

CITY OF HASTINGS, NEBRASKA
MINUTES OF PLANNING COMMISSION
Tuesday, July 20, 2021

Pursuant to due call and notice thereof, a meeting of the Hastings Planning Commission was conducted in the Hastings Public Library, Conference Room B, 314 N Denver Ave, Hastings, Adams County, Nebraska, on July 20, 2021.

The meeting was called to order at 4:06 p.m. in Regular Session by Chair Gaines with the following members present: Ann Hinton, LaDaun Schoenhals, Lou Kully, Marshall Gaines, Willis Hunt, Jacque Cranson, Michelle Lewis. Absent: Rakesh Srivastava, Greg Sinner, Gavin Raitt absent by resignation.

The Chair led the Commission in recital of the Pledge of Allegiance to the United States of America.

Moved by Hunt, seconded by Kully, to adopt the current agenda for the Planning Commission Meeting. Roll Call: Ayes: Hinton, Schoenhals, Kully, Gaines, Hunt, Cranson, and Lewis, Nays: None. Absent: Srivastava and Sinner.

Public Notice - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, July 16, 2021. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is located at the back of the Hastings Public Library, Conference Room B. Also, a current copy of the Nebraska Open Meetings Act is posted in Conference Room B of the Hastings Public Library, which is accessible to members of the public.

Moved by Schoenhals, seconded by Hinton, to approve the minutes of the June 15, 2021, Planning Commission Meeting. Roll Call: Ayes: Hinton, Schoenhals, Kully, Gaines, Hunt, Cranson, and Lewis, Nays: None. Absent: Srivastava and Sinner.

1.Special Order of Business. a. Election of Second Vice-Chair.

Moved by Kully, seconded by Hunt, to nominate Greg Sinner as Second Vice Chair. Greg Sinner was elected by unanimous vote.

8. Unfinished Business

a. Continued Applications

2021-036. Public hearing on a request for an amendment to Conditional Use Permit for Pine Patch

Second Subdivision to allow for the construction of a new barn for use with the existing CUP for property commonly addressed as 780 E 26th St, City of Hastings, Adams County, Nebraska. The public hearing will also consider the additional use of neighborhood assembly for other special events throughout the year in this same barn.

Joe and Nikayla Kindig, 780 East 26th Street, Hastings, Nebraska are the applicants. They are the new owners of the Pine Patch Tree Farm which has been in operation since 1887 selling Christmas trees. The existing barn on this property, used for this business in past, needs replaced. The applicants also desire to use this barn once it is reconstructed as a potential small-scale event venue in its off season. An amendment to their existing CUP is necessary due to a condition in the original CUP dated 7/25/05 which states, "Any changes in the described specifications will require approval of the Development Services Director. Changes in use or structures not anticipated in this application will require an amendment to the Conditional Use Permit". At first when the Kindigs purchased the property and inquired into what would need to happen with the barn we reviewed the original CUP as we believed that replacing the barn would not trigger an amendment since it was a part of this property. At that time we had them sign and file an affirmation that they understood the existing conditions to the original CUP

when they made the purchase of this property in January. However, upon further review of that original file we discovered there was nothing specifically discussing the use of a barn for the Pine Patch business so though the barn is new and replacing an old barn, staff feels the original barn was never considered with the original use. In fact, the applicant believes that the use of the barn with their business came about through time after the previous owners started utilizing the structure for Christmas events in conjunction with the sale of Christmas trees. The applicant desires to use the barn for events other than their Christmas Tree sales and related events. This will trigger a new use not originally assessed as a tree nursery; an assembly, neighborhood use. The proposed amendment to the original CUP will: 1) Amend the original use of tree nursery to include the use of a barn structure for which events and sales transactions can occur in conjunction with the existing Christmas tree nursery; and 2) Allow for a second conditional use for use as an assembly, neighborhood for off season events to be held in, which also requires a conditional use permit. Though both changes are important to their business, the Kindigs primary concern is to use the barn as a part of their existing business and CUP. However, being able to utilize this structure for more than 3 months out of the year is also important from a business standpoint. In light of this Staff has drafted this report with 2 separate headers to address the criteria to each proposed amendment separately in hopes this will better assist in your final determinations. The recommended motion does include both uses but Staff wants to be sure Planning Commission understands that they can make alterations to this recommendation to recommend to City Council that the application be *approved with or without the recommended conditions or rejected all together*. Recommendation can also be made for one proposed amendment and the rejection of the other.

1. The proposed development will integrate compatibility with existing land uses and with permitted uses that may be established within any area to be affected by the proposed development.

Surrounding land uses:

North: A, Agriculture & R1-A, Single Family Large Lot

South: R1-A, Single Family Large Lot

East: R1-A, Single Family Large Lot

West: R1-A, Single Family Large Lot

Though the majority of the surrounding area is residential and in the R1-A Zoning District, which carries a minimum lot area requirement of 20,000 SF. There is at least 75 feet between the existing barn, where the new one will be placed and all neighbors. This property is zoned R-1, *Single Family Residential*, and in this use district an "*assembly, neighborhood*" use requires a Conditional Use Permit. In fact, no matter what district you are located in you would need a CUP for such a use.

