

City of Scottsbluff, Nebraska

Monday, April 24, 2017

Regular Meeting

Item Appr. Min.1

Approve minutes of 4/10/17 Meeting

Staff Contact:

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Planning Commission Minutes
Regular Scheduled Meeting
April 10, 2017
Scottsbluff, Nebraska

The Planning Commission of the City of Scottsbluff, Nebraska met in a regularly scheduled meeting on Monday, April 10, 2017, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on March 31, 2017. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

ITEM 1: Chairman Becky Estrada called the meeting to order. Roll call consisted of the following members: Anita Chadwick, David Gompert, Angie Aguallo, Callan Wayman, Mark Westphal, Henry Huber, and Becky Estrada. Absent: Dana Weber, Jim Zitterkopf. City officials present: Annie Folck, Planning Coordinator, Gary Batt, Code Administrator II, and Anthony Murphy, Fire Prevention Officer.

ITEM 2: Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on bookcase in the back area of the City Council Chamber, for those interested parties.

ITEM 3: Acknowledgment of any changes in the agenda: None

ITEM 4: Business not on agenda: None

ITEM 5: Citizens with items not scheduled on regular agenda: None

ITEM 6: The minutes of the March 13, 2017 meeting were reviewed. **Conclusion:** A motion was made by Wayman and seconded by Gompert to approve the minutes for the March 13th meeting. **“YEAS”:** Estrada, Westphal, Wayman, Huber, Gompert, and Chadwick. **“NAYS”:** None **Abstain:** Aguallo **Absent:** Weber, Zitterkopf

ITEM 7A: The Planning Commission opened a public hearing for a Special Use Permit for a Hair Salon located at 1933 7th Avenue. The applicant, Crystal Westphalen, requested a special use permit to allow for a hair salon in an R-1a Single Family Zone. The property is on the southwest corner of 20th Street and 7th Avenue. Hair Salons are listed under special permits uses in the R-1a Single Family zoning district with approval from the Planning Commission. The surrounding properties are all zoned R-1a with the exception of an R-4 Multi-Family zone to the northeast. The property is adjacent to 20th Street, and parking is proposed to be provided on-site at the back of the property.

Mark Westphal, the current owner of the property, stated that they planned to add three parking spots at the rear of the property. There would be one stylist and one nail technician working there, with two tanning beds, so there would be a minimal number of people at the salon at any one time. Commissioner Westphal then recused himself from this agenda item due to conflict of interest and left the room until after the vote was held.

Jennifer Kinsey, resident of 1924 7th Ave, stated that she had several concerns with the proposed salon. She stated that the street is already extremely congested, especially during pick-up and drop-off times for the nearby elementary school. Because it is an older neighborhood, there is very little off-street parking,

57 and the streets are already very narrow. Parking is already a concern in the area, and there is very little
58 street parking in front of the salon due to it being on a corner near a fire hydrant. She just purchased her
59 property and would not have done so if she had known there would be a commercial business in the
60 neighborhood.

61
62 Dave Kuxhausen, resident of 1920 8th Ave, stated that it is a residential neighborhood and they do not
63 want businesses in the residential neighborhood. He is concerned about declining property values if
64 businesses are allowed to locate in the area. Chase Harimon, resident of 1931 7th Ave, reiterated that he
65 believed parking would be a problem in the area and that he was also concerned with the resale value of
66 his property if a business were to be located in the area. Kathi Sparks, resident of 1915 7th Ave, repeated
67 the concerns about parking along the narrow streets, as many trucks can't even park on the street
68 because it is so narrow and so end up partially parked on the sidewalk to allow for traffic to move through.
69 She also stated that 7th Ave is already hard to turn onto due to the narrow street with parking on both
70 sides, and that locating a salon here would compound this problem. Laura Salazar, resident of 1910 8th
71 Ave, stated that she had concerns about the street width and parking in the area, and that with all the
72 pedestrian traffic, especially kids going to and from school, it could be a safety issue to add additional
73 traffic to the area.

74
75 **Conclusion:** A motion was made by Huber and seconded by Wayman to deny the Special Use Permit
76 for a Hair Salon at 1933 7th Avenue. **"YEAS":** Wayman, Gompert, Huber, Chadwick, Aguallo, and
77 Estrada. **"NAYS":** None. **ABSTAIN:** Westphal **ABSENT:** Zitterkopf, Weber. Motion carried.

78
79 **ITEM 7B:** The Planning Commission opened a public hearing for a Preliminary Plat for the Melroy
80 Addition, a replat of Lots 12 and 13 of Wildy and Lana Commercial Tracts. The applicant is Steve Melroy,
81 represented by Baker and Associates. The property is situated south of 15th Street, between 19th and
82 21st Ave. The preliminary plat includes 6 commercial lots, which are all part of the same block. The
83 property is zoned C-3, Heavy Commercial, and the properties to the north, west, and south are also C-3,
84 with M-1 zoning to the east.

