

CITY OF HASTINGS, NEBRASKA
MINUTES OF PLANNING COMMISSION
Tuesday, October 19, 2021

Pursuant to due call and notice thereof, a meeting of the Hastings Planning Commission was conducted in the Hastings Public Library, 314 North Denver Avenue, Hastings, Nebraska, on October 19, 2021.

The meeting was called to order at 4:00p.m. in Regular Session by Chairman Gaines with the following members present: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Marshall Gaines, Greg Sinner, Willis Hunt, Michelle Lewis, Jacque Cranson. Absent: Lou Kully

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

Moved by Hunt, seconded by Sinner to adopt the current agenda for the Planning Commission Meeting. Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Marshall Gaines, Greg Sinner, Willis Hunt, Michelle Lewis, Jacque Cranson, Nays: None. Absent: Lou Kully

Public Notice - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, October 15th, 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 Conference Room B. Also, a current copy of the Nebraska Open Meetings Act is posted on the back wall of the Conference Room B which is accessible to members of the public.

Moved by Sinner, seconded by Hinton to approve the minutes of the September 21st, 2021 Planning Commission Meeting. Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Marshall Gaines, Greg Sinner, Willis Hunt, Michelle Lewis, Jacque Cranson, Nays: None. Absent: Lou Kully.

Public Hearings

- a. **2021-07.** Public hearing to formalize and amend the area included in the Planned District Development Plan for Cimarron Meadows Subdivision, including undeveloped property generally located west and southwest of Walmart, south of 42nd Street West and northeast of Fisherman Lane in Adams County, Nebraska.

Lisa Parnell-Rowe discussed this item.

The northeastern portion of Cimarron Meadows Subdivision has a planned district overlay. This subdivision carries a base district zoning of C-3. Together this is a zoning district we refer to as CP-3. The base district of C-3 is characterized as inclusive of those areas which are heavily exposed to automobile traffic and which have been developed with general commercial uses. This area was rezoned to CP-3 in Ordinance 4587 on April 22nd 2019. At this same time a Development Plan was proposed for this area to allow for deviations to setbacks. This amendment is being done to 1) formalize that Development Plan that was only proposed as part of a Staff report but had not been documented into a formal Resolution. 2) Remove areas that

had been previously zoned as CP-3 by mistake. These areas were rezoned back to the appropriate zoning of R-1 in Ordinance No. 4666 on June 14, 2021, and in Ordinance No. 4679 on September 27th, 2021.

The Development Plan as documented by my predecessor in his staff report dated March 18, 2019, will remain the same as staff finds this necessary for the type of housing that has been proposed to the east side of Fisherman Lane and north of Outrigger Avenue on platted lots 1-5 in Cimarron Meadows 11th Addition. Though the existing housing on lots 1-5 has met setbacks, as Mr. Engel moves north and final plats the Cimarron Meadows 12th Addition Staff knows from reviewing previous draft building plans and the DRAFT Cimarron Meadows 12th Addition plat, that this same housing will likely continue to follow Fisherman Lane frontage in the remaining lots (proposed in this draft as lots 1-7) until it reached Badger Lane. The northern-most side yard setback will become as little as a zero in some places. Similar housing will also wrap around and fill into the north of this area which fronts off of 38th Street in lots that will also require as little as a zero-side yard setback requirement. As the development moves south down Outrigger Lane with more lots, this zero-side yard requirement gradually occurs again on the northern side. These lots in many cases also do not meet the minimum lot width. A copy of this building plan, though in draft form and not necessarily the final footprint, shows this requirement. Additionally, the area west of Wal-Mart also zoned for CP-3 in the future will eventually be final-platted and also carry this same smaller lot size shape that will require flexibility in lot width. There are also floodplain areas within this area that will make building more challenging.

My predecessor explained this Development Plan and the deviations in his staff report as follows:

There is a need for more flexible development standards for the immediate residential product in order to address variable side yard setbacks and smaller lot sizes. There is also a need to maintain flexibility in the northern blocks adjacent to 42nd Street for potential development to include a combination of neighborhood commercial and compact residential, or traditional mixed-use.

Specific reasons for the zone change were based on the following factors:

The requirements for *R-1, Urban Single family residential* are a minimum lot area of 7,000 sf, side yard setbacks of 7' or 10%, and a minimum lot width of 70'.

As depicted on the Cimarron Meadows 11th Addition plat filing, the subject property exhibits an average lot area of 7,271 sf, side setbacks at 0' and 16' respectively, and an average lot width of 51ft where most lots are less than 50ft. Considering these criteria, the R-1 base designation is inadequate.

In the *C-3, Commercial Business Planned* district, residential uses require a minimum lot area of 6,000 sf. Side yard setbacks are the primary concession from the base district standards. In this development plan, Staff recommends the following side yard setback standards:

For residential one- and two- unit structures, side yards may vary between 0 and 16 feet on each/side, but need not exceed 25 feet combined;

For commercial structures, the side yard setback standard shall be 0 feet; however, if the building is set back from the property line it shall be a minimum of 5 feet, and if abutting a strictly residential use, the side setback shall be a minimum of 10 feet. For the purposes of side yard setbacks, mixed-use buildings should be considered commercial.

