



Regular Planning Commission Meeting

Tuesday, July 2, 2024, at 5:30 PM

City Council Chambers, City Hall (10 3rd Ave SW)

Any person needing special accommodation for the meeting is requested to notify the City Clerk's office at 857-4752.

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. INTRODUCTIONS AND DECORUM
 - 3.1. INTRODUCTIONS AND DECORUM HANDOUT
4. PLANNING COMMISSION
 - 4.1. APPROVAL OF THE JUNE 2024 REGULAR MEETING MINUTES
5. PUBLIC HEARING
 - 5.1. CASE #2024-05-01 - THOMPSON'S FIFTH ADDITION - ZONE CHANGE

Public hearing request by Scott Louser representing Henslayer, LLC., owner for a request of a zone change for an apartment complex located on a property zoned "C2" General Commercial. The applicant is requesting a zone change to "RH" High Density Residential District bringing current zoning into alignment with the City of Minot's 2040 Comprehensive Plan's Future Land Use Map's designation of "Urban Residential" and to better reflect the existing development on the property. The legal description for the property is Thompson's Fifth Addition Lots 13, 14 and Sublot A of Lot 15, Section 35, Township 155 North, Range 83 West, Ward County, North Dakota. The subject property address is 3205 4th Street SW

- 5.2. CASE #2024-05-04 - HIGHALNDS AT NORTH HILL 3RD ADDITION - VARIANCE

Public hearing request by Brian Billingsley, Community and Economic Development Director representing 701 Development LLP., owner for a request of a variance for side-yard setback requirements on an "R2" Two-Family Residential District with a PUD overlay district. The legal description for the property is Highlands at North Hill 3rd Addition to the City of Minot, North

Dakota, Block 3 Lot 10 B.

The subject property address is 2532 Landmark Dr.

5.3. CASE #2024-03-01 - POPEYES - VARIANCE

Motion made to table this item until July 2nd, 2024 at 5:30pm in the City Council Chambers of City Hall.

6. MISCELLANEOUS AND DISCUSSION ITEMS

6.1. 2025 COMPREHENSIVE PLAN GOALS

7. ADJOURNMENT

INTRO

The Planning Commission evaluates land use applications for compliance with the standards and procedural requirements outlined within the Zoning Supplement to the City of Minot (Zoning Code) and North Dakota Century Code. Further, the Planning Commission is tasked to ensure development within the City of Minot aligns with the City of Minot 2012 Comprehensive Plan (Comprehensive Plan).¹

Planning Department staff are assigned to support the Planning Commission by reviewing applications for compliance with the Zoning Code and alignment with the Comprehensive Plan. Staff summarizes this information to the Planning Commission in the form of written staff reports, which include a recommendation. Oral presentations summarizing a staff report and any additional information obtained since the date said staff report was written is provided as determined necessary by the Planning Commission.

Planning Commission is not required to follow City staff recommendation. However, a deviation from staff's recommendation may require clarification to the findings of fact along with clearly stated reasoning for any alternative recommendation.

Finally, staff is not able to anticipate all information entered into the record via Planning Commissioner discussion or provided by the public during the open public comment period. Staff is available to answer any questions which may arise through discussion.

The Planning Commission renders a decision for variances, interim use permits, and conditional use permits that may be appealed to City Council. The Planning Commission provides recommendations to City Council for all other land use applications.

DECORUM

Persons attending public hearings are expected to conduct themselves with decorum to assure fairness and equity in the proceedings. Participants must:

- Step to the podium/microphone each time you wish to be recognized by the Planning Commission to offer a comment, or to ask or answer a question, and state your name for the record. To ensure minutes of the meeting accurately reflect the individual for which statements are made a sign-in sheet is provided at the podium for those wishing to speak.
- Address all testimony, comments and questions to the Chair of the Commission and not the other participants, the applicant, or the staff. The Chair of the Commission will determine the appropriateness of all questions and when and where to direct them.
- Allow others in attendance an opportunity to present their testimony. Do not interrupt the proceedings with applause, heckling, outbursts or other disruptive behavior.
- Address the issues and application that are before the Commission. These proceedings are not the forum to discuss the appropriateness of particular land use policies, regulations, or alternatives.
- Please silence your phones or set them to vibrate at this time.

¹ Per N.D.C.C 40-48-09, the basic purpose of the plan:

...The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs, which, in accordance with present and future needs, best will promote the amenities of life, health, safety, morals, order, convenience, prosperity, and general welfare as well as efficiency and economy in the process of development, including adequate provision for light and air, distribution of population, good civic design and arrangement, wise and efficient expenditure of public funds, the adequate provision of public utilities and other public requirements, the improvement and control of architecture, and the general embellishment of the area under its jurisdiction.

On June 4, 2024, a Regular Planning Commission Meeting of the Minot Planning Commission was held in the City Council Chambers, City Hall (10 3rd Ave SW). Chairman Offerdahl called the meeting to order at 05:30 PM.

1. ROLL CALL

Members Present: Tim Baumann, Elisha Gates, Kayla Johnson, Robert Kibler, Logan Longtin, Dustin Offerdahl, Serena Pontenila

Members Absent: Dale Dohms, Erin Iverson, Annette Mennem

City Staff Present : Doug Diedrichsen, Dan Falconer, Hannah Hornberger, Nick Schmitz

Others Present: James Kassabe

2. PLEDGE OF ALLEGIANCE

3. INTRODUCTIONS AND DECORUM

3.1. INTRODUCTIONS AND DECORUM HANDOUT

4. PLANNING COMMISSION

4.1. APPROVAL OF THE MAY 2024 REGULAR MEETING MINUTES

Motion by Commissioner Kibler to approve the May 7, 2024 Planning Commission Meeting Minutes.

Second by Commissioner Pontenila. Roll call vote: ayes: all, nays: none. Motion carries.

5. PUBLIC HEARING

5.1. CASE #2024-04-03 - OUTLOT 40 SECTION 27, TOWNSHIP 155 NORTH, RANGE 83 WEST - CUP

Applicant withdrew application

5.2. CASE #2024-03-01 - POPEYES - VARIANCE

Mr. Diedrichsen went through updates.

Staff had a discussion.

Chairman Offerdahl opened the public hearing to the public for testimony.

James Kassabe, resident, speaks on changes that have been made so far, the noise is still a problem.

Motion made by Commissioner Kibler to table until July 2, 2024 at 5:30pm based on staff's findings of fact & recommendation.

Second by Commissioner Longtin.

Roll call vote ayes: all, nays: none. Motion carries.

6. MISCELLANEOUS AND DISCUSSION ITEMS

Commission Baumann questioned the comprehensive plan
Mr. Diedrichsen informed him that they will put together a presentation for the July meeting.

7. ADJOURNMENT

With no further business, Chairman Offerdahl adjourned the meeting at 5:45 pm.



Planning Commission Staff Report

Application Date: 05/20/2024

Date of Staff Report: 06/14/2024

Date of Planning Commission Meeting: 07/02/2024

Staff Contact: Doug Diedrichsen, Principal Planner

Staff Recommendation: Recommend Approval

Case Number: 2024-05-01

Project Name: Thompson's Fifth Addition – Zone Change

Current Legal Description: Lots 13, 14 & Sublot A of Lot 15 of Thompson's Fifth Addition

Proposed Legal Description: No Change

Present Address: 3205 4th Street SW

Owners: Henslayer, LLC

Representative: Scott Louser

Entitlements Requested: Zoning Map Amendment from "C2" General Commercial District to "RH" High Density Residential District

Present Zone(s): "C2" General Commercial District

Present Use(s): Multi-Family Residential – Apartment Complex

Uses Allowed in Present Zone(s): See Chapter 2.2 for allowed and conditionally permitted uses within each district.

Present Future Land Use Map Designation: Urban Residential

Proposed Zone(s): "RH" High Density Residential District

Proposed Use(s): No Change

Uses Allowed in Proposed Zone(s): See Chapter 2.2 for allowed and conditionally permitted uses within each district

Proposed Future Land Use Map Designation: No Change

PROJECT DESCRIPTION:

Public hearing request by Scott Louser representing Henslayer, LLC., owner for a request of a zone change for an apartment complex located on a property zoned "C2" General Commercial. The applicant is requesting a zone change to "RH" High Density Residential District bringing current zoning into alignment with the City of Minot's 2040 Comprehensive Plan's Future Land Use Map designation of "Urban Residential" and to better reflect the existing development on the property. The legal description for the property is Thompson's Fifth

Addition Lots 13, 14 and Sublot A of Lot 15, Section 35, Township 155 North, Range 83 West, Ward County, North Dakota.

The subject property address is 3205 4th Street SW, an aerial map including the notification boundary, is provided in **Exhibit 1**.

BACKGROUND INFORMATION:

The applicant desires to rezone the property from “C2” General Commercial District to “RH” High Density Residential District in order to secure entitlements for the current development of the property, prepare for the sale of the property and bring the property into conformity with the 2040 Comprehensive Plan Future Land Use Map. Currently, any redevelopment of the subject property other than for the existing use would require the entire property to be brought into compliance with the current general commercial requirements in the “C2” district.

The “RH” High Density Residential District allows for multifamily housing including Apartments (5 units and above) and is listed as a “complimentary zoning district” in the 2040 Comprehensive Plan document, outlined in the “Urban Residential” section of the land use chapter.

The zoning and future land use map of the subject property and immediate vicinity is provided in **Exhibit 2**.

Site photos are provided in **Exhibit 3**.

STAFF ANALYSIS:

Zoning Map Amendment Analysis:

Section 9.1-7 of the Minot Land Development Code provides the procedures for amending the official zoning map of the City of Minot. Section 9.2 provides the noticing requirements for public hearings held by the Planning Commission. Section 9.1-7 D. recognizes that the future land use map may need to be amended to support any rezoning request. The applicant has submitted the necessary application documents required per Section 9.1-7 C. and noticing has been conducted as required per Section 9.2.

