

*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, 10 3<sup>rd</sup> Avenue SW., City of Minot, N.D.

**Meeting Called to Order:** Tuesday, August 1, 2023 @ 5:30 pm.

**Presiding Official:** Chairman Offerdahl.

**Members in Attendance:** Commissioners Dohms, Hochhalter, Kibler, Longtin, Mennem, Offerdahl, Pontenila.

**Members Absent:** Vice Chairman Baumann, Commissioners Faken, Iverson, Lider, Nesdahl.

**City Staff Present:** Brian Billingsley (Community Development Director), John Van Dyke (Principal Planner), Terra Lindquist (Assistant Planner), Nick Schmitz (Assistant City Attorney), Emily Huettl (Assistant City Engineer), Nicole Rivera (Community Development Administrative Clerk).

**Others Present:** Cindy Sessions (Resident of Minot), Wade Huus (Applicant), Rob Berard (Representative), Sean Weeks (Representative).

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**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 5:30pm**

**Item #1: Roll Call**

**Item #2: Pledge of Allegiance**

**Item #3: Planning Commission Introductions and Public Hearing Decorum**

**Item #4: Approval of Minutes**

Motion by Commissioner Hochhalter to approve the July 11, 2023 Planning Commission Meeting Minutes. Second by Commissioner Kibler, and carried by the following roll call vote: ayes: all, nays: none.  
**Motion carries.**

**Item #5: Case #2023-06-02.Zoning Map Amendment w/ Planned Unit Development (PUD) – Citizen Alley**

Public hearing request by the Askal Group, LLC, owner for a zoning map amendment from “CBD” Central Business District and “C2” General Commercial District to “CBD” Central Business District with a “PUD Overlay.” The purpose for this request is to clean up the entitlements for the respective properties and to accommodate “Citizen Alley”, a multi-purpose community-oriented open space. The legal description for the properties are Block 1, Kyle’s Addition, Portion of Lots 1, 2, and 3, Block 1, Original Minot Addition West, and Lot 4, Block 1, Original Minot Addition Less the Soo R/W.

The addresses for the properties are as follows: 3 thru 7 1st St. SE and 110 E. Central Ave.

Mr. Van Dyke stated staff's recommendation is to table the item to the next Planning Commission meeting, Wednesday, September 6, 2023 at 5:30pm at City Hall Council Chamber located at 10 3<sup>rd</sup> Ave SW.

**PUBLIC HEARING:**

Chairman Offerdahl confirmed the public hearing is still open since the item was tabled last Planning Commission and asked if anyone would like to come forward and speak about the item. No one came forward. Chairman Offerdahl kept the public hearing open.

**FINDINGS OF FACT:**

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

- 1) The applicants have submitted a complete application.
- 2) The present zoning is "C2" General Commercial District and "CBD" Central Business District.
- 3) The City of Minot 2012 Comprehensive Plan Future Land Use (FLU) Map designates this area as Commercial and Downtown Mixed Use and the City of Minot 2040 Comprehensive Plan denotes this area as Downtown Mixed-Use.
- 4) Standard for approval of a "PUD Overlay" per Section 2.23-4 are satisfied as provided in staff's analysis section of the written report.
- 5) Section 9.1-7 H. 1. thru 4. related to review and approval criteria for a zoning map amendment are satisfied as provided in staff's analysis section of this report.
- 6) 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.

**STAFF RECOMMENDATION:**

Staff recommends the Planning Commission table the item to Wednesday September 6, 2023 Planning Commission meeting at 5:30pm in City Hall Council Chambers.