85
86 City staff and Consultants reviewed the preliminary plat. Infrastructure is already available to each lot, and
87 no streets, water, or sewer improvements are proposed. The developer will be required to install
88 sidewalks and landscaping to meet City code as the lots are developed. Retention will also be addressed
89 with the final plat, and Anthony Murphy stated that depending on the how the lots are developed,
90 additional fire hydrants may be necessary. Staff recommended approval of the preliminary plat.

91
92 **Conclusion:** A motion was made by Gompert and seconded by Aguallo to approve the Preliminary Plat
93 for the Melroy Addition, a replat of lots 12 and 13 of Wildy and Lana Commercial Tracts. **"YEAS":**
94 Wayman, Gompert, Huber, Chadwick, Aguallo, Westphal, and Estrada. **"NAYS":** None. **ABSTAIN:** None
95 **ABSENT:** Zitterkopf, Weber. Motion carried.

96
97
98 **ITEM 7C:** The Planning Commission opened a public hearing for a Special Use Permit for a Scrap Metal
99 Processing Facility located at 417 9th Avenue. This application was tabled at the previous meeting on
100 March 13th so that staff could verify some of the information that was presented and explore options for
101 special conditions for the permit. The applicant is Langer Industries, represented by Pete Langer. Folck
102 stated that the property is located in an M-2 Heavy Manufacturing and Industrial zoning district. The
103 surrounding properties to the east and south are also zoned M-2. The property to the southwest is zoned
104 M-1, Light Manufacturing and Industrial, and the property to the west and north is zoned C-3, Heavy
105 Commercial. There are some residential properties within 300 feet; however, they are all on the other
106 side of the Burlington Northern Railroad Tracks, so there is some separation between the residential
107 areas and the proposed facility location.

108
109 At the previous meeting, several residents expressed their concerns about this facility being located so
110 close to a residential area. Environmental issues were brought up as a concern, as well as the noise and
111 unsightliness of a scrap metal recycling facility. The applicant had stated that this facility would be very
112 similar to the one they currently operate in Colby, Kansas, and that he would be willing to meet some

113 additional requirements to properly screen the facility from the sight of the neighborhood. Following the
114 March meeting, staff contacted the community of Colby, Kansas and were told that there were many
115 concerns about the facility before it started operation that have since been determined to be unfounded.
116 The facility is a clean operation that does not seem to be an environmental risk, and the operators are
117 careful to make sure that everyone bringing material to their facility has their loads properly cleaned and
118 secured so that there is no issue on the surrounding roadways. Folck stated that the City has few areas
119 zoned heavy manufacturing that also have a rail spur, so this location is somewhat uniquely suited to
120 meet the purposes of the business. The property is currently zoned appropriately for a business like this;
121 however, it is not ideal for a residential area to be within 300 feet of the facility. Chairman Estrada then
122 invited public comment on the proposed project.
123

124 Bradley Garcia, resident at 1114 9th Ave, stated that he grew up in the area and had recently moved back
125 into the neighborhood with the hopes of helping to improve it. He and his wife bought and remodeled a
126 house, where they now live. He was concerned about the appearance of the neighborhood and thought
127 that this facility would be an eyesore. Even with fencing and trees, it will be seen, and he does not want
128 to see piles of material from his house. He believed that this could affect the resale value of his house in
129 the future. Sabrina Esparza, resident at 713 E 8th St, stated that she has lived in southeast Scottsbluff for
130 55 years, and the neighborhood has come a long way, with noise pollution taken care of through the quiet
131 zone and many other improvements over the years. She also was concerned that the recycling facility
132 would be an eyesore, and that there would be noise pollution as a result of the facility's operations. She
133 said that she could speak for many people in the community in opposing the facility. Natalia Garcia,
134 resident at 1114 9th Ave, stated that she and her husband purchased their home in May 2015 to try to
135 improve the neighborhood. She was concerned that many neighborhood residences seem to be being
136 weeded out and replaced by businesses, and did not want the whole area to become commercial. She
137 believed that the scrap metal facility would be an eyesore like the packing plant that was there previously
138 and does not want the property to be left as a mess. She would not have moved to the area if she had
139 known that a facility like this would be there. She also had concerns about kids walking to the YMCA who
140 walk down 9th Street and might be affected by additional traffic. Gage Norman, business owners of 5th
141 and O convenience store, stated that there were meetings a few weeks ago about adding value to the
142 East Overland community, and he had concerns about shutting down East Overland and adding a scrap
143 metal facility near the neighborhood.
144