The subject property future land use designation is Urban Residential, which aligns with the proposed zone change to “RH” High Density Residential. Staff finds no future land use map amendment is necessary.

Section 9.1-7 E. 2. requires the Planning Commission to provide findings of fact to ensure the criteria included in Section 9.1-7 H. has been satisfied in order to support any recommendation regarding any proposed changes to the zoning map or Future Land Use Map. Staff provides the following guidance:

Section 9.1-7 H. 1. relates to whether or not the proposed zoning map amendment is justified due to a change in conditions, error in the zoning map, or by in order to fulfill the future land use map of the Comprehensive Plan. The request stems from an error in the zoning map, as the existing non-conforming use of the property does not comply with the zoning map or future land use map designation assigned to it. Section 9.1-7 H. 1 is satisfied.

The City and other agencies will be able to provide necessary public services and facilities to serve the proposed development. Section 9.1-7 H. 2 is satisfied.

Section 9.1-7 H. 3 requires that the proposed zoning map amendment will not substantially diminish the condition or value of property in the vicinity. Staff finds no evidence that the zoning map amendment to “RH” High Density Residential District will diminish the condition or value of property within the vicinity. As discussed in the Background Information section of this report, the use and the density of development will not change. Section 9.1-7. H. 3. is satisfied.

Section 9.1-7. H. 4. requires the zoning change to be consistent with the purpose of the Land Development Ordinance of the City of Minot, the Comprehensive Plan, and other adopted plans and policies of the City. The proposed development must comply with all development standards within the Land Development Ordinance of the City of Minot and the zoning map amendment aligns with the future land use designation of Urban Residential in the City of Minot 2040 Comprehensive Plan. Therefore, Section 9.1-7. 4. is satisfied.

Comments:

- a) There were no public comments at the time of writing this staff report.
- b) The application was distributed to city departments and external public agencies within the City for review and no comments were received.

FINDINGS OF FACT:

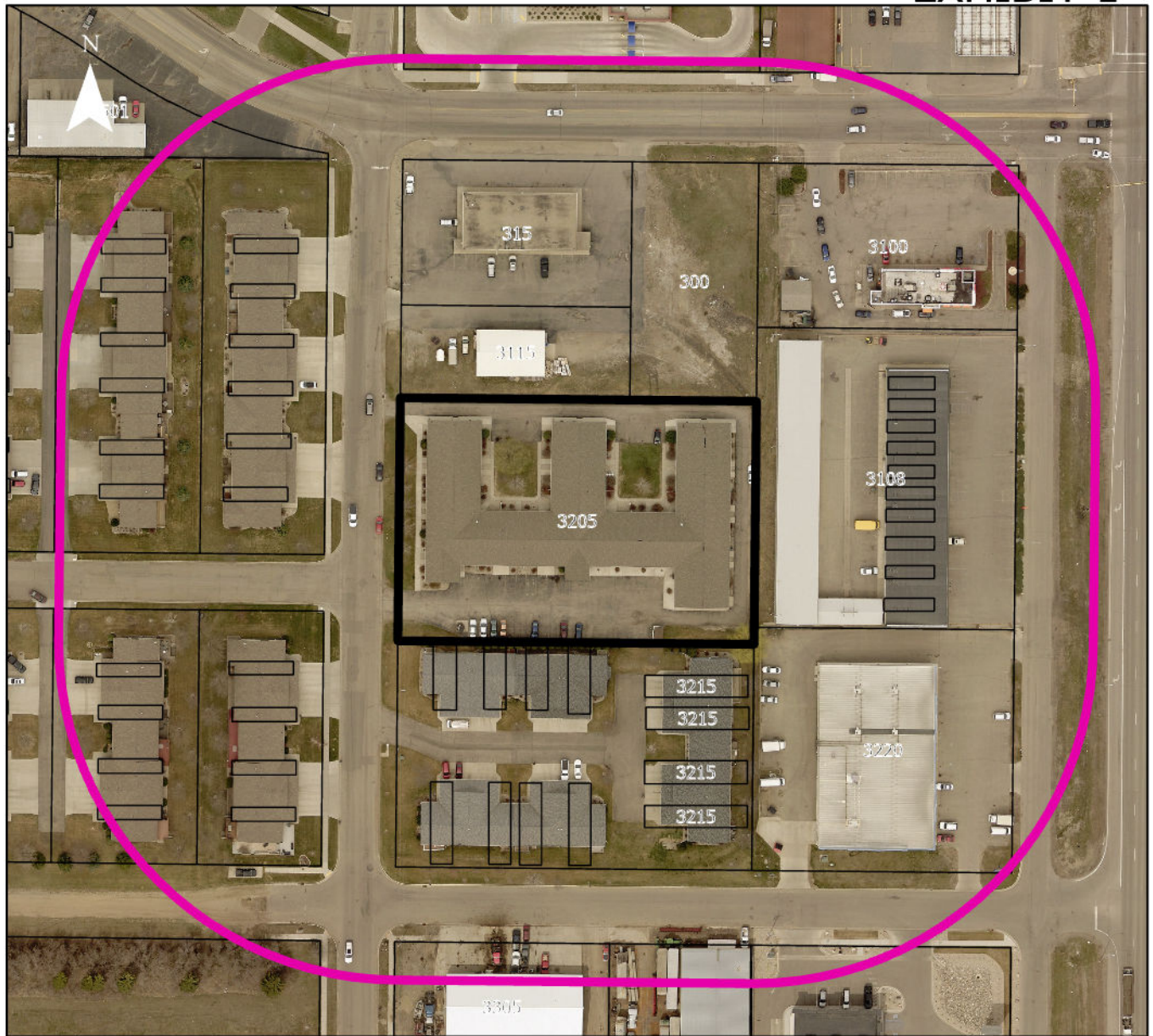
The Minot Planning Commission should accept the following findings of facts:

- 1) The applicants have submitted a complete application.
- 2) The present zoning is “C2” General Commercial District.
- 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 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.

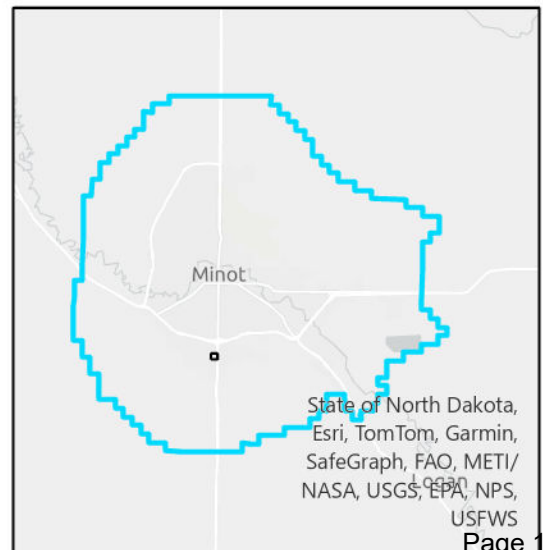
RECOMMENDATION:

Staff recommends the Planning Commission adopt staff's findings of fact and recommend approval to City Council for a zoning map amendment from "C2" General Commercial District to "RH" High Density Residential District with no conditions.