**FINAL DECISION:**

Motion made by Commissioner Kibler to table the item to the Wednesday September 6, 2023 Planning Commission meeting at 5:30pm in City Hall Council Chambers. Second by Commissioner Mennem. The motion carried by the following vote: ayes: all, nays: none. **Motion carries.**

**Item #6: Case # 2023-08-01. Zoning Map Amendment – West Hills 2<sup>nd</sup> Addition**

Public hearing request by Ackerman Surveying, representing HL Development, LLC, owner for a zoning map amendment from "R2" Two-Family Residential District and "R3" Multiple Residence District to "GMU" General Mixed Use District, "C2" General Commercial District, and "RM" Medium Density Residential District. The application includes a request for a future land use map amendment from all Urban Residential to Mixed Use Center, General Commercial, and Urban Residential. Finally, the

application includes a preliminary plat for the creation of Highlander Estates 6th Subdivision. The purpose of the application is to facilitate unspecified commercial and residential development. The legal description for the property is Lots 11 and 12, Highlander Estates Subdivision to the City of Minot, North Dakota.

The properties are unaddressed, being located north of the termination of 23rd St. SW and west of the termination of 35th Ave. SW.

Chairman Offerdahl asked for staff report to which Mr. Van Dyke began with providing the location of the property advising it is located in northwest Minot, west of the 83 bypass and a brief description of the subject property stating it is a single-family home in a residential neighborhood comprised of homes located on lots predominantly between 2-3 acres. Mr. Van Dyke then provided the letter of intent submitted by the applicant advising they are requesting a rezone from "R1" Single-Family Residential to "RR" Rural Residential specifically so they are able to construct a third structure to be used as storage. Mr. Van Dyke continued on explaining the purpose of the request. Mr. Van Dyke stated with the current zoning of "R1" Single-Family Residential the maximum number of accessory buildings are two and under "RR" Rural Residential the maximum number is increased to three. Mr. Van Dyke also stated the regulations for properties zoned "R1" are slightly higher and their intensity when compared to properties zoned "RR" though "R1" and "RR" zones have been found to generally harmonious when adjacent to one another. Also "R1" is intended to be anywhere from four to eight units per acre within the zoning code by definition so it is really catered towards urban residential development as opposed to rural residential development. Mr. Van Dyke moved forward explaining the Future Land Use Map that can be found in the 2040 Comprehensive Plan that was adopted in May 2023. Mr. Van Dyke explained this fact is largely what prompted staff and broader discussions with the Future Land Use Map to declare certain areas appropriate for Rural Residential in the Future Land Use when we went through the comprehensive planning process. With that, the request to rezone aligns with the 2040 Comp Plan so this area has been designated as Rural Residential in the Future Land Use and the requested zone does align with the Future Land Use Map. Mr. Van Dyke explained the general descriptions for each zone. "R1" Single-Family Residential, single family dwellings is the primary use. "R1" district falls within low density residential land use categories, with the density range of 4 to 8 units per acre. Rural Residential principal use of the land shall be for low density, large lot residential with limited equine husbandry. Mr. Van Dyke also outlined some noticeable differences between "RR" and "R1" as they apply to the extraterritorial jurisdiction. "R1" would be up to two accessory buildings permitted where as "RR" is up to three accessory buildings are permitted. Minimum lot size in "R1" is two acres in the ETJ, 7,500 square foot should this property be annexed in the future, 9,500 on corner lots. Minimum lot size is two acres in Rural Residential. Animal husbandry is prohibited in "R1" and then there is limited animal husbandry permitted with 100' setbacks for related structures. Standard residential fencing materials would be appropriate in the "R1" Single-Family Residential such as vinyl, chain link, wood. Rural Residential, due to the animal husbandry, you would also find barb wire concertina wire and electric fencing. Lastly, Mr. Van Dyke stated staff is recommending approval of the zone change from "R1" Single-Family Residential to "RR" Rural Residential with no conditions.

Commissioner Kibler clarified that the intention is to just rezone this one property in the neighborhood to "RR" to which Mr. Van Dyke answered yes because that is the one presented before Planning Commission. Mr. Van Dyke also explained that if there was a request by the broader subdivision to change the zone then the City could potentially do a City initiated rezone for the entirety of it but generally we don't do that unless there is either consensus or near-consensus with those City-initiated rezones. Commissioner Kibler inquired about how typical it is for the Commissioners or the City staff to designate a new zone for one property that is part of a group of other like properties to which Mr. Van Dyke stated every time there is a zoning map amendment request because there is a potential for that to occur but that is why we have the future land use because that informs the future on how we want to see development or lack thereof in this case occur over time. Commissioner Kibler asked the Future Land Use map that was shown earlier in the presentation shows the field to the north as being a residential neighborhood to which Mr. Van Dyke said yes, it is suburban residential to the north.

