



ZONING ORDINANCE STEERING COMMITTEE

Agenda for Wednesday, November 2, 2022 Meeting

8:00 – 10:00 AM

Minot City Hall, 515 2nd Ave. SW, Council Chambers

- I. ATTENDANCE AND ROLL CALL – 8:00**
- II. REVIEW AND APPROVAL OF AGENDA – 8:01**
- III. APPROVAL OF MINUTES – 8:02**
 - A. September 21, 2022 Meeting – See Handout
- IV. INTRODUCTION OF GUESTS – 8:04**
- V. OLD BUSINESS – 8:05**
 - A. Transferability of non-conforming use – See Handout
 - 1. Proposed language mimics Fargo's language
 - B. Chain link in "C2" General Commercial District continued
 - C. Stormwater discharge to not destroy public property
 - 1. Will be handled through Code of Ordinances (municipal code); not Land Development Ordinance (zoning code)
 - D. Lot Coverage Analysis – See Handout
- VI. ITEMS FOR DISCUSSION – 8:45**
 - A. Home Daycares – See Handout
 - B. Landscaping alternatives in boulevards
 - a. Engineering would like to remove reference to engineer approval as potential path forward
 - C. Dissolution of ZOSC as a Standing Committee – See Handout
- VII. NEXT STEPS – 9:50**
- VIII. NEXT MEETING – 9:55**
 - A. Date/Time/Location.
 - 1. TBD
 - B. Topic(s) of Discussion.
 - 1. TBD
- IX. ADJOURNMENT – 10:00**

ITEM III. A.

CITY OF MINOT ZONING ORDINANCE STEERING COMMITTEE

Meeting Minutes
September 21, 2022 8:00 am – 10:00 am
Council Chambers, City Hall, 515 2nd Ave., SW

I. ATTENDANCE AND ROLL CALL

Committee: Rolly Ackerman (Co-Chair), Tyler Neether (Vice-Chair), Tim Baumann, Rusten Roteliuk, Alderman Roscoe Streyle, Pat Bailey, and Gloria Larsgaard (by Teams).
Absent: None.
City Staff: Brian Billingsley, Community & Economic Development Director (Co-Chair), John Van Dyke, Principal Planner, and Emily Huettl, Assistant City Engineer.
Guests: Alderman Paul Pitner.

Mr. Ackerman called the meeting to order at 8:01 am.

II. REVIEW AND APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

Motion by Baumann to approve the March 30, 2022 meeting minutes, second by Neether. Passed by the following votes: ayes: all, nays: none. **Motion carries.**

IV. INTRODUCTION OF GUESTS

None present.

V. PROPOSED ORDINANCE AMENDMENTS

A. Lot Coverage/Land Area Definitions

Mr. Van Dyke presented his case for this amendment. The Land Development Ordinance does not have a definition for lot coverage or for land area. Staff proposes to count buildings and structures towards lot coverage. Mr. Roteliuk voiced a concern over overtaxing the storm water system. Ms. Huettl reminded the Committee that the landscaping ordinance requires residential properties to be predominately landscaped. Motion by Neether to adopt as presented. Second by Ackerman. Passed by the following vote: ayes: Neether, Ackerman, Bailey, Laarsgard, and Streyle. Nays: Baumann and Roteliuk. **Motion carries.**

B. Amendment to Non-conforming Use.

Mr. VanDyke presented his reasons for this amendment. Ackerman and Neether asked for clarification. Van Dyke explained how the amendment would affect existing non-conformities. Motion by Baumann to ask staff to conduct further research on this amendment and present its findings at a future meeting. Second by Laarsgard. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

C. Adding Definition/Use/Parking for Banquet/Reception Hall

Mr. VanDyke presented #3, #4, and #5 simultaneously and stated his reasons for these amendments. Motion by Ackerman adopt all three amendment as presented by staff. Second by Neether. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