Use of Barn for existing business: The use of this property as a tree nursery goes back to 1887. The original owners, the Stoneciphers, had sold Christmas trees as a part of their business since that time. No complaints have been made by the neighbors regarding nuisances caused by this business. Though the business is over 130 years old, the Original Conditional Use Permit appears to have been approved as a request made by Sharon Stonecipher on September 13, 2005, which appears to be around the time the new owners, the Glass's, took over the business. The use of a nursery has demonstrated compatibility and though the barn was not specifically spelled out in the narrative as a part of that use, the barn has become a focal point for these activities in that structure. Staff feels that this *assembly, neighborhood* use as an event venue during the Christmas season has successfully integrated into these areas existing land uses and can continue to integrate this use with assembly, neighborhood uses on a seasonal basis. This has proven to work fine in the past.

Use of Barn for year-round assembly, neighborhood: *Assembly, neighborhood* is defined as "a civic use that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare of nearby residents." Neighborhood assemblies typically have buildings and supporting facilities designed for a capacity of no more than 350 people for any one event. Common examples include meeting halls, neighborhood association club houses, or smaller neighborhood churches. According to previous Building Inspector, Mr. Mark Evans, the proposed building size of 2846 SF should not allow more than 99 persons as an occupancy. Applicants understand this and have agreed to keep any use of the new

barn for events under this occupancy. Though the area is residential these are all large residential lots and 26th Street is an approximate 85' ROW separation to the north. With over 75' between the barn and all neighbors Staff feels the proposed mitigations in this plan would allow for additional assembly uses in the off-season only during daytime hours. Though assembly use in residential zoning is not ideal, so long as all concerns have been mitigated, history has shown this can be done here.

2. The use does not have a permanent negative impact that is substantially greater than the impact anticipated from development permitted in the base zone district.

Pedestrian and vehicular traffic circulation and safety.

Use of Barn for existing business:

The vehicular circulation within the existing Christmas Tree use will remain the same and has in the past. Consideration was given to only allowing access off of 26th Street for both the use of the existing Christmas Tree business and any added assembly use in the off season. However, at Christmas time when people come to select their trees, many of them come with trailers in tow. The new owners felt that the existing easement with Mr. Northrup is helpful to avoid several vehicles with trailers in tow having to turn around all at once, even with the proposed widening and improvements with turnaround added. Permission for use of this driveway is indicated in the easement with Mr. Northrop and the easement is in the process of being updated to reflect new owners. Staff will add a condition that this private easement be updated, tied to the land and new owners, indicate its continued usage only for Christmas tree use and detailing that the remaining months there will be a gate that will be locked and a sign on the fence clearly indicated that the use of this egress is only to be used during Christmas season. This must also be refiled with County Deeds office and a copy provided to be filed with this CUP Amendment. The 26th street driveway will be widened from 13 feet to 23 feet in fall of 2021 to allow better flow of traffic and to meet code requirements. This ingress/egress does have crushed concrete and the owners will add to this in the fall with the widening.

The owner has provided a parking plan that meets the parking requirement of 33 spaces as determined by staff. They will also be providing one ADA parking space near the entrance to the barn that is compliant to the standards.

This use does have a fair amount of vehicular use with trailers, however, once in the main parking area pedestrians may be walking across the driveway which is fairly covered by trees on either side to view the trees and make a tree selection. With the increase in potential customers for events we would like there to be signage added in the necessary areas cautioning drivers that pedestrians are in the area walking. This signage can be posted at the entrance or done with sidewalk signs but a Signage permit will be required and should be approved by Development Services. We are adding this as a condition.

Use of Barn for year-round assembly, neighborhood: All the discussion for amending the existing CUP for use at Christmas time also apply to the added year-round *assembly, neighborhood* use in the off season. One key difference is that the 26th Street ingress will now be wide enough for customers to also exit through that driveway and the appropriate turnaround that is triggered due to the length of this driveway exceeding 200' will be incorporated into the property. Therefore, the existing easement will only be available to customers during the three weeks of Christmas season. In the off season this easement driveway will be fenced off with a gate that will be locked during any other events throughout the year. Customers exiting for the barn as part of an off-season event venue will only enter and exit through the 26th Street driveway.

Reasonable and economic extension of public utilities and facilities.

Use of Barn for existing business: Applicants are aware they will need to connect to water and sewer to install appropriate bathrooms into the barn for employees and customers. Our Utilities Coordinator reviewed and confirmed they can connect to sewer service for the new Barn with no problem. He also recommended they may need a 2" service line with a 1 ½ meter to get the water they may need and stated they should talk to their plumber.

Use of Barn for year-round assembly, neighborhood: This is the same recommendation for both uses.

Noise, fumes, dust or other environmental pollution.

Use of Barn for existing business: Staff has determined that the only item here would be noise. There are two outdoor speakers attached to the barn to play Christmas music during Christmas Tree season. This has been a practice for many years. Again, this use only goes until 6:30 P.M. These outdoor speakers not used during any other time of the year. There have been no complaints to this use as part of the Christmas Tree business and, as such, the applicants would like to continue for only this existing business. The Christmas music adds to the experience and sets a tone or a necessary ambiance of Christmas cheer. City Code Section 18.113.01 provides for excessive noise only with regard to streets, alleys, or other public places. Interestingly the feet for audibility is 75'. Though this is not entirely relevant to a scenario where the land is private I would not think there is a distance from barn to all neighbors of at least 75'. Many are much further than this to the barn.