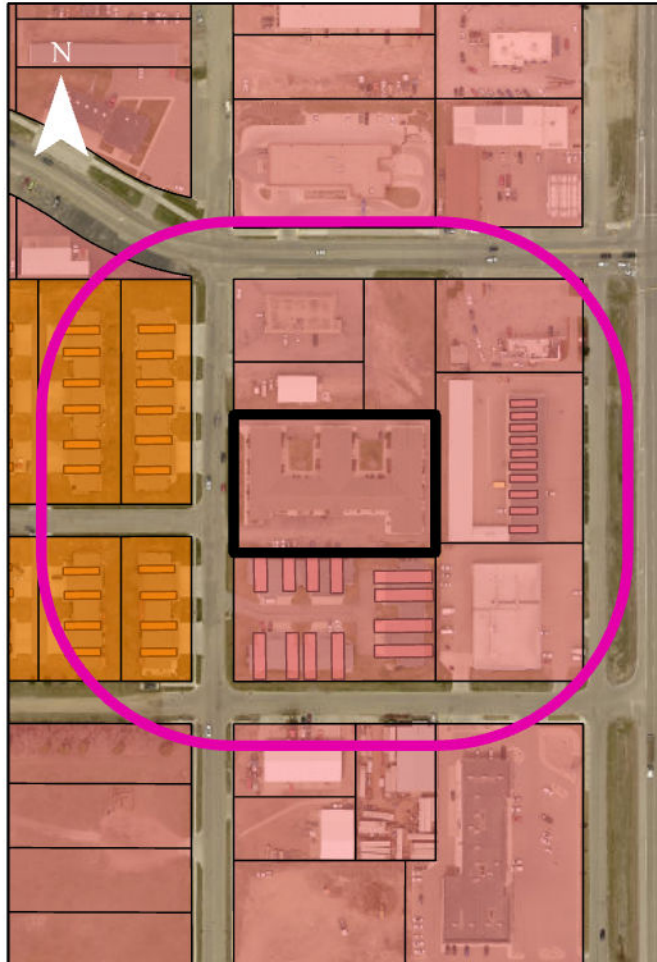


0 100 200 400 Feet

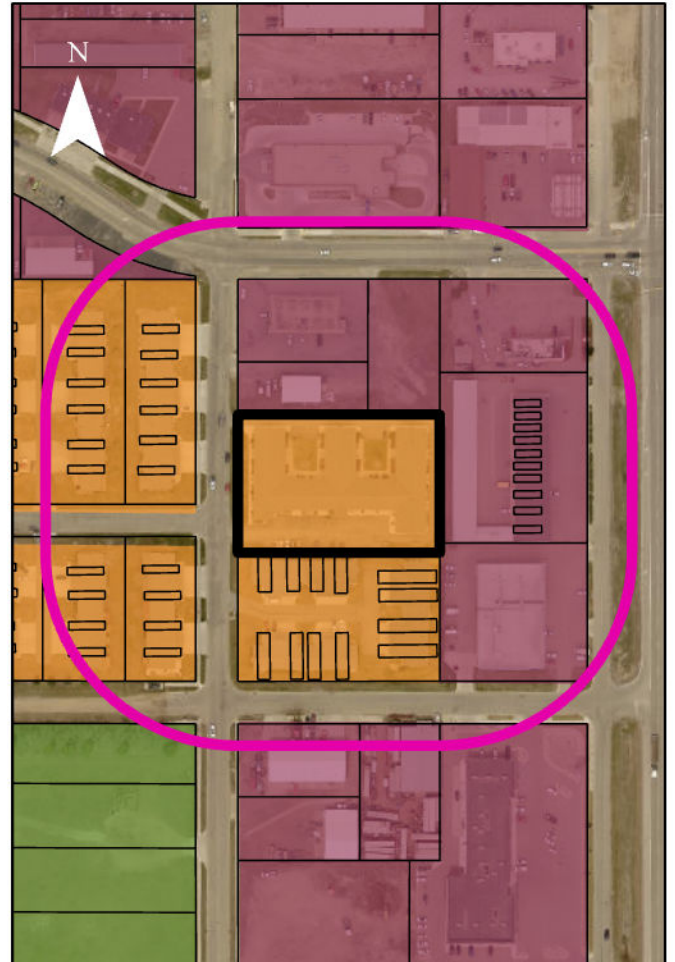
-  Case # 2024-05-01
-  Case # 2024-05-01 Notification Area



ZONING



FUTURE LAND USE



0 145 290 580 Feet

Zoning

Zoning	
	C2
	R3

Both Maps

	Case # 2024-05-01
	Case # 2024-05-01 Notification Area

Land Use Type

	General Commercial
	Parks And Recreation
	Urban Residential

Exhibit 3 – Site Photos



Facing Northwest



Facing West



Facing East



Facing South



Planning Commission Staff Report

Application Date: 05/28/2024
Date of Staff Report: 06/14/2024
Date of Planning Commission Meeting: 07/02/2024

Staff Contact: Doug Diedrichsen, Principal Planner
Staff Recommendation: Approval

Case Number: 2023-09-01

Project Name: Highlands at North Hill 3rd
Addition - Variance

Current Legal Description: See project
description below.

Present Address: 2532 Landmark Dr.

Owners: 701 Development, LLP
Four Seasons Construction, INC

Representative: N/A

Entitlements Requested: Variance to the street- side
setback from twenty-five feet (25') to Twenty feet
(20').

Present Zone(s): "R2" Two-Family Residential
District w/PUD

Present Use(s): Vacant

Uses Allowed in Present Zone(s): See Table 2.2
for allowed and conditionally permitted uses
within each district.

Present Future Land Use Map Designation:
Urban Residential

Proposed Zone(s): No Change

Proposed Use(s): Residential

Uses Allowed in Proposed Zone(s): See Table 2.2 for
allowed and conditionally permitted uses within each
district.

Proposed Future Land Use Map Designation: No
Change

PROJECT DESCRIPTION:

Public hearing request by Brian Billingsley, Community and Economic Development Director, City of Minot on behalf of Four Seasons Construction, Inc. and 701 Development, LLP, owners, for a variance to the street side setback. The request includes a variance from twenty-five feet (25') to twenty feet (20') for Lot 10 B, Block 3, Highlands at North Hill 3rd Addition.

The address for the property is 2532 Landmark Dr. NW. An aerial view of the property and 300-foot notification area is provided in **Exhibit 1**.

A letter of intent is included in **Exhibit 2**.

BACKGROUND INFORMATION:

Through conversations with the property owners, the City of Minot determined that prior approvals to reinvigorate development in Highlands at N. Hill did not take into consideration the subject property's width as required for a corner lot. Typically, corner lots are platted in such a way as to allow for additional setbacks within the street side yard. The street side setback was reduced to twenty-five feet (25') via the zoning map amendment facilitated by the City via Case# 2023-03-02 (Highlands at North Hill – PUD Major Plat) and accommodates development on all other corner lots within the broader development. Even applying the twenty-five foot (25') setback to this lot creates an undesirable development scenario, where the size of home that could be constructed is too small and out of character with other homes in the development and the approved designs within the PUD. This was not the intended outcome of the zoning map amendment and therefore the City has submitted this variance application on behalf of the property owners to continue moving forward with development activities.

Exhibit 3 provides a site map illustrating the applicable and desired setbacks as applied to this lot with construction of the approved Chinook style twin home.

The proposal submitted by the City addresses this lot that was otherwise not taken into account during the ongoing discussions with the landowners during the zoning map amendment processes by the City.

The zoning and future land use map designation of the subject property and surrounding area is provided in **Exhibits 4**.

Site photos are provided in **Exhibit 5**.

STAFF ANALYSIS:

Variance Request Analysis:

Section 9.1-3 of the Land Development Ordinance of the City of Minot (LDO) provides the application procedures for variances, the types of variances allowed, and criteria necessary for approval by the Planning Commission. The applicant has submitted the necessary application documents required per Section 9.1-3 C. and noticing has been conducted per Section 9.2-1.

Section 9.1-3 G. 1. requires the Planning Commission find that a unique hardship exists using one of three qualifying criteria. To that end, staff provides the following guidance:

Staff finds that the variance criteria provided in Sections 9.1-3. G. 1. a. relating to the exceptional shallowness or shape of the property is applicable. The subject property was platted to accommodate one-half of a twin home. The intended setbacks were twenty-five feet (25'). The setbacks for this or any of the lots within the development were formally specified in Case# 2023-03-02 (Highlands at North Hill – PUD Major Plat). During a zoning map amendment, the setbacks were specified to be twenty-five feet (25') for any street side property line. Exhibit 3, illustrates that applying the setback of twenty-five feet (25') does not provide adequate room to accommodate the original building footprints. The approved PUD requires corner lots to be platted at sixty five feet (65') as a minimum width, however this lot was overlooked in the platting process. The platted lot is simply too narrow to accommodate the approved building plan for the single story twin home and therefore require further relaxation. Only the minimum variance necessary to accommodate a reasonable use is being sought via this application. Therefore, Section 9.1-3. G. 1. a. is satisfied.

Staff finds Section 9.1-3. G. 1. b. relating to exceptional topographical conditions of the property is not applicable.

Staff finds Section 9.1-3. G. 1. c. relating to there being exceptional practical difficulties that would prevent the reasonable use of the property is not applicable.

The totality of the facts provided in the preceding analysis establishes a unique hardship for the subject property(ies) and a variance is necessary to accommodate the proposed reasonable use of the property. Staff finds Section 9.1-3. G. 1. is satisfied.

Further, Section 9.1-3. G. 2. requires that a variance may not be approved unless Planning Commission finds both of the following criteria is met:

- a. The granting of the variance will not adversely affect the rights of property owners in the surrounding neighborhood, or the character of the surrounding neighborhood.
- b. The granting of the variance will not be contrary to the Comprehensive Plan.

Staff finds that both of the above are satisfied, as the desire is to ensure that the character of the area, including the size and type of home to be constructed, aligns with others in the neighborhood. In addition, the variance will not be contrary to the comprehensive plan. Section 9.1-3. G. 2. is satisfied.

Staff finds that both Section 9.1-3. G. 1. & 2. are satisfied and therefore the request for a variance should be approved.

Comments:

1. There were no public comments at the time of writing this staff report.
2. The application was distributed to city departments and external public agencies within the City for review and no comments were received.