D. Adding Provisions for Iconic Signs

Mr. Van Dyke presented his case for this amendment, which would give staff the ability to designate iconic signs within the community. Ackerman asked a question about setbacks that Van Dyke provided a response. A discussion ensued between several committee members. Motion by Ackerman to adopt as presented. Second by Streyle. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

E. R3C to Become and Legacy District

Mr. Van Dyke presented his case for this amendment, which would deactivate a zoning district that is rarely used and is generally available in other zoning classifications. Ackerman asked a question about non-conformities. Van Dyke responded that the ordinance will still have standards that property owners within the district would have to follow, but we would be not allowing any future rezoning of property to R3C district. Motion by Baumann to adopt as presented. Second by Bailey. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

F. Applicability of Front Yard Setback Reductions

Mr. VanDyke presented his reasons for this amendment. Motion by Ackerman to approve as presented. Second by Roteliuk. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

G. ADA Ramps Exempt from Setbacks

Mr. VanDyke presented the amendment, which would not require ADA structures to meet building setbacks requirements. Motion by Baumann to approve as presented. Second by Ackerman. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

H. Minimum Size of Building Onsite for Open Warehousing Uses

Mr. VanDyke presented his reasons for this amendment. The amendment declares that a principal structure must be required on a property that is containing outdoor storage uses. The committee found a numbering error (H.1.a should be H.2.a). Motion by Ackerman to approve with the suggested amendment. Second by Laarsgard. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

I. Variance Elevation Criteria

Mr. VanDyke presented his case for this amendment. He wants better clarity on defining a hardship prior to further evaluating all of the other criteria for a variance. Motion by Laarsgard to approve as presented. Second by Ackerman. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

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J. Clarifying other Language for Paving Residential Areas.

Mr. Van Dyke presented the need for this amendment. Ackerman asked a question how this amendment would impact setbacks. Van Dyke responded to his question. Motion by Bailey to approve as presented. Second by Neether. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

K. Other Clean-Up

a. Mr. Billingsley presented a proposal to amend the commercial fencing standards to allow chain link fencing along the side and rear property lines of a commercially zoned parcel. The committee discussed the history of the code. Veteran committee members stated this requirement was passed many years ago to bring up aesthetic standards on our commercial properties. Huettl suggested a compromise to allow black powder coated chain link fencing to ensure an aesthetical appearance. Motion by Bailey to amend the Land Development Ordinance to allow black powder coated chain link fencing on commercial properties next to the side and rear property lines. Motion failed for the lack of a second. Staff stated they would research how the other major cities in the State enforce this requirement and come back with a report at the next meeting.

b. Ms. Huettl presented a couple of modifications to the storm water chapter. The first modification is the city code regulating vehicles tracking mud needs more clarification. The other modification pertains to damages to public infrastructure caused by pumping of storm water into the public right-of-way. We do not have an ordinance that prohibits this activity and Huettl is recommending that the city pass an ordinance. Motion by Ackerman to draft language on the first modification and bring back more information for the second modification. Second by Laarsgard. Passed by the following vote: ayes: all, nays: none. **Motion carries.**

VI. NEXT STEPS

NONE.

VII. NEXT MEETING

No specific date is set, but the next meeting will occur in October.

VIII. ADJOURNMENT

Motion by Ackerman to adjourn the meeting, second by Neether. Passed by the following votes: ayes: all, nays: none. **Motion carries**

Meeting adjourned at 9:42 am.

Minutes submitted by: Brian Billingsley, Community & Economic Development Director

ITEM V. A.

