

City of Scottsbluff, Nebraska
Monday, January 10, 2022
Regular Meeting

Item Appr. Min.1

the December 13, 2021 Meeting.

Staff Contact: Zachary Glaubius, Planning Administrator

PLANNING COMMISSION MINUTES
REGULAR SCHEDULED MEETING
December 13, 2021
SCOTTSDLUFF, NEBRASKA

The Planning Commission for the City of Scottsbluff met in regular scheduled meeting on Monday, December 13, 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 general circulation in the city, on December 3, 2021. The notice stated the date, time, and location of the meeting, that the meeting was open to the public, and that anyone with a disability desiring reasonable accommodation to attend should contact the Development Services office. An agenda was kept current and available for public inspection at the Development Services office, provided the Planning Commission can modify the agenda at the meeting if it is 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, Dana Weber, Angie Aguallo, Becky Estrada, Callen Wayman, Dave Gompert, Linda Redfern (Alternate) "Absent": Anita Chadwick, Mark Westphal, Henry Huber, Jim Zitterkopf. City Officials present were Zachary Glaubius, Secretary/Planning Administrator, Taylor Stephens, GIS Analyst, and Tom Schingle, Fire Chief.
- 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 November 8, 2021 meeting were reviewed. Conclusion: a motion was made by Wayman and seconded by Gompert to approve the minutes from November 8, 2021 meeting. "Yeas" Wayman, Estrada, Weber, Aguallo, Gompert, Redfern "Absent": Chadwick, Zitterkopf, Huber, Westphal. The motion carried.
- 6 Chairman Weber opened the public hearing at 6:03 PM for Items 6A a zoning text change to Chapter 25 Article 3 regarding the addition of Vineyards & Wineries, Golf Courses, and Agricultural Attractions as principal permitted uses in the Agricultural Zoning District. Glaubius stated the applicant, Ryan Massey of Papa Moon Vineyards, received a cease letter from the city regarding holding events at the winery. Event venues is not a principal permitted use in the Ag District. Glaubius stated he and Massey met and came to an agreement to add vineyards & wineries as a principal permitted use in the Ag District. Glaubius stated city staff reviewed other Nebraska communities with vineyards & wineries, and concluded this was best route. Glaubius stated staff included golf courses and agricultural attractions to be added as principal permitted uses in the Ag District as well. Glaubius stated by adding these uses, it would clarify whether these are permitted uses or not. Glaubius stated city staff reviewed Lancaster County, Nebraska's agricultural attraction use which includes pumpkin patches and corn mazes. Glaubius stated staff recommends a positive recommendation on the zoning text change by the Planning Commission to the City Council. Applicant Ryan Massey stated that when the winery began, he was informed that Papa Moon Vineyards was not within Scotts Bluff County's zoning jurisdiction, however it has now come apparent that the winery is within the City of Scottsbluff's zoning jurisdiction. Massey stated all inspections in the past were handled by the County and state and would like to have this use added to the Ag District. Weber closed the public hearing at 6:07 PM.

Conclusion: Motion by Wayman, seconded by Estrada to make a positive recommendation on the approval of the Zoning Text change regarding the addition of wineries & vineyards, golf courses, and agricultural attractions as principal permitted uses in the Agricultural Zoning District under Chapter 25 Article 3. Yeas”: Wayman, Estrada, Weber, Aguillo, Gompert, Redfern “Nays” None “Abstained”: None, “Absent”: Chadwick, Westphal, Zitterkopf, Huber. The motion carried.

