



STAFF REPORT

To: Planning and Zoning Commission

From: City of Dickinson Development Team

Date: October 2, 2023

Re: REZ-005-2023 TCB Subdivision Rezone

OWNER/APPLICANT

Tracy Tooz
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 Dickinson, North Dakota, 58601

APPLICANT’S REPRESENTATIVE

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Public Hearings:	October 18, 2023	Planning and Zoning Commission
	November 7, 2023	City Commission
	November 21, 2023	City Commission

EXECUTIVE SUMMARY

To consider a petition rezone a parcel located in the SW ¼ Section 2, Township 139N, Range 96W from GC and CC to CC. The site consists of +/- 50,468 square feet. The subject contains both General Commercial (GC) and Community Commercial (CC) zoning districts and therefore does not comply with Article 39 Zoning of the municipal code. Due to the location being an interaction along the east business loop and a major ingress/egress for the residents to the north, staff recommends reconciliation of this parcel’s zoning status by rezoning this lot to Community Commercial.

REQUEST

A. Request: Following this parcel’s previous minor plat application, the applicant has agreed to reconcile the non-conformity of the parcel’s zoning district features. The parcel currently contains both General Commercial (GC) and Community Commercial (CC) zoning districts and the applicant requests approval such that the parcel can comply with Section 39.02.005 of the municipal code.

B. Location/Legal Description/Area: The lot proposed for this rezone is legally described as being a replat of Lot 1 of TCB Subdivision located within the SW ¼ Section 2, Township 139N, Range 96W of the 5th Principal Meridian, City of Dickinson, Stark County, North

Dakota. The subject parcel is generally located at the southeast corner of 10th Ave E and Interstate 94 Business Loop E.

C.

ZONING	GC
FUTURE LAND USE MAP DESIGNATION	Commercial
GROSS SITE ACREAGE	1.16 acres
LOTS PROPOSED	1

CURRENT ADJACENT LAND USE/ZONING		
Direction	Zoning	Land Use
North	R-1	Undeveloped residential
East	CC	Funeral service
South	Major Arterial, GI	East Business Loop, religious assembly
West	GC	Auto services

Context:

Previous Minor Plat Application Background (approved during 10.3.2023 City Commission Meeting)

The applicant proposed this development at a pre-application meeting which took place on March 28, 2023. At that time, the applicant was only proposing to subdivide Lot 1D, Block 1 of the Kum & Go Addition. While completing the engineering design review for the Service Pro Quick Lube shop, it was brought to the applicant’s attention the existing retaining wall located on the west side of Lot 1D, Block 1 of the Kum & Go Addition crossed the lot line into Lot 1D. It was recommended either the lot line be modified to include the entire retaining wall within a single lot, or provide a different solution to minimize the risk of the retaining wall crossing the lot line. Therefore, Lot 1C was incorporated into this proposed plat which added an additional lot to this subdivision plat.

Current Context for rezoning:

During review of the previous minor plat application, staff noticed the zoning districts discrepancy and determined that the subject parcel is not in compliance with **Section 39.02.005 B:**

“1. Base Zoning District: A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. **No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development”**

Two zoning districts were identified to exist on the lot. After researching the property subdivision and rezone history, it was not clear how the portion of the lot remained Community Commercial while the remainder was General Commercial. Therefore, the applicant was requested to rezone the lot to Community Commercial, and the City of Dickinson agreed to waive the application fee due to the unknowns as to where the error occurred.

STAFF REVIEW AND RECOMMENDATIONS

- **Compatibility with Local Uses:** At this time, the lot supports a convenience storage and gas station at an intersection serving the residential neighborhood to the north. The uses on the parcel will be compatible with the existing uses in the immediate vicinity. The Community Commercial zoning district is intended to protect the quality of life near neighborhoods and at key intersections by providing development regulations driving commercial activity which is less likely to cause injury or nuisance to nearby residences while providing venue for commercial uses which are more likely to serve residential needs.
- **Compliance with Zoning and Subdivision Regulations:** If approved, the subject parcel will comply with zoning requirements. This petition satisfies all lot boundary requirements and rezone application requirements.

Public Input: As of the date of this report, City staff has not received any public comments.

Staff Recommendation: The City Development Team staff recommends **approval** of the rezone petition.

Attachments:

- A – Application Materials
- B – Current Zoning Map

MOTIONS:

*****Approval*****

*"I move the City of Dickinson Planning and Zoning Commission recommend approval of **REZ-005-2023 Lot 1 of TCB Subdivision Rezone** subject to the conditions above, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare "*

(AND) the following additional requirements (IF THE PLANNING AND ZONING COMMISSION RECOMMENDS ANY ADDITIONS AND/OR DELETIONS TO THE PROPOSED MOTION LANGUAGE):

1. _____;
2. _____.

*****Denial*****

*"I move the Dickinson Planning and Zoning Commission recommend Denial of **REZ-005-2023 Lot 1 of TCB Subdivision Rezone** petition as NOT meeting all the requirements of the Dickinson Municipal Code and as being contrary to interest of the public health, safety and welfare."*