**PUBLIC HEARING:**

Chairman Offerdahl opened the Public Hearing to the public for testimony.

Cindy Sessions, Resident of Minot who lives in the neighborhood, stepped forward and stated she wrote a letter in opposition to the rezone and read it aloud. Her letter is below:

"We are EXTREMELY opposed to allowing zoning to change from R1 to RR, even for a single residence. If even one is approved, it opens the door for all others to follow.

We were one of the first families to build in this neighborhood back in 2008. We bought the land here BECAUSE it was zoned R1. We built this home with the intention of it being our last and final home, after serving at Minot Air Force Base, electing to be stationed here, and raising our three children here.

We retired in Minot with the intention of this investment being our forever home, in large part due to what we believed at the time to be our ideal location; just on the outskirts of the city, within the 1-mile jurisdiction to Minot, with a little bit of space, but with the same high R1 zoning standards. Your staff report even states that the regulations for R1 are slightly higher in their intensity when compared to RR.

We bought the land, our small three acres, at optimal cost, and for the last 15 years have invested heavily in landscaping and other improvements to make it a wonderful home and to contribute to the aesthetic of the neighborhood and value of the surrounding properties.

There are 36 homes in our neighborhood. All homeowners knowingly, willingly and trustingly invested in this R1 residential neighborhood, including Wade Huss, who as a builder, understood better than most, zoning regulations.

To change any of these R1 properties to RR would in fact destroy the neighborhood as it stands and certainly diminish its appeal, aesthetics and ideal family and kid friendly atmosphere. Your staff report

erroneously indicates that there are few differences between the two zones. There are major differences between the two zones.

In your staff report, staff states that Sec 9.1 requires that the proposed zoning map amendment to RR will "NOT substantially diminish the condition or value of the property in the vicinity." and "Staff finds NO evidence that the zoning map amendment to RR will diminish the condition or value of the property."

What does staff base this on? We have invested hundreds of thousands of dollars in our home, and therefore this neighborhood and risk loss of investment, not to mention diminished quality of residential zoning standards, which quickly equates to quality of life, for not just us but the entire neighborhood.

There is no information on where on his site Wade Huus plans to build this 30'x24' third outbuilding, the shape and structure of it, nor what type of building materials he plans to use. To state that it will not substantially diminish the condition or value of the property in the vicinity is premature and false.

The staff report also bases justification for it's approval in the 2040 Comprehensive Plan Future Land Use Map! 2040! Seventeen years in the future! And this is also the first time we were even aware this was under consideration, having never been notified by the City of Minot.

An RR zoning would allow rabbits, chickens and horses. It would also allow the use of electric and barb-wire fencing. Those alone would be an immediate and detrimental addition to this neighborhood. Not only would neighboring homeowners loose investment value, and have a negative resale value, it would be a terrible, violent and possibly fatal threat to the children of the neighborhood.

The statement that staff finds no evidence that the zoning map amendment to RR will diminish the condition or value of the property is incredibly wrong. The zoning change from R1 to RR will cause irreparable damage to his immediate neighbors and this entire R1 community.

When we purchased our land we were given a copy of the protective covenants that went with this land. The protective covenants prohibited animals. In good faith we purchased this land knowing that it was zoned R1 and that it had additional protective covenants.

We strongly urge the council to recommend disapproval of this request and keep the zoning standards R1; the higher zoning standard and therefore the higher quality of life for this neighborhood.

Thank-you."

Commissioner Kibler asked Mrs. Session about the comment she made of "we are extremely opposed" if she queried the neighborhood to which Mrs. Sessions advised no, just her and her husband as property owners. Commissioner Kibler also clarified where Mrs. Session lives in the neighborhood. Commissioner Kibler also asked Mrs. Session how the construction of a 30x24 building adversely affect the

neighborhood to which Mrs. Sessions stated it is not just the construction of the building, it is the change in the zoning which Mr. Huus is requesting.