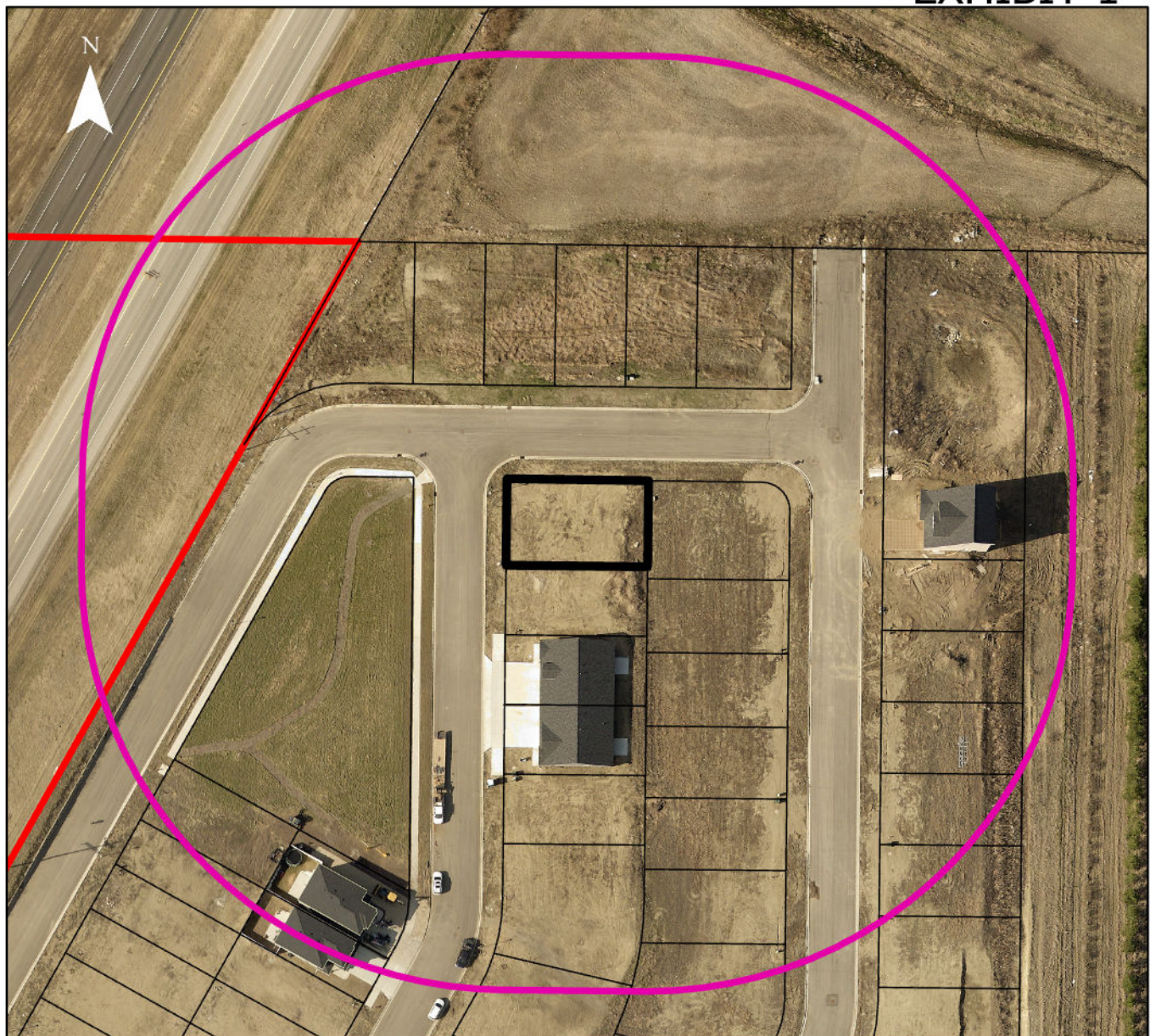
FINDINGS OF FACT:

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

- 1) The applicants have submitted a complete application.
- 2) The property is zoned “R2” Two-Family Residential with a “PUD” Planned Unit Development overlay on the Official Zoning Map and is designated as Urban Residential on the 2040 Comprehensive Plan Future Land Use Map.
- 3) The requested relief is for setbacks to accommodate construction of one-half of a twin home in one of the City’s “Arrested Developments.”
- 4) The lot is too narrow to accommodate the street side setbacks of twenty-five feet (25’) and a unique hardship exists as outlined in the Staff Analysis section of the written report. Section 9.1-3. G. 1. is satisfied.
- 5) Granting a variance will not affect the rights of neighboring property owners, as the result of a granting of the variance will allow the subject properties to develop in character with the surrounding development. Further, a granting of the variance will not be in conflict with the Comprehensive Plan. Therefore, Section 9.1-3. G. 2. is satisfied.
- 6) The Minot Planning Commission has the authority to approve, approve with conditions, or deny the variance. The public notice requirements were met, the hearing was legally noticed and posted, and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

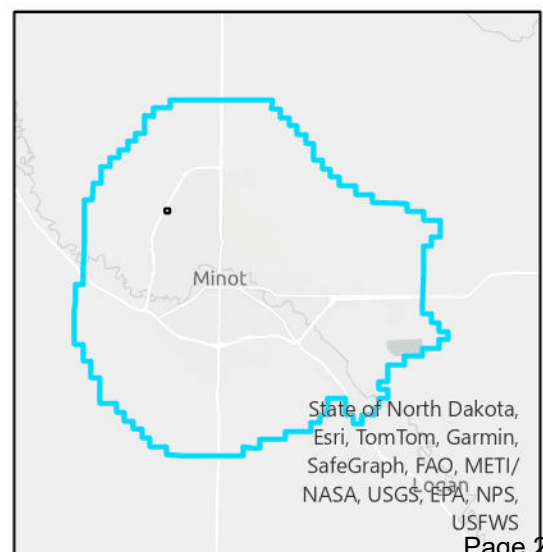
RECOMMENDATION:

Staff recommends the Planning Commission adopt staff findings of fact and approve a variance to the street side setback for Lot 10B, Block 3, Highlands at North Hill 3rd Addition from twenty-five feet (25’) to twenty feet (20’).



