

HASTINGS PLANNING COMMISSION

Pursuant to due call and notice thereof, a meeting of the Hastings Planning Commission was conducted in the City Building, 220 North Hastings Avenue, Council Chambers, Hastings, Nebraska, on February 15, 2022.

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

3. **Pledge of Allegiance**

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

4. **Motion to adopt the current agenda for the Planning Commission Meeting**

Moved by Willis Hunt to hear item 9.e after item 7.a.
No second. The motion failed.

Moved by LaDaun Schoenhals, seconded by Rakesh Srivastava, to hear item 10.a between items 9.d and 9.e

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava. Nays: Willis Hunt.

Absent: Lou Kully, Greg Sinner. The motion carried.

5. **Public Notice**

Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, February 4, 2022. 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 Council Chambers. Also, a current copy of the Nebraska Open Meetings Act is posted on the south wall of the Council Chambers which is accessible to members of the public.

6. **Approval of Minutes**

a. **Meeting of January 18, 2022**

Moved by Willis Hunt, seconded by LaDaun Schoenhals, to approve the January 18, 2022 Planning Commission meeting minutes.

Roll call: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

7. **Special Order of Business**

a. **2022-001.** Election of Officers: Chair; First Vice-Chair; Second Vice-Chair.

Ann Hinton read a note from Greg Sinner.

Due to an unforeseen medical condition resulting in emergency surgery Monday night, I will not be able to attend today's Planning Commission Meeting. I thank you all, and so forth, and then it says he is interested in being chair, so the fact that Greg Sinner is not here, he would still like to be nominated.

Moved by Willis Hunt, seconded by LaDaun Schoenhals, to nominate Greg Sinner as Chair.

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

Moved by Rakesh Srivastava, seconded by Michelle Lewis, to nominate Ann Hinton as First Vice-Chair.

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

Moved by LaDaun Schoenhals, seconded by Shawn Rossi to nominate Michelle Lewis as Second Vice-Chair.

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

9. Public Hearings.

a. 2022-000. Public hearing to consider an ordinance to amend Hastings City Code Chapter 34, Article I, regarding definitions of hotels and motels.

Motion to recommend approval to the Mayor and City Council for an ordinance to amend the Hastings City Code Chapter 34, Article I, regarding definitions of hotels and motels.

Brian Hurskainen explained the agenda item.

City staff has recently been made aware of the definitions for hotels and motels that were creating some challenges for developers and inconsistent with neighboring communities. With how the definition reads now, someone needs 12 or more rooms to open a hotel and there cannot be any provisions for cooking in the individual rooms. The room restriction seems like an odd condition when looking at the surrounding communities like Kearney and Grand Island, both of which do not have any number of rooms in their definitions.

The section about cooking in the rooms also seems unnecessary when looked at in relation to the rest of the Tri Cities. In addition, there are currently operating hotels within the city limits (i.e., 200 W 31st Street) that have things to cook with, such as microwaves, electric stovetops and refrigerators within individual rooms. Having these things within the rooms can give travelers a little flexibility and help them enjoy their stay in Hastings a little more, particularly in a city that admittedly has fewer places to eat.

The revision to the definition for motels is strictly to simplify the definition and to get closer with surrounding communities. Parking areas are a given with the transient nature of the people being served with these types of uses. A majority of the people that travel to Hastings are doing it by automobile and will need a place to leave their

car in the immediate vicinity. Vending Machines are another omission because they do not add people to the area; no one goes out to these places just to use the vending machines. The other uses listed are accessory uses but can be used by people not staying there. These amendments create fewer arbitrary restrictions for developers and more closely follow what our neighbors in the Tri-Cities adhere to with regard to hotels and motels.

Moved by Willis Hunt, seconded by LaDaun Schoenhals, to recommend approval to the Mayor and City Council for an ordinance and amendment to the Hastings City Code Chapter 34, Article I, regarding definitions of hotels and motels.

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

- b. 2022-008. Public hearing to recommend a request for Randy Chick regarding Plan Modification No. 2022-1 to amend the Redevelopment Plan for Redevelopment Area Number #14, Trail Ridge Addition 2.0, for the following collective property, to wit: Lots 2 thru 7, Block 1 and Lots 11 thru 23, Block 1 Trail Ridge Addition, Lots 1 thru 4, Block 2 and Lots 7 thru 11, Block 2 Trail Ridge Addition, Lots 1 thru 5, Block 3 Trail Ridge Addition all in the City of Hastings, Adams County, Nebraska according to the recorded plats thereof.**

Motion to recommend approval for Plan Modification No. 2022-1 to amend the Redevelopment Plan for Redevelopment Area Number #14, Trail Ridge Addition 2.0, for the following collective property, to wit: Lots 2 thru 7, Block 1 and Lots 11 thru 23, Block 1 Trail Ridge Addition, Lots 1 thru 4, Block 2 and Lots 7 thru 11, Block 2 Trail Ridge Addition, Lots 1 thru 5, Block 3 Trail Ridge Addition all in the City of Hastings, Adams County, Nebraska according to the recorded plats thereof.

Brian Hurskainen explained the agenda item.

Hastings Economic Development Corporation (HEDC) wants to amend the Redevelopment Plan for Area #14. The developer intends to build out the infrastructure for Trail Ridge Addition.

HEDC will utilize Tax Increment Financing to aid in infrastructure costs including site preparation, water, sewer and paving, design and construction of a public park, architectural, engineering and planning costs, capitalized interest, and legal fees, and any other eligible public improvements essential for public uses in accordance with the Redevelopment Plan. Total anticipated project costs are approximately \$9,920,000.00 for construction and installation of the project. Cost of TIF eligible public improvements are estimated to be \$2,000,000.00. The redevelopment project area currently has an estimated valuation of \$41,679.00. The proposed redevelopment will create an additional valuation of \$7,878,321.00.

Future Land Use for this area is Mixed Use – Neighborhood. The Imagine Hastings Comprehensive Plan stated a desire for a land use pattern that is supportive of similar uses. This area is currently zoned R-1 and will not require rezone to accommodate this use.

Willis Hunt: How does this plan differ from the original plan that was put out by Redevelopment Area #14 in 2017?

Randy Chick: There was a redevelopment plan for area #14 which included most of the lots there. We do plan modifications for every project. The original plan modification was the lots by West Laux around the outside lots. There's a street in there with lots on both sides that were wrapped up in a plan modification earlier, about a year ago. Now, the rest of the lots will be developed and this plan modification will include the rest of the balance of the lots.

Willis Hunt: Are all the rest of the lots around West Laux sold already?

Michael Krings: We've sold all of the lots along the finished street. All of them except two have been sold, and those two are under contract, just waiting to close on them.

Willis Hunt: There's 47 lots and they've all been sold?

Michael Krings: All of the lots that are along the street. There's some streets that are included on both plans, so the rest of it will be completed in the second phase. We didn't want to sell them because they are still under construction, but they will be along the street, but will continue to have street development.

Willis Hunt: Some of the lots here that you're talking about have already been developed, sewer and water is already in on what we're talking about today?

Michael Krings: On those particular lots, all of the water and sewer has been installed during phase I of this development, the only thing remaining is the street and we plan to close on the 17th and when this goes to Council, we would also award a bid at this time.

Willis Hunt: On the original proposal the amount was \$2 million for land acquisition and engineering, and water, sewer, and paving was \$1,260,000, so the question is do you need the \$2 million to finish what was done in the past, or to do the whole thing?

Michael Krings: Both. So on the lots that are still in question, we still have to pay for water and sewer, and the paving along with the acquisition and engineering but we will also do the paving as well, but we haven't entered them into the redevelopment agreement plan modification yet. But those costs have been expended and we are now looking at the plan modification.

Willis Hunt: This original plan by the developer, the \$2 million, was that for the whole development that we see or just half of it?

Michael Krings: It would be this portion we are discussing right now.

Willis Hunt: Even though the first portion you have done part of the second portion?

Michael Krings: Correct.

Moved by LaDaun Schoenhals, seconded by Rakesh Srivastava, to recommend approval to the Mayor and City Council for Plan Modification No. 2022-1 to amend the Redevelopment Plan for Redevelopment Area Number #14, Trail Ridge Addition

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2.0, for the following collective property, to wit: Lots 2 thru 7, Block 1 and Lots 11 thru 23, Block 1 Trail Ridge Addition, Lots 1 thru 4, Block 2 and Lots 7 thru 11, Block 2 Trail Ridge Addition, Lots 1 thru 5, Block 3 Trail Ridge Addition all in the City of Hastings, Adams County, Nebraska according to the recorded plats thereof.

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

C. 2022-010. Public hearing for a change of zoning for all of Blocks 19 and 20, except the West 40 feet thereof in Lowman's North Side Addition to the City of Hastings, also known as 1430 West 16th Street, Hastings, Nebraska 68901 from R-3, *Multiple Family Residential* District to C-3, *Commercial Business* District, and to amend the Official Zoning District Map.