Future land use designation in Imagine Hastings is Mixed Use-Neighborhood, which supports the proposed development and the zoning in this area as CP-3. Surrounding zoning is A, Agricultural to the north, R-1 Single Family Residential to the south and west, and C-3 Commercial Business to the east.

Overall, the proposed development density and use would provide a desired transitional development pattern from the single-family uses to the west to the commercial uses to the east.

In discussing this matter further with the applicant, there appears to have been a mis-interpretation on the part of my predecessor of how much of this area should have been included in that rezone and development plan. This Development Plan is intended to correct for those errors and to formalize the development plan in an official Resolution. The Development Plan that my predecessor prepared makes sense and also provides for leniency in the floodplain that circulates throughout this area.

The areas that we have rezoned back to *R-1, Urban Single Family Residential*, were the first step to correcting the mistakes of the past. Now that the zoning has been corrected, we need to ensure the Development Plan that is used in this area is reflective of the actual area it entails and we also need to make it formal by resolution. Mr. Engels surveyor, Mr. Tom Krueger, has provided the following revised legal to show the now accurate portion of Cimarron Meadows Subdivision that would fall into the CP-3 planned district zoning and amended Development Plan. That legal follows:

The Northeast quarter of Section 36, Township 8 North, Range 10 West of the 6th P.M., in the City of Hastings, Adams County, Nebraska, being described as follows:

Commencing at the Northwest corner of said Northeast quarter of Section 36; thence S00°10'17"E (assumed bearing) on the West line of said Northeast quarter, a distance of 80.00 feet to the South line of 42nd Street, this being the point of beginning; thence continuing S00°10'17"E on said West line a distance of 550.41 feet to the Northwest corner of Lot Four (4) Cimarron Meadows 10th Addition to the City of Hastings; thence N89°12'04"E on the North line of said Lot Four (4), a distance of 150.00 feet to the Northeast corner of said Lot Four (4), thence S30°33'24"E a distance of 43.83 feet to the north line of Lakepark Lane; thence N59°26'36"E on the North line of Lakepark Lane, a distance of 200.78 feet; thence S30°33'24"E, a distance of 60.00 feet to the Northwest corner of Lot Five (5), of said Cimarron Meadows 10th Addition; thence N59°26'36"E a distance of 106.86 feet to the beginning of a curve concave to the Southwest having a radius of 70.00 feet and a central angle of 79°03'26"; thence Southeasterly on said curve, the chord of which bears S81°01'41"E, an arc distance of 96.58 feet; thence S41°29'57"E, a distance of 453.19 feet; thence S47°56'31"E, a distance of 206.29 feet; thence S38°18'19"W, a distance of 261.00 feet to the beginning of a curve concave to the Southwest having a radius of 570.00 feet and a central angle of 51°34'20"; thence Southeasterly on said curve, the chord of which bears S25°54'31"E, an arc distance of 513.06 feet; thence S00°01'18"E, a distance of 346.70 feet to the north line of North Shore West Subdivision; thence N89°12'05"E, on said north line, a distance of 497.76 feet to the west line of Cimarron Plaza Addition; thence N00°40'43"W, on said west line, a distance of 854.59 feet to the South line of 38th Street; thence S89°12'04"W, on said south line, a distance of 171.94 feet to the west line of Cimarron Meadows Second Addition extended south; thence N00°40'45"W, on said west line, a distance of 1128.09 feet to the south line of 42nd Street; thence S89°19'16"W, on said south line, a distance of 1367.26 feet to the point of beginning.

Moved by Schoenhals, seconded by Srivastava to recommend approval to the Mayor and City Council for approval of a resolution for an amended Planned District Development Plan for Engel Construction Company, including undeveloped property generally located west and southwest of Walmart, south of 42nd Street West and northeast of Fisherman Lane in Adams County, Nebraska. Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Marshall Gaines, Greg Sinner, Willis Hunt, Michelle Lewis, Jacque Cranson, Nays: None. Absent: Lou Kully.

- b. **2021-062.** Public hearing to consider an ordinance to amend the City of Hastings Comprehensive Plan Future Land Use Map by changing future zoning for property generally located in the southern portion of the block between Lincoln Avenue South, Hastings Avenue South and I Street from Urban Residential to Commercial/Retail.

Lisa Parnell-Rowe discussed this item.