Chairman Offerdahl also clarified with Mrs. Sessions if she received the notification letter or not to which she stated she did receive this letter but was never notified of the 2040 Comprehensive Plan change. Mrs. Sessions continued on stating she is one of few within the 600' notification boundary. There are other neighbors who are not aware that this is occurring.

Wade Huus, applicant, came forward and explained his reason for wanting to build a third building. Mr. Huus stated there are many neighbors in the area who have boats and other stuff laying down which is kind of an eye sore to the neighborhood. He thought putting up a building he can get rid of some of the stuff that he has out and put it all under a building. His intention is to have the building the same color scheme. Mr. Huus advised his property is very clean. The buildings currently there are not shabby. They are well built and are not going anywhere. Mr. Huus also spoke about the animal concern and stated he believes you have to have between 5 to 15 acres in that border of the two mile radius to which Mr. Van Dyke advised that is not correct. There is just a limited amount permitted and it is based on the acreage and the type of animals. Mr. Van Dyke stated the larger the animal the fewer you can have per acre. Mr. Huus then stated that if we go by the covenants of the property there is no horses or anything allowed in the covenants which are fairly old at this time. Mr. Huus advised he has four kids and has cars he would like to store. He currently has a 30x30 shop that he would like to clear out and place in this 30x24 storage building so he can park cars in the garage to get things out of sight so it isn't an eye sore to the neighborhood. Mr. Huus stated if the Commissioners would ask all his neighbors besides Mrs. Sessions he has been a really good neighbor and has never caused any problems. Mr. Huus stated he wasn't aware of the animal thing but he would be willing to put it in writing that he won't have any animals because he is in "RR" now but he does not plan on having any livestock or anything like that.

Commissioner Kibler clarified with Mr. Huus that this building he is looking to construct is just for personal use only, not a business enterprise or anything to which Mr. Huus stated that is correct just personal use no business running out of it.

Commissioner Mennem inquired if the only way for Mr. Huus to be able to build a third accessory building is to rezone the property to which Mr. Van Dyke stated yes, the goal is to not have numerous structures litter a rear or side yard of a particular property. The actual square footage afforded Mr. Huus based on the size of his property is quite substantial so it is up to 5% of the total area of his yard can be occupied by accessory structures. He has three acres so it is a significant amount about 6,000 square foot total he can have as accessory structures. To preserve the character of the neighborhood instead of having 5,6 or 7 sheds, there is adequate sizing of the structure that allows them to reach their storage needs. Commissioner Kibler inquired if variances or exemptions would work for this structure to which Mr. Van Dyke stated no that would be a use variance. We could look at tweaking the text of the code but again it would be applied to "R1" and by in large you will see "R1" in that 4-8 lots per acre. That is a city urbanized lot size that previously they decided to go "R1" as opposed to "RR" but by our current definitions and 2 to 3 acre property is really a rural residential development. Galusha Ranch is the most

recent approval of anywhere from 2 plus acres which was all done Rural Residential. This neighborhood is very similar to that but for whatever reason they decided to go "R1" when in reality it has more of the characteristics, at least lot size, that you would find in your rural residential neighborhood.

Commissioner Kibler then asked if this was a neighborhood that was built as a neighborhood or are these individual houses purchased by purchasing the land, getting the architect, and building the house to which Mr. Huus stated it was a development. They bought the lots and you could do whatever under a certain square footage of a house. Everyone built their own home on whatever lot they purchased.

Commissioner Pontenila inquired about the land use covenants that were mentioned and if they would stay intact even with the rezone to which Mr. Van Dyke stated that was correct, the City does not get involved with private covenants. It ends up being a civil matter.

Mrs. Sessions returned to the dais and stated this zoning will allow animals, electric/barb wire fencing. Also if there are animals the setbacks are only 20' away from the property line so if this one lot is approved it opens a door for 36 people to change their zoning which would change the entire concept of "R1" zoning.