Motion to recommend approval for an ordinance and the amendment to the Official Zoning District Map to rezone all of Blocks 19 and 20, except the West 40 feet thereof in Lowman's North Side Addition to the City of Hastings, also known as 1430 West 16th Street, Hastings, Nebraska 68901 from R-3, *Multiple Family Residential* District to C-3, *Commercial Business* District.

Brian Hurskainen explained the agenda item.

Surrounding zoning is as follows:

North – I-1, Light Industrial District

South – R-3, Multiple Family Residential District

East – R-1 Urban Single Family Residential District (High School Fields)

West – R-1 Urban Single Family Residential District (Libs Park)

This rezone is to fix an inconsistency with the zoning code and the current use of the YMCA. The closest category to what their use is defined as would be an *Indoor entertainment and recreation business*, defined as:

Indoor entertainment and recreation business. A service use where facilities for indoor sports, entertainment, or similar recreation opportunities for participants of spectators are offered as a business. Examples of uses include roller skating rinks, movie theaters, or fitness clubs.

With the current zoning of R-3, *Multiple family residential*, indoor entertainment and recreation are not permitted as uses. The change to C-3, *Commercial Business*, allows them to have this use and upgrade their facility.

The Future Land Use Plan for this area has the land designated as a Mixed-Use Neighborhood. This is a supported use as the plan mentions institutional uses as appropriate for the designation.

Willis Hunt: Is this a housecleaning matter, just something we had to straighten out?

Brian Hurskainen: The YMCA doesn't fit within R-3 zoning so we need it to be C-3. Staff requested the YMCA request the change.

LaDaun Schoenhals: Congratulations to the YMCA for expanding.

Lisa Parnell-Rowe: I would like to add some clarity to that. So the rezone is actually required for us to do the addition. This particular rezone, R-3, didn't particularly fit for

the YMCA. It's just a lot of properties we've found, especially public and quasi-public properties, ended up in an R-3, R-1 zone so we clean them up as we go because it helps them to do their additions and their expansions.

Moved by Willis Hunt, seconded by LaDaun Schoenhals, to recommend approval to the Mayor and City Council for an ordinance and the amendment to the Official Zoning District Map to rezone all of Blocks 19 and 20, except the West 40 feet thereof in Lowman's North Side Addition to the City of Hastings, also known as 1430 West 16th Street, Hastings, Nebraska 68901 from R-3, *Multiple Family Residential* District to C-3, *Commercial Business* District.

Roll Call: Ayes: Jacque Cranson, Shawn Rossi, Ann Hinton, LaDaun Schoenhals, Michelle Lewis, Rakesh Srivastava, Willis Hunt. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

- d. **2022-009. Public hearing to recommend a request for a Conditional Use Permit (CUP) for a Storage Facility on a property generally located West of North Marian Road along West 2nd Street in the Southeast Quarter of Section 10, Township 7 North, Range 10 West of the 6th P.M., City of Hastings, Adams County, Nebraska.**

Items 9.d and Items 9.e were heard together.

Motion to recommend approval for a CUP resolution for a property generally located West of North Marian Road along West 2nd Street in the Southeast Quarter of Section 10, Township 7 North, Range 10 West of the 6th P.M., City of Hastings, Adams County, Nebraska.

Brian Hurskainen explained the agenda item.

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 zoning is as follows:

North – R-1, Urban Single Family Residential and A, Agricultural (Undeveloped)

South – I-1, Light Industrial (Undeveloped)

East – R-1, Urban Single Family Residential, Middle School

West – I-1, Light Industrial (Undeveloped)

1-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.

This use is for the storage of larger vehicles like recreational vehicles, boats and trailers; with such a use, pedestrian traffic should be at a minimum. The site is designed to be very spread out to make it easy for larger vehicles to traverse the site. The entrance is 30' wide and the aisles range from 75' to 80' wide.

-Reasonable and economic extension of public utilities and facilities

As this is within City limits and already serviced by the City, there is no extension of service required. Utilities has reviewed and approved this site plan.

-No noise, fumes and/or environmental pollution are anticipated.

The self-service storage facility standards for conditional use found in Section 34-404 (9) do not allow for outdoor storage. However, outdoor storage for campers and RVs (recreation vehicles) is not specifically addressed in the Table of Uses and Districts. There are similar uses found in Section 34-404 (5) for storage of vehicles in an impound yard and 34-404 (6) for off-street parking spaces and structures. These sections do include some applicable standards, though there are many standards that are not applicable. As allowable under 34-104, the Director of Development Services has made a determination that these are comparable uses and provide standards towards this proposed supplementary use that are similar enough after consideration of the intensity and scale of the use relative to this site and that this site accommodates heavier, more industrial uses. Adding to this decision is the fact that there are no residential properties in the vicinity that this use would have an adverse impact on. The following are additional standards that were placed on this development as required by this hybrid of requirements:

1. The exterior storage of any items or objects will not be permitted to be stored in and around the premises with the exception of specifically approved autos, boats and campers in the defined area.
2. Items such as gasoline, fuel, paint, containers with any flammable liquid or items which can readily cause fire or flame will not be allowed to be stored on the premises or within the storage building.
3. No maintenance, dismantling, construction, reconstruction or repair of any vehicles, boats, RV's or appliances will be allowed within the storage units, or the exterior of the building grounds or in any part of this facility.
4. Landscaping shall be provided in the areas outside the fences between the fence and the property line per Section 34-305 of the Hastings City Code.
5. The storage facility shall be enclosed by a six-foot high, sight-proof fence whenever the site abuts residentially zoned or developed property. Said fence, when abutting any residential district, shall be solid or semi-solid and constructed to prevent the passage of debris or light, and constructed of either brick, stone, masonry units, wood or similar materials. Chain-link fence may be used so long as it has slats installed to prevent the passage of light through the unit. The side and rear of a building located upon the site may serve as fencing.
6. All exterior lighting shall be of cut-off type to prevent off-site glare.
7. Buildings shall be separated a minimum of 30 feet from one another within self-service storage facilities.
8. Commercial activity: It shall be unlawful for any owner, operator or lessee of any self-service storage facility or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever, other than leasing of the storage units, or to permit same to occur upon any area designated as a self-service storage facility. Violation of this section shall be subject to the provisions of Section 34-804 of the Hastings City Code. Any violation may be cause for revocation of the conditional use permit by the City Council.
9. Building setbacks shall be the same as in the C-3 District.
10. The site shall abut and have direct access to a city street

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

The addition of these storage uses to this area is logical due to its use in compatibility with the allowable use of storage in the I-1 District. This use is less intensive than

some uses that are permitted within the district, such as general manufacturing. This is important with both the Hastings Middle School and the Head Start Child and Family Development to the east. Storage typically does not add a significant amount of traffic to areas, which is important for this area with morning and afternoon pickup of children.

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

The use of storage units should not evoke safety concerns and property values should remain the same. Providing these units will provide a service that is lacking in this area, particularly for parking of recreational vehicles. Adjacent property notice letters were sent out to all properties within 300 feet of this location and there has been no response.

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

The Future Land Use Plan for this property is suburban residential. Staff feels as though this designation is incorrect for this area and should be changed during the major update to the Zoning code in the coming months. There is a large depression in the ground which tends to hold water after rain, to the west and north of this property. There are also train tracks less than 900' to the south of the subject property. Both of these things would make suburban residential development difficult, evidenced by how the surrounding area has remained vacant.

Staff recommends a motion to recommend approval for a CUP resolution for a property generally located West of North Marian Road along West 2nd Street in the Southeast Quarter of Section 10, Township 7 North, Range 10 West of the 6th P.M., City of Hastings, Adams County, Nebraska, subject to the following conditions:

- 1) The applicants' Self-Service Storage Site Plan with inclusive dimensions of buildings, parking locations, access and easement location notes are hereby approved and applicant agrees to comply to all-inclusive details.
- 2) Applicant must provide a detailed landscape plan following provisions listed in Section 34-305 of the Hastings City Code at the time of building permit application.
- 3) There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.
- 4) This resolution shall be filed with the Registrar 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.

Willis Hunt: Is this the best use of this land right next to the middle school?

Brian Hurskainen: This lot is zoned I-1, and they can do general manufacturing and other things without having to come before the Planning Commission. We as staff felt like this was a better use of that land, which is why we gave the recommendation that we did.

Lisa Parnell-Rowe: This area that goes West and moves North behind, there's a lot of

water, kind-of wetlands actually, though it's not on the FEMA map, we do believe that when we do our next mapping we would like this area to be looked at. As far as use, topographically, and using a piece of that, which this is out of that wetlands, it's raised, we actually speculate that perhaps when the middle school was built, they had piled their dirt in this area and it built up that area. We do feel like this particular use out of the broad spectrum of permitted uses that are allowed will fit, and one of the things that we've emphasized with the applicant is to make sure that the landscaping and the screening is appropriate for being next to the school. That's why we have a condition in here for a detailed landscape plan that we approve at time of building permit.