1. AMENDING Section 13.1-3. A. Nonconforming Uses

Any lawful use of a property which became nonconforming because of the adoption of this ordinance, a change in the zoning, or due to district boundary changes, such use may be continued, even though such use does not conform to the provisions of this Ordinance. If no structural alterations are made, a nonconforming use may be changed to a new use, provided that the new use must be of the same general character or of a less intensive character (and thus more closely conforming) than the existing, nonconforming use. The determination of whether a proposed use is a conforming use is less intensive shall be made by the Planning Division. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, may not thereafter be changed back to a less conforming use. Any appeal to a determination by the Planning Division shall follow the appeals processes as provided in Section 9.1-9. Appeal of Administrative Decisions or related procedure available at the time of appeal should the Land Development Ordinance of the City of Minot be changed in the future. ~~another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not be changed back to a less restricted use.~~

Purpose: Transferability of non-conforming uses perpetuates uses that have been deemed undesirable in a particular zoning district. Best practice is to permit uses to continue on in a grandfathered state and once ceased to redevelop in conformance with the underlying zoning district. Bismarck applies the same strict cutoff for non-conforming uses as is being proposed by the amendment. Fargo applies a “lateral transfer” of non-conforming uses as it is presently written, although it is better explained than within the LDO. Per ZOSC recommendations from the September 21, 2022 meeting, the language from Fargo has been incorporated into the proposed amendment. Further, language surrounding the appeals processes for administrative determinations is provided for ease of reference.

Fargo Language Below

E. Change in Use

A nonconforming use may be changed to a new use, provided that the new use must be of the same general character or of a less intensive character (and thus more closely conforming) than the existing, nonconforming use. The determination of whether a proposed use is a conforming use or is less intensive shall be made by the Zoning Administrator. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, may not thereafter be changed back to a less conforming use.

7. AVERAGE IMPERVIOUS PERCENTAGE CALCULATIONS

Because it would be time and cost prohibitive to delineate all impervious surfaces within the interior drainage analysis project boundary, an approximation of average impervious percentage was determined for each land use. It is assumed that the average impervious percentage for each land use will be more or less consistent across the project area. Because impervious surface delineations were readily available in the area inside the boundary of the 2014 Ackerman-Estvold LiDAR collection, calculations were performed on the parcels within this boundary, and applied to the rest of the study area.

7.1. FINAL PARCELS FOR IMPERVIOUS CALCULATIONS

The city wide parcels shapefile from the comprehensive plan was clipped to exclude all parcels outside of the boundary of the 2014 Ackerman-Estvold LiDAR collection. The corrections discussed in section 5 were then applied to this parcel data subset to make corrections, and remove parcels with errors. A map showing the final parcels used to calculate the average impervious percentage for each land use are shown in **Exhibit 2**.

7.2. IMPERVIOUS CALCULATIONS

After the impervious polygon layer had been sufficiently reviewed it was intercepted with the parcels within the final parcel data set. By doing this, the percentage of impervious area contained in each parcel was determined. For each land use an average impervious percentage was determined and applied to all parcels within the comprehensive plan future land use plan boundary. These impervious percentages are shown below in **Table 3**.

Table 3: Average Impervious Surface Percentages per Land Use

Land Use	Percent Impervious
Low Density Residential	32
Medium Density Residential	36
High Density Residential	46
Commercial	82
Industrial	77
Parks and Open Space	10
Right of Way - Urban	71
Right of Way - Rural	34



EXHIBIT 2

Sample Area Parcel Land Use

- Commercial
- High Density Residential
- Industrial
- Low Density Residential
- Medium Density Residential
- Parks and Open Space
- Rural Right of Way
- Urban Right of Way



ITEM VI. A.

Summary of Homebased Daycare Research:

The City of Minot is experiencing at home child care problems, both to the fact that there is a lack of child care options and from neighboring residential houses complaining about traffic.

Below is a chart describing neighboring City practices:

Home Based Day-Care Research				
	Parking	# of Children	Permits	Other
Minot	1 space for employee. 1 drop-off/pick-up	18 children	N/A	Problems with traffic flow at drop off and pick up times.
Grand Forks	1 space per employee. 1 space per 6 children.	12 children	N/A	Would like to make it 18 children.
Bismark	1 space per employee. 1 space per 10 children.	12 children	N/A	Requires play area space, 35 Sq Ft indoors. Bismark counts resident kids.
Fargo	1 space per 500 sq ft	12 children	13+ kids need a CUP.	May only have one additional employee. Conditions must be met (P/C).

