

**City of Scottsbluff, Nebraska**  
**Monday, September 13, 2021**  
**Regular Meeting**

**Item Appr. Min.1**

**August 9, 2021**

**Staff Contact: Zachary Glaubius, Planning Administrator**

PLANING COMMISSION MINUTES  
REGULAR SCHEDULED MEETING  
August 9, 2021  
SCOTTSBLUFF, NEBRASKA

The Planning Commission for the City of Scottsbluff met in regular scheduled meeting on Monday, August 9, 2021, at 6:00 PM in the Scottsbluff City Council Chambers at 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting was published in the Star-Herald, a newspaper of local circulation in the City, on July 30, 2021. The notice stated the date, time, and location of the meeting, and that the meeting was open to the public, that anyone with a disability desiring reasonable accommodation to attend should contact the Development Services office. An agenda is kept current and available for public inspection at the Development Services office provided; the Planning Commission can modify the agenda at the meeting, if the business was determined that an emergency so required. A copy of the agenda packet was delivered to each Planning Commission member.

- 1 Chairman Dana Weber called the meeting to order at 6:00 PM. Roll call consisted of the following members being present, Mark Westphal, Henry Huber, Dana Weber, Callan Wayman, Jim Zitterkopf, Angie Aguillo "Absent": Anita Chadwick, Dave Gompert, Becky Estrada, Linda Redfern (Alternate). City Officials present were Zachary Glaubius, Secretary/Planning Administrator, Gary Batt, Code Administrator II, and Anthony Murphy, Fire Prevention Officer.
- 2 Chairman Weber informed those present of the Nebraska Open Meetings Act and that a copy was located on the south wall of the Council Chambers.
- 3 Acknowledgement of any changes in the agenda: None.
- 4 Business not on the agenda: None.
- 5 The minutes from the July 12, 2021 meeting were reviewed. Conclusion, a motion was made by Zitterkopf and seconded by Wayman to approve the minutes from January 25, 2021 meeting. "Yeas": Westphal, Huber, Wayman, Zitterkopf, Weber Aguillo, "Abstained": None, "Absent": Chadwick, Gompert, Estrada, Redfern. The motion carried.
- 6 Chairman Weber asked Commissioner Westphal to state his conflict of interest with the Final Plat of Lots 7A and 7B, Block 1, Quindt Commerical Tracts. Westphal stated he stand down from commenting as he has a conflict of interest. Weber stated Westphal is involved in the transaction and therefore excusing himself from voting, but that Westphal could comment as a member of the public. Weber stated Westphal could remain at the chamber platform, which the Planning Commission members agreed to.
- 7 Chairman Weber opened the public hearing for the Final Plat of Lots 7A & 7B of Block 1, Quindt Commercial Tracts. Weber asked Glaubius for an overview of the final plat. Glaubius stated the area is currently zoned C-2 and currently used as a convenience warehouse storage facility. Glaubius stated the lot is located at 2001 E. 20<sup>th</sup> Street, has an area of approximately 20,038 sq. ft. and is surrounding by C-2 zoning. Glaubius stated the parcel was issued a certificate of occupancy by the city on July 20, 2021 for convenience warehouse storage facility. He continued that the 2016 Comprehensive Plan shows the future land use of the area as Highway 26 Commercial. Glaubius stated the current access to the lot is frontage to E. 20<sup>th</sup> Street, which would remain the same the proposed lots with the addition of a 20' access easement. Glaubius commented on the definition of a convenience warehouse storage facility as per 25-2-27.1, and stated the current use has an off-street parking requirement of one stall per 1000 sq. ft of building. Glaubius stated the proposed Lot 7B will not meet the criteria of a convenience warehouse storage facility if on a separate lot as single bay storage is a not a permitted use in