Willis Hunt: I was hoping that when they developed that property and raised it up that there would be recreation areas there basically next to the school, ball fields and so forth. I thought this was a great location for that and I am opposed to anything other than that because I believe that's where recreation belongs, next to the school.

Moved by LaDaun Schoenhals, seconded by Michelle Lewis, to recommend approval to the Mayor and City Council for a CUP resolution for a property generally located West of North Marian Road along West 2nd Street in the Southeast Quarter of Section 10, Township 7 North, Range 10 West of the 6th P.M., City of Hastings, Adams County, Nebraska.

Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Willis Hunt., Jacque Cranson, Michelle Lewis, Shawn Rossi. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

e. 2021-071. Public hearing for a change of zoning for a Casino to be at property commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings Nebraska from "A, Agriculture" to "C-3, Commercial Business", and to amend the Official Zoning District Map.

Motion to recommend disapproval for an ordinance and the amendment to the Official Zoning District Map to rezone property commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings Nebraska from "A, Agriculture" to "C-3, Commercial Business".

Lisa Parnell-Rowe explained the agenda item.

Surrounding zoning is as follows:

North – A, Agriculture, RP-3, Multiple Family Planned Residential & R-1, Urban Single-Family Residential districts

South – C-3, Commercial Business District

East – A, Agriculture; C-3, Commercial Business; and R-3, Multiple Family districts

West – A, Agriculture District

It is important for all to understand the rezone is a totally separate action that is necessary only to place the Casino in this area as the use of the Casino is slated as an Indoor Entertainment and Recreation Business that is not allowed in the A, Agriculture District (its current zoning). A rezone is normally an option to consider when the comprehensive plan and corresponding Future Land Use (FLU) map indicate it to be compatible or when there is clearly surrounding growth and changes that would justify the FLU map is not as accurate as it once was when the

comprehensive plan was originally undertaken. When staff sees an area they consider to be tagged inaccurately in the future, they will bring it before the Planning Commission and City Council as a proposed FLU change to justify this corresponding rezone as seen in the past year on several occasions.

The applicants are well aware of the practice of a Comprehensive Plan and Future Land Use (FLU) and the intent of this visionary or goal-oriented document to drive current zoning changes. When they first came to us with this proposal, the land they were proposing in the development area included the area to the north. With that area included, there was a fairly even mix of both Suburban Residential and Commercial/Retail being slated for this future development.

Then, after seeing the response in letters opposed to this development that specifically seemed to be feedback from Lochland residents to the north, they responded by providing a revision that peeled back an approximate 325' to the north that was in their original proposal provided on December 21, 2021. In peeling this area back, they are leaving that area, which is mostly slated for Suburban Residential as Agricultural. However, there was still a significant portion of that land slated for future Suburban Residential use—particularly to the northwest portion of the development.

Then, in January, the applicants postponed their cases just prior to the last Planning Commission, and again submitted a revision to the area for which they were requesting rezone. The latest proposal for rezone removes the area to the north where the race track will be placed. A race track is also conditional in the Agricultural district. In this way, they further lower the percentage of the area that is slated for future Suburban Residential uses from their proposal. You can see these changes in the attached document named Rezone area changes by Request to the FLU. Though their proposal changes can be requested, Staff believes the sheer fact that so many adjustments have had to be made on their part is a good indication that this area is not the perfect fit for the use they are attempting to place in this area.

Another important factor that must be considered in a rezone is the amount of area that is optimal for placing the development in or what is referred to as the lay of the land or topography. Some uses are more conducive to a topographically challenging area than others. In looking at the area being proposed, one can see that the topography shown on the Contours Map drastically increases in variances the further south and southeast, indicating larger grade differences. If one also overlays the Resource Map that shows the Floodplain over the top of the FLU Map for this area, it becomes apparent the area to the south is less conducive for development than the rest of this area as shown in the attached Latest Rezone Area in the FLU Map.

In fact, if you take a look at the Site Plan, you will notice this entire area does not have an actual structure placed in it, but rather they are proposing open and impervious space in these areas as one would expect. Roughly 25% of the area found in the Commercial/Retail area of the FLU is in a Floodplain and is best used as open space, a detention area or left undeveloped. When one looks at this entire area (150 acres) currently undeveloped, the area more adaptable to development is predominantly FLU-slated for Suburban Residential.

Something to also understand and consider is that if a residential use were to be placed here, there would also not need to be a consideration for the required buffer

found in Table 305-8 of our Zoning Code. This means you can utilize more of this total area for buildout as a residential use than you could as a Commercial/Retail use.

As a result of the floodplain and the residential presence to the north, we will end up with a development that has to be unnaturally squeezed into a center point of 150+ acres. The area slated to the north of this race track, still slated for future suburban residential, will be less likely to develop as that use if this rezone and the race track CUP are approved. Staff finds it questionable, based upon the abundant public feedback that we have received, as to whether or not anyone would want to live this close to a Racino. So, even though the immediate percentage of area for Suburban Residential in their project area has been greatly diluted, the fact still remains that part of the area where their race track will sit and the area to the north of this are future slated for Suburban Residential.

The even mix of both Suburban Residential & Commercial/Retail slated for the entire 150+ acres of undeveloped area between Walmart and Lochland, as shown in the FLU, indicates to Staff that the most appropriate district zone for this area is C-O, Commercial Office Non-Retail District. This is because the intent of that particular zone district is to "include urban and suburban residential and professional office uses that are appropriate in areas undergoing a transition" and specifically states, "the regulations and restrictions are intended to protect, preserve and enhance the residential uses while permitting uses characterized principally by consultative services or executive, administrative or clerical activities".

Staff believes if this area were to be zoned to truly consider the potential impacts of both Lochland residents and the southern commercial presence, that C-O, Commercial Non-Retail is the most appropriate district for which we should rezone this entire area. The C-O zoning district would consider both residential and commercial FLU types projected for this area. What does this mean for the future of an area being proposed for a "Racino" that may not be successful but remains zoned C-3? It means other future uses for outdoor sales of any type (like a car lot), some light manufacturing uses, or even other indoor and outdoor entertainment and recreational businesses or uses, and much more could more than likely follow if this area were rezoned to C-3.

If this area were to be rezoned to a C-O zoning district, many of these uses are retail and would not be permitted in this area. This is why this area at most should only be considered for a C-O Zoning District rezone. However, that is not what our applicant has proposed—it is not what they proposed because only the C-3, Commercial Business Zone District will permit them to have the Casino.

There was obviously some intentional consideration on the part of those who created the FLU to cease Commercial/Retail as they moved north towards Lochland. We know this because when we review the FLU and compare the western side of the Tom Osborne Expressway to the eastern side, only the eastern side continues to incorporate Commercial/Retail as it moves north, whereas the western side ceases Commercial/Retail future zoning as it approaches Lochland.

The question Planning Commission and City Council will need to determine is to what point this cessation in future Commercial/Retail use should be cut off or transitioned as you move closer to Lochland. The existing zoning surrounding this property is a

mixture of agricultural, commercial and residential. The residential properties adjacent to this property are zoned to allow for lower-density residential; these are larger single-family residential homes where property values average \$344,024. These are not townhomes, apartments or duplexes. This mixture is not uncommon to see in an area such as this located on the outskirts of town, as this area is technically still in transition from what was farmland to what has become commercial and residential through time. Though we do have Walmart, and many commercial businesses to the south of this area, it is important to remember those were permitted outright by the C-3, Commercial Business District. Walmart, and the other retail businesses and restaurants did not need to consider and prepare plans for mitigating potential hazards and nuisances like horse manure, intense light glare, dust and smell.

Staff has evaluated the submission provided by the applicants and does not feel based on the area for which it is proposed, the future outlook slated in our FLU, the challenges presented by the existing floodplain in the southeast corner, and the proximity it will have to existing residential uses located in Lochland, that their proposal to rezone to C-3, Commercial Business Zone District is the best-suited zone district for this area now or into the future should this development fail.

Though this development would clearly provide some much-needed economic growth for the City of Hastings, staff would not feel this is the appropriate place for this particular use. Staff has provided several other options to the applicants that would seem to offer the applicant similar visibility from a nearby principal street right-of-way, while fitting better into the existing and future land uses. Staff questions the economic need for this in our community when the City of Grand Island has Fonner Park and future plans for a casino. Grand Island and Fonner Park are well-known with the added visibility for all during State Fair events.

Additionally, since the onset of Nebraska State Initiative 429, many other "Racinos" have been planned and/or approved for communities like Gering, North Platte, Bellevue and more. Many of these were placed in areas that did not entail the need to rezone the land, but were already zoned for the use of a casino. Careful consideration should be taken on our part to ensure if this is approved, that we have not been provided with market research evidence that this use would be successful and not a failed use of infrastructure left adjacent to our city's gateway due to an obvious oversaturation of this newly allowable Racino use. Though the applicants have given us verbal assurance of this market research there has yet to be any documentation provided that shows this market research was accomplished.