145 Robert Franco, whose mother resides at 907 E 7th Street, just north of the proposed facility location,
146 stated that there are only two railroad tracks between the facility and her property. He cited City Code
147 section 25-13-3 regarding Special Use Permits, reminding the Planning Commission that in order to grant
148 the Special Use Permit, they must find that the proposed use, "(1) provides a service required by the
149 neighborhood or community and is consistent with sound principles of land use, (2) will not be injurious to
150 the use of neighboring lots, tracts of land, buildings, or structures, (3) will not create special hazards or
151 problems for the area in which it is located, and (4) is related to and harmonious with the general plan for
152 the area in which it is located, as indicated by this Chapter." He stated that the business by nature would
153 be a nuisance to the neighborhood. He cited the City's definition of a nuisance in Chapter 12 of the City
154 code, stating that the noise, rodents, stagnant water, and junk on the property would cause adverse
155 effects to the surrounding neighborhood. He stated that runoff from the property could be contaminated
156 and would be impossible to contain on site, so would cause issues for the neighborhood. He did not
157 believe trees or a fence would help to mitigate these issues. Residents in that area have paid property
158 taxes for years and made many improvements to their properties, and he was concerned that the resale
159 value of those homes would be adversely affected.
160

161 Rex Morse then spoke, not as a resident of the community, but as someone who works in the area. He
162 stated that having viewed a similar facility in Minatare, he believed that if it were located on Highway 26 it
163 would have a depressing effect on property values for the community. He had concerns about the visible
164 location of the facility along Beltline and 9th Avenue.
165

166 Pete Langer, the applicant, then spoke, stating that there seemed to be four items that needed to be
167 addressed. The first was the noise generated by the facility. With use of a decibel meter, he
168 demonstrated that the noise generated by the facility would be less than the noise generated by passing

169 railroad cars. The second issue was drainage and environmental issues. He stated that his industry is
170 highly regulated by the EPA and NDEQ, and that there are many requirements that they would have to
171 meet in order to be allowed to operate. They will meet all applicable regulatory requirements to ensure
172 that there are no environmental issues from the operation of the facility. The third issue was the integrity
173 of the company. This is why he did not object to tabling the permit at the last meeting in order to give
174 staff time to do some background checking to determine whether or not they would operate the facility in
175 the manner they described. After staff did some checking, they found that the applicant was a good
176 neighbor and runs a clean facility, as he claims. The fourth issue was the screening of operations. He
177 stated that this would not be a storage facility or a salvage lot, and that material would be processed
178 quickly, so the same material would never be on site for more than one month. The proposed site is
179 zoned appropriately as heavy manufacturing and is not located within a residential zone. He
180 acknowledged that there was one place where residents would be able to see into the yard, and he would
181 be happy to put up a fence that would screen the property from the view of the residents.

182
183 Commissioner Huber asked if there would be any timeframe to review the Special Use Permit. Langer
184 stated that he did not want a permit that could be revoked after a certain timeframe, but he would be
185 happy to have the permit approved with special conditions tied to it, and if he did not meet those
186 conditions, the permit could be revoked. Commissioner Westphal asked about the possibility of planting
187 trees around the property to buffer noise and screen activities. Langer stated that he did not think it
188 would be necessary to screen the property from the other heavy commercial and manufacturing zones,
189 but it would be completely appropriate to screen the property from residential area. He did have some
190 concerns about getting trees started on that portion of the property because it is adjacent to the railroad,
191 which uses large amounts of sterilant. He believed that the planned facility would be an improvement
192 over the current state of the property, which is vacant and deteriorating. Commissioner Wayman asked
193 how long the property had been vacant. Franco answered that there was a roofing company that was
194 there within the last 7 years. He added that screening the property from view of the residential area
195 would be difficult because of the elevation difference between the residential area and the proposed
196 facility. Langer stated that the average height of the piles would be 6' or less, as they planned to keep the
197 material moving. Natalia Garcia inquired as to the proposed hours of operation and about noise levels
198 and if they would be constant or intermittent. She also asked about employees at the facility; how many
199 and would they be local. Langer stated that they would operate from 8 am to 5pm Monday through
200 Friday, and depending on the volume of material they receive, they may operate on Saturday mornings
201 from 8 am to noon. He said that the loudest noises would be similar to that of a passing train and would
202 be intermittent. He said they would plan on starting with five employees and may eventually work up to
203 15 employees, and he planned to hire all of them from the Scottsbluff/Gering area.

