

Sidney, Nebraska, October 20, 2014

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 October 20, 2014 in the City Council Chambers, located at 1115 13th Avenue. Present were: Chairman Spiker and Commissioners: Egging, England, McCarville, Phillips, Smith, and Volkmer. Absent: Cortney and Mueller. Others present: City Manager Person, Zoning Administrator Dayton, City Attorney Sonntag, and Deputy Clerk Heilbrun. 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 Spiker 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.

Phillips moved, England seconded, "That the minutes of the August 18, 2014 meeting be approved." Roll call vote: Yeas: Egging, England, Phillips, Smith, Spiker and Volkmer. Abstain: McCarville. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: Acknowledgement of the Final Plat of Hrbek Estates No. 1 ; that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or by attorney and were heard: City Manager Person.

City Manager Person explained that this area is less than 2 miles north of the furthest City limits north boundary. Several years ago City Inspector Pelster took a subdivision request for this property before the County Planning & Zoning board, not considering that the property was within the City's 2-mile jurisdiction. Person explained that the property currently exists as an undeveloped subdivision. If developed, it would fall under the City of Sidney building & zoning codes and ordinances. Therefore the City Planning Commission needs to formally acknowledge that the subdivision lies within the 2-mile jurisdiction of the City of Sidney.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

Volkmer moved, Smith seconded "That the Planning Commission acknowledge the Final Plat of Hrbek Estates No. 1 and forward their recommendation of acknowledgement to the City Council for their consideration." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: the Preliminary Plat application of Love's Travel Stops & Country Stores, Inc., for Lot 1, Block 1 and Lots 1 and 2, Block 2 Love's Addition to the City of Sidney, situated in the SW/4 of Section 9, Township 13 North, Range 49 West of the 6th P.M., Cheyenne County, Nebraska; that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western

Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or by attorney and were heard: Dave Pierson of Galloway and Jonathan Harpman of Love's.

Mr. Pierson, senior project manager on the Love's project, explained that the proposed Subdivision is a re-definition of newly platted lands and an integration by lot line adjustment of 6.5 acres subdivided into a single parcel, the assignment of Assessor's Parcel Number for the Love's Travel Center, and the creation of 2 new lots for Love's employee housing and hotel. He described the employee housing as a 24-unit, 2-level dormitory style building, consisting of 1 and 2 bedroom units. The units will be occupied by Love's employees only, whether they are from inside or outside the community.

City Manager Person stated that Love's had gone through the platting and annexation process earlier when the original project was presented, but found during negotiation with the Nebraska Department of Roads for ingress and egress access that more property was needed to accommodate estimated traffic flow. Fortunately they were able to purchase the land needed for this, as well as additional land on which to build the hotel and employee housing. He noted that the newly purchased property is what is being brought forward at this time.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

Spiker Moved, England seconded "That the Planning Commission recommend to the City Council that the Preliminary Plat application of Love's Travel Stops & Country Stores, Inc., for Lot 1, Block 1 and Lots 1 and 2, Block 2 Love's Addition to the City of Sidney, situated in the SW/4 of Section 9, Township 13 North, Range 49 West of the 6th P.M., Cheyenne County, Nebraska, be approved." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: the Rezoning request of Love's Travel Stops & Country Stores, Inc. for Lot 1, Block 1, and Lots 1 & 2, Block 2 Love's Addition to the City of Sidney, situated in the SW/4 of Section 9, Township 13 North, Range 49 West of the 6th P.M., Cheyenne County, Nebraska; that the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed requests. He noted that that each lot proposed for rezoning would be considered separately.

The following filed written objections: None. The following appeared in person or by agent or attorney and were heard: Dave Pierson.

- a. **Lot 1, Block 1.** Mr. Pierson explained that Love's was requesting a rezoning of Lot 1, Block 1, Love's Addition from A (Agricultural) and C-3 (Heavy Commercial) to C-3) Heavy Commercial. The property was rezoned to C-3 prior to the acquisition of an additional 6.5 acres of agricultural land. It therefore became necessary to rezone the entire parcel to Heavy Commercial. This is the proposed location of the Love's Travel Stops and Country Store.

England moved, Volkmer seconded "That the Planning Commission recommend to the City

Council that Lot 1, Block 1, Love's Addition be rezoned from A (Agricultural) and C-3 (Heavy Commercial) to C-3 (Heavy Commercial) Zone." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

- b. **Lot 1, Block 2.** Mr. Pierson stated that Love's had purchased agricultural land south of Hoffie Drive on the east side of L17J/Upland Parkway. They will continue to lease a portion of this acreage to Thomas Wheat Farms, but are requesting a rezoning of Lot 1 from A (Agricultural) to C-3) Heavy Commercial Zone. This zoning will allow them to offer an amenity to the community in the form of a new hotel, which, at the present time, is proposed to be a Sleep Inn.

