

Sidney, Nebraska, February 20, 2017

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 20, 2017 in the City Council Chambers, located at 1115 13<sup>th</sup> Avenue. Present were: Chairman England and Commissioners: Egging, Karnik, Long, Phillips, Sherlock, Smith and Volkmer Absent: Cortney. Others present: Zoning Administrator Dayton 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 England 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.

Smith moved, Egging seconded "That the minutes of the December 19, 2016, meeting be approved." Roll call vote: Yeas: Egging, England, Long, Phillips, and Smith. Abstain: Karnik, Sherlock, and Volkmer. Absent: Cortney.

Chairman England announced that the Planning Commission would now hold a public hearing to consider a Conditional Use Permit for of Kent Wright to allow the occupation of a travel trailer outside of a travel trailer park on Lot 1, Block 1, Wright II Subdivision, more commonly known as 835 Greenwood Road; 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: Kent Wright.

Kent Wright explained that they have been operating out of this location since 1983. There is a trailer on site where some of his crew lives when they are harvesting in this area. The peak times for this are April, July, September and a couple of weeks in November. He receives no income for the use of this trailer.

Zoning Administrator Dayton stated that the Council had recently updated the zoning code to include provisions for situations like this. He noted that while a grandfather clause may or may not have applied to this situation, it was advisable to obtain the conditional permit to avoid future issues.

Commissioner Phillips suggested that the permit include verbiage that only Wright employees\ crews be allowed to occupy the trailer.

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

Phillips moved, Smith seconded "That the Conditional Use Permit of Kent Wright to allow the occupation of a travel trailer outside of a travel trailer park on Lot 1, Block 1, Wright II Subdivision, more commonly known as 835 Greenwood Road be approved with the stipulation that only employee crews be allowed to occupy the trailer." Roll call vote: Yeas: Volkmer, Smith, Karnik, England, Phillips, Sherlock and Egging. Abstain: Long. Absent: Cortney.

Chairman England announced that the Planning Commission would now hold a public hearing to consider a Conditional Use Permit of Carol Bowman for a Dog Kennel, increasing the number of dogs allowed from three (3) to seven (7), on Lot 4, Block 4, Callahan Addition, more

commonly known as 1835 Linden Street; 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: Carol Bowman in favor of the request; and Fee Rocha, Sonny Copley, James Edwards, Dale Meick, and Justin Kahl in opposition of the request.

Ms. Bowman explained that she had recently moved from out of state with her seven dogs, aging from 3 to 10, which she had rescued over a number of years. She noted that all the dogs are up to date on their shots, are spay/neutered and are inside dogs. She noted that she had not received noise violations, etc. from her last place of residence.

Fee Rocha, lives two doors down at 1817 Linden. She stated that there has been an increase in noise, i.e., barking, over the last two weeks. She feared that this would increase as the weather gets nicer and there was more outside activity in the neighborhood. She was also concerned about the smell of feces with that many animals in a small area.

Sonny Copley lives next door at 1825 Linden. He expressed concern about dog waste and barking.

James Edwards, of 1804 Linden, noted that this house is near a busy school corner where parents and children congregate. This type of activity stimulates barking. His biggest concern was the disposal of stool of the dogs. Being a retired veterinarian he recommended that a plan of when, where, and how this was to be disposed of needs to be required. His feeling was that approval of this permit would create a nuisance that the neighbors would have to deal with.

Dale Meick, of 1814 Linden, opposed the permit for similar reasons as the other neighbors. He also stated that the ordinance was put in place for a reason, which was to protect citizens within the City limits. If this permit was granted it would open it up to others, and this type of situation would be everywhere in town.

Justin Kahl, of 1209 19<sup>th</sup> Avenue, lives next door to Ms. Bowman. He asked if this type of permit should be requested by the owner, not a renter. He described the back yard of the residence as overgrown with weeds, with an inadequate fence—holes, height and condition is substandard to contain animals. He stated that granting this type of permit would set a bad precedence, as it is more than twice the limit allowed by the City Ordinance.

Commissioner Phillips commented that approval of this permit would set a precedence and there would be no going back. He noted that the Planning Commission and City Council had worked long and hard on this issue to come up with the current regulations.

Commissioner Long stated that he liked the fact that Ms. Bowman had rescue dogs, but did not feel that the property was adequate for them.

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

Smith moved, Karnik seconded “That the Conditional Use Permit of Carol Bowman for a Dog

Kennel, increasing the number of dogs allowed from three (3) to seven (7), on Lot 4, Block 4, Callahan Addition, more commonly known as 1835 Linden Street, be denied.” Roll call vote: All commissioners present. Absent: Courtney.

Ms. Bowman asked if she could still own all seven dogs if she boards four of them, as she would rather pay to board them than get rid of them. She also asked that she be given time to find a place to board them. She was granted permission to do this and staff was directed to stay apprised of the situation.

Chairman England announced that the Planning Commission would now hold a public hearing to consider a Conditional Use Permit of Mandie Barker to operate a Family Child-Care Home II on Lot 1, Block 10, Callahan Addition, more commonly known as 1424 16<sup>th</sup> Ave; 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: Mandie Barker, Les Larsen and Kendra Stettner.

Ms. Barker explained that she was moving her day care business from the Elm Street location, which she was granted a day care permit for, to 16<sup>th</sup> Avenue. She noted that she had already moved to this location at the end of January, which was prior to obtaining the permit. She explained that she has already been inspected by the State of Nebraska, who will do a follow-up inspection when and if the permit is approved. They will require that everything be up to code. The property is not handicap accessible and is not required to be. There is no fence, which is also not required as long as she is outside with children at all times. She noted that she has reached out to the property owner/landlord regarding putting up a fence, but has not had a response from him.

Kendra Stettner, neighbor at 1440 16<sup>th</sup> Avenue, was concerned about the safety of the children, as the proposed day care is located between two busy streets with heavy traffic heading for school drop-offs.

Zoning Administrator Dayton stated that the State will weigh in on the fence issue. If it is determined a safety issue for the children, they will require a fence. He also noted that there had been no complaints regarding Ms. Barker’s day care home at her previous location.

Les Larsen, property owner, stated that he rented the property to Ms. Barker knowing she intends to use it as a day care. He further stated that he will work with her on putting up a fence.

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

Phillips moved, Egging seconded “That the Conditional Use Permit of Mandie Barker to operate a Family Child-Care Home II on Lot 1, Block 10, Callahan Addition, more commonly known as 1424 16<sup>th</sup> Ave. be granted with the stipulation that a fence be erected to provide safety for the children.” Roll call vote: All commissioners present. Absent: Courtney.

The meeting adjourned at 6:00 P.M.

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CHAIRMAN

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DEPUTY CLERK