Use of Barn for year-round assembly, neighborhood: Use of these exterior speakers will not be a part of any other event held in this barn and the latest hours for such an event has also been capped at 6:30 PM.

The maintenance of logical and efficient development patterns and land use mixtures.

Use of Barn for existing business: The development pattern of uses in this area has been mostly residential with a good portion of this being large lot residential. However, there has been some low-impact commercial interlaced throughout this area for very different business ventures. We have Debs Auto Upholstery off to the southwest off of 2nd Avenue, the Campgrounds to the west off of 26th street and then the closer you move towards Osbourne Drive East the more commercial businesses you see incorporated into the area. The existing tree business has been in this area longer than zoning was in existence. We believe that this use is a benefit to most area property owners more than an adverse impact.

Use of Barn for year-round assembly, neighborhood: As stated with the existing use, there is some commercial interlaced into this area. The addition of *assembly, neighborhood* use in the off season is not anticipated to have an adverse effect on the neighbors. In fact, having an area for local area to gather can create a closer-knit neighborhood and provide a central point for the neighborhood to gather. In consideration of the hours, types of events proposed, the improvements to traffic flow and screening for parking areas, we do not feel the increase assembly use in the off season will be a negative but rather a positive to add value to our community with areas for businesses to conduct off-site meetings, families to have reunions and brides to celebrate an upcoming marriage. This is not a business, but a resource for our community!

The maintenance of property values in accordance with established and permitted land uses.

Use of Barn for existing business: The existing business has not had a negative impact on the property values and, even though the use of the barn for corresponding events was not specified in their CUP, this use has been running out of this barn seasonally as a business and event-driven experience for some time. Adjacent property owner letters were sent on 6/4/21 to adjacent property owners within 300 feet to ensure that neighbors have an opportunity to speak on this CUP, if concerned or supportive. Staff did receive several concerns. These were heard at the last Planning Commission Meeting held on June 15, 2021. However, despite concerns being vocalized, almost all of the neighbors expressed support for the use of a new barn for the existing use as a Christmas tree farm and any events that were occurring as part of the continuation of this use.

Use of Barn for year-round assembly, neighborhood: Allowing for *assembly, neighborhood* in this area should not adversely affect area property values. Having a community resource for events within walking distance of residential home can be seen as an advantage for a property owner to better integrate into with the local neighborhood and community so long as that assembly use is sensitive to the neighbors and has mitigated their concerns. An *assembly, neighborhood* use is not a commercial or light/heavy industrial use that produces fumes, dust or other environmental pollution. Though there can be impacts from a noise and traffic standpoint, but these impacts have been reviewed by Fire, Building and Zoning staff by conducting a site visit and reviewing the plans and narrative. Staff feels these issues have been mitigated satisfactorily as addressed in the Criteria #2 (above).

3. The conditions imposed are necessary to ensure the maintenance of property values and the safety, health, comfort, and repose of the residents.

Use of Barn for existing business: Staff has conducted a site visit and provided additional feedback to address concerns expressed during the June 20 meeting. These are addressed in the table below. Again, allowing an *assembly, neighborhood* use in this area should not adversely affect area safety, health, comfort and repose of the residential neighbors, so long as that *assembly, neighborhood* use is sensitive to the neighbors and has mitigated their concerns. See the table below for a summary of how these concerns were mitigated. The concerns expressed at the June 15, 2021 Planning Commission Meeting were not for the existing business; many even stated they were OK with Pine Patch as a Christmas Tree farm and the events associated with that use.

Use of Barn for year-round assembly, neighborhood: Adjacent property owner letters were sent on 6/4/21 and (again on 7/9/21) to adjacent property owners within 300 feet to ensure that neighbors have an opportunity to speak on this CUP, if concerned or supportive. Staff did receive several concerns. Each concern was documented and a follow-on site visit with the applicants was conducted to work through a plan that would appease all of these concerns. Almost all of the concerns expressed had to do with the potential addition of the use of this barn as an off-season *assembly, neighborhood* use. Below is a summary of the concerns and a response to mitigate or answer this concern.

Concern	Applicant Response Narrative/Site Plan	Mitigation
Letters-understanding what is going on	Not an applicant issue.	Statutes do not require public notice or adjacent property notice letters for continued meetings, but we did this as a courtesy anyway. Added a tremendous amount of detail to this report to make sure we have covered all the details for any public understanding. Also, there is now a direct link on the City website home page navigation bar to better navigate public to board agendas and minutes.
Party Barn/no parties next door/hours/liquor	Events geared towards are Small gatherings such as baby showers, bridal showers, reunions, meetings, networking sessions, conferences, and workshops/classes. No alcohol permitted Exterior speakers only for Christmas music at Christmas Tree business affairs Hours of operation are 8:00AM to 6:30PM Monday through Sunday.	Condition to document that if alcohol is added, music is added or there is a change in hours of operation an amendment to their CUP will be required. Liquor would also require a liquor review and permit through the City Clerk's office.
Traffic	The 26th street driveway will be widened from 13 feet to 23 feet in fall of 2021 to allow better flow of traffic. This will also allow traffic to flow in and out of 26th street without the use of the Northrop easement. Appropriate turn-around has been added to meet International Fire Code Appendix D requirements. The Northrop easement will be updated but continue to only be used as an egress for the Christmas Tree business Only. The owners will add additional crushed rock in areas where it is needed on a yearly basis as owners in past have done.	All requirements will be met and appropriate conditions have been incorporated as conditions of this CUP.