Additionally, we must not forget this area is the primary gateway to our city. Though it is not unusual for Casinos to desire a gateway location, that type of use may fit for larger cities like Omaha and Lincoln; it simply is not what Staff feels this community would want to express as the identity and first impression of Hastings. Staff knows this because when we held key stakeholder and public focus group meetings to discuss our Transportation and Parking Plan, one of the primary strengths that was identified as part of this plan was our city's unique character, often described as "Small Town Charm" and appeal. This is what is said to be the most important thing to our residents.

The difference between Grand Island, Kearney and Hastings is when you drive into town and down Burlington Avenue, you still see many older, charming residential

properties along this corridor. Though this particular area doesn't exude that "Small Town Charm", it is not currently in complete contrast to that vision. This "Small Town Charm" definitely has been a strength for Hastings that these other communities do not have and the more we stray from that vision the more we gravitate away from that strength. This is not to say Hastings can never grow, but it is to say architecturally and visually, we want to ensure developments in that gateway area are not visually disparate to the look and feel of the "Small Town Charm". Staff contends a "Racino" at our gateway does not consider this long-standing strength and is a complete disregard to this known community engagement feedback.

Moved by LaDaun Schoenhals, seconded by Rakesh Srivastava, to recommend disapproval to the Mayor and City Council for an ordinance and the amendment to the Official Zoning District Map to rezone property commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings Nebraska from "A, Agriculture" to "C-3, Commercial Business".

Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Willis Hunt.

Nays: Jacque Cranson, Michelle Lewis, Shawn Rossi.

Absent: Lou Kully, Greg Sinner. The motion carried.

- f. **2021-072. Public hearing for a Conditional Use Permit (CUP) request for a horse racetrack as a Commercial and Retail Outdoor Entertainment & Recreation Business use commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings Nebraska.**

Motion to recommend disapproval of a request for a CUP for a horse racetrack as a Commercial and Retail Outdoor Entertainment & Recreation Business commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings, Nebraska.

Lisa Parnell-Rowe explained the agenda item.

Our applicant is Mr. Brian Jorde of Domina Law Group in Omaha. Mr. Jorde represents the combined entities of Prairie Thunder Hastings, LLC; Hastings Exposition and Racing, Inc.; West Fork, Inc.; and Gremco Inc. to bring a horse racetrack and casino to the City of Hastings. What is unique about this proposal is the way in which Nebraska State Initiative 429 was designed to only allow a casino with a racetrack—a concept that has now been tagged "Racino". A racetrack is allowed without a casino only with Conditional Use Permit (CUP) approval from City Council in 5 zoning districts (i.e., A, C-3, CMP, I-1 & I-2) as a slated use of Outdoor Entertainment & Recreation Business. In fact, our definition of Outdoor Entertainment & Recreation Business includes a racetrack as an example. Our applicant's clients have purchased this property directly to the north of the existing Walmart store for the placement of this racetrack and casino.

Section 34-402 of the Hastings City Code spells out the four general standards that should be successfully addressed in the applicant's submission documents and CUP application. In fact, this guidance goes on to state that, "No conditional use design may be approved which will have a permanent negative impact on the items listed in this section that is substantially greater than that anticipated from development permitted without a conditional use". Below are the four standards with an

assessment by staff for this development at this particular location; remembering always that a CUP stays with the land and does not move with ownership from location to location.

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 are:

North: A, Agriculture, RP-3, Multiple Family Planned Residential & R-1, Urban Single-Family Residential districts. Though the initial approximate 756-feet north is agriculturally-zoned with a small patch of area designated for RP-3, the area to the north of this is also home to Lochland Country Club and a large residential population with mostly single family homes.

South: C-3, Commercial Business District. Directly south of 42nd Street right-of-way (ROW) is Walmart, and many other retail-type businesses taking up space in plazas on the outskirts, such as nail salons, restaurants, etc. Again, further southwest, there are extensive residential neighborhoods integrated into the mixed-use community FLU located there.

East: A, Agriculture; C-3, Commercial Business; and R-3, Multiple-Family Residential districts. The vast majority of this area is zoned and used for agricultural business. The 3 lots that are zoned C-3 are a part of a farm operation. To the south of 42nd Street ROW is the home of the City Parks and Recreation Bill Smith Softball complex.

West: A, Agriculture District. All of this area is used for agricultural purposes and owned by GRO THEN Harvest LLC.

This location is currently zoned A, Agriculture. Since the completion of 42nd Street ROW, this area has seen an uptick in the level of interest expressed by many developers. The area is located outside the city limits of the City of Hastings but is in the area where the City of Hastings exercises extraterritorial jurisdiction. When this area becomes fully developed and is pulled into the city limits, this piece of land will fill a missing link that will further tie the residential community of Lochland to the City of Hastings.

Though Lochland has already been pulled into the city limits, the area in between has remained agricultural for many years, creating a seemingly independent community charm among the residents in that area. This area has all the benefits of utilities and services that the City provides, but has had a physical separation that has lent value-added to a quiet and up-scale residential atmosphere for those that live there. The question is whether or not the proposed use will integrate compatibility with this existing land use.

Though the applicant's original proposal was to also rezone this entire area and potentially develop it with some additional residential uses, they have since stated that the northern approximate 300' of this area and their separately owned parcel to the north (adding to 756') will continue to be farmed and remain agricultural in zoning. The 756' is more than sufficient buffer between the uses and more than meets the buffer requirements found in Section 34-305 (4) & Table 305-8. This section only

requires a 30' buffer to be incorporated.

However, Staff questions after receiving more phone calls, inquiries and letters in opposition than ever seen in any past casework, whether the required 30' buffer is appropriate for a use such as this "Racino". There are many unique factors that must be mitigated and explained for the use of a "Racino", in order to determine whether or not this 30' buffer is sufficient. Staff has requested several supplemental plans be provided from the applicant in order to answer this question. Supplemental documentation such as a site-specific tailored Manure Mitigation Plan; a site-specific tailored Noise Mitigation Plan and a more extensive Drainage Plan and Traffic Study will be required as conditions of permits.

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.

Though the applicant's most recently submitted site plan does show a few internal and external sidewalks and a trail connection they have added to both the site plan and narrative, there are still no dimensions noted on the sidewalks. We cannot confirm that the sidewalks will meet the code requirements found in City Code Section 38-303. Staff does appreciate the willingness to provide a trail connection to allow Lochland residents safe passage from their subdivision down to the recently finished Pioneer Spirit Trail portion to the south of 42nd Street. This will fulfill a connection that is currently missing and will also count towards the applicant's greenspace open space requirements.

The applicants have also provided some basic data assessing traffic. Though this data is limited, City Engineer, Lee Vrooman, and Nebraska Department of Transportation (NDOT) Representative, Wes Wahlgren, have stated that what they have provided is sufficient for CUP, but that a more extensive traffic study should still be provided as condition of this permit.

Staff has requested number of seats to assess this assembly use to our off-street parking requirements, but this is challenging due to the fact that the racetrack assembly use does not have an actual grand stand with seats. It incorporates an outdoor viewing area instead. Due to this more modern assembly use strategy, consideration will need to take place as to whether or not the parking will be accurately addressed as a business in a calculation based on gross square feet of the building area. Greater detail is still needed for staff to analyze parking and a separate parking plan must be provided to ensure we are not over or under parking as a condition of this permit. We will also need parking space dimensions noted on the parking plan to demonstrate that parking will meet our code requirements for parking spaces as defined in Section 34-103.

Reasonable and economic extension of public utilities and facilities.
Utilities can be extended into this property, as needed.

Civil Engineer & Floodplain Manager, Tara Ogren, and Adams County Highway Superintendent, Dawn Miller, both recommend a Drainage Study be done for the area that shows the necessary hydrologic and hydraulic calculations. Despite approximately 25% of this area being within a floodplain, a very limited drainage memorandum and data was provided. In fact, around 5% of this area is within the

floodway and will require a no-rise procedure to occur as one of the driveways going into the site crosses through this floodway. The no-rise procedure will provide proof that neighbors both upstream and downstream are not affected by this development's drainage. A COE permit to construct a new concrete box culvert in the West Fork of Big Blue River may be required, as well as wetlands delineation, and a floodplain development permit for the Upper Big Blue NRD. Staff recommends that if this permit is approved, we place a condition on the permit to not only provide a full-blown Drainage Study, but to also require the applicants to provide copies of any necessary state and federal approvals related to floodplain documentation and permitting. Permanent Best Management Practices (BMPs) for stormwater will be required as part of State SWPPP, and there will need to be a maintenance agreement put into place with the developers when this occurs. This will also be a condition of this permit.

