

2012

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 February 21, 2012 in the City Council Chambers. Present were: Chairman: Spiker and Commissioners: Egging, England, Lawler, Leever, McCarville, and Phillips. Absent: Campbell and Gallaway. Others present: Chief Building Official Pelster, City Attorney Leef, 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.

McCarville moved, England seconded "That the minutes of the January 16, 2011 meeting be approved as printed." Roll call vote: Yeas: All commissioners present. Absent: Campbell and Gallaway.

Chairman Spiker announced that the Planning Commission would now hold a public hearing on the Preliminary Plat Application of S & J Convenience, LLC for the Replat of Lot A, into Lots A1 and A2, Sidney Hills Third Addition to the City of Sidney; 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: Jerry Wamsley of S & J Convenience.

Mr. Wamsley explained that the purpose of the replat was to divide Lot A into 2 lots: Lot A1 will house the Convenience Store/Gas Station and Lot A2 will be deeded to the City for future signage and green space. He further explained that approximately 1,000 square feet on the east end of the store will be for lease to an outside business. He estimated the size of the building as 120' x 60'. He noted that there will be two entrances to the development, one from Old Post Road and one from Ft. Sidney Rd.

Chief Building Official Pelster explained that most improvements already exist within the right-of-way, proposed Lot A2, except the sanitary and storm sewers. A Subdivider's Agreement will be drawn up and submitted to the City Council for action with the final plat.

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

England moved, McCarville seconded ""That the Planning Commission recommend to the City Council that the Preliminary Plat Application of S & J Convenience, LLC for the Replat of Lot A, into Lots A1 and A2, Sidney Hills Third Addition to the City of Sidney, be approved."" Roll call vote: Yeas: All commissioners present. Absent: Campbell and Gallaway.

Chairman Spiker announced that the Planning Commission would now hold a public hearing on the Rezoning Application of Kelly Lapp/Tool Box Productions, LLC to rezone Lot 8, Block 3, Wellner's Addition to the City of Sidney, more commonly known as 432 20th Avenue, from R-1 (Single Family Residential) to R-2 (Multi-Family Residential) Zone; 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: Kelly Lapp.

Mr. Lapp explained that he had been trying to sell this property since last April. He felt that if the property was marketed as a duplex or 4-plex, rather than a single family dwelling, it would be easier to sell; and in order to do this it would have to be rezoned to R-2. He further stated that if he could not sell it after rezoning, he would consider remodeling it himself and using it as a rental property, at approximately \$850/unit. Because the existing building has 2 front and 2 back doors, it was suggested that it had initially been designed as a duplex.

Following review of the Planning & Zoning Code it was determined that either a 2 or 4-plex could be located in an R-2 Zone, and that the total square footage available would also accommodate either layout.

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

Leever moved, Egging seconded ““That the Planning Commission recommend to the City Council that the Rezoning Application of Kelly Lapp/Tool Box Productions, LLC to rezone Lot 8, Block 3, Wellner’s Addition to the City of Sidney, more commonly known as 432 20th Avenue, from R-1 (Single Family Residential) to R-2 (Multi-Family Residential) Zone, be approved.”” Roll call vote: Yeas: All commissioners present. Absent: Campbell and Gallaway.

Chairman Spiker stated, that in the best interest of those present for agenda items, the Commission would now consider Item Number 7 on the agenda: Discussion re: Planning Commission’s request to Bryan Miller regarding alleged violations to the C-2 Neighborhood Commercial development at 1635 13th Avenue.

City Attorney, J. Leef, reviewed the history of the issue, as outlined in the minutes of June 17, 2002. At this meeting it was requested and granted that the lot at 1232 Quince be rezoned from R-2 (Light Density Multi-Family) Zone to C-2 (Neighborhood Commercial) Zone, so that Mr. Miller could construct a 50’ x 100’ steel building in which he would perform light tune-up and oil changes on automobiles. It was clarified at the time that C-2 Zone does not permit car repairs to be done on the outside of the building, but that all work must be done and cars stored inside the building, or Mr. Miller would be in violation of the Code and cited for non-conforming use. It was further stipulated that a privacy fence be placed on the east property line.

Ms. Leef went on to explain that, because of growing concern about the number of vehicles being stored on the outside of the building, and the absence of a privacy fence, she had been instructed to contact Mr. Miller and ask him to appear before the Commission to present his plan for coming into compliance in regards to this issue.