Parking	Parking requirements of 33 spaces have been provided in the plan and discussed in the narrative.	All requirements will be met and appropriate conditions have been incorporated as conditions of this CUP
Noise	All neighboring structures are at least 75' from the where the new barn will be placed. Exterior speakers only for Christmas music at Christmas Tree business affairs Hours of operation are 8:00AM to 6:30PM Monday through Sunday.	All requirements have been met and appropriate conditions have been incorporated as conditions of this CUP.
Consistency in code – No Primary Structure	Barn will meet principal structure setback requirements until applicants purchase and replat property. When additional property is acquired and land is replatted then this barn will become a legal structure and comply to City Code Section 34-311 regarding accessory structures.	All requirements will be met and appropriate conditions have been incorporated as conditions of this CUP.
Quality Standards	Weekly maintenance & annual discussed in narratives.	Condition has been incorporated to address yearly replenishment of crushed rock in driveways, turn around and parking areas. Processes for weekly maintenance appear acceptable.

Staff also scheduled a site visit as part of the public hearing process to allow any interested parties to come see and visit the site. As of the date of preparing this report, we have not received any additional feedback from these neighbors.

4. That the use, subject to conditions, maintains compliance with the Comprehensive Plan and the purpose and intent of the zoning regulations.

Use of Barn for existing business: The Comprehensive Plan Future Land Use Map for this property is slated Suburban Residential. This lot will remain zoned residential and is compatible to this future zoning. The sister zoning district to Suburban Residential is R1-A, Single Family Large Lot. Certainly, this lot is large enough that it could meet minimum lot requirements to be rezoned to R1-A, Single Family Large Lot. R-1, Single Family residential is very similar and a good complement to R1-A, Single Family Large Lot so this is not necessary. In fact, to rezone would be a futile exercise in this situation as rezoning this to R1-A would not eliminate the need for a CUP. Since an *assembly, neighborhood* use is conditional in all zoning districts, it really makes no difference where it is placed. For this particular use the focus is on the conditions that are placed upon this use making it appropriate to mitigate its use within that zoning district. Staff feels certain that every effort has been taken to ensure that appropriate conditions have been devised and that the applicant is willing and ready to implement these conditions to add the new barn, use this as part of the existing use and also for the additional use of assembly, neighborhood in the off season.

Use of Barn for year-round assembly, neighborhood: This is the same recommendation for both uses.

Lisa Parnell-Rowe explained the agenda item.

Hunt questioned if this assembly is not approved, will the Kindigs build a barn. The proposed motion involves both items.

Lisa, concurred that the Planning Commission can make a motion on the existing nursery use or the existing nursery use plus assembly of the Christmas tree farm.

City Attorney Schukei stated the Commission can treat the building as one and the assembly use as separate motions.

Hunt commented that most objections were not tearing down the old barn and constructing a new barn. The objections are of the use of the new structure. If the structure is for the tree farm, there are no objections.

Cranson asked, is it feasible to build a new barn and just use it for three weeks?

Joe Kindig, 200 W. 7th St., Hastings, Nebraska stated he and his wife would operate the Pine Patch the same as the previous owners. First priority is tree farm. They would like to buy the Glass house in the near future and live on site. He suggested having small gatherings such as bridal or baby showers.

Roger Duering, 880 E. 26th St., Hastings, Nebraska stated he has no problem with Mr. Kindig building the same size of structure as what is existing. 26th Street and Elm Avenue are very busy for ingress/egress. He also did not like the early morning and late evening hours of mowing.

Constance Gendville-Keen, 815 E. 26th Street, Hastings, Nebraska, questioned the use of a tree farm in the R-1 zoning district and Mr. Kindig's proposed uses for the property. She would like the seasonal use of the property to continue.

Juan Boner, 2510 N. Elm Ave., Hastings, Nebraska, stated the map of the tree farm was incorrect.

Jeb Brant, 725 W. 2nd St., Hastings, Nebraska, was encouraged by the fact that Mr. Kindig wants to be a part of and invest in the community. He spoke about Mr. Kindig's willingness to work hard and be responsible.

Kully moved, seconded by Schoenhals, to recommend to the Mayor and City Council approval of a Conditional Use Permit Amendment for Pine Patch Second Subdivision to allow for the construction of a new barn for use with the existing CUP and the added use of neighborhood assembly for other special events throughout the year.

Hinton questioned the dates for the Pine Patch at Christmas time. She suggested the time to be amended to sell up to Christmas Day in the Conditional Use Permit, instead of Friday after Thanksgiving to December 20th.

City Attorney Clint Schukei explained how a customer would come to the Pine Patch in November, tag a tree, and come back the weekend of Thanksgiving to pick up the tree.

Kully amended his motion to allow Mr. Kindig to amend his narrative to adjust the timeframe of the Pine Patch.

Cranson concurred with Jeb Brant. It is a new business and that is important to the City of Hastings.

Lisa clarified that the proposed building size is 28' x 46' sq. ft. She also stated the speed of traffic on 26th Street has been discussed.

City Attorney clarified there has been a couple of references of meeting on site. The visit was publicly noticed for 3:30 on site to orient members to the site.

