

Sidney, Nebraska, May 16, 2022

A meeting of the Planning Commission of the City of Sidney, Nebraska, was convened in open and public session at 5:30 p.m., on May 16, 2022 in the City Council Chambers, located at 1115 13<sup>th</sup> Avenue. Present were: Chairman Schmitt and Commissioners: Benzel, Glenn, Smith, Sweetser, England, Loghry, Long. Others present: City Manager, David Scott, Chief Building Official, Marshall Hall, City Attorney, J. Leef and City Clerk, Lori Borchert. Notice of the meeting was given in advance thereof by publication in The Sidney Sun Telegraph, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Chairman and all members of the Commission, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Chairman Schmitt announced to all in attendance, that a current copy of the Nebraska Open Meetings Act was available for review at the rear of the room.

Chairman Schmitt called for a motion to approve the March 21, 2022 minutes. Glenn moved, Schmitt seconded, "That the minutes from March 21, 2022 be approved." Roll call vote: Yeas: Benzel, Glenn, Schmitt, Smith, Sweetser. Nays: None. Abstain: England, Loghry, Long. Motion passed.

Chairman Schmitt announced, "That the Planning Commission would be considering an application of a conditional use permit by Darin VanNatter for motor vehicle wrecking yard, vehicle and trailer storage, vehicle service and storage. Section 5 Township 13 Range 49 Part SW/4 (2.72 Acres) Lands Inside Sidney; commonly known as 2555 Fort Sidney Road. Current Zoning M1." Schmitt opened the hearing at 5:32 pm. VanNatter, owner of Darin's Auto and Affordable Towing, came before the Planning Commission stating he has been in business in Sidney for numerous years. VanNatter purchased the property 16 months ago with the understanding that the business use was okay on that property. VanNatter continued that City Manager, David Scott, recently called VanNatter and informed him that he needed a conditional use permit to run that business, which included putting up a fence. Glenn asked if VanNatter had any issues with putting up a fence. VanNatter stated that he did not. VanNatter stated that he had already obtained the building permit from Chief Building Official, Marshall Hall. VanNatter informed the Commission that it would be an eight-foot solid metal fence, with a gate. Schmitt asked if it would be a three-sided fence. VanNatter stated that it would be a four-sided fence, going all the way around the property. VanNatter said the location is easy to access for him as well as for law enforcement for impounds and wreckages. Schmitt inquired about the RV's that are stored at the location. VanNatter stated that two were his personal vehicles and the others were impounds with title issues. England asked if VanNatter scrapped anything on the property. VanNatter responded that he was not dismantling vehicles, not selling parts that the vehicles come in as a whole and leave as a whole. Smith asked if this permit would include inside and outside, licensed and unlicensed vehicles. VanNatter replied with a yes. Smith asked if the application that he first obtained from the previous Chief Building Official, Kevin Kubo, included the towing business. VanNatter stated that before he bought the building, he inquired with Kubo if he was able to run his business there. VanNatter submitted the Application for Use Occupancy, signed by Kubo, which included the description of the proposed business as "towing". Included in detail on a separate paper, other than the application, was inside and outside storage of licensed and unlicensed motor vehicles and impound of non-damaged, damaged, wrecked, inoperative motor vehicles, campers, motor vehicles, trucks, trailers, light duty to heavy duty wreckers, semi-truck and trailers. Also, the storage of heavy equipment used in tow business, wheel loaders, excavators, tractors, skid loader and telehandler. VanNatter stated that Scott told him that he needed a Conditional Use Permit and to get a Wreckers Salvage Permit to be in compliance, 16 months after the building was purchased. VanNatter complied. Benzel asked when the fence would be put up. VanNatter stated that if the Conditional Use Permit was approved, the completion date of the fence would be in September.

Schmitt asked for comments from the public. Doug Zingula, Sidney resident, stated he bought his house in 1988. Zingula stated that he feels that Fort Sidney Road has become the blight within Sidney. Zingula mentioned the fire at Fort Sidney apartments, which the apartment complex is still there – a burnt out building. Bomgaars was full of weeds before it was sold. Zingula stated that he understands that VanNatter is a business owner, but there is half million-dollar homes and it is not a good flow. Zingula stated that putting up a fence will not change the situation. Zingula asked the Planning Commission to take time to review before going further. Laura McHale, Sidney resident, stated that a fence would only partially obscure what is behind the fence. Residents that live on the hill could look directly down on the property. While McHale appreciates VanNatter's position, and doesn't begrudge him, she does not think that this is the right place for this business. McHale stated that Fort Sidney Road is looking like an industrial zone. McHale also suggested that it would affect their property values as it is becoming an unattractive neighborhood. McHale respectively asked that the Conditional Use