Below is the information regarding state child care ratios:

Age of Children	Adult to Child Ratio	Max Group Size of Same Ages*
0 thru 17 months	1:4	10
18 thru 35 months	1:5	15
3 years	1:7	20
4 years	1:10	25
5 years	1:12	30
6 to 12 years	1:20	40

The family provider's own children under age 12 must be included in the total.

Age Range

All ages

Ratios for Family Child Care in North Dakota State

Can care for up to 7 children, plus 2 additional school-age children. The family provider's own children under age 12 must be included in the total. Keep in mind:

- Either the provider can care for up to 3 children under the age of 24 months with additional children over 24 months
- OR they can care for up to 4 children under the age of 24 months when not caring for additional older children.
- Two school-age children can be added to either scenario.

North Dakota Licensing Standards for Day Care Centers - Daycare.com

In sum, ratios include:

- 1) 1:9 mixed group, two must be school aged

Groups with children under 24 months:

- 2) Mixed group may have a max of 3 under 24 months, the rest being older with two school aged: 1:9

Or

- 3) Mixed group can only have 4 under 24 months with two school aged: 1:6

To allow for the maximum amount of kids to be cared for in all instances, the amount of unrelated adults allowed in a home based child care facility would need to be three adults. (There needs to be three adults to accommodate the 1:6 ratio present with the 4 under 24 months.) In doing so, there needs to be an amendment made to the home occupation standards allowing for home based childcare centers to have different regulations, per unrelated employee number and per parking.

Since parking has also become an issue I recommend that home based daycares follow the daycare center parking standards we already have in place. Daycare centers are required to have 1 space per employee and one space per every six children. The maximum amount of parking required for a home based day care would be 6 spaces.

In allowing for more children to be cared for, we are addressing the serious need for child care. Allowing for more child care at home can provide a cheaper option for parents and allows for more parents to go back to work. This promotes the economy both in the fact that a daycare is being funded and that the parent can contribute to the workforce.

ITEM VI. C.

1. AMENDING Section 9.1-8 and 9.3-3 – Removal of Reference of Zoning Ordinance Steering Committee (ZOSC)

SECTION 9.1-8. ZONING ORDINANCE TEXT AMENDMENT

A. Intent

The Zoning Ordinance text may be modified from time to time by the City Council to implement the Comprehensive Plan, respond to general community needs or desires, to comply with state or federal law, and for other reasons.

B. Who May Submit Applications

1. Any member of the public, after coordination with the Planning Division.
2. The Planning Division, upon recommendation by the ~~A recommendation of the~~ Planning Commission, at the direction of the City Council, or by its own initiative in line with fulfilling best practice or in fulfillment of the Comprehensive Plan.
- ~~3. Action of the City Council.~~

C. Voluntary Pre-application Meeting

Prior to submitting a complete application to the Planning Division, applicants who are members of the public are encouraged to do the following:

1. Meet with a Planning Division staff person to review the proposed zoning ordinance text amendment application. This meeting provides a screening process to identify and resolve potential issues before the application is submitted. Upon review, the staff person will either recommend further pre-application review with the Development Review Team or formal submittal of the zoning ordinance text amendment application.
2. Meet with the Development Review Team to solicit City input beyond the Planning Division. City staff will schedule the Development Review Team meeting and invite all participants.

Application forms are available at the Planning Division or on the City's website.

D. Application Submittal

An application for zoning ordinance text amendment shall be submitted to the Planning Division on a form established by the Planning Division along with a non-refundable fee that has been established by resolution of the City Council. Application checklists that detail requirements for a complete application are established and maintained by the Planning Division. The application shall not be processed until the application is deemed complete by the Planning Division and the required fee has been paid. If the Planning Division determines that the application is incomplete, the application will be returned to the applicant along with an explanation of the application's deficiencies and/or missing information.

E. *Application Review*

The Planning Division must review each proposed zoning ordinance text amendment and prepare a report that describes the purpose and effect of the amendment.