McCarville moved, Phillips seconded "That the Planning Commission recommend to the City Council that Lot 1, Block 2, Love's Addition be rezoned from A (Agricultural) to C-3 (Heavy Commercial) Zone." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

- c. **Lot 2, Block 2.** Mr. Pierson explained that it is Love's intention to rezone this lot from A (Agricultural) to R-3 (Heavy Density Multi-family) Zone in order to build a 24 unit apartment building to accommodate employee housing. He noted that between 45 and 50 employees are employed at most Love's Travel Centers, including full-time and part-time from both inside and outside the community. The housing allows them to provide immediate accommodations to employees relocating to the area and for them to meet employment needs at their facilities.

Spiker moved, Smith seconded "That the Planning Commission recommend to the City Council that Lot 2, Block 2, Love's Addition be rezoned from A (Agricultural) to R-3 (Heavy Density Multi-family) Zone." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: the Annexation request of Love's Travel Stops & Country Stores, Inc. for a 2.71 Acre tract of land located within Section 9, Township 13 North, Range 49 West of the 6th P.M., more particularly described as Block 2, Love's Addition; that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or attorney and were heard: Gary Person.

City Manager Person stated that during preliminary conversations with Love's for this development, they discussed the advantages of annexation, such as the need for City services. This annexation will bring the newly acquired land to be developed into the City limits, along with the portion that has already been annexed.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

Volkmer moved, Egging seconded "That the Planning Commission recommend to the City Council that the Annexation request of Love's Travel Stops & Country Stores, Inc. for a 2.71 Acre tract of

land located within Section 9, Township 13 North, Range 49 West of the 6th P.M., more particularly described as Block 2, Love's Addition, be approved." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: the Annexation request of Love's Travel Stops & Country Stores, Inc. for a 6.432 Acre tract of land located within Section 9, Township 13 North, Range 49 West of the 6th P.M., more particularly described as a portion of Block 1, Loves Addition ; that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or attorney and were heard: Gary Person.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

Phillips moved, Egging seconded "That the Planning Commission recommend to the City Council that the Annexation request of Love's Travel Stops & Country Stores, Inc. for a 6.432 Acre tract of land located within Section 9, Township 13 North, Range 49 West of the 6th P.M., more particularly described as a portion of Block 1, Loves Addition, be approved." Roll call vote: Yeas All commissioners present. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: the Conditional Use Permit application of Oscar Glover/Viaero Wireless to construct and operate a 60'-80' cellular communications tower near the southwest corner of the property located in the SE/4 of Section 31, Township 14 North, Range 49 West of the 6th P.M.; more particularly described as 1705 15th Avenue that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or attorney and were heard: Rick Bailey, Viaero Wireless and Oscar Glover.

Mr. Bailey gave a history of cellular service which dated back 23 years. He described the new phones as high-powered computers where the "sky is the limit if service is available." Because of the advances in 4-G technology, companies such as Viaero have had to make adjustments in service to accommodate new demands in data usage, i.e. movie and music streaming, on-line gaming, etc. He stated that peak demand hours are typically after school to 9-10 p.m. He presented coverage maps showing their existing service area as well as one with additional coverage if a tower is added to this central area of Sidney. He presented photo examples of an existing 80 foot tower in another city, as well as various photos of the visibility of the proposed tower from different vantage points. He described the design of the site as including an 80' monopole tower with no guide wires and no light on the top, a generator on

site to aid in power interruptions, and a 5'x5' cabinet to house radio equipment. The tower and equipment would be located behind a cedar fence to prevent public access. He noted that the proposed site is zoned M-1(Industrial), which allows for this type of business. He also stated that Viaero allows competitors to use their towers.

Mr. Bailey noted that Viaero had held an informational meeting for residents of the proposed area at the Sidney Public Library on October 14th, with only two residents attending - Jerald Haupt and William Taylor. Both residents were satisfied with the presentation and had no objections to the tower being located at the proposed site.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

Smith moved, England seconded, "That the Conditional Use Permit application of Oscar Glover/Viaero Wireless to construct and operate a 60'-80' cellular communications tower near the southwest corner of the property located in the SE/4 of Section 31, Township 14 North, Range 49 West of the 6th P.M.; more particularly described as 1705 15th Avenue, be approved." Roll vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: Revisions to Chapter 1274 of the Planning and Zoning Code re: Home Occupations; that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or by attorney and were heard: Gary Person.

City Manager Person stated that there had been a lot of concern over this issue expressed through social media sites. In order to alleviate some of the misconceptions, Megan McGown, Economic Development Director was instructed to upload the proposed ordinance to social media sites prior to the meeting. Person stated that the purpose of the revision was to bring clarity to staff, as well helping the public and those working from their homes understand that the changes will either make most home occupations legal, or define the process to those that should be operating in a business district.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

McCarville moved, Spiker seconded "That the Planning Commission recommend to the City Council that the Revisions to Chapter 1274 of the Planning and Zoning Code re: Home Occupations, be approved." Roll call vote: Yeas: All commissioners present. Absent: Cortney and Mueller.

The meeting adjourned at 6:15 P.M.

CHAIRMAN

DEPUTY CLERK