Chairman Offerdahl clarified with staff if the 20' setback was correct to which Mr. Van Dyke stated yes it is 100' for any structures related to the animal husbandry and then 20' to keep the animals off the property boundary.

Chairman Offerdahl closed the public hearing.

**FINDINGS OF FACT:**

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

- 1) The applicants have submitted a complete application.
- 2) The present zoning is "R1" Single-Family Residential District.
- 3) The City of Minot 2040 Comprehensive Plan Future Land Use Map designates this area as Rural Residential.
- 4) The proposed zoning map amendment satisfies the evaluative criteria of Section 9.1-7. H. 1. thru 4. of the Land Development Ordinance as outlined in the Staff Analysis section of staff's written report.
- 5) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether the zoning map amendment be approved, with or without 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.

**STAFF RECOMMENDATION:**

Approval to City Council for a zoning map amendment from "R1" Single-Family Residential District to "RR" Rural Residential District with no conditions.

**FINAL DECISION:**

Commissioner Kibler made a motion to deny this motion. Commissioner Kibler stated a person has a right to do what they want with their property but this does seem to be a continuous neighborhood. Commissioner Kibler stated he can understand and deeply respect how neighbors feel about this kind of change. Commissioner Kibler stated he would prefer this kind of change himself but he can see a continuous neighborhoods here and a bunch of houses built the same way and that it does seem a strange outlier that one of those houses all of a sudden become a rural house and the rest are "R1." Commissioner Kibler stated he makes a motion to deny, in opposition to staff findings of fact.

No second. **Motion Fails.**

Chairman Offerdahl stated since there was no second that motion fails and we return to the original motion to approve the rezone based on staff's recommendation and findings of fact.

Commissioner Longtin made a motion to approve the original motion based on staff's recommendation and adopting staff's finding of fact. Second by Commissioner Kibler. The motion failed carried by the following vote: ayes: Longtin and Offerdahl, nays: Dohms, Hochhalter, Kibler, Mennem, Pontenila.

**Motion fails.**

Chairman Offerdahl stated since that motion failed there has to be a recommendation to pass on to City Council. Chairman Offerdahl asked Commissioner Kibler if he would like to go back to his original motion to which Commissioner Kibler stated yes.

Commissioner Kibler made a motion to deny in opposition to staff's findings and fact based on the reasons he articulated earlier. Commissioner Kibler also stated he does think some type of accommodation can be made with neighbors and he would like to see a greater turn out of neighbors since it is a neighborhood. Commissioner Kibler stated they are left in a position to make judgments based on two people's opinions about this.

Motion was seconded by Commissioner Hochhalter. The motion carried by the following vote: ayes: Dohms, Hochhalter, Kibler, Mennem, Pontenila, nays: Longtin and Offerdahl. **Motion carries.**

Chairman Offerdahl reminded everyone that this is a recommendation Planning Commission is sending to City Council. There will also be an opportunity to speak to City Council if anyone doesn't agree with Planning Commission's recommendation.

**Item #7: Case #2023-08-02. Zoning Map Amendment, Future Land Use Amendment, and Preliminary Plat**

Public hearing request by Ackerman Surveying, representing HL Development, LLC, owner for a zoning map amendment from "R2" Two-Family Residential District and "R3" Multiple Residence District to "GMU" General Mixed Use District, "C2" General Commercial District, and "RM" Medium Density Residential District. The application includes a request for a future land use map amendment from all



Urban Residential to Mixed Use Center, General Commercial, and Urban Residential. Finally, the application includes a preliminary plat for the creation of Highlander Estates 6th Subdivision. The purpose of the application is to facilitate unspecified commercial and residential development. The legal description for the property is Lots 11 and 12, Highlander Estates Subdivision to the City of Minot, North Dakota.

The properties are unaddressed, being located north of the termination of 23rd St. SW and west of the termination of 35th Ave. SW.