F. *Planning Commission Hearing and Recommendation*

1. **Hearing Notice.** Once the applicant has furnished all information as ~~requested~~required by the Planning Division, the Planning Commission shall consider the application at its next hearing, provided sufficient notice of the hearing has been given and there has been sufficient time for staff to review the proposal. Written and published notice of the hearing must be provided in compliance with Sections 9.2-1(B) and (C).
2. **Planning Commission Action.** The Planning Division will summarize the staff the report at the hearing. At the close of the hearing, the Planning Commission shall make a recommendation to approve or deny the zoning ordinance text amendment and provide findings of fact to support this motion. When a quorum is present, a simple majority vote is sufficient (of those present) for the adoption of any motion. The public hearing may be continued by the Planning Commission without again complying with the notice requirements, provided that the continuance is set for a date and time certain and announced at the original public hearing.

G. *City Council First Reading*

1. **Council Action.** The City Council may make a recommendation to approve or deny the application for the zoning ordinance text amendment at the end of the public hearing. A second reading is required to finalize the decision.
2. **First Reading Timeline.** The City Council shall consider the recommendation from the Planning Commission at the next available City Council meeting following the Planning Commission decision. This timeline does not apply if the action is tabled by the Planning Commission.

H. *City Council Second Reading*

1. **Council Action.** At the Second Reading, the City Council shall make a final motion to approve or deny the application for zoning ordinance text amendment, or postpone the decision to allow for further review.
2. **Requirement for Approval.** Approval requires a simple majority of the City Council (at least four councilmembers).

I. *Review and Approval Criteria*

In reviewing any application for a zoning ordinance text amendment, the Planning Commission and City Council shall find that the following criteria have been satisfied, as applicable.

1. The amendment must not adversely affect the public health, safety, or welfare.
2. The amendment is supported by a strategy, recommendation, or other concepts from the Comprehensive Plan.

3. The amendment is necessary because of changed social or economic conditions in the areas affected.
4. The amendment is necessary to improve the ordinance by introducing best practices or makes the ordinance easier to understand and use by the public.

J. Notice of Amendment Adoption

Within thirty (30) days after the City Council approves a zoning ordinance text amendment, a notice of the approved amendment shall be published in accordance with [Section 40-47-04.2 of the North Dakota Century Code](#).

SECTION 9.3-3. ~~ZONING ORDINANCE STEERING COMMITTEE~~ POWERS AND DUTIES TABLE

~~A. Powers and Duties~~

~~**4. Zoning Ordinance Text Amendments.** The Zoning Ordinance Steering Committee shall be responsible for reviewing Zoning Ordinance text amendments and providing recommendations to staff prior to consideration by the Planning Commission and City Council.~~

Table 9.3-3. Powers and Duties				
Procedure	Planning Division	Zoning Ordinance Steering Committee	Planning Commission	City Council
Future Land Use Map Changes	R	-	R	DM
Zoning Ordinance Text Amendments	R	R	R	DM
Zoning Map Changes	R	-	R	DM
Subdivisions	R	-	R	DM
Conditional Use Permits	R	-	DM	A
Interim Use Permits	R	-	DM	A
Variances	R	-	DM	A
Sign Permits (Administrative Decision)	DM	-	A	A
Other Administrative Decisions	DM	-	A	A
Notes: R = Regulatory/Review Role DM = Decision Making Role A = Appeal Role				

Purpose: In an effort to be more responsive to code changes necessary to facilitate development across the City, the Zoning Ordinance Steering Committee (Committee) is proposed to be removed from the text amendment process. The Committee has served its primary purpose ensuring the creation of the Land Development Ordinance of the City of Minot in 2019 and 2020, with its ultimate adoption on April 5, 2021. Other communities in North Dakota, such as

Grand Forks, Bismarck, and Fargo do not have a broader oversight committee and instead rely on stakeholder involvement with regard to changes involving specialized topics (e.g. changes to sign codes involves discussions/review with sign companies). The Planning Division is proposing to follow the practices of other large communities in the State to be more responsive to development needs of the community.