Noise, fumes, dust or other environmental pollution. A horse racetrack will come with additional smells and waste management, noise, light glare and visual concerns. These potential concerns have been communicated to the applicant in a formal review of their application. Below is detail to explain each of these potential concerns and what we would recommend to mitigate these concerns.

Noise: There will be noise from the animals and public during large events held outdoors, as well as from the commentators over any sound system. As previously mentioned, Staff feels the applicants have more than met the buffer requirement due to the over 700 feet shown on the applicant's site plan from the racetrack to the nearest residential neighbors to the north. However, Staff still questions whether or not the buffer requirement in our City Code fully considers noise of this particular use and whether or not a landscape buffer will be effective in reducing noise from such a development.

City Code only addresses noise in the Excessive Noise ordinance found in Section 18-113.01. This section speaks to excessive noise in public spaces for individuals but not for assembly use. It addresses radio, tape player, compact disc player, stereophonic sound system, or similar devices which reproduce or amplify radio broadcasts, or musical recordings, but it basically excludes an activity that is open to the public, such as an athletic event. The one thing we do know from this code is that 75 feet is a more appropriate distance for these smaller types of noise nuisances. City Code does not address distances required for noise from private assemblies held outdoors. The applicants did briefly address noise in their narrative as requested by staff. It does address the more modern approach of an outdoor patio as opposed to a grand stand that is elevated, which could carry noise further. However, this discussion does not provide evidence as to the time of day when events would be held or what sound equipment, if any, would be utilized by commentators or for background music.

There is still no evidence of the actual noise level that would be discharged from this type of use. It would be a recommendation of staff that there would be a requirement for the applicant to provide a Noise Mitigation Plan. This plan should provide evidence to Staff of the anticipated level of noise and should demonstrate how this plan would reduce or prevent additional noise from interfering with residential neighbors to the north. This plan should also address the specific hours that races will be limited to, the level of noise that any sound equipment would be capable of making and/or what this equipment would be set at during races in order to reduce

noise pollution. The plan should propose additional mitigation measures through solid fences or screening, in addition to the landscaping that is being proposed if it is found in this plan that the noise from this use could be heard by the northern residential properties. Though landscaping is shown on the plan, Staff feels this will mostly assist with screening the property visually and may not fully block the noise.

Smell and Waste Management: A Waste Management & Disposal Plan tailored to this site will be required by NDED. The applicants have provided an overview of an equestrian manure management plan for which they will use as a guideline. As these are State mandated requirements staff feels a sufficient amount of information has been provided for CUP, but will place a condition that once this plan has been tailored to this site that plan and any State approvals should be provided as a condition of this permit. Additionally, we would ask that such a plan addresses the number of horses to be stalled and length of time they will stay, and how each area will be managed from stall bedding, exercise areas, track, paddock and any others where this would be relevant. This plan should also include the control of run-off from these areas during wet conditions and explain how this will be maintained. Applicants have added the proposed detention area to their site plan, but additional explanation as to how this will function should be added to this plan.

Light Glare: Lighting does not appear to be an issue and staff believes this has been appropriately addressed in their narrative. Applicants have stated that they will not have track or pole lights or stadium lights. We feel that in a parking lot of this size that there would be a need for pole lighting; however, parking lot pole height and standards for full cutoff will be addressed with a building permit. Applicants have stated there will be no such needs associated with the racetrack use. If such lighting is necessary in future, then this would require applicants to provide a CUP amendment so that it can be reassessed.

Visual Aesthetics: The landscaping should be submitted as a separate plan and greater details as to the type and size of trees and bushes that would be added. There is no information regarding the type of species, and no evidence provided that the American Standards of Nursery Stock have been considered/provided. There should be separate symbols used for the different types of landscaping, a table of the species to be used, and there should be a legend included to interpret when reviewing according to our Open Space Landscape Materials and Street Trees requirements found in Tables 305-4 & 305-5 of Chapter 34. Street trees have not been addressed in their landscaping and will need to be reviewed by the Parks and Recreation Director.

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

The apparent mix of both residential uses to the north in Lochland subdivision and commercial uses found to the south of 42nd Street W demonstrates a need for a transitional zone that is sensitive to both uses. Staff feels the most appropriate district zone for this area is C-O, Commercial Office Non-Retail District. This is because the intent of that particular zone district is to "include urban and suburban residential and professional office uses that are appropriate in areas undergoing a transition" and specifically states, "the regulations and restrictions are intended to protect, preserve and enhance the residential uses while permitting uses characterized principally by consultative services or executive, administrative or clerical activities". Staff believes if this area was to be zoned to truly consider logical and efficient development, that

C-O, Commercial Non-Retail is the most appropriate district for which we should rezone. The C-O zoning district would also best fit to the mix of both residential and commercial FLU types projected for this area.

Though we do have Walmart and many commercial businesses to the south of this area, it is important to remember those were permitted outright by the C-3, Commercial Business District. The impact on the surrounding area with these existing businesses was not expected to be potentially negative to the surrounding area, which did not directly impact Lochland. Walmart, and the other retail businesses and restaurants did not need to consider and prepare plans for mitigating potential hazards and nuisances like horse manure, intense light glare, dust and smell as these were permitted use.

Though this development would clearly provide some much-needed economic growth for the City of Hastings, Staff would not feel this is the appropriate place for this particular use. Staff has provided other options to the applicants that would seem to offer the applicant similar visibility from nearby principal street right-of-way, while fitting better into the existing and future land uses. Staff questions the economic need for this in our community when the City of Grand Island has Fonner Park and future plans for a casino.

Grand Island and Fonner Park are well-known with the added visibility for all during State Fair events. Additionally, since the onset of Nebraska State Initiative 429, many other "Racinos" have been planned and/or approved for communities like Gering, North Platte, Bellevue and more. Many of these were placed in areas that did not entail the need to rezone the land, but were already zoned for the use of a casino. Careful consideration should be taken on our part to ensure if this is approved that we have not been provided with market research evidence, that this use would be successful and not a failed use of infrastructure left adjacent to our city's gateway due to an obvious oversaturation. The applicants have not provided us with any such assurance.

If a C-3, Commercial Business zoning is approved, then if this particular use fails, this means other future uses such as outdoor sales of any type (like a car lot), some light manufacturing uses, other indoor and outdoor entertainment and recreational businesses or uses, and much more, may follow. If this area was to be rezoned to a C-O zoning district, many of these uses are retail and would not be permitted in this area. This is why this area at most should only be considered for a C-O Zoning District rezone. However, that is not what our applicant has proposed—it is not what they proposed because only the C-3, Commercial Business Zone District will permit them to have the Casino and also allow them to request a Conditional Use Permit for their racetrack.

Additionally, we must not forget this area is the primary gateway to our city. Though it is not unusual for Casinos to desire a gateway location, that type of use may fit for larger cities like Omaha and Lincoln; it simply is not what Staff feels this community would want to express as the identity and first impression of Hastings. Staff knows this because when we held key stakeholder and public focus group meetings to discuss our Transportation and Parking Plan, one of the primary strengths that was identified as part of this plan was our city's unique character, often described as "Small Town Charm" and appeal. This is what is said to be the most important thing to our residents. The difference between Grand Island, Kearney and Hastings is

when you drive into town and down Burlington Avenue, you still see many older, charming residential properties along this corridor.

Though this particular area doesn't exude that "Small Town Charm", it is not currently in complete contrast to that vision. This "Small Town Charm" definitely has been a strength for Hastings that these other communities do not have, and the more we stray from that vision the more we gravitate away from that strength. This is not to say Hastings can never grow, but it is to say architecturally and visually, we want to ensure developments in that gateway area are not visually disparate to the look and feel of the "Small Town Charm". Staff contends a "Racino" at our gateway does not consider this long-standing strength and is a complete disregard to this known community engagement feedback.

Though the applicant has now provided some basic drainage and traffic data, it is felt that this is not as extensive as it can be for the development being proposed in this particular area. Staff does not feel that this criterion has been addressed to the degree which we can be assured that there will be no permanent negative impact that is substantially greater than one that would occur with a permitted use.

3. The conditions imposed are necessary to ensure the maintenance of property values and the safety, health, comfort, and repose of the residents. Adjacent property notice letters were sent out to all properties within 300 feet of this location and, as of the drafting of this report, there were 34 responses received that were against this development and zero responses that are in support of this use. We have included copies of any written responses we have received in this packet and any responses received after packet disbursement will be added into record at the public hearing. I would encourage the Planning Commission to take the time to read all of these letters. In all my years of city planning I have never seen such an overwhelming response from local property owners as I have with this proposed use. However, the applicant has provided two letters from realtors that do provide opinion that this use will not have a negative impact to the Lochland community property values.

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

When you consider the entire area that was once proposed and is currently undeveloped, the area more adaptable to development due to the floodplain in the southeast corner is predominantly FLU-slanted for Suburban Residential. This means you can utilize more of this total area for buildout as slated for a residential use than you could as it was slated for a Commercial/Retail use.