Kully moved to amend his original motion to include allowing Mr. Kindig to amend his narrative to the City Council to include altering the hours of business from November 1st until December 23, seconded by Hinton. Roll Call: Ayes: Hinton, Schoenhals, Kully, Gaines, Hunt, Cranson, Lewis, Nays: None, Absent: Srivastava and Sinner.

Schoenhols moved, seconded by Cranson, to recommend to the Mayor and City Council to include the amendment in the original motion. Roll Call: Ayes: Hinton, Schoenhals, Kully, Gaines, Cranson, Lewis, Nays: Hunt. Absent: Srivastava and Sinner.

1. Public Hearings.

2020-033. Public hearing to recommend a request to reconsider a Conditional Use Permit (CUP) Amendment for an extended stay area in Recreational Vehicle Park located in the C-3, Commercial Business district for property addressed 302 East 26th Street, Hastings, Nebraska.

Background: The Hastings Campground was started nearly 30 years ago. There have been various owners since the time that this originally proposed KOA campground was erected. Thus, this campground was established based on a Conditional Use Permit (CUP) application that was approved by City Council on April 11, 1994. The original approval carried 11 conditions (see attached approval). Those conditions as approved were:

- 1) Submission of a revised site plan with landscaping details shown and that the revised site plan include the tree screen on the east side of the property and the fence around the other three sides of the property.
- 2) That a two-half inch fire hydrant be provided at the south end of the site for Fire Department Use; the hydrant and its location are to be approved by the Hastings Fire Chief.
- 3) That the sign indicating the space numbers be placed at the north end of each row of the camping spaces; the size of the numbers and the location of the sign are to be approved by the Hastings Fire Chief.
- 4) That the access road adjacent to the tent camping area be increased from 15 to 20 feet in width.
- 5) That the onsite sewer and water distribution system plan be approved by the Hastings Utilities, Director of Engineering and the City Plumbing Inspector.
- 6) That the revised site plan show the location of trash receptacles and dumpsters.
- 7) That a perimeter fence of chain link or similar fabric be provided around the site on the east, south and west sides of the property adjacent to the camping areas.
- 8) That plans for the K.O.A sign be submitted to and approved by the Planning Commission prior to construction.
- 9) That the revised site plan be approved by the Planning Commission prior to any construction on the site.
- 10) That camping bays shall not exceed a duration of two weeks.
- 11) That if for some reason that the campground does not go, that it be written in the Land Agreement that this can be nothing else besides an RV Campground.

This CUP amendment was triggered after receiving multiple complaints that the campground was not in compliance with the original CUP conditions. Section 34-402 (4) provides for a CUP review by the Zoning Official and (based on this outcome) a public hearing as courses of action that can be pursued when there is a failure to observe and maintain the conditions and restrictions of the CUP. Building Inspector, Mark Evans, visited the campground and assessed the campgrounds to the conditions stated in the originally approved CUP. Mr. Evans conducted this site review/inspection on April 29, 2020. Of the 11 conditions there were 5 conditions (i.e., condition #s 1, 3, 4, 7 & 10) that appeared to be in violation. A formal letter documenting these violations was sent certified mail and received by applicant on May 9, 2020 (see attached letter). The applicant was given 60 days to comply with these conditions. Applicant shared concerns for the survival of their business and viability of a two-week duration (Condition #10) for their campers. Applicant claimed there have been a few that desire longer stays as their work in the City is not fulltime and/or entails travel and at times the campgrounds have also been of economic assistance to construction crews that needed an affordable option for stays during large development projects. These violations were reassessed after the 60 days and all violations were satisfactorily mitigated with the exception of Condition #10, That camping bays shall not exceed a duration of two weeks. A follow-up letter was sent certified mail and received by applicant on July 14, 2020. Applicants were given the option to propose a realistic plan for longer-term stay for a portion of

their camping areas that was not fulltime, but longer than two-weeks. Staff also followed with several phone calls and site visits.

CUP Criteria Reassessment: Staff has also reassessed all the original CUP criteria and finds that the use of this campground, though in violation of the conditions is supportable for the following reasons.

- 1) Though the future land use designation shows Suburban Residential, the area was rezoned and approved to be C-3 on June 13, 1994, shortly after the approval of this CUP in April 1994. Though current code 34-200-1 Table of Uses and Districts does not list Recreational Vehicle Parks, it does list a similar category of Outdoor Entertainment and Recreational Business and this use shows as conditional in the C-3 District. It should be noted that the Section defining standards for Recreational Vehicle Parks is still found in Section 34-404 (12) and it appears that this Use Table was added with the 2010 Zoning Code update and that this category was simply not incorporated into that table. Additionally, maintaining this land for a campground was clearly important to the City Council as they added Condition #11 stating "That if for some reason that the campground does not go, that it be written in the Land Agreement that this can be nothing else besides an RV Campground." To the north and west this area is also all developing and zoned for commercial and industrial uses.
- 2) The barrier requirements stipulated in the CUP meet the Required Buffer Area between C-3 and residential. There is a fence on east and south sides and they have now planted the required evergreen tree line. It should also be noted that though the area to the east is zoned R-1A and to the southwest R-1, this is currently all farmed and agriculture in use. When corn is planted there is an additional barrier that naturally occurs for several months. Owner has since replanted those trees that have died and continues to maintain many of these tree very well as when we did a site visit there appears to be indications of growth and they have grown about a foot more in the last year since they were planted.
- 3) Adjacent property letters have been re-sent, public notice signs and advertising all occurred without any public comment as of the time of drafting this report.
- 4) Staff internal review was distributed with only a few concerns for propane tanks that have been covered in the new conditions.
- 5) Economically, this campground has been relied upon by several construction crews as temporary housing during projects, which has been important to our city's development efforts. City has now crafted a new code to address the use of these campgrounds and mobile home parks for longer-term temporary housing in suitable RVs. This will be presented at this same meeting. There is also now a major attraction north of here with the Smith Softball Complex. Many of the people that travel here for games utilize this campground for their stays.