0 80 160 320 Feet

-  Case # 2024-05-04
-  Case # 2024-05-04 Notification Area

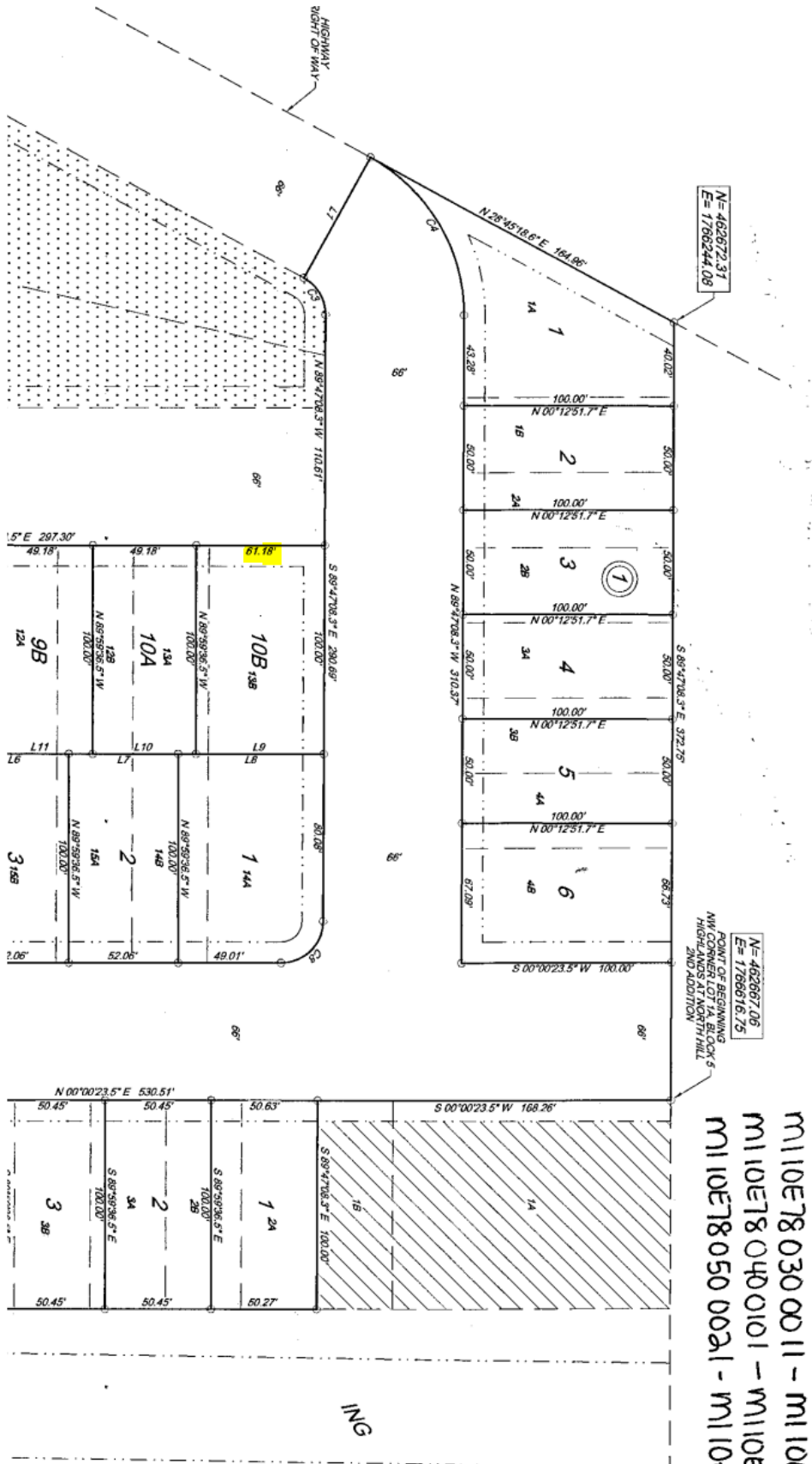


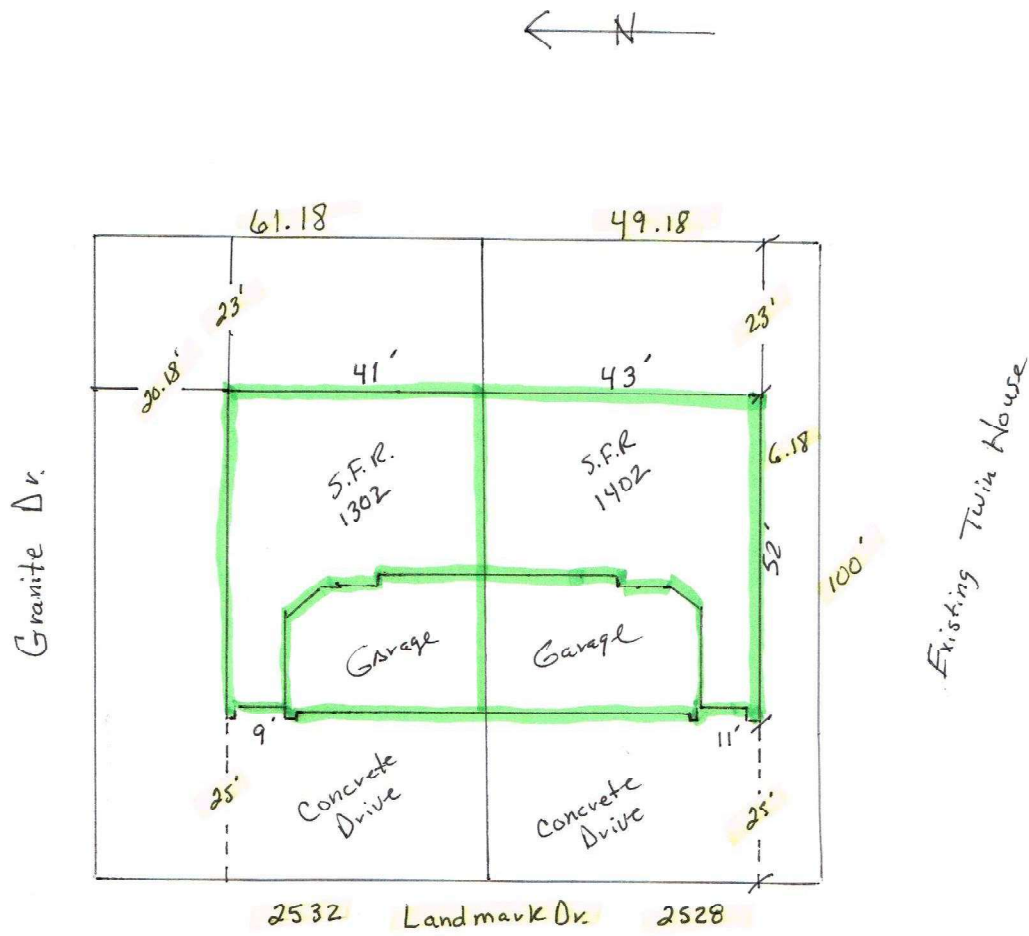
Variance Letter of Intent

This variance is city-initiated for a side street setback reduction due to a recently discovered platting error. The property is in the Highlands at North Hill residential subdivision.

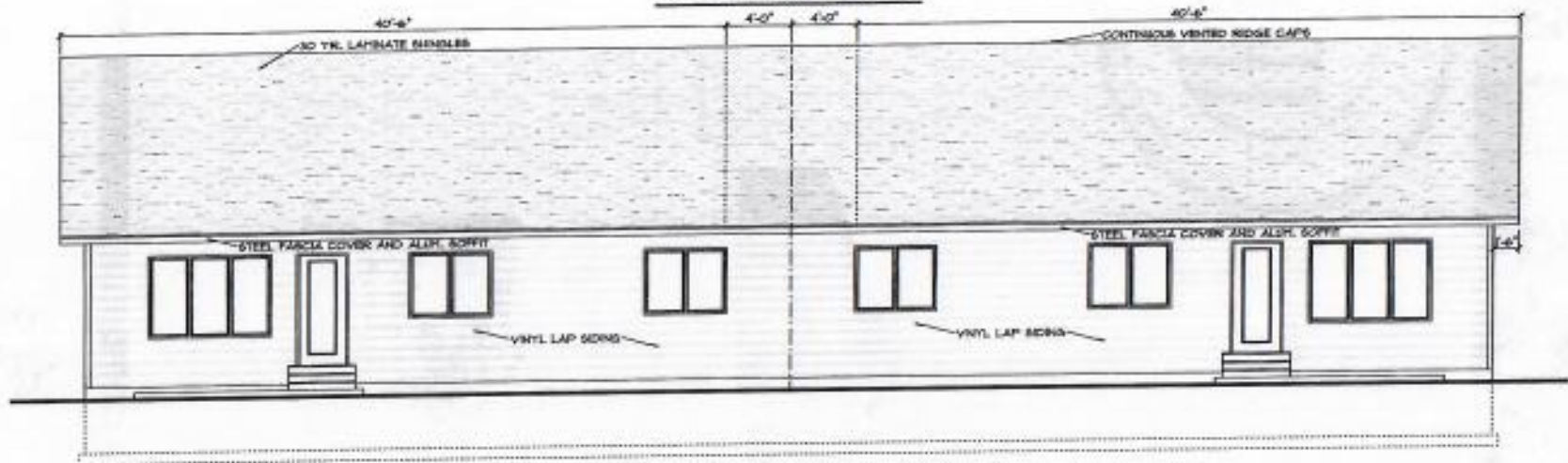
It was uncovered during a recent permitting review of 2532 Landmark Dr that the width of the parcel was only 61.18ft, where it clearly states in Ordinance 5818 that corner lots in this subdivision have a minimum 65ft width. This discrepancy of 4ft has caused the approved house model (The “Chinook”) to not fit within setback. As this development has a PUD overlay, with specific types of homes approved for certain lots, we as Staff feel this qualifies this parcel under Section 9.1-3 G. c. Exceptional Practical Difficulties. Any normal lot could simply change the layout to accommodate this 4ft discrepancy, however in this case only certain models are allowed.

We recommend that the side street setback (facing Granite Dr) be reduced from 25ft to 20ft for Highlands at North Hill 3rd Addition Block 3, Lot 10B. To allow for the specific housing model to be constructed at 2532 Landmark Dr.



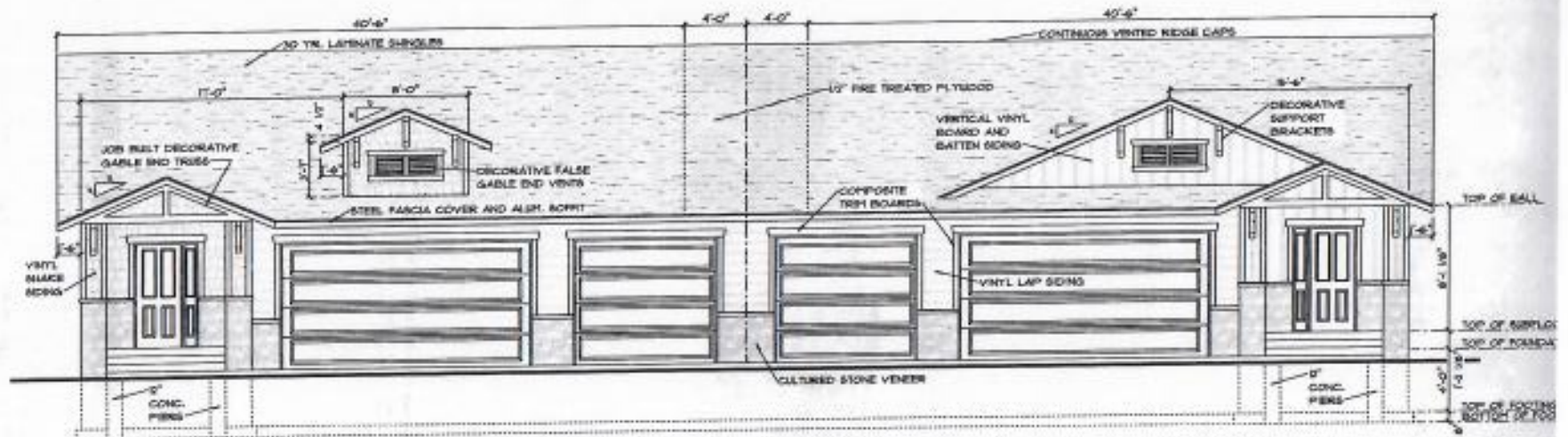


"CHINOOK"



REAR ELEVATION

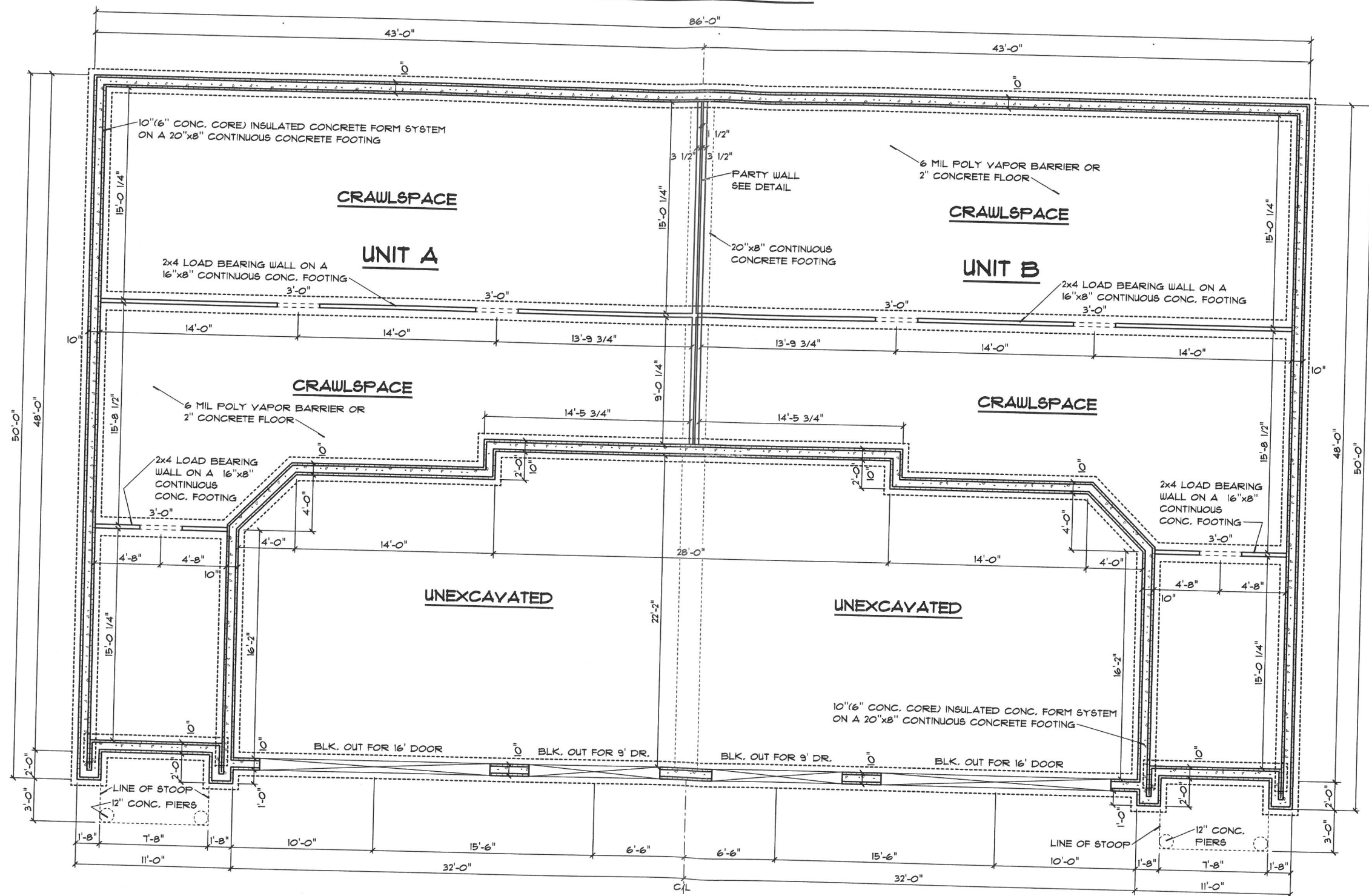
1/8" = 1'-0"