204
205 Franco asked about the Colby, Kansas facility and if it was more rural than this proposed facility, as he
206 felt the two could not be compared as equals since one is in a rural area and the other is near a
207 residential area. Langer stated that they located the Colby facility in the only area that was appropriately
208 zoned, and that they kept a very clean facility even though no one was watching. He expects the
209 Scottsbluff facility to be more heavily scrutinized and will do everything he can to keep it clean and run
210 appropriately. He also stated that there is no way to definitively state that this would lower property
211 values.

212
213 Natalia Garcia stated that she believed that the City should be more selective of businesses allowed to
214 locate on that site. Commissioner Wayman stated that with it being an M-2 zone, there were many other
215 uses that would also cause a lot of noise and other negative effects that could locate there without
216 needing a Special Use Permit. Commissioner Estrada added that with this Special Use Permit, at least
217 they could specify some conditions to mitigate the effects on the residential area. Garcia stated that no
218 other businesses along the Beltline Highway have debris on site as part of their business. Franco added
219 that the businesses in the area keep everything neat and tidy, whereas by nature, the scrap metal
220 business is much messier, and he did not think it should be near a residential area. Commissioner
221 Gompert stated that he had driven by the property prior to the meeting, and it is currently an eyesore. He
222 saw many broken windows and open doors, which could be a safety concern for anyone who wanders
223 onto the property, and that rodents were probably a concern as well. He believed that the property in its

224 current condition is dangerous and detrimental to the area, and that by allowing the scrap metal facility to
225 locate there, the condition of the property would be improved.

226

227 Rex Morse inquired if the building itself would be used for the proposed operation. Langer stated that
228 they would be using a portion of the building for operations, but because the building is so large and in
229 such poor condition, it will be a process to get the entire thing renovated. Morse asked about
230 improvements to the exterior of the building. Langer stated that if the business takes off, they would like
231 to make improvements to the building exterior, but did not want to make commitments that he couldn't
232 keep by claiming that it would be done by a certain date. He said that at a minimum, they would make
233 sure the building would be secured and up to code before opening, and that long term he would like to
234 make additional improvements.

235

236 **Conclusion:** A motion was made by Gompert and seconded by Chadwick to recommend approval of the
237 Special Use Permit for a Scrap Metal Facility located at 417 9th Avenue with the conditions that before the
238 facility opens for business, the portion of the yard visible to the residential area on the north (the north
239 boundary of the property from the building to 9th Ave) shall be screened by a fence up to 12' in height and
240 slats shall be added to the fence along 9th Avenue to block the view of the yard. Additionally, the building
241 is to be secured and broken windows boarded up or repaired within one year. **"YEAS":** Wayman,
242 Gompert, Aguallo, Chadwick, and Estrada. **"NAYS":** Huber, Westphal. **ABSTAIN:** None. **ABSENT:**
243 Zitterkopf, Weber. Motion carried.

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245

246 **ITEM 7D:** A public hearing was opened to consider the annexation of property described as PT N1/2 SE,
247 PT SE SE 15-22-55 (61.05 acres) and BLK 1, ALF Subdivision (1.36 AC), owned by Connie and Alyssa
248 Frank. Folck stated that the property owners had requested annexation of the property and in that
249 request had waived their right to City services, so the extension of streets, water, and sewer would not be
250 necessary in order to annex. Anthony Murphy stated that by evening out the edge of the City's city limits,
251 it would make it much easier for first responders to know where their jurisdiction starts and stops,
252 improving response times. Commissioner Huber asked why the property owner was requesting this.
253 Folck stated that the property owner had not yet announced her plans for the property, just requested the
254 annexation.

255

256 **Conclusion:** A motion was made by Westphal and seconded by Chadwick to recommend to Council
257 approval of the annexation of the property situated in PT N1/2 SE, PT SE SE 15-22-55 (61.05 acres) and
258 BLK 1, ALF Subdivision (1.36 AC) **"YEAS":** Wayman, Gompert, Aguallo, Chadwick, Huber, Westphal,
259 and Estrada. **"NAYS":** None. **ABSTAIN:** None. **ABSENT:** Zitterkopf, Weber. Motion carried.

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261

262 **ITEM 8: Unfinished Business:** None.

263

264 There being no further business, a motion to adjourn was made by Aguallo and seconded by Chadwick.
265 The meeting was adjourned at 7:45 p.m. **"YEAS":** Wayman, Gompert, Aguallo, Chadwick, Huber,
266 Westphal, and Estrada. **"NAYS":** None. **ABSTAIN:** None. **ABSENT:** Zitterkopf, Weber. Motion carried.

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273 _____
Becky Estrada, Chairperson

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275 Attest: _____

276 Annie Folck