On September 15, 2020 Planning Commission conducted a public hearing and voted 5-2-0 to recommend approval of amended conditions for extended stay. Though applicant and Staff had agreed that 7 longer-term spaces in the northwest corner would be proposed; the applicant expressed some discontent to the amount of longer-term stays and also the length of the longer-term stay only being 3 months at the meeting. Additionally, there was an exception built into this original proposal that stated, *"if there is a City development / economic need proven with employment documentation or a copy of a contract that would make it necessary for a stay longer than the 3-month maximum, this could be approved by Director of Development Services or designee for an additional 3 months at a time for as long as the project occurs."* This was a piece for which there was a large amount of discussion in the first Planning Commission Meeting. Then City Administrator, Dave Ptak, redirected this agenda item and commented on the City Council Staff report that he was recommending approval with a possible change to the long-term stay exception to avoid equal protection issues. Due to this concern, this matter was in essence kicked back to staff for further review (not tabled or continued). Since then several new developments and additional research has changed the conditions that were proposed last September.

First, Staff did a great deal of additional research and though State statute and City codes do not provide much on what a good standard for a longer-term length of stay, the 2018 International Building Code does provide some assistance in Appendix G, Section G601.2. It states, *"Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use, or shall be*

placed on a site for less than 180 consecutive days." Though this does seem more geared at coastal regions I have verified with Mr. Chad Nabity, Regional Planning Director of Grand Island and Hall County region, that this is the standard that they also fall back on to define the length of stay. I have seen this standard used in a few other municipalities as well. Also, after hearing the Planning Commission (as a whole) at the September 2020 meeting discuss the number of spaces that could be proposed for longer-term stays, we also see no reason why we cannot support 12 longer-term stay spaces. We will still ensure these are consecutive in their lineup and that they fill the area (northwest) furthest from the neighbors off of Elm Street that are most concerned for the length of stay condition. Therefore, rather than proposing 7 longer-term spaces for a period not to exceed 3 months, we are now proposing 12 spaces for a period of no more than 180 days as defined by the International Building Code.

Secondly, the exception that was originally built into our proposal to allow for *City development / economic need proven with employment documentation or a copy of a contract that would make it necessary for a stay longer than the 3-month maximum*, has been removed from this CUP Amendment. Though Mr. Ptak expressed concern for equal opportunity with this exception, there is a very real need at a much larger scale for us to provide areas for temporary housing in the very near future. This does not just affect the campgrounds, but also has an effect on mobile home parks in the City. The manager of Smitty's has approached us about wanting to also allow for temporary housing of RVs at their Mobile Home Park and has stated that this is an almost daily request for her and (yet) RV's cannot currently be allowed at Mobile Home parks. Smitty's is only 50% utilized at this time and is looking to fill its vacancies. The issue surrounds the large surge of development coming to our City and the surrounding areas. Wind Farm projects to the west near Minden, Theatre Development District and Flint all in the near future and only to name a few. We have lots of construction crews needing places to temporarily house. As this has become a much larger issue and one that needs attention at a much larger level to provide opportunity to more than just a few you will be seeing this provided as a proposed temporary use permit that will be added to the City Code, along with other temporary uses not currently included. Therefore, that exception and the potential issues surrounding it as a part of this CUP are no longer included in our conditions.

Staffs goal all along has been to propose a plan that will still afford the applicant an opportunity to stay in business, meet economic demands for a longer (yet not permanent) temporary housing but also be substantiated by the general practice among others. Staff believes this new proposal accomplishes that goal. By not allowing a full campground of longer-term camping, ensuring those campers are furthest away or blocked by structures from view of all neighbors, while still allowing this business to thrive and provide valuable resource to our community. As such, we are proposing the following conditions be added to those already in place with the original CUP.

Proposed Conditions: The applicant is now proposing 12 longer-term parking areas on the farthest west side of the campgrounds as discussed at our September 2020 meeting. Staff has reviewed their proposal and recommended the following additional conditions to amend original CUP Condition #10.

- 1) There will be 12 camp areas that will be allowed to stay for up to a 180-day maximum. These areas are to be located in the far northwest corner of the western side of the campground and will be not be allowed to be scattered among this side of the campground but must instead be concentrated to the first 12 areas in this row (numbered as 33-44 on the Site Plan). The remaining parking areas in this campground will continue to remain at a two-week or less stays. There will be one exception allowable for exceeding the 180-day maximum. This exception is to allow for one campground employee so long as this person is employed by owner to maintain campgrounds and/or manage the campgrounds. Proof of employment with a copy of a W-2 or paystub must be provided as proof of employment.
- 2) The 12 areas allowing stays for up to a 180-day maximum shall be clearly and neatly marked with a small durable sign that indicates these are for extended stay not exceeding 3 months. Building Inspector must approve these signs with a sign permit to document their approval.
- 3) Owner will update Site Plan to clearly mark spots on their maps as two-weeks or less and extended stay (not exceeding 180-days). This will be resubmitted to Director of Development Services for

approval. All obsolete maps are to no longer be distributed and discarded once this CUP is approved.