Mr. Miller explained that shortly after his business opened he was approached by Roy Harmon to use the lot surrounding his building as a used car lot. Because this was an allowable use in a C-2 Zone, he agreed. Five years ago Mr. Miller bought out the dealership and carries a license to sell vehicles. The vehicles that currently occupy his lot include those for sale on consignment, and vehicles that have been brought in for repair but never picked by the owners following completion of the repair. At this point he inherits the vehicles through abandonment. He stated that because he can no longer obtain a salvage title when this occurs, he is forced to keep them on his lot until they sell, or move them to his private property. Police Chief Mike Brown was present and offered to check into the procedures for obtaining an abandonment salvage title.

With regards to the privacy fence, Miller stated that he had misunderstood the

stipulation, interpreting the location of the fence to be 20 feet from the east property line, which would put it against the building.

The issue as to the type of “all weather surface” required by Section 1270 of the Planning & Zoning code for car lots was discussed. It was noted that this type of surface currently includes gravel, which Mr. Miller’s lot is, and until such term is further defined he is in compliance with this section.

It was the consensus of the Commissioners that Mr. Miller provides a much-needed service to the community, and it was not their intent to put him out of business. He was cautioned that the cars on his lot must be operable and for sale, and that no car parts were to be kept outside the building. The requirement of the placement of a privacy fence on the east property line was found to be in non-compliance of the original zoning approval.

There being no further discussion, Chairman Spiker asked for a motion on the item.

Phillips moved, England seconded “That Mr. Miller be granted a 90-day period in which to install a 6’ privacy fence on the east property line, and to remove all vehicles, operable or inoperable, that are not for sale, including automotive components outside the building.” Roll call vote: Yeas: All commissioners present. Absent: Campbell and Galloway.

Chairman Spiker announced that the Planning Commission would now hold a public hearing on the modification of an existing redevelopment plan entitled “Second Modification to Tax Increment Financing Redevelopment Plan of Cabela’s Inc.; 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: None.

The plan was reviewed and discussed. After discussion commissioner McCarville introduced the following resolution and moved its adoption:

RESOLUTION NO. PC20120201

BE IT RESOLVED by the Planning Commission of the City of Sidney, Nebraska, that the modification of redevelopment plan entitled “Second Modification to Tax Increment Financing Redevelopment Plan of Cabela’s, Inc.”, referred to the Planning Commission by the City of Sidney Community Development Agency, has been reviewed by the Planning Commission and the Planning Commission hereby finds that such plan conforms with the general plan for the development of the City of Sidney as a whole and recommends that such plan be approved and adopted.

Commissioner Phillips seconded the motion and upon roll call vote on the motion, the following Commissioners voted YEA: All commissioners present. Absent: Campbell and Galloway.

The resolution was declared adopted.

Chairman Spiker announced that the Planning Commission would now hold a discussion re: the Storage of Unlicensed/Abandoned Vehicles on Private Property.

City Attorney J. Leef gave a history on this item, stating that up until May, 2011 a clause existed in Section 660.02 of the codified ordinances that allowed for the towing of any unlicensed vehicle that had been stored for more than 4 months. She further explained that after May, when Ordinance No. 1655 was passed, this clause was taken out, leaving no provision for the enforcement of unlicensed vehicles.

She stated that she had worked with Chief of Police Mike Brown and had prepared a revised Ordinance (which is exactly like the old ordinance and follows the guidelines of the State of Nebraska) allowing for unlicensed vehicles to be stored for no more than 4 months on streets or private property before being towed. It does not include provisions for racecars, fencing of areas and number of cars stored behind fences, or historical vehicles. She read the definition of historical vehicles, finding it to be exempt from this particular classification.

Chairman Spiker asked for a motion in support of the change to the ordinance regarding the Storage of Unlicensed/Abandoned Vehicles on Private Property.

Phillips moved, Lawler seconded ““That the Planning Commission recommend support of an ordinance putting restrictions on the Storage of Unlicensed/Abandoned Vehicles on Private Property to the City Council.”” Roll call vote: Yeas: All commissioners present. Absent: Campbell and Gallaway.

The meeting adjourned at 6:28 p.m.

CHAIRMAN

DEPUTY CITY CLERK