FRONT ELEVATION

1/8" = 1'-0"

"CHINOOK"

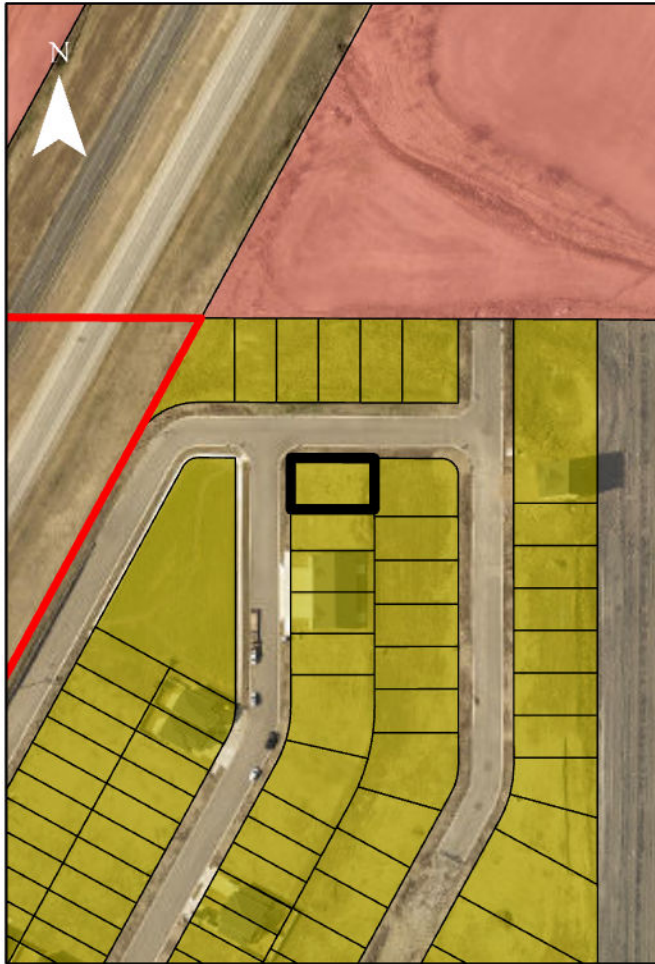


FOUNDATION PLAN

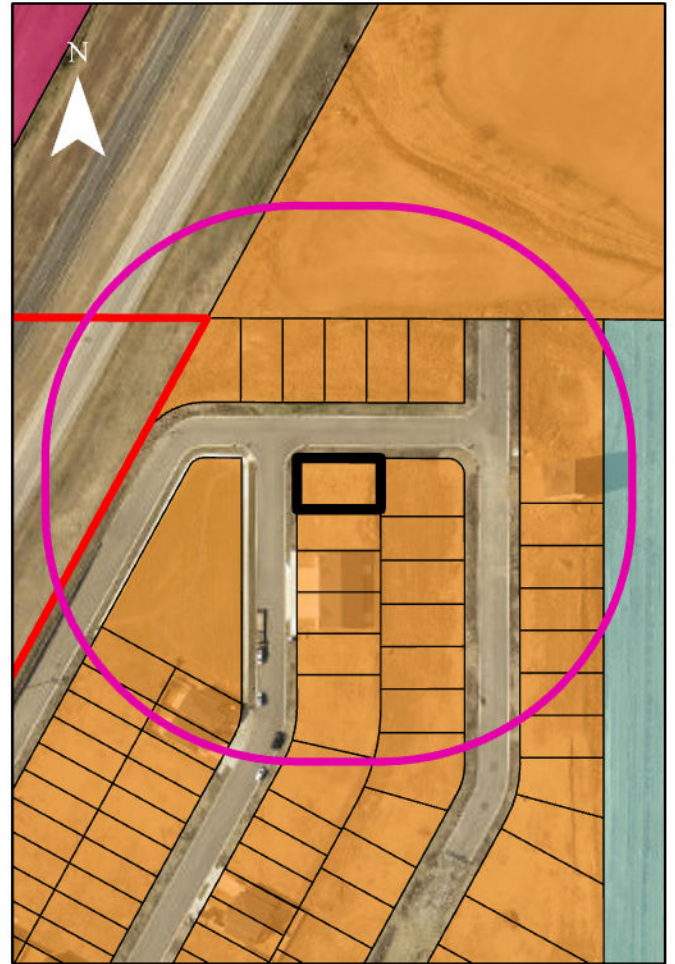
1/8" = 1'-0"

UNIT A - 1402 SQ. FT.
GARAGE - 694 SQ. FT.
UNIT B - 1402 SQ. FT.
GARAGE - 694 SQ. FT.

ZONING



FUTURE LAND USE



0 112.5 225 450 Feet

Zoning

Zoning	
	C2
	P
	R2

Both Maps

	Case # 2024-05-04
	Case # 2024-05-04 Notification Area

Land Use Type

	Urban Residential
	Gateway Commercial
	Public and Institutional

Exhibit 5 – Site Photos



Facing North



Facing West



Facing East



Facing South



**Planning Commission
Staff Report**

Application Date: 03/15/2024
Date of Staff Report: 04/29/2024
Date of Planning Commission Meeting: 05/07/2024

Staff Contact: Doug Diedrichsen, Principal Planner
Staff Recommendation: Denial

Case Number: 2024-03-01
Project Name: Popeyes Restaurant – Variance
Current Legal Description: See the project description below.
Proposed Legal Description: No Change

Present Address: 300 28th Ave SW

Entitlements Requested: Variance Request

Owners: MYLA Properties, LLC

Representative: Harold Rose

Present Zone(s): “C2” General Commercial

Present Use(s): Restaurant (New Build no Final Certificate of Occupancy)

Uses Allowed in Present Zone(s): See Table 2.2 for allowed and conditionally permitted uses within each district.

Present Future Land Use Map Designation: General Commercial

Proposed Zone(s): No Change

Proposed Use(s): No Change

Uses Allowed in Proposed Zone(s): See Table 2.2 for allowed and conditionally permitted uses within each district.

Proposed Future Land Use Map Designation: No Change

PROJECT DESCRIPTION:

Public hearing request by Harold Rose representing MYLA Property, LLC., owner for a variance for a “C2” General Commercial District lot. The legal description for the property is Outlot 9 of the northeast 1/4 less highway right-of-way Section 35, Township 155 north, Range 83 west, County of Ward, North Dakota.

An aerial photo of the subject property can be found in **Exhibit 1**.

BACKGROUND INFORMATION:

The property owner is requesting a variance for relief of buffer yard requirements (Section 7.1-4. C.) and street landscaping and site landscaping requirements (Section 7.1-3. A & C.) as outlined in the City of Minot's Land Development Ordinance (LDO). A development review team (DRT) meeting was held with the applicant on February 15th, 2023 where the applicant was made aware of all of the site design standards required in the LDO and these minutes were provided to the applicant on February 23rd, 2023. A landscaping site plan was submitted as a part of the building permit application process and approved by the Planning Division and is available in Exhibit 3.

At the time of final inspection, it was noted by the City Building Inspector that the building and site as constructed had deviated from the approved plan considerably. The Inspector brought these concerns to the attention of the Principal Planner and Community Development Director. A meeting was scheduled with the applicant on March 15th, 2024 to discuss options moving forward. Requirements for the applicant to be issued a temporary certificate of occupancy were outlined by city staff at that time. The applicant was asked to submit a new proposed site plan, proof the City Forester had been contacted about street tree planning/planting, landscaping bond, variance application and a letter to engineering regarding the need for construction of a retaining wall on the north side of the property that was included in the plan and was not constructed. These items were submitted and the temporary certificate of occupancy was issued to allow for the application process for the variance.

The 2/15/23 Development Review Team meeting minutes are provided in **Exhibit 2**.

The proposed Landscaping Plan (Amendment to 09-25-03 Iteration) is provided in **Exhibit 3**.

The approved Landscaping Plan (09-25-03 Iteration) is provided in **Exhibit 4**.

The zoning and future land use map designation of the subject property and surrounding area is provided in **Exhibits 5**.

Site photos are provided in **Exhibit 6**.

STAFF ANALYSIS:

Section 9.1-3 of the Land Development Ordinance of the City of Minot (LDO) provides the application procedures for variances, the types of variances allowed, and criteria necessary for approval by the Planning Commission. The applicant has submitted the necessary application documents required per Section 9.1-3 C. and noticing has been conducted per Section 9.2-1.