the C-2 zoning district. He also stated no sidewalks are in the lot which is in conflict with 21-1-36. Glaubius stated the findings of facts to recommend the approval of the final plat. He stated the comprehensive plan identifies the area as commercial, which it will remain if the subdivision is approved. He also stated there are no applicable setbacks or lot coverages in the C-2 zoning district, and that the 20' access easement will provide access to the off-street parking of Lot 7B and the majority of off-street parking 7A. Glaubius stated the current usage of Lot 7 and proposed Lot 7A will meet the off-street parking requirements. Glaubius stated Lot 7B will meet the parking requirements and be a permitted use if used as a convenience warehouse storage facility per the letters in the agenda packet from the applicant and future owner. Glaubius stated the findings of facts to not recommend approval. Glaubius stated the existing Lot 7 currently has enough space for both warehouse use and general commercial use, which is one space per every 500 sq. ft. of building, and by splitting the lot, both Lot 7A and Lot 7B will be restricted to only warehousing and wholesaling uses. Glaubius stated the building on Lot 7B will be a single bay storage building, which is not a permitted use in the C-2 district, and as a non-permitted use, it would be required to meet the general commercial off-street parking requirements of 1 space per 500 sq. ft. of building. Glaubius stated that Lot 7B does not have enough space for additionally parking. Glaubius stated that the parking of Lot 7B cannot be accessed without crossing onto Lot 7A. Glaubius then stated the comprehensive plan defines Highway 26 Commercial as motorized-vehicle oriented and given a vehicle cannot access off-street parking on Lot 7B, it is not motorized-vehicle oriented. Glaubius stated the small area of Lot 7B is not in character with lot sizes of the neighborhood which range from 12,000 sq. ft. to 50,000 sq. ft. Glaubius stated per analysis from the City of Scottsbluff GIS Department that there are 197 C-2 parcels in the corporate limits and only two other C-2 parcels are smaller than Lot 7B in the city and both are used as paved accesses. Glaubius stated that staff recommends the Planning Commission make a negative recommendation on the approval of the Final Plat of Lots 7A and 7B, Block 1, Quindt Commercial Tracts.

- 8 Chairman Weber asked if there was a representative for the Final Plat of Lots 7A and 7B, Block 1, Commercial Tracts. Jack Baker of Baker and Associates stated he was assisting Mr. Westphal and Mr. Mackrill, the future owner of Lot 7B, on the subdivision process. Baker stated the subdivision is limited by the constraints of existing buildings. Baker stated Mr. Mackrill has leased the building on the proposed Lot 7B from Mr. Westphal. Baker stated Mackrill and Westphal have come to agreement to sell Lot 7B to Mackrill. Baker stated Mackrill then intends to lease out part of the building to Mackrill's son and Mackrill's brother to comply with the convenient warehouse storage facility use which would comply with the C-2 zoning code and single parking stall requirement. Baker stated the 20' access easement will provide access and no variances are required. Baker stated the proposed subdivision meets all the city's requirement and should receive a positive recommendation. Baker stated that nothing on the lot would change from how it is today, which includes the parking. Baker went through the findings of fact. Baker stated in regards to limiting the use of Lots 7A and Lot 7B to wholesaling and warehousing, that the existing lot was built for warehousing and wholesaling which meets and will meet the parking requirements if approved. Baker stated if the use of the lot were to change and need more parking, the lot would need many more improvements. Baker stated a change in future use of the property should have no bearing on this final plat. Baker stated that the structure on Lot 7B is a rented space, and due to this no work could be done to make it a convenience warehouse facility. Baker stated Mackrill has plans already in place and a signed copy of a lease with his son to make the structure a convenience warehouse facility as soon as Mackrill owns the property. Baker stated In regards to V.B.4 on the staff report, the access easement on Lot 7A is there to permit access to Lot 7B, which is permissible. Baker stated in

regards to V.B.5, that nothing was changing on the lot and the access easement will provide access to the off-street parking. Baker stated in regards to the small size of the lot that it is a different, but there is no minimum lot size in the C-2 district. Baker stated that the reason for the small size is due to existing conditions and if it were a new lot, it would be done differently.