4) Extended stay campers must pack everything up and leave for at least 72 hours (3 days) before returning if staying longer than 180-days and this would be only allowable with documentation in a log on a use agreement for these parties that both owner and the camper signs.

5) Owner must create and submit to Director of Development Services for approval a new user agreement that will include the following:

a) An area to log camper name, area #, date, time and initials of individuals checking in and checking out.

b) Includes condition regarding propane tanks allowable as stipulated in this CUP for less than two weeks and up to 180-days.

c) Includes skirting limitations as stipulated in this CUP.

d) Clearly notes which type of camping the camper is allowed to have. You can list 2 weeks or less and up to 180-days for each camper.

6) All short-term (two-week or less campers) shall be permitted to have up to two 40-pound cylinders, provided they are mounted on and attached to the camper, RV, etc. by approved means in NFPA 58. Campers staying longer (up to 180-days) will be allowed no more than one cylinder not greater than 120 pounds, provided they are placed on a 3X3 concrete pad that will be provided for these 12 parking areas. Building and Fire inspectors will determine the appropriate placement of these pads on each space and must final approve the finished pads.

7) Fire Department will provide a handout to the owner for cylinder installation that will be provided to campers when signing user agreements. This handout will instruct each camper on appropriate Propane Tank mounting and capacity requirements.

8) Applicant will be responsible for ensuring any electrical rewiring and/or other longer-term infrastructure are upgraded in the first 12 dedicated areas for extended stays not lasting longer than 180-days in duration.

9) Skirting for extended stay guests will be limited to winter months of December, January, February and March.

10) This resolution shall be filed with the register of deeds so as to provide notice to any person examining the real estate records of the existence of this CUP. The recording costs incurred to comply with this section shall be paid by the applicant for the CUP.

11) There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.

Lisa Parnell-Rowe explained the agenda item.

Richard Thompson, 302 E. 26th St., Hastings, Nebraska, owner of the campground Terick LLC thanked the City for the consideration of the extended stay. He explained that a lot of the workers for the Whelan plant stayed at the campground for 2 ½ years. Workers are now calling for the bio-diesel plant and the wind farms. Three long-term residents are on disability. He expressed his concern for someone to leave after 180 days and find a place for 3 days before returning. Mr. Thompson stated he did not know for years there was a Conditional Use Permit on this property.

Marie Law, 302 E. 26th St., Site 36, Hastings, Nebraska is a long-term resident of the campground and also a City employee. She stated the average rent in Hastings is \$700 - \$1500, do not allow pets and substandard housing. The RV industry has changed since this CUP was written in 1994, over 26 years ago. Nearly one-half million RV owners live in their RV's full time in the United States. Limiting the stay time to less than 2 weeks or 6 months is impractical.

Moved by Lewis, seconded by Kully, to recommend approval to the Mayor and City Council a CUP Amendment for an extended stay area in Recreational Vehicle Park located in the C-3, Commercial Business district for property addressed 302 East 26th Street, Hastings, Nebraska.

Lewis stated she was happy this came back to the Commission. It is all about economic development and growing Hastings. She asked if the Temporary Use Permit would affect stays?

Lisa explained TUP's are only for construction crews.

Mr. Thompson stated he is the only campground operating in the winter.

Chair Gaines asked for the vote. Roll Call: Ayes: Hinton, Schoenhals, Kully, Gaines, Cranson, Lewis, Hunt. Nays: None. Absent: Srivastava and Sinner.

Commissioner Hunt asked to the excused.

2021-033. Public hearing regarding to consider an Ordinance to amend City Code sections 34-103, 34-200 and 34-404 to add language for a Temporary Use Permit and amend Uses and Districts Table to include restaurants, mobile vendors, temporary structures, recreational and temporary recreational vehicles. Temporary Use Permit will allow for administrative approval/processing of temporary structures, mobile vendors and recreational vehicles with regard to longer-term stays at campgrounds and mobile home parks during times of economic development.

The proposed Code amendment is to add a needed temporary use permit (TUP) that would allow Staff to address a gardens variety of temporary uses though a zoning development permit that would be administratively approved following an internal review of a submitted site plan and narrative for each use by key City departments including but not limited to Engineering, Utilities, Planning and Zoning, Fire, Building, Police. There are 3 types of temporary use permits that can be applied for within this permit structure: Recreational vehicles in mobile home parks or recreational campgrounds for extended temporary stays; Mobile vendors; or temporary structures.