Section 9.1-3 G. requires the Planning Commission find that the applicable criteria for a unique hardship has been satisfied. To that end, staff provides the following guidance:

1. Sections 9.1-3. G. 1. A variance may not be approved unless the Planning Commission finds that there exists a unique hardship. The strict application of the applicable standards will constitute a unique hardship due to circumstances unique to the property not created by the landowner, not including economic or fiscal hardship. A unique hardship is limited by the LDO to one or more of the following; shape of property, topography or exceptional practical difficulties.
2. Staff finds that the variance criteria provided in Sections 9.1-3. G. 1. a. is not applicable. Requests relating to this provision are relevant on odd shaped lots or lots that are too shallow or narrow to accommodate development when all setbacks and other design requirements are considered. A site plan was submitted by the developer's Licensed Engineer and approved by the City of Minot for this property that met all of the design criteria for a restaurant drive-thru located in a "C2" General Commercial District as outlined in the LDO. If the site had been developed consistent with the site plan that was approved, the site would have met all relevant design standards. However, the Developer did not follow this site plan, which means any criteria arguably in favor of this provision were created by the Developer. Given the same, staff believes the exceptional shallowness or shape of the of a specific piece of property criteria is not satisfied.
3. Staff finds Section 9.1-3. G. 1. b. is not applicable. Requests for a hardship under this criteria are related to the topography of the lot as excessive slope can limit a buildable area so that would it would not accommodate development meeting all design standards. A site plan was submitted by the developer and approved by the City of Minot that included engineered elements (a retaining wall) to allow the site to be developed while mitigating the effects of the topography of the subject property. The Developer has not installed the retaining wall, and built his site in a manner contrary to the approved site plan. Therefore, staff believes the section relating to the topography of the property is not satisfied.
4. Staff finds Section 9.1-3. G. 1. c. relating to there being exceptional practical difficulties that would prevent the reasonable use of the property is not satisfied. A site design was created by a licensed design professional and approved by the City of Minot that showed the development potential of the subject property. Staff believes this section is not satisfied because any exceptional practical difficulties existing at present could have been alleviated had the Developer and his Contractor followed the approved site plan.
5. Staff finds Section 9.1-3. G. 2. a. relating to the granting of the variance and its effect on the rights of property owners in the surrounding neighborhood or the character of the neighborhood is applicable and is not satisfied because the commercial use adjacent to medium density residential could create significant visual and noise nuisances to neighboring property owners without the required mitigating design elements incorporated into the site. As defined in the LDO buffer strip/buffer yard are landscaped areas used to visibly separate incompatible uses or to shield or block noise, light or other nuisances.
6. Staff finds Section 9.1-3. G. 2. b. relating to the variance not being contrary to the comprehensive plan is not satisfied. As discussed in the Development Characteristics section of Chapter 3 of City of Minot 2024 Comprehensive Plan buffing/landscaping should be incorporated to soften the transition between commercial and residential developments. The Landscaping section of Chapter 9 of the City of Minot 2024 Comprehensive Plan outlines the need for properly landscaped development within all commercial

zoning districts and states the “maintenance concerns should not supersede aesthetic considerations”. Chapter 9 also reinforces the need for the LDO to determine setback widths and standards that consider the characteristics of the roadway and the building.

Comments:

1. Several public comments were received at the time of writing this staff report.
 - a. These comments related to noise, light and traffic/parking impacts felt by the adjacent property owners due to the initial operations of the restaurant.
 - b. Those providing comment were encouraged to submit them in writing or to appear at the public hearing in order to have these comments considered by the Planning Commission and entered into the public record.
2. The application was distributed to city departments and external public agencies within the City for review and the comments received were incorporated into this report through an iterative process involving multiple drafts.

FINDINGS OF FACT:

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

- 1) The applicants have submitted a complete application.
- 2) The property is zoned “C2” General Commercial on the Official Zoning Map requiring compliance with “C2” General Commercial District design standards and has a “General Commercial” designation on the Future Land Use Map of the 2040 Comprehensive Plan.
- 3) The variance does not meet the applicable criteria per 9.1-3 G., as outlined in the Staff Analysis section of the Planning Commission Staff Report.
- 4) The Minot Planning Commission has the authority to hear this case and decide whether it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

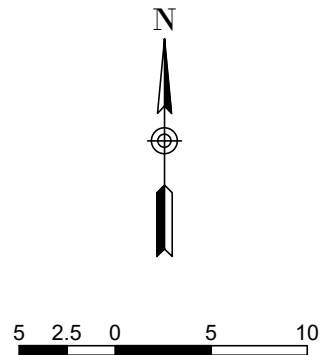
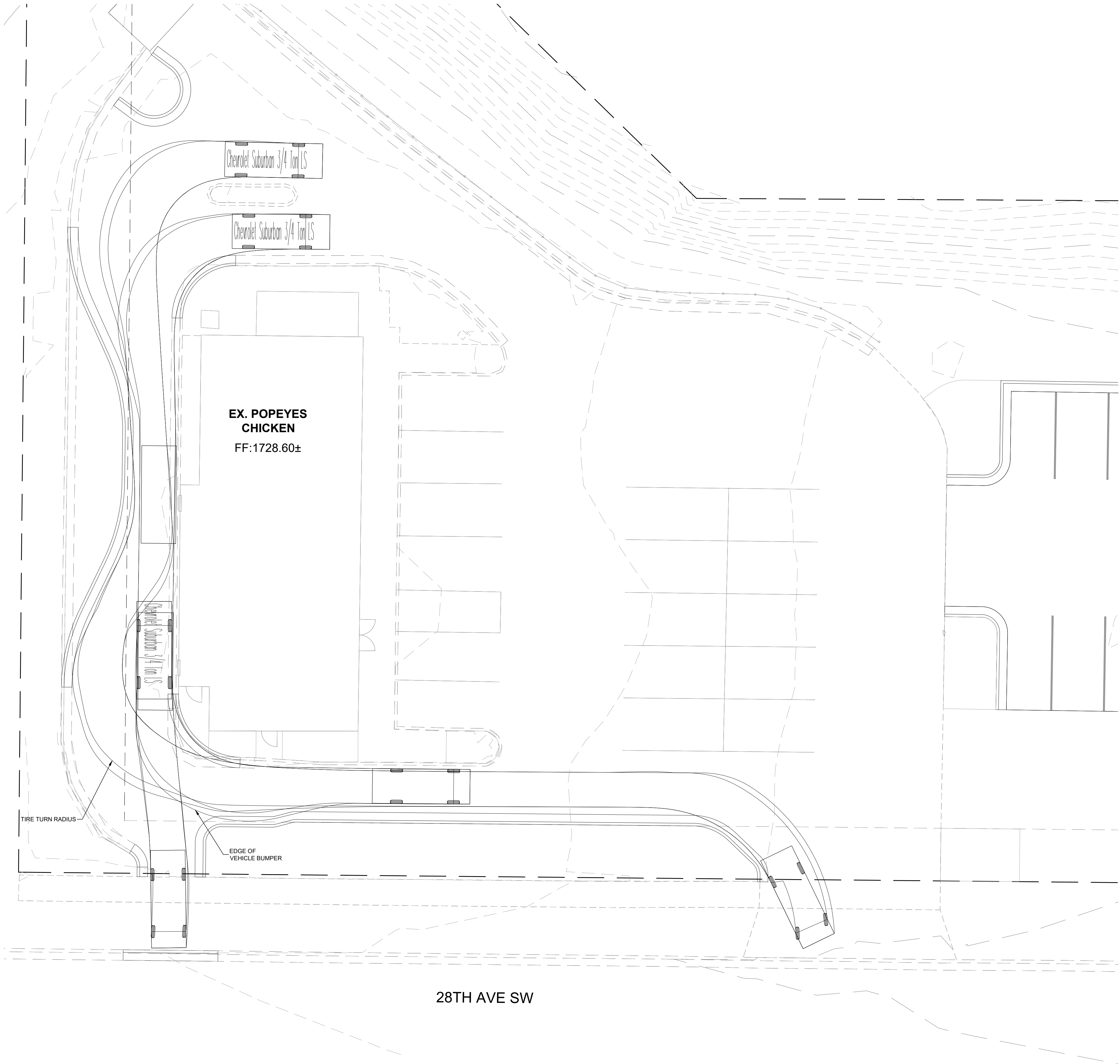
Staff recommends the Planning Commission adopt staff findings of fact and:

Deny a variance to the Section 7.1-4. C. & Section 7.1-3. A & C. related to street landscaping, site landscaping and buffer yard standards.