Chairman Offerdahl asked for staff report to which Mr. Van Dyke provided a verbal summary of the staff report to include the property's location, current zoning and the future land use designation. Mr. Van Dyke advised this request does include a FLU Map Amendment to urban residential. Mr. Van Dyke provided an illustration of the preliminary plat that outlines the temporary cul de sac off of 23<sup>rd</sup> Street and 35<sup>th</sup> Avenue SW. Mr. Van Dyke advised staff is already in discussion with the developers. Mr. Van Dyke also explained, in detail, the conditions relating to the staff recommendation for approval.

Commissioner Kibler inquired about the repercussions if they don't build the right of way or cul de sac to which Mr. Van Dyke deferred the question to Emily Huettl, Assistant City Engineer who advised there is a security required so if things were not done the City would have those ability to do that. Mrs. Huettl advised the financial security that is required if enough for the costs and a little increase to make sure the city is covered.

**PUBLIC HEARING:**

Chairman Offerdahl opened the hearing to the public for testimony. Rob Beard with Ackerman Surveying, representative for the applicant, came forward and stated the developer has reviewed the staff report and agrees with staff. Offerdahl closed the public hearing.

**FINDINGS OF FACT:**

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

- 1) The applicants have submitted a complete application.
- 2) The present zoning is "R2" Two-Family Residential District and "R3" Multiple Residence District and the 2040 Comprehensive Plan Future Land Use Map designates this area as Urban Residential.
- 3) The proposed zoning and future land use map amendments satisfy the evaluative criteria of Section 9.1-7. H. 1. thru 4. of the Land Development Ordinance as explained in the Staff's Analysis section of the written report.
- 4) The proposed preliminary plat meets the subdivision design requirements of Chapter 10.3, as applicable, subject to conditions as explained in the Staff Analysis section of the written report.
- 5) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether the zoning and future land use map amendments, and preliminary plat be approved, with or without 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.

**STAFF RECOMMENDATION:**

Approval to City Council for:

- 1) A future land use map amendment from Urban Residential to Mixed-Use Center, General Commercial, and Urban Residential.
- 2) A zoning map amendment from "R2" Two-Family Residential District and "R3" Multiple Residence District to "GMU" General Mixed Use District, "C2" General Commercial District, and "RM" Medium Density Residential District.
- 3) A preliminary plat for Highlander Estates 6th Subdivision subject to the following conditions:
  - a) The final plat shall include the necessary right-of-way as determined by the City Engineer or their designee to accommodate a round-about at the intersection of 23rd St. SW and 35th Ave. SW
  - b) The final plat shall include the necessary right-of-way as determined by the City Engineer or their designee to continue 20th St. SW northward to connect to 35th Ave. SW or plat a cul-de-sac on Lot 3, Block 3 to terminate 20th St. SW.
  - c) A financial security shall be provided to the City meeting the requirements of Section 10.3-21.
  - d) A development agreement that includes the following:
    - a. The shared-use path to the west of 23rd St. SW shall be extended along upward to a temporary point of termination as determined by the City Engineer or their designee and extended at that time the transportation network is extended northward.
    - b. Sidewalks are required to be installed along all other rights-of-way in line with City policy at the time of development. The termination points of sidewalk leading to or into the temporary cul-de-sac located on Lot 1, Block 2 shall be determined by the City Engineer or their designee and extended at that time the transportation network is extended northward.
    - c. Urbanized right-of-way construction for all right-of-way is required and includes, but not limited to, water, sewer, storm sewer, curb and gutter, and street lighting in alignment with City specifications and approved by the City Engineer or their designee.
    - d. Lot 1, Block 2, Highlander Estates 6th Subdivision shall not be developed until the necessary right-of-way is dedicated to provide continuous north/south connectivity from the terminus of the right-of-way between Lots 4 & 5, Block 2 to the northern property boundary of Lot 1, Block 2, Highlander Estates 6th Subdivision at a point approved by the City Engineer or their designee.
    - e. A traffic study, subject to approval by the City Engineer, is to be furnished by the developer and/or land owner(s) at a time as determined by the City Engineer or their designee. Any necessary improvements required to mitigate impacts will be constructed at the cost of the developer and/or land owner(s).
    - f. 23rd St. SW and 35th Ave. SW are collector roadways and are subject to collector roadway design standards and access spacing requirements.

