then clarified that it is up to the applicant to justify the relaxation of the code and prove the hardship, if there is a disagreement on the topography, irregular shape of the lot, or the applicant's ability to plant the trees, then the Planning Commission should deny that portion of the application. Van Dyke concluded that it is a two-phase project, which complicate things due to the unknowns associated with the second phase, however, if the conditions were modified to distribute the trees throughout the remainder of the property, then it would provide the flexibility to allow them to accomplish that.

Commissioner Baumann's motion was denied by the following roll call vote: ayes: Baumann, Gates, Nesdahl, Sessions nays: DeMakis, Hochhalter, Koop, Lider, and Wegenast

### **Motion fails**

Motion by Commissioner Wegenast to approve per staff recommendations with conditions based on findings of fact, second by Commissioner Koop, and was carried by the following roll call vote: ayes: Baumann, DeMakis, Gates, Hochhalter, Koop, Lider, Nesdahl, Sessions, Wegenast nays: none.

### **Motion passes**

#### **Item #7 Other Business**

Principal Planner Van Dyke gave a presentation on how the meetings could be potentially shortened, and stated the following, "Rather than providing suggested items for consent, staff could provide suggested items to waive staff presentation. On items where the staff presentation has been waived the item would still be required to be announced by the Chair as the item of discussion, then the Chair could immediately open the hearing and provide time for anyone from the public to provide comment. Finally, the Chair would close the meeting and request a motion to be made. If someone were to speak on an item staff would be prepared to present the reasoning for staff's recommendation via the staff presentation. Staff would only recommend waiver of a staff presentation where the application was clearly benign and had not received comment in opposition." He then concluded by stating that the commissioners should "Keep in mind the broader purpose of staff's presentation which is to outline the various applications for those participating in-person or remotely and provide transparency in the decision-making process."

DeMakis responded that he wanted to waive presentations on common things, like lot splits, but would not want to do such on the more complex items.

Baumann said that Van Dyke made an important point that it was not for the Commissions benefit, but for the public. There is a certain amount of redundancy, but it is there to educate the public and show that the process is transparent.

DeMakis asked if the item and written report would be being eliminated. Van Dyke responded that they would not be, just the staff's presentation would be removed.

Wegenast thanked staff for following up on the issue that he had presented at the last meeting.

Sessions asked how the procedure would work in these cases. Van Dyke responded that the only thing that would be missing is staff's oral report on the item and that Chairman DeMakis would still announce the item, the public hearing would still be opened and closed, and he would then ask for a motion to be made. He then continued by saying that staff would give Chairman DeMakis a list of which items may be warranted to waive staff's oral presentation. Van Dyke then noted that 90% of the items presented this year did not generate questions and staff would still be here to discuss them if asked.

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DeMakis said that when the agenda is laid out that it already has the description of the item that ends with the physical address and recommended that if the item is on a non-discussion track that staff should then just pop in the findings of fact and recommendations and that he would read them out. DeMakis then clarified that on these items there are usually only three recommendations, that they meet the requirements, and they're pretty mundane. Van Dyke said DeMakis' point was a good one and Staff could work the slides while he read them.

### **Adjournment**

With no further business before the committee, Chairman DeMakis adjourned the meeting at 6:07 PM.