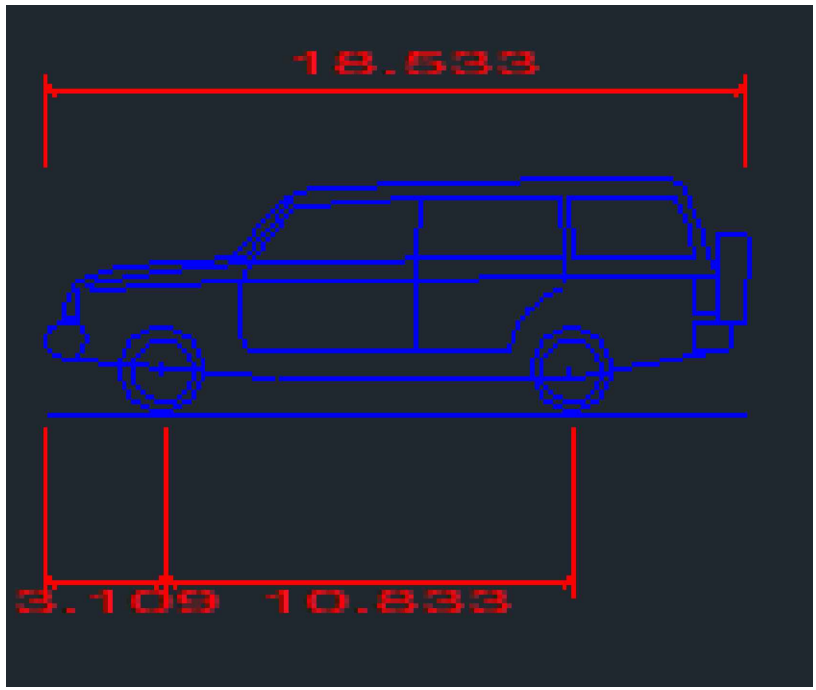
Alternative Recommendation

It may be possible for the applicant to address the concerns outlined in the Staff Analysis section of staff's written report and provide a reasonable strategy to mitigate the possible noise and light nuisances by removing existing built elements to make room for the required landscaping elements and buffers. This could be done by reconfiguring the site and removing some paving. The possibility of land acquisitions from adjacent property could also be explored to achieve the goal of a conforming site. To this end, staff provides the following alternative recommendation to allow the applicant additional time to address its nonconforming conditions and propose an alternate solution in the form of a site plan, created by a licensed design professional, conforming to the LDO design standards.: Table the item until Tuesday, June 4, 2024 at 5:30p.m. in the Council Chambers of City Hall.

4/21/2024 5:32:28P POPEYES CHICKEN CO. VEHICLE TRACKING EXHIBIT 2/24/24 - VEHICLE TRACKING EXHIBIT.DWG



GRAPHIC SCALE:
ATTENTION IS DRAWN TO THE FACT THAT
DRAWING SCALES MAY BE ALTERED DURING
REPRODUCTION PROCESSES. SCALES
SHOWN HEREON ARE BASED ON A FULL
SCALE SHEET SIZE OF 22" X 34".
SCALE: 1" = 10'



Chevrolet Suburban ¾ Ton LS
Overall Length 18.533 ft
Overall Width 6.592 ft
Overall Body Height 6.258 ft
Min Body Ground Clearance 0.990 ft
Track Width 6.592 ft
Lock-to-lock time 4.00 sec
Curb to Curb Turning Radius 22.650 ft



1907 17th St SE · Minot, ND 58701
701.837.8737 · www.ackerman-estvold.com
Minot, ND | Fargo, ND | Williston, ND | Boise, ID

SCALE (H): 1" = 10'
SCALE (V): N/A
DRAWN BY: JJA
DESIGNED BY: JJA
CHECKED BY: SRW

SITE REVISIONS
POPEYES CHICKEN
MINOT, NORTH DAKOTA
VEHICLE TRACKING EXHIBIT

DATE: 06/21/24

REVISIONS

#	DATE
#	--/--/--
#	--/--/--
#	--/--/--

PROJECT
NO.
R23047

EXHIBIT

C2

LANDSCAPING CALCULATIONS, PROPERTY ZONED C2
MINOT ORDINANCE LANDSCAPING CHAPTER 24

STREET LANDSCAPING

STREET TREES

REQUIRED:

ONE (1) PER 50' OF ROW FRONTAGE
226' OF DEVELOPED FRONTAGE ON 28TH AVE
226 / 50 = 5 TREES

PROVIDED:

5 TREES ALONG 28TH AVE SW ROW

PARKING LOT LANDSCAPING

REQUIRED:

24 PROVIDED PARKING SPACES
20 SF OF LANDSCAPE AREA PER PARKING SPACE

20 SF / SPACE X 24 SPACES = 480 SF LANDSCAPE
AREA

ONE (1) SHADE TREE PER CURBED LANDSCAPE AREA

SUPPLEMENTAL PLANTINGS

1 PLANTING PER 20 SF
24 PLANTINGS

PROVIDED:

3 TREES (SHADE)
525 SF OF LANDSCAPE AREA
24 PLANTINGS

PLANT CATEGORY TYPE	% MULTIPLIER	PLANT COUNT
SHRUB, LARGE	5% REQUIRED	1
SHRUB	10% REQUIRED	3
ORNAMENTAL GRASSES	10% REQUIRED	2
PERENNIAL PLANTS	25% REQUIRED	6
GROUND COVER	10% REQUIRED	2
BALANCE CHOICE	40%	10
TOTAL REQ'D		24

FOUNDATION PLANTINGS LANDSCAPING

REQUIRED:

4' WIDE BED ALONG DISTANCE OF BUILDING
FRONTAGE (SOUTH SIDE)
BUILDING FRONTAGE = 34'
4' X 34' = 136 SF OF PLANTING BED

SUPPLEMENTAL PLANTINGS

1 PLANTING PER 20 SF = 7 PLANTINGS

PROVIDED:

8 PLANTINGS
185 SF OF PLANTING BED

PLANT CATEGORY TYPE	% MULTIPLIER	PLANT COUNT
SHRUB, LARGE	5% REQUIRED	0
SHRUB	10% REQUIRED	1
ORNAMENTAL GRASSES	10% REQUIRED	1
PERENNIAL PLANTS	25% REQUIRED	2
GROUND COVER	10% REQUIRED	1
BALANCE CHOICE	40%	2
TOTAL REQ'D		7

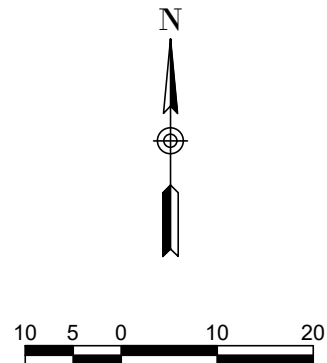
BUFFER YARD LANDSCAPING

REQUIRED:

20' WIDTH BUFFER YARD
ONE (1) TREE PER 20' OF BUFFER YARD
50% EVERGREEN CONIFERS
251' OF BUFFER YARD ALONG WEST PROPERTY
LINE
145' PORTION REDUCED TO 10' BUFFER
YARD = 15 TREES
(251-145) / 20 = 5 TREES

PROVIDED:

20 TREES ALONG WEST PROPERTY LINE
FENCE ALONG ENTIRE WEST PROPERTY LINE



GRAPHIC SCALE:

ATTENTION IS DRAWN TO THE FACT THAT
DRAWING SCALES MAY BE ALTERED DURING
REPRODUCTION PROCESSES. SCALES
SHOWN HEREON ARE BASED ON A FULL
SCALE SHEET SIZE OF 22" X 34".

SCALE: 1" = 20'

LEGEND



ROCK MULCH GROUND COVER



TURF SEEDING

NOTES:

- ALL ROCK MULCH AREAS SHALL HAVE
LANDSCAPE FABRIC UNDER ROCKS.
ALL ROCK MULCH AREAS MUST BE
CONTAINED BY CURB OR ALUMINUM
EDGING.

TREE SELECTION

QTY	KEY	SCIENTIFIC NAME	COMMON NAME	SIZE	COMMENTS
	AC	ABIES CONCOLOR	WHITE FIR	5'	25-40' X 15-25', EVERGREEN
	AG	ACER GINNALA	AMUR MAPLE	1.5"	20' X 30'
	BP	BETULA PLATYPHYLLA 'FARGO'	DAKOTA PINNACLE BIRCH	1.5"	20-30' X 30'
9	DF	PSEUDOTSUGA MENZIESII VAR	DOUGLAS FIR	5' TALL	40' X 12-20', EVERGREEN
3	MB	MALUS BACCATA	SIBERIAN CRAB APPLE	1.5"	15-25' X 15-25'
8	PP	PICEA PUNGENS	COLORADO SPRUCE	5'	30-65' X 15-25', EVERGREEN
3	SR	SYRINGA RETICULATA 'JAPANESE'	JAPANESE TREE LILAC	1.5"	20-30' X 15'
6	TM	TILIA X MONGOLICA 'HARVEST GOLD'	HARVEST GOLD LINDEN	1.5"	30-40' X 25-30'

29 TOTAL TREE COUNT

SHRUB SELECTION

QTY	KEY	SCIENTIFIC NAME	COMMON NAME	SIZE	COMMENTS
4	CB	CORNUS ALBA 'BAILHALO'	IVORY HALO DOGWOOD	#3	5-6' x 5-6'
2	HA	HYDRANGEA ABORESCENS 'ANNABELLE'	ANNABELLE SMOOTH HYDRANGEA	#3	4-5' x 3-5'
2	LC	SYRINGA VULGARIS	LILAC COMMON	3 GAL.	8' X 6'
4	SV	SPIREA X VANHOUTTEI	BRIDAL WREATH	2 GAL.	5' X 5'

12 TOTAL SHRUB COUNT

PERENNIAL / ORNAMENTAL GRASSES SELECTION

QTY	KEY	SCIENTIFIC NAME	COMMON NAME	SIZE	COMMENTS
2	AS	BELLIS PERENNIS 'ASTER'	DAISY		20" X 30"
4	HS	HEMEROCALLIS 'STELLA D' ORO'	STELLA D' ORO DAYLILY	2 GAL.	20" X 30"
6	SG	PANICUM VIRGATUM	SWITCHGRASS	2 GAL.	3-6' X 2-3'
2	SH	SPOROBOLUS HETEROLEPIS	PRAIRIE DROPSEED	2 GAL.	2-3' X 2-3'
2	SU	SEDUM - UPRIGHT	STONECROP	1 QU.	16-18" X 24"
4	TR	TRADESCANTIA	SPIDERWORT	#2	12-24" X 12-18"
2	HP	HOSTA 'PATRIOT'	PATRIOT HOSTA	#3	22-24" X 24-36"

22 TOTAL PERENNIAL COUNT