- g. Lots 4 & 6, Highlander Estates Subdivision are subject to the following restrictions on development:
  - i. Prior to any future development on Lots 4 & 6, Highlander Estates Subdivision, the necessary right-of-way as determined by the City Engineer or their designee shall be dedicated to accommodate:
    1. A connection between 23rd St. SW and 31st Ave. SW
    2. A connection from the northern boundary of Lot 1, Block 2, Highlander Estates 6th Subdivision to 31st Ave. SW
    3. A connection between the two termini of 31st Ave. SW to the east of Lot 6, Highlander Estates Subdivision and to the west of Lots 4 & 6, Highlander Estates Subdivision
    4. A round-about at the intersection of 31st Ave. SW and 23rd St. SW
    5. 31st Ave. SW is a minor arterial roadway and is subject to arterial roadway design standards and access spacing requirements.

**FINAL DECISION:**

Motion made by Commissioner Kibler to approve based on staff's findings of fact and recommendation. Second by Commissioner Dohms. The motion carried by the following vote: ayes: all, nays: none. **Motion carries.**

**Item #8: Case #2023-08-03. Zoning Map Amendment – Tollberg Shores 2<sup>nd</sup> Addition**

Public hearing request by Dan Madler on behalf of BSI MHA, LLC representing Northern Lights Property Development, LLC, owner for a zoning map amendment from "R1" Single-Family Residential District to "RM" Medium Density Residential District for the purpose of constructing two (2) thirty-six unit apartment complexes. The legal description for the property is Lot 2, Block 1, Tollberg Shores Second Addition.

The property is unaddressed, being located north of the area pond, lying east of 16th St. NW. and west of 27th Ave. NW.

Chairman Offerdahl asked for staff report to which Mr. Van Dyke informed the Commissioners that he lives in the surrounding area of this request, therefore, he had the Assistant Planner, Terra Lindquist write the staff report and Mr. Billingsley will be presenting it to the Commissioners. Mr. Billingsley began with outlining the location of the property as well as went over the letter of intent submitted by the applicant, stating their intent is to construct 2, 36 building apartments onsite. Mr. Billingsley continued on with the site plan for the property touching on the two access points to the property, one off of 16<sup>th</sup> St NW and the other one off of 27<sup>th</sup> St NW. Mr. Billingsley explained the future land use map depicts this area as urban residential and clarified the requested zone of "RM" is permitted within that district.

Commissioner Kibler inquired why this being rezoned to "RM" and not "R3" to which Mr. Billingsley said "R3" is no longer used it is now either "RM" or "RH" and with this build, "RM" fits.

**PUBLIC HEARING:**

Chairman Offerdahl opened the hearing to the public for testimony. Sean Weeks with Ackerman Estvold, representative for applicant, came forward and stated him and the applicant both concur with staff report. Chairman Offerdahl closed the public hearing.

**FINDINGS OF FACT:**

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

- 1) The applicants have submitted a complete application.
- 2) The present zoning is "R1" Single-Family Residential District.
- 3) The City of Minot 2040 Comprehensive Plan Future Land Use Map designates this area as Urban Residential.
- 4) The proposed zoning map amendment satisfies the evaluative criteria of Section 9.1-7. H. 1. thru 4. of the Land Development Ordinance with conditions as outlined in the Staff Analysis section of staff's written report.
- 5) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether the zoning map amendment be approved, with or without 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.

**STAFF RECOMMENDATION:**

Approval to City Council for a zoning map amendment from "R1" Single-Family Residential District to "RM" Medium Density Residential District with the following conditions:

- 1) A storm water management plan is required for future development.
- 2) A site plan is required for development.
- 3) Connection fees are required for future development.
- 4) Sidewalks will be required upon future development.
- 5) All utility easements over common utility lines must be recorded.
- 6) The driveway location on 16th St must align with 27th Ave NW and the driveway on 27th St must be approved by the City Traffic Engineer.