Staff first reviewed this matter when initially approached about a potential nursery use with a workshop/garage to be used for storage and maintenance for this business. A change in use for a portion of this area would require a rezone as *R-3, Multiple Family Residential* does not permit the use of a nursery. Staff had initially considered a residential rezone to *R-1* and *R-1A* from its current zoning, which would then require a Conditional Use Permit. However, when this was taken to our Engineering Review group, it was discovered that this area has had a long history of not developing due to the fact that the southern-most section of the sewer main off of Hastings Avenue South would still need to be extended in order for the lots on the east side of this block to be fully developed. The costs for developers looking to build residential homes in this area have always exceeded the benefits as it has been too pricey.

In reviewing the surrounding area, aside from the north-eastern area where there is multiple family zoning, the vast majority of this area is currently zoned *C-3, Commercial Business*. West, northwest and southwest are all zoned *C-3, Commercial Business*. To the south and southwest we have our City Lincoln Park (zoned *R-1, Single Family Residential* by default) and then to the southwest we have more *C-3* where one of our City Fire Stations is located. Comparing this then to what we have slated in the future in our Comprehensive plans Future Land Use (FLU) map, and taking into consideration that we also have not been able to make anything happen on this land in a residential nature due to the utility's requirements, it would seem that this particular area would be better served designated in our future for Commercial/Retail. This would simply extend that use a bit further east from the Commercial Corridor lining Burlington Avenue and make this area more attractive to a commercial developer. A commercial developer looking to invest in a larger structure that would be used for business profit may see the benefit of eventually adding the required infrastructure into this area. Meanwhile, the potential buyer would have an opportunity to place a low impact nursery as a permitted use in this area, which Staff feels would be a nice use of this area since it would only require water which is fully extended, unlike the sewer.

In summary, this area is currently identified in the FLU for urban residential use and has remained undeveloped to date. It is clear that this land will remain undeveloped if it remains residentially designated. In changing the FLU we are allowing for a use that fits into the character of this area. The proximity of Lincoln Park to this area makes this a good spot for a nursery that would extend that look and feel of open space while still bringing greater economic opportunities to the community. Therefore, changing this area to more appropriately map to

what it is showing to develop in the surrounding areas establishes a more accurate map for not only the immediate development opportunities but also for any future commercial development opportunities.

Moved by Lewis, seconded by Schoenhals, to recommend approval to the Mayor and City Council for approval for an ordinance to amend the City of Hastings Comprehensive Plan Future Land Use Map by changing future zoning for property generally located in the southern portion of the block between Lincoln Avenue South, Hastings Avenue South and I Street from Urban Residential to Commercial/Retail. Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Marshall Gaines, Greg Sinner, Willis Hunt, Michelle Lewis, Jacques Cranson, Nays: None. Absent: Lou Kully.

- c. **2021-033.** Public hearing to consider an ordinance to amend City Code sections 34103, 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.

Lisa Parnell-Rowe discussed this item.

The proposed Code amendment is to add a much 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 add 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 better 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. A 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 nowhere 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 revised 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, applicants and the community at large.

This was originally reviewed by Planning Commission at your July 20th Meeting and was recommended for approval in a vote of 6-0. However, just prior to being heard at the City Council Meeting on August 9, 2021, several mobile vendors contacted Mr. Randy Chick with questions and concerns. Consequently, the item was postponed to a later date for Staff to meet with these vendors to discuss this proposed code change. A meeting occurred on September 14, 2021. Better definition of restaurants; removal of the additional sign permit and fee; and added detail for better determination of when a mobile vendor was required to pull the permit was added. Basically, instead of just adding the definition of staying in one place for up to 180 days we determined that this should only be for those that exceed staying in one place for more than 14 days, and then up to 180 days. The 14 days is the requirement of the Temporary Food Establishment license they carry for which they are required to move from one site.

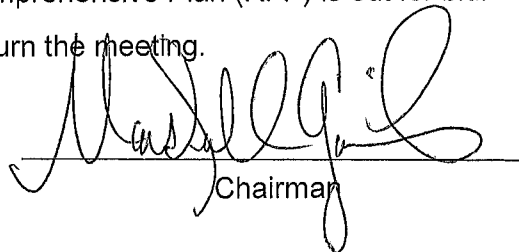
Additionally, we have done a repeated header in the table of uses to prevent us from having to scroll up to the previous pages and counting rows to see what zoning district is in the header. We have also added reference to temporary accessory structures and how those will be handled in the residential areas to better map to Section 34-311. Then lastly, we have fine-tuned the mobile vendors section to address how permanent and temporary structures will be handled as accessory to food trucks and also added some setback requirements that are necessary according to International Fire Code and Building code requirements for areas where more than one vendor may be located. All of the revisions made since you last reviewed this proposed code have been highlighted in yellow and all the previous changes remain in red font for your evaluation.

Moved by Hunt, seconded by Sinner to recommend approval to the Mayor and City Council for approval for 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: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Marshall Gaines, Greg Sinner, Willis Hunt, Michelle Lewis, Jacque Cranson, Nays: None. Absent: Lou Kully.

Reports

Lisa reported the Request for Proposal for the Comprehensive Plan (RFP) is out for bid.

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



Chairman