There was obviously some intentional consideration on the part of those who created the FLU to cease Commercial/Retail as they moved north towards Lochland. We know this because when we review the FLU and compare the western side of the Tom Osborne Expressway to the eastern side, only the eastern side continues to incorporate Commercial/Retail as it moves north, whereas the western side ceases Commercial/Retail future zoning as it approaches Lochland. The question Planning Commission and City Council will need to determine is to what point this cessation in future Commercial/Retail use should be cut off or transitioned as you move closer to Lochland.

Motion to recommend disapproval of a request for a CUP for a horse racetrack as a

Commercial and Retail Outdoor Entertainment & Recreation Business commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings Nebraska. However, should Planning Commission vote to recommend approval for this CUP then staff would recommend doing so with the following minimum conditions stipulated:

1. There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.
2. The City Clerk shall forward to the register of deeds for recording an affidavit or such other instrument as may be deemed appropriate so as to provide notice to any person examining the real estate records of the existence of this conditional use permit. The recording costs incurred to comply with this section shall be paid by the applicant for the conditional use permit.
3. An annexation to pull the area inclusive of both the Casino and Race track into the City will also be required.
4. A site-tailored Noise Mitigation Plan will be required and should provide evidence to Staff of the anticipated level of noise and should demonstrate how this plan would reduce or screen additional noise from interfering with residential neighbors to the north.
5. A separate Landscape Plan the shows species and evidence of meeting City Code Section 34-305 will be required for building permit approval.
6. A site-tailored Waste Management & Disposal Plan and copies of any necessary State approvals of such will be required for building permit approval.
7. A full and extensive Drainage Study will be required as well as copies of any necessary State and federal entities approvals of related floodplain documentation. Additionally, a maintenance agreement will be required for Permanent Post Construction Best Management Practices (BMPs) of stormwater.
8. A more extensive Traffic Study and copies of any related necessary State and County permits will be required for building permit approval.
9. A copy of the group's approved horse-racing and casino licenses from the Racing and Gaming Commission must be provided prior to approval of a building permit and any construction of this development.
10. A separate parking plan the demonstrates acceptable parking practices for the unique assembly use that doesn't particularly provide seats as shown in the city codes off street parking requirements will be required as a condition of this permit and must be provided for building permit approval.

Brian Jorde appeared to speak in favor of the Conditional Use Permit and zoning for the racetrack.

We first met with City officials back in October of 2021 to lay this out so that we can figure out what is the likely reception of this type of a project we met with a handful of individuals including Lisa and Dave Ptak. In that meeting, they gave us a list of other properties to go to. In November, we filed the application after doing a lot of due diligence, and we put our application in on November 28th. We were slated to be before you on December 21st, and I receive communication they are pulling the permit application.

Last month, we were ready to go, the city asks for renditions and changes, and on January 11th I comply, and the next day January 12, there are 24 or so opposition letters that apparently were created between 10 pm on the 11th and 8 am on the 12th

We looked through that and thought we should have more of a dialogue here, let's try to figure it out, we want this to be great for the community. So, we removed it from last month's hearing. We came here and met with some Commission members and walked through other possibilities. At the end of the day we are here to give an opportunity to the City and the County. This project will kick off 10 million dollars in new tax revenue that the City can do what it wants. This money will be flowing into this community until the end of time as long as this project is here.

November 3, 2020 Nebraska voted to legalize gambling at licensed racetracks. There are only six licensed racetracks in the state, and one of them is in Hastings. Adams county voted between 58 and 61 percent in favor of these exact projects. Lochland voted over 63 percent for these projects. 'Once in a generation' is what Columbus, Nebraska called it in a recent, February 4, 2022 article.

This project is a \$40 million development. There will be 120 to 150 new jobs, \$3.7 million to 5.4 million payroll and benefits, over 650,000 annual visitors that will economically multiply what is currently going on in this community. Initiative 431 is to tax gambling at licensed racetracks. That's \$9.725 million per year. Annual new tax for the city: \$1,162,500, annual new tax for the county: \$1,162,500, \$6.9 million in new property tax relief, \$500,000 in new annual city property taxes based on the \$40 million investment.

We are trying to go from A to C-3 for a rezone, and then a Conditional Use Permit for the racetrack. In Gering, Nebraska there was a rezone and the property touches residences. People showed up and said they didn't want it in there back yard. Is anyone surprised there are people here that are saying that? I'm not. There's always going to be people who don't want it near them, but that's not going to be enough to say no to \$10 million per year. We are finished with the approvals for Gering and North Platte that we need from you.

We are looking at several factors: available land, at least 80 acres, configuration, flat, buffer space, utilities, highway visibility, access, lodging and food, and zoning. For zoning, we are looking at commercial and retail uses. Outdoor entertainment track is conditional in agriculture, so that's why we're asking for a Conditional Use Permit in the currently zoned area of agriculture district, and the indoor casino and this commercial-retail use is permitted in C-3, which is why we're asking for C-3.

We looked at the Future Land Use map, and first went North, and there were only a handful of tracts that worked. None of them were for sale. We called, we sent letters, we tried, and none of them were available. They don't work nearly as well and you're talking about pulling utilities a mile, a mile and a half to get to the location. We looked at the truck bypass, and those pieces of properties, and no deal could be put together. There were also only a couple of these that would work.

We looked South of Hastings. The fairgrounds already has a racetrack and is in this area. This is where we started this whole project out, and we tried to negotiate with them, and that didn't go anywhere. We made them an offer and we didn't get a counter-offer. We went to the Racing Commission and asked what they think about expanding at the fairgrounds. We were told in order to have a casino adjacent to the racetrack, you're going to have to tear down buildings and the grandstand, and rework the property. The fairground needs certain buildings and access. The racetrack enclosure didn't work and the property was too cramped.

We looked at other properties, we ran into various challenges and nothing would lay properly, nothing worked. We called, sent letters to property owners, didn't reply. We're trying to spend \$40 million dollars, we should be able to pick the location as long as within reason it makes sense.

We've centered on the only location that makes sense, because it fits in perfectly with what you said you wanted, which is commercial-retail. It was for sale, it had 80- plus acres, it had the right configuration, it's relatively flat, it has a great buffer space—45 acres of buffer between the nearest residence, highway visibility, access, lodging, food, and now we're here for zoning.

There's a 756-foot buffer from the southern property of those homes to the northern fence line. There's 1330 feet to where the racing will actually take place. A quarter-horse race lasts about 15 seconds so if we want to talk about noise, 15 seconds. That's going to be far less than the noise already generated by the planting of the field, combining of the harvest, screaming at the softball fields across the way. In the beginning, there will be one day of races and we will have a maximum of 12 days per year in about five years.

Currently, the gateway to the city is Wal-Mart and the strip mall. How about a gateway lined by beautiful trees and landscaping, a \$40 million development, instead? Let's talk about the floodplain. People could say, I want to see houses there, but so far no one has stepped up to purchase the property, but you have the floodplain issues. You're not going to build in the 100-year floodplain. The 500-year dips a bit into the parking lot, which is not a major issue.

The development is consistent with the Future Land User map, there's 45-plus acres of agricultural buffer between the racetrack and the nearest residence, 60-plus acres of green and open space, no grandstand, no stadium lighting, LED down lighting in parking areas, no light scatter, horses are not there year-round with a maximum of 12 days of racing five years from now, no equipment will be stored outside, 24/7/365 security with an internal security force.

We are respectfully requesting your recommendation to City Council that this be approved. We are respectful of the people that have come here today to voice their opposition. Maybe they want 500 houses there, but no one else has purchased the property. If someone else wants to buy it from us right now we will sell it to you. You can't just say no, but we've got to decipher the noise from the fact and what your duty here is economic development. We're prepared to be the very best neighbors and stewards of this land. We hope you have the courage to make the decision to vote yes to the future of Hastings. I realize here there's about 26 people here out of the 26,000 people of Hastings that don't want it and that's ok, but again, the voters already overwhelmingly voted, you've already heard, there was an election and they want this project.

Alan Anderson appeared to speak in favor of the Conditional Use Permit and zoning for the racetrack.

Over the past fifty years, Hall County and Buffalo County populations have grown 43 percent and 59 percent respectively. Adams County had a loss of 152 people. He owns the land across the street from the site and the subdivision next to the site. No other business would be interested in coming to a zero-growth community without

asking for aid.

Jose Bruseno appeared to speak in favor of Conditional Use Permit and zoning for the racetrack.

He is from Texas. His family races horses in Texas and Mexico, and they have horses in Nebraska and are paying for care. He has quarter horses and is excited to compete.

Ed Zimba appeared to speak in favor of the Conditional Use Permit and zoning for the racetrack.

He is part of the Nebraska Quarter horse Racing Association. He is excited for the project. North Platte, Gering and Scottsbluff approved the projects. They are excited to start a Nebraska circuit. Nebraska is a quarter horse state and Hastings has the only quarter horse track in the state.