**FINAL DECISION:**

Motion made by Commissioner Longtin to approve based on staff's findings of fact and recommendation. Second by Commissioner Dohms. The motion carried by the following vote: ayes: all, nays: none. **Motion carries.**

**Item #9: Case #2023-08-04. Zoning Text Amendment – Article 13**

Public hearing request by the City of Minot for a zoning text amendment to amend that portion of code related to replacement of residential dwellings in non-agricultural and non-residential districts. The changes are proposed for Section 13.1-4. D. of the Land Development Ordinance of the City of Minot.

Chairman Offerdahl asked for staff report to which Mr. Van Dyke stated this text amendment revolves around residential houses that are located in commercial or industrial zones. Mr. Van Dyke advised this happens by “pyramidal zoning,” that is why you find single family districts within industrial/commercial districts. Mr. Van Dyke advised this concept is no longer applied but where the homeowners run into an issue is when they try to sell it. It ends up being problematic for the homeowner. Mr. Van Dyke iterated this is not the best practice but we, as staff, are trying to recognize that these circumstances exist and try to find a solution to it. With that, Mr. Van Dyke explained the changes that staff is recommending for Article 13 to include should something happen to the residence a building permit for a new residence may be pulled within a year of the incident. Mr. Van Dyke explained with this change it will allow property owners to more easily move forward with a purchase/sale, as they would be able to rebuild.

Commissioner Kibler inquired about what the text amendment really meant and if new districts were being created to which Mr. Van Dyke advised no, new districts are not being created. The districts that are being looked into, exist today within the City of Minot. With this change, it permits homeowners who have a residence in a Commercial or industrial zone to rebuild their home within a year if their residence sustains damage by wind, fire, etc. As of right now they are not allowed to do that. Mr. Billingsley stated this will only impact residential uses in a commercial or industrial zone not the other way around, industrial or commercial uses in a residential zone.

**PUBLIC HEARING:**

Chairman Offerdahl opened the hearing to the public for testimony. No one appeared to testify. Chairman Offerdahl closed the public hearing.

**FINDINGS OF FACT:**

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

- 1) The applicant has submitted a complete application.
- 2) Section 9.1-8 I. 1. is applicable and satisfied with one condition as noted in the Staff Analysis section of staff’s written report.
- 3) Section 9.1-8 I. 2. is not applicable.
- 4) Section 9.1-8 I. 3. is applicable related to the reasons in the Background Information section of staff’s written report.
- 5) Section 9.1-8. I. 4. relating to introducing best practices or making the ordinance easier to understand is applicable and satisfied with one condition as noted in the Staff Analysis section of staff’s written report.
- 6) 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 RECOMMENDATION:**

Approval to City Council of the zoning text amendment as provided in Exhibit 1 with the following modifications:

1) Add language to Section 13.1-4. D. 1. & Section 13.1-4. D. 2. (second paragraph) following the final sentence in each respective section:

*The replacement structure must meet all of the requirements of Article 11: Flood Protection.*

2) Incorporate the following language within the title of Section 13.1-4. D. 1.:

*(Including all associated districts per Table 1.2: Zoning Equivalency Table)*

**FINAL DECISION:**

Motion made by Commissioner Hochhalter to approve based on staff's findings of fact and recommendation. Second by Commissioner Pontenila. The motion carried by the following vote: ayes: all, nays: none. **Motion carries.**

**Item #10: Other Business**

Mr. Van Dyke emphasized, moving forward, the importance of remembering the Rules of Decorum when analyzing a case. When staff makes a recommendation it also includes findings of facts, the rationale as to why staff came up with their recommendation. When staff presents Planning Commission's recommendation, we still need the findings of fact. Mr. Van Dyke explained as staff we can presume which finding of fact the general consensus is but we don't have it on the record and that is what is important to make is absolutely clear. Mr. Van Dyke also brought up the idea of an annual training for the Commissioners as a refresher and stated there is a Planning Commission training coming up in November through North Dakota Planning Association which he will share with everyone.

Mr. Billingsley reminded the Commissioners that the next meeting, September 6, will be held on a Wednesday due to the Labor Day Holiday.

**Item #11: Adjournment**

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

*Submitted by: Nicole Rivera, Planning Administrative Assistant*