- 9 Wayman asked Baker what the width of the street frontage for both Lot 7A and Lot 7B. Wayman then stated that the lots can only provide the minimum parking requirements. Baker stated 14-15 stalls could be squeezed onto the lot, but typically there are only a few vehicles on site. Huber stated he received a call from the neighboring property owner to the west that several vehicles parking on the neighboring property. Huber stated the owner had concern about parking on Lot 7, and Huber inquired to the Planning Commission if anyone else was aware of parking issues there. Huber asked Baker why vehicles from Lot 7 are parking on the adjoining lot if there is ample parking currently. Baker stated he did not know why, and Westphal stated that should not be happening. Wayman stated that it is common with commercial properties to have vehicles park on nearby lots, and that could happen at any C-2 lot or the downtown area.
- 10 Wayman asked for clarification on V.A.5 which stated the Lot 7B will have a permitted use and meet the parking requirements while V.B.2 and V.B.3 state Lot 7B will not be a permitted use and not meet the parking requirements. Baker stated the use will not change. Glaubius stated that currently the structure on proposed Lot 7B is an accessory structure so it is a permitted use as there are other storage units in the main building. Glaubius stated the letters of intent state the building on Lot 7B will have separate units in it to meet the convenience warehouse storage facility definition. Wayman asked if additional doors would be need to access the different bays in the building proposed Lot 7B. Glaubius stated it would need to have separate accesses to each storage bay. Glaubius stated the reason for the V.B.2 and V.B.3 is due to the current configuration of the building on Lot 7B and no certificate of occupancy could be issued until it is in compliance. Baker stated there is already a separate loft in the building on the proposed Lot 7B that would be used as a storage unit. Zitterkopf asked if the city would enforce the sidewalk requirement and if it would be for the whole block or just these lots. Glaubius stated it would be required for these two lots. Glaubius stated he was unsure if this would be enforced. Westphal asked Baker how many feet are between the building and the curb of E. 20<sup>th</sup> Street. Baker stated he was unsure as that is past the property line. Westphal and Aguallo stated it was 14' feet per the final plat. Wayman stated that there were no neighbors present, and he looks to see if the neighbors would be affected by it. Wayman stated the neighbors seem to be unaffected, and if anyone would be detrimentally affected by the subdivision it would be Westphal who currently owns Lot 7A. Wayman made a positive recommendation. Zitterkopf seconded this.
- 11 Weber stated he had a few more questions, and he relies on experts to provide information and the city providing its view. Weber asked if everything would be in compliance with code if the applicants' follow through with their letters of intent. Aguallo asked if this should be a condition on the motion. Baker stated he thought this would be controlled by the city's issuance of a certificate of occupancy. Glaubius stated no certificate of occupancy could be issued to the building on the proposed Lot 7B until it is in compliance with the requirements of city code. Weber asked Glaubius that if the applicant's followed through with requirements including the sidewalks and permitted use, would it be a permitted use? Glaubius stated he cannot speak for the sidewalk as no plans have been submitted, but the letters of intent state the use of the building of proposed 7B would be permitted use. Weber asked how much of an issue would the sidewalks be. Glaubius stated this was included in the staff comments as it a requirement of the city's subdivision code. Weber stated he was inclined to pass the final plat to the city council; however, he does not want the Planning Commission to send anything out of compliance to the City Council and set a precedent that the Planning Commission is willing to violate city code.

Weber stated he was in favor of a positive recommendation since there are assurances the final plat will meet the requirements of city code.

- 12 Westphal added he had to apply for a certificate of occupancy for both buildings to comply with the zoning code, and that everything cleared. Weber suggested the Planning Commission may need to look at the code as this final plat seems like a “no brainer” since there is an owner who wants to sell, and Aguallo added that the renter of the other building wants to buy. Weber questioned the negative staff recommendation. Glaubius stated staff was not only concerned about current use, but future use. Glaubius stated that due to the small size and lack of space for additional parking, these lots will strictly be limited to warehouse and wholesaling uses. Glaubius added that staff has concerns about access in the future as Westphal and Mackrill get along right now, but that may change in the future or with future owners of the land. Westphal asked Glaubius about the parking space south of the building on Lot 7B and putting down a concrete drive. Westphal stated he had asked Glaubius before, but did not understand why this would not be allowed. Glaubius stated the access concerns are for the access on the property and not from the right-of-way. Glaubius stated the parking south of the building on the proposed Lot 7B is in the right-of-way and therefore considered non-applicable on-street parking. Westphal stated that it would not be on-street parking as its not on the street. Batt informed Westphal that the property line sets back farther than curb.
- 13 Weber referred to Wayman’s motion, and Zitterkopf’s second to make a positive recommendation on the approval of the Final Plat of Lots 7A and 7B, Block 1, Quindt Commercial Tracts to City Council. “Yeas”: Huber, Wayman, Zitterkopf, Weber, Aguallo. “Abstained”: Westphal “Absent”: Estrda, Gompert, Chadwick, Redfern. The motion carried.
- 14 Chairman Weber asked if there was any further business, with there being none, he declared the meeting adjourned at 6:32 PM with the members to signify by saying Aye. Westphal, Huber, Wayman, Zitterkopf, Weber, Aguallo all signified by saying aye.

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Chairman Dana Weber

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Zachary Glaubius, Secretary