Daniel Pauley appeared to speak against the Conditional Use Permit and zoning for the racetrack.

He is representing a community of land owners who filed opposition to the racetrack. Mr. Jorde did respond to the substantive issues laid out by the City of Hastings or your staff as to why this location does not work and is not a good permissible use for this racino in this location. This Commission has full legal latitude and authority to approve or deny this. Staff has done a great job of laying out how you have the basis to deny this if it's denied or approved in good faith. City Council will reflect heavily on the Planning Commission's recommendation. There were comments made that 26 people out of the 26,000 are here tonight. If you know anything about these communities, you know that 26 likely represents most of the 25,000. This would absolutely detrimentally change the face of Hastings. We will become a casino town. I would implore you to take into account the substance that your staff has laid before you. Take into account the substance about what the proposed use would be, take into account the substance of what this would do to the community. I think you ought to listen to your staff who focused on substance, law, definition, and what would really be used in this organization and what would really be used in this location. The face of Hastings today a retina center, surgical center, the North Lochland development. It's clean living, farm ground, simple life, good life for the people. It's not the location to put a 40,000 square foot racetrack and facility.

Tim O'Keefe appeared to speak against the Conditional Use Permit and zoning for the racetrack.

The problem is this project is in the wrong location. The project does not align to the Comprehensive Plan. It disrupts the already existing land development pattern in Hastings. Horse tracks cause dead zones. Gering. Nebraska proposal estimate is 1.02 million potential customers in the within 120 miles radius. That is impossible. They present that it cannot have a negative impact on nearby properties. It says that it won't decrease and possibly increase the value of surrounding properties. You see multiple studies where casinos negatively impact the real estate values in the immediate area. There are several areas that will be affected by this. It will kill the area to the West and will have a big impact on the area to the South. You're taking the central point of the natural land development in the community, and you're killing it. Our comprehensive plan calls for other areas for large employer businesses. If you take their 150 top job number and they're telling us 4.5 million that works out to about \$28,000 per job, not including management. The jobs that are being discussed are minimum wage jobs. My encouragement is to vote in favor of staff's recommendation

to vote no on the basis it violates our comprehensive plan, it disrupts the already existing natural land development pattern of the city and you can't trust these people.

Colleen Adams appeared to speak against the project.

The numbers Mr. Jorde is giving you today, I'm not sure where they come from. The amount of work Lisa Parnell-Rowe and staff have put in is phenomenal and people would be impressed with the online reports and the work you've put in and have backed everything up with thoughtful investigation. My letter brought out the salary that Tim O'Keeffe brought up: \$22,000 per employee. In 2020 the national poverty level was set at \$26,000. These jobs are below poverty level for a family of four. The second application, they bumped the average annual salary to \$31,000, so somebody read my letter and made the change. The other thing I can comment on personally is Conditional Use Permit for my property. The City annexed us 20 years ago to get to Lochland. The City gave us a Conditional Use Permit to have one animal per acre in Lochland is annexed. We are good stewards of our land and had never had more than 50 to 60 animals. They are proposing to bring in 400 to 600 horses. That's irresponsible use of the property and will stop development around the area. Lone Star Park 7,000 visitors per year between Dallas and Ft. Worth, population 7.6 million people. They're telling we will get 650,000 people to visit our casino and racetrack. Our community is 25,000 people and research tells you the people who visit casinos come from within a 35 mile radius and the next level comes within 80 miles which overlaps Grand Island.

Jeff Randall appeared to speak against the Conditional Use Permit and zoning for the racetrack.

As Executive Director of Platte Valley Youth for Christ, I personally and professionally stand against any project at any location that increases the chances of teens becoming trafficking victims, or that pose a risk for trafficked teens that willingly return or are forced to return to this abuse. As my staff and volunteers sit across the table from the teen girls at YRTC Hastings, formerly known as Hastings Regional Center, and hear their stories of being trafficked, sometimes by their own parents, we are saddened that Hastings would intentionally allow a project to be built that is known to increase the number of children who are sold, exploited and abused in addition to the increase in adult addiction, prostitution use, and financial destruction. Quoting Nate Grazi of the Nebraska Family Alliance in the original debate of the now historical LB 461, "The FBI and local law enforcement have continually identified casinos as hubs for trafficking." And in 2017 the United States Department of Justice specifically named casinos in their national strategy to combat human trafficking report as a location where pimps will often target children. Small town charm means keeping that town safe for teens and children, ensuring the safety of children. There is no amount of revenue that justifies a threat to that safety in my opinion. Loving our neighbors, our kids, will always be enough to say no to \$10 million in my book. Saying no to 365 days of danger to our kids and families, I respectfully ask you to disrecommend all aspects of this project.

Joel Remmers appeared to speak against the Conditional Use Permit and zoning for the racetrack.

If we're talking about things that will last until the end of times, I believe in Jesus instead of casinos. Second of all, if we are talking about 12 days a year, I live on the south side of Madden Road, which is 12 days of racing for you, but it's going to be every day of looking out my window and seeing a casino. Your decisions matter. I read previous decisions made by zoning before I bought out there, and if I would

have known this would have been a possibility I would not have bought out there. In the past two years we have put an additional \$70,000 into our house and if I had known this would have been a possibility I would not have done that and used that money to move other places. We have heard that over the past 20 years, Hastings has lost 152 people and if this passes, my wife, daughter and I will move out. You will lose three more. I just want you to know that 26 people sent original letters, with 38 letters. I did not send a letter and if you drive through Lochland, you will see the that, as one of the 37 percent that voted against gaming, there's a whole lot more of us that would have voted if we would have known it was going into the backyard.

Tom Murray appeared to speak against the Conditional Use Permit and zoning for the racetrack.

It has been mentioned the state of Nebraska is overwhelmingly blessed to the idea of gambling and horse racing for money. It may well be the case but the majority is not always the moral decision. You sometimes have to make that decision when the majority doesn't seem to catch it all. George Washington said gambling is the child of avarice, the brother of iniquity and the father of mischief. I don't think George Washington sitting in this group would be in favor of the project before us.

Ann Hinton: It will go on the public record that 47 people agree with the speakers who have spoken so far against the project.

Brian Jorde:

If you all thought I was condescending and rude as Mr. Pauley suggested, I do apologize. I think I was direct because I respect your time, I respect your positions, I respect the difficult decisions you have to make for this community. The only name calling I heard was from the opponents. I heard Jesus referenced four or five times, and that, as a son of an ordained minister, suggests to me that they have very little substance in their opposition when they have to go to that level. Mr. O'Keeffe's slides of our work product were slides from October 2021. How did he get those slides when we didn't submit them to you. I gave them to Lisa. I asked for the complaints and these weren't sent to me timely but somehow he had slides that weren't even public. I never mentioned lawsuits. Dan Pauley mentioned lawsuits. If this town doesn't want the revenue and the jobs, I said we will go elsewhere. That is not a threat. From Mr. Pauley's presentation the things I took away were it's not the right use, but yet no one else is stepping forward to buy it. The property has been on the market, it's been available. Those land owners that own that property have the right to sell it. No one else is coming forward to put their money where their mouth is, it's just complaining. When Mr. O'Keeffe talked about a million people, that's because it pulls from Wyoming, Colorado, and other states. When we talk about 650,000 people, we will pull up people from Northern Kansas into Hastings for this. We have a gentleman here from Texas. They will come from all over the country to race. Mr. Zimba from the quarter horse association attested to that. Mr. O'Keeffe put up pictures from Omaha, Lincoln and Sioux City; that has nothing to do with us. We are talking about a new facility. The picture of Columbus is an old picture. Columbus is moving because they think this is such a great project for the community. The photos of Hastings were of the fairgrounds, which we don't own or control. We need to get out of there because it is in shambles, amongst other reasons. We want to spend \$40 million to make it look like it should. You want to talk about property houses, Google up Del mar racetrack; \$20 million, \$15 million, \$10 million houses all around it. Mrs. Adam talked about Lone Star and the \$20,000 number. Lone Star doesn't have a casino, so they're pulling in 700,000 visitors for horse racing only. We're estimating

650,000 from horse racing plus the casino here, well within reasonable. The amount of horses that come in will come in for a short period of time, racing, then they leave. They do not live here. This is not a horse boarding hotel. Mrs. Adam have the longhorn cattle and that's great. We are not going to have horses roaming around. These are extremely high-end animal investments that are coming for a specific purpose: to race. They are tested, they are monitored, there's security all around, they race, they leave. They are not going to be a nuisance. Mr. Murray talked about George Washington, that George Washington wouldn't be in favor of this project, well George Washington was a slave owner, and I am not in favor of that, so I'm not sure what the relevance of any of those statements were. In any event, this is about economic development. At the end of the day, would you like a project that's going to bring in needed tax revenue and support to this community that the other communities that have it are clamoring for, are bending over backwards. Omaha has put forth over \$12 million in TIF money for that casino. We're not asking for a single penny from any of you. We are going to fund it all on our own, and you better believe we are very confident this is going to work for now and into the future to put out this kind of money on this kind of a project. With respect to the people who live nearby, 45 acres is beyond a significant buffer. We've done everything we can at every step we can to jump through every hoop that there are no negotiations with anyone else. No one wants to sell and that we've talked to. We've done everything we can do and I respectfully request you vote to approve, and if there's appropriate conditions, by all means put conditions on us and we will follow them, and this project will be a success for the entire community. I ask you to have the courage, that although there are people in this room, the 25,000 members of this community, those that voted overwhelmingly in favor of this, those that maybe couldn't be here at 4:00 pm because they're working, or for other reasons, do what's right for now and for the future, not the past and a view that looks to keep Hastings in a light of no development, no new jobs, of just saying no. Have the courage to say yes.