Permit be denied. Wade Meyer, Sidney resident, stated that his main concern is wondering how much further east will this go before it begins to obstruct his view. Zingula stated he had full knowledge when he purchased his home as to what was already there, but he asks where it will stop. Schmitt stated that with an M1 classification, storage is allowed. Leef stated that indoor storage is allowed with an M1, outdoor storage is allowed with Conditional Use. It is unknown if the surrounding areas have Conditional Use permits at this time. Police Chief, Joe Aikens, stated that historically an M1 area is usually on the edge of the community and when this was created, it was considered an industrial area as it was on the edge of town. Susan Narjes, Sidney resident, suggested that Fort Sidney Road is a main artery of Sidney. Narjes believes that we need to look at long term plans, what is attracting and enticing to the Sidney economy. Smith asked Leef what the ramifications of Kubo's signature on the Application for Occupancy was, stating it was for towing. Leef stated that this could be problematic. Leef continued, that fact is, the employee acted outside of what your ordinances are, and doesn't have the authority to approve it. There were no further comments from the public. Schmitt closed the hearing at 6:01 p.m. Schmitt asked for a motion. Leef requested that the Planning Commission be given a copy of the ordinance. Leef pointed out **Ordinance 1246.03. CONDITIONS OF ISSUANCE:** *The Planning Commission may issue a special permit for the use of a lot, tract of land, building or structure in circumstances and in a manner authorized by this Zoning Code, if the Commission finds the proposed use:*

- (a) Provides a service required by the neighborhood or community and is consistent with sound principles of land use;*
- (b) Will not be injurious to the use of neighboring lots, tracts of land, buildings or structures;*
- (c) Will not create special hazards or problems for the area in which it is located;*
- (d) Is related to and harmonious with the general plan for the area in which it is located, as indicated by this Zoning Code;*
- (e) Is otherwise in accordance with the intent and purposes of this Zoning Code. The Commission may make the use which is authorized in the special permit subject to reasonable conditions which, in the discretion of the Commission, are necessary to carry out the intent and purposes of this Zoning Code.*

Loghry asked if any of the Commissioners have asked for permission to see inside of the property. Schmitt said he did a drive around and took photographs, but has not been inside the property. Loghry stated that it was an impoundment facility, not a salvage yard, and there was nothing but whole vehicles there, that were ready for disposal, waiting on the legal system for that to happen. Loghry stated that VanNatter provides an invaluable service to the community. Long stated that Fort Sidney Road is no longer the outskirts of Sidney. Long said that this needs to be addressed sometime in the future. England stated that it needs to be looked at in the Comprehensive Plan. Scott stated the last plan was in 2012 and it is looked at every ten years. A plan is being worked on now. Schmitt asked if zoning could be changed. Leef stated properties would be grandfathered in, until the property changed hands. Benzel asked if surrounding properties were in compliance and if they could be looked at. Leef stated they could be reviewed, but she has no information on them at this time. Schmitt stated that he was inclined to deny the application due to the impact of the neighborhood and the community in the surrounding areas. Schmitt also stated that he did appreciate that the business is needed and its intent and finds it unfortunate that he received the occupancy permit for the business. Schmitt stated that it puts both the City and VanNatter in a bad spot and asked for guidance. Leef stated that VanNatter has an occupancy document signed by a City employee. Leef continued, if VanNatter could not use the land as it was signed, Leef could assume that there would be legal recourse. Benzel asked about accountability and now it now falls on the Planning Commission. Benzel stated there were no checks and balances. Leef stated that it is up to the Planning Commission to decide on now, and where it goes after that, there could possibly be legal recourse. Loghry moved, England seconded, "That the Conditional Use Permit by Darin VanNatter be approved with the conditions that an eight-foot, four-sided, solid metal fence be erected no later than September 30, 2022." Roll call vote: Yeas: Benzel, England, Glenn, Loghry, Long, Sweetser Nays: Schmitt, Smith Motion passed.

Schmitt asked for further comments. England suggested that the comprehensive plan be looked at closely. Loghry stated that that area has been an industrial zone longer than the houses. Long stated that trees be planted as a border. Sweetser suggested that surrounding outdoor storage in that area needs to be looked at and that this was a tough lesson. Benzel suggested better checks and balances in the future.

Meeting adjourned at 6:24 p.m.

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CHAIRMAN

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CITY CLERK