There are 3 sections of the City Zoning Code found in Chapter 34 that will be amended as a result of the addition of this new permit and also administrative cleanup. The first section is Section 34-200 and Table 200-1, Uses and Districts. The Table is the starting point of all zoning requests and the table where we can best determine whether a use will be permitted, restricted or conditional in a particular Zoning District. Permitted, meaning allowed subject to general district standards, Restricted meaning allowed subject to specific use standards and Conditional, meaning allowed subject to discretionary review (Planning Commission and/or City Council). A few items that are added as part of administrative cleanup are Recreational Vehicle Park and Restaurant. For these 2 uses there are sections in both chapters 34 and 38 that address the requirements for such a business, but there was no detail in this table about where these could be located. Due to the additional uses of Mobile vendors and recreational vehicles being added it was felt that the corresponding sites that were not temporary should also be added. We have had restaurants on our list to add to this table for a long time coming now. The three new temporary uses of Mobile vendor, recreational vehicle and temporary structure were added to this table as well. As you review the zoning requirement that has been listed in this table for each use, it is important to note that no matter what the zoning requirement is (i.e., permitted, restricted or conditional), as stated in Chapter 34-403 (6), every use should comply with the general requirements of Chapter 34 and Article IV, Standards for Conditional Uses. The second section updated is Section 34-103, General Definitions. The definition of a term can provide depth of understanding between uses where the line gets blurry. The definition can also tell us more about some of the unique requirements that are driven by the specifics of that use. This section helps us pull back into the meaning of a subject matter if we get lost in translation. In this section we have added various definitions of each of the relevant terms used with these additional TUPs and others as administrative cleanup. The Recreational vehicle park had specific criteria established in Section 34-404 (12) but was not in the Table of Uses nor was it defined. Restaurant has also been defined to ensure that the differences between a standalone restaurant in a structure and one accomplished as a mobile vendor are differentiated. The last Section to be updated is Section 34-404, Standards for Conditional Uses. In this section we added the temporary use permit as an additional use that needs to be reviewed to requirements. Here we have discussed the purpose, procedure, application requirements, internal review process, terms, and then the 3 different types of a temporary use for which a permit is required and the specific requirements for each one.

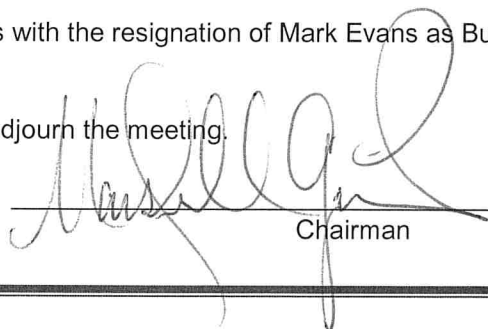
A process and way to handle temporary uses has been an area ignored in the Zoning Code that has been seen to create confusion among the public/staff and discontentment among developers, home owners and the business community for some time. When Staff does not have a code to address a specific subject matter then we do our best to create a path that will work for all, but creating a path on a whim without a regulation creates liability and inconsistencies in the way it is procedurally done and this can make us appear to be exercising based on other means like favoritism or in an inequitable fashion. One of the cases I first tackled when I got here had to do with the Hastings Campground and the condition that was established for length of stay is a good example of the problems an omission can cause. The issue in addressing the violations to that CUP regarding length of stay was that not in the code did we establish a length of stay guideline for campers. Adding to this frustration was the fact that we as a community are desirous of development and growth, and yet to grow you need a place for developers that might be coming in from other areas for large projects to reside on a temporary basis. There was a need and this campground was fulfilling that need, yet it was being done without compliance to safety requirements since the need for a longer-term stay was drastically different than one for only a few weeks. We saw this in the way propane tanks and skirting were handled. Ultimately, this is the rationale for adding a path forward for allowing not only the local campgrounds, but some of our Mobile Home Courts that might have vacancies the ability to temporarily place these developers yet for the City to ensure that this is done in a way that considers the health, welfare and safety of the community at large. The same is true for food trucks. Much confusion has been seen to circulate around where these mobile vendors can and should be located that will ensure the health, welfare and safety of the community at large is considered. Interestingly, many of these mobile vendors stop in to see us to see what permit they must pull to do business in a mobile fashion, yet we tell them to pay a fee and turn them away with no guidance on where they are allowed and what requirements they are required to meet. The last type is a special type of permit for an ever-changing world. These days with COVID in the rearview mirror we know that the planning world has changed forever in that some things, no matter how much you plan, cannot be planned for in the face of an unexpected event. We experienced this when Mary Lanning came to us amidst a socially distancing world to ask what they could do to place a temporary structure in their parking lot for their employees to work out of as the swarms of people filed through in need of drive-through testing. We had no quick fix permit. We had a building permit, applicable to a long-term structure build. We allowed them to start at risk and required a building permit and now a structure still sits in that parking lot and we have no requirement in the code ensuring it will ever be removed, though its original intent was temporary. For all of these reasons we bring this code change to you and ask for your review and serious consideration of not just another code amendment, but a better path forward for Staff, applicant and community at large.

Lisa Parnell-Rowe explained the agenda item.

Moved by Schoenhals, seconded by Hinton, to recommend approval to the Mayor and City Council an ordinance to amend City Code sections 34-103, 34-200 and 34-404 to add language for a Temporary Use Permit and amend Uses and Districts Table to include restaurants, mobile vendors, temporary structures, recreational and temporary recreational vehicles. Temporary Use Permit will allow for administrative approval/processing of temporary structures, mobile vendors and recreational vehicles with regard to longer-term stays at campgrounds and mobile home parks during times of economic development. Roll Call: Ayes: Hinton, Schoenhals, Kully, Gaines, Cranson, Lewis. Nays: None. Absent: Srivastava, Sinner, Hunt.

Lisa explained the transition plan for inspections with the resignation of Mark Evans as Building Inspector.

Moved by Schoenhals, seconded by Hinton to adjourn the meeting.



Chairman