Lisa Parnell-Rowe: Applications are public knowledge and available to public, but Mr. O'Keeffe put in a public records request on December 17th and asked us to provide him with all of the records, obtained copies of some of the records and name described, call me to discuss, so we have provided him that through a records request.

Daniel Pauley: Mr. Jorde has presented an opportunity to prove whether or not these folks are honest he said to you on the record the would take no legal action against the City of Hastings or this community if they were told to leave. If this organization, this community, this Commission votes against this, he said, we will leave. We will take no legal action. I propose you would ask your city attorney to recess, go draw up a waiver of claims, and if Mr. Jorde and his clients will sign that, let's see how honest they are. Let's see if they will sign what they say they will, that they will bring no action against this community, or this city, of a legal nature if you tell them that you're not gonna uphold or approve their being here. Let's see if they're honest. They keep telling you that they are, they keep saying they're transparent, we say nasty things, hurtful things, and they're telling you they're being honest with you right now. Ladies and gentlemen, this is the way the law works, they say all kinds of things, but nothing matters unless it's in writing. We have a gentleman here on behalf of his clients who said I'll put that in writing. He said in front of everybody today, on the cameras, on the record, I will not bring a legal action, neither will my clients. I would propose you would recess, allow your city attorney to draw up a waiver, I would be happy to give him some help if he needs it and let them sign a waiver that says they will bring no

claim against the City of Hastings, legally or otherwise, if you and your legal rights and discretion as they've agreed you have the ability to do, do not approve their use in this location because they have said that was the case. They've said they will bring no action. They said they're transparent, they're honest, you can trust them, you're simple folks, you're slow, I get it, we're all from Hastings that's our problem, not theirs, but by golly they're telling us they would put it in writing. That's what I would ask you to do this evening. Thank you.

Jose Bruseno: I wanted to know what the zoning here had to do with the disputes and whether what was said here or not.

Clint Schukei: One, I don't think it's appropriate to draw up a waiver and to provide that to Mr. Jorde. Secondly, when documents are received by public employees, they are public records, they are subject to the public record, whether they are part of the application or not, if Lisa had it, it's a public record. That's what I think the public record laws are for the State of Nebraska.

Jacque Cranson: I'm excited to see everyone here. The reason I'm up here is because I watched the mask mandate and I didn't agree with everyone, and I decided if I was going to complain about things I should get involved, and so I emailed the mayor and here I am. I think it's a hard decision to make. I grew up pretty close to Fonner Park in Grand Island so I saw the racetrack. There never really was an issue in Grand Island, but I certainly can respect everyone that lives close. I think it's a hard decision to make and I respect everyone that decided to show up tonight and I appreciate both sides. I take issue with calling us simple minded folk, I'm a member of the Nebraska State Bar Association and I think words are important and it's a highly educated group up here and we've all done a lot of research on this so I think whatever decision is made I think everyone up here definitely doesn't take this lightly.

Rakesh Srivastava: Thank you Mr. Jorde for presenting this and thanks everyone for being here. We appreciate your passion. I think that we have been discussing this the whole town has been discussing it and coming from a different country different place I moved to this town in 2003, and I want to see a lot of growth, a lot of things, but there are a lot of other things that also make a town a town and I think that we have to also look into what the committee wants, what we do, and I think those are the respects. But, the way you present was very professional, thank you so much for being here tonight and just a few of the numbers you presented, it just needs a little bit more clarification and those are the things that do not approve our votes up here.

Michelle Lewis: To speak to the zoning aspect, from a retail point of view, that property has always been looked at for retail, C-3 sort of stuff. Groceries, neighborhood groceries, big box retail. We've had everybody and their dog looking at it and nobody wants to buy it no one wants to develop it. So, as far as, is C-3 appropriate, yes, because that's what would've put their a long time ago if we could have just found somebody to do it.

LaDaun Schoenhals: I read all of the letters, I read your presentation last month and this month, I moved about a year and a half ago and there's a field behind me. I'm sorry I don't want the racetrack and casino behind my house either. So I understand where you're going, I understand we could make a lot of money helping the City of Hastings but I lived in Virginia for 16 years and it was very congested. I came to

Hastings because it wasn't congested. I don't want the casino in my back yard, I don't want the racetrack in my back yard and I don't care if this town grows to be a million people, I like it the way it is.

Shawn Rossi: I see this as something to be excited about as well. I understand the concerns for it and the reasons why people would not want it in their back yard, but I also see that if you want to keep the younger generation here in town, you need to have opportunities, you need to have entertainment venues, you need to have things that attract people here and you need to have things that build the community and I think this is hard to pass on. I live within a section of this proposed location as well.

Michelle Lewis: I have a question for Lisa. Where the CUP is now, what they are asking for now, if they started this right now with where they're at, would they have even had to have given the Lochland people on that line notice? Wouldn't they have been too far out?

Lisa Parnell-Rowe: So just to clarify, you're asking me about who got noticed?

Michelle Lewis: Would they have gotten noticed where it is now, where they are asking for the CUP right now?

Lisa Parnell-Rowe: We did adjacent property letters each time, for both. The letters that went out talked about the rezone and the Conditional Use Permit. It went out to everyone within 300 feet. We also post the signs, and we have the Public Notice in the paper.

Michelle Lewis: So the CUP is within 300 feet of Lochland then?

Lisa: No, it is not.

Moved by LaDaun Schoenhals, seconded by Rakesh Srivastava, to recommend disapproval to the Mayor and City Council of a request for a CUP for a horse racetrack as a Commercial and Retail Outdoor Entertainment & Recreation Business commonly located to the north of Walmart and 42nd Street W and to the west of Tom Osborne Expressway in the extra-territorial jurisdiction of Adams County and City of Hastings, Nebraska.

Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Willis Hunt.

Nays: Jacque Cranson, Michelle Lewis, Shawn Rossi.

Absent: Lou Kully, Greg Sinner. The motion carried.

10. Subdivisions

- a. **2021-063. Final Plat for Lakeview 10th Addition of a tract of land located in the Southwest Quarter of Section 36, Township 8 North, Range 10 West of the 6th P.M. City of Hastings, Adams County, Nebraska.**

Brian Hurskainen explained the agenda item.

The Development Department and Plat Track review teams (to include County officials) have reviewed this subdivision plat and the applicant has incorporated all recommendations found to be relevant with subdivision design standards and regulations in City Code Section 38-203. All related utility easement locations have

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been reviewed and approved by the Utilities Coordinator as part of this plat process.

In addition, the applicant has agreed to plant a filter strip to help protect Lake Hastings from the increased run off and sediments from this development. The strip will be in between lots 6 and 7 of Feuerhelm Subdivision adjacent to Lake Hastings.

Moved by Willis Hunt, seconded by LaDaun Schoenhals, to recommend approval to the Mayor and City Council the Final Plat for Lakeview 10th Addition of a tract of land located in the Southwest Quarter of Section 26, Township 8 North, Range 10 West of the 6th P.M. City of Hastings, Adams County, Nebraska.

Roll Call: Ayes: Ann Hinton, LaDaun Schoenhals, Rakesh Srivastava, Willis Hunt, Jacque Cranson, Michelle Lewis, Shawn Rossi. Nays: None.

Absent: Lou Kully, Greg Sinner. The motion carried.

Willis Hunt: I prefer not to debate our city attorney, but until something is passed and approved by the governing body it is not an official record.

Clint Schukei: I absolutely disagree with that.

11. Reports

a. Committee Reports

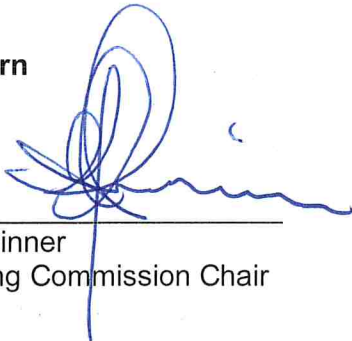
No committee reports.

b. Chairman Comments

c. Staff Reports

Lisa Parnell-Rowe: I really appreciate you stepping up to this situation as the First Chair and doing such a phenomenal job. Thank you very much, Ann.

Adjourn



Greg Sinner
Planning Commission Chair