- 8 Weber opened the public hearing at 6:08 PM for Item 6B regarding an ordinance text change regarding the addition of a definition to Chapter 25 Article 2 for Agricultural Attractions. Glaubius stated that staff proposed adding a definition for agricultural attractions. Glaubius read the definition of agricultural attractions, and stated it would help clarify any questions regarding the principal permitted use. Glaubius stated staff recommends a positive recommendation on the text change by the Planning Commission to the City Council. Weber closed the public hearing at 6:10 PM. **Conclusion:** Motion by Wayman, seconded by Aguillo to make a positive recommendation on the adoption of the zoning text change regarding a definition for agricultural attractions to City Council “Yeas”: Wayman, Estrada, Weber, Aguillo, Redfern, Gompert “Nays” None “Abstained”: None, “Absent”: Chadwick, Zitterkopf, Huber, Westphal. The motion carried.
- 9 Weber opened the public hearing for Item 6C regarding a zoning text change to Chapter Article 22 regarding buffer yard requirements at 6:11 PM. Glaubius stated Eric Reichert is requesting the text change for the buffer yard requirement as a property owned by Reichert at the northeast corner of Avenue I and 27th Street is narrower than most lots on 27th Street, and the existing 20’ buffer yard requirement would reduce the size of the off-street parking area. Glaubius stated that the buffer yard is required as Reichert’s property is zoned C-2 while the adjacent property is zoned R-1A. Glaubius stated there were no exceptions to this requirement. Glaubius stated he had reviewed the buffer yard requirements of both the City of Gering and the City of Scottsbluff’s Gateway Green Overlay Zone, and found both provided exceptions to this requirement which he found to be reasonable. Glaubius stated the City of Gering does not require a buffer yard if a street separates two zoning districts, and that the GG-O permits a 10’ buffer yard with the installation of a 6’ opaque fence. Applicant Erich Reichert stated he was pursuing the ordinance text change as he would like to move his proposed building into the required buffer yard in order to meet the off-street parking requirements of a gas station and restaurant. Reichert stated without the zoning text change, he would only be able to install the gas station and not the restaurant. Glaubius informed the Planning Commission that this zoning text change is citywide and not specifically for Reichert’s property, and that staff recommends a positive recommendation by the Planning Commission on the proposed text change. Weber closed the public hearing at 6:14 PM. Weber asked if the Planning Commission members had any additional questions. Redfern asked Reichert if a fence would be installed along the alley. Reichert stated a fence would not be installed as his business needs access to the alley. Weber asked Glaubius if all alleys in the City of Scottsbluff are the same width. Glaubius stated that alleys should be consistent throughout the city, and that the wording of the text change excludes private alleys. Weber asked if the exceptions listed in the text change apply regardless of the zoning districts. Glaubius stated the buffer yard requirement comes into effect whenever two different zoning districts abut. Glaubius stated that the Municipal Code lists the different intensities. Wayman asked if the text change would repeal the existing buffer yard requirements. Glaubius stated the existing 20’ buffer yard requirement will remain, and the text change will add two exceptions. Redfern stated that the text change would not affect any existing buffer yards as they are grandfathered, and Glaubius concurred. Reichert informed the Planning Commission that his business will still be required to follow the landscaped area

requirements. Gompert asked Chief Schingle if the Fire Department supported the zoning text change, and Schingle stated the Fire Department does support the change. **Conclusion:** Motion by Wayman, seconded by Aguallo to make a positive recommendation on the buffer yard text change to City Council. Yeas”: Wayman, Estrada, Weber, Aguallo, Gompert, Redfern “Nays” None “Abstained”: None, “Absent”: Chadwick, Westphal, Zitterkopf, Huber.

- 10 Weber opened the public hearing for Item 6D regarding zoning text change to Chapter 4 Article 1 regarding the inclusion of Section 107 of the 2018 International Building Code to the Municipal Code at 6:20 PM. Glaubius stated that Code Administrator II Gary Batt found an oversight in the adoption of the 2018 International Building Code into the Municipal Code. Glaubius stated that Section 107 was listed as one of the excluded sections in the Municipal Code. Glaubius stated that Section 107 allows the city code administrators to require a registered design official prepare construction documents when a construction project has special conditions. Glaubius stated that the city has been enforcing Section 107 although the Municipal Code excluded it. Weber closed the public hearing at 6:21 PM. Weber asked Glaubius if the zoning text change was to make the requirement legal since the city had been incorrectly enforcing it. Glaubius concurred. **Conclusion:** Motion by Estrada, seconded by Wayman to make a positive recommendation on the zoning text change regarding Section 107 to the City Council. Yeas”: Wayman, Estrada, Weber, Aguallo, Redfern, Gompert “Nays” None “Abstained”: None, “Absent”: Chadwick, Huber, Westphal, Zitterkopf
- 11 Weber opened the public hearing for Item 6E regarding a preliminary plat for the Five Oaks Subdivision at 6:22 PM. Glaubius informed the Planning Commission that the preliminary plat is nearly identical with the exception of the three originally planned commercial lots along Highway 71 are consolidated into two multiple family dwelling lots. Glaubius stated all applicable city departments have reviewed the preliminary plat. Glaubius stated that since Block 7 of the preliminary plat exceeds the maximum block length of 1,320 feet, they are required to dedicate a 20’ utility easement and 10’ crosswalk per Code 21-1-22. Bill Trumbull of C&T Holdings partnership which owns the land spoke to the Planning Commission. Trumbull stated the reason for the new preliminary plat is due to the previous preliminary plat expiring. Trumbull stated there is an interested party looking to purchase Block 7 for multiple family dwelling. Weber closed the public hearing at 6:25 PM. Glaubius informed the Planning Commission that a positive recommendation by the commission would need to be conditional on the approval of the crosswalk and utility easement by City Council. **Conclusion:** Motion by Estrada, seconded by Wayman to make a positive recommendation on the preliminary plat of Five Oaks conditional on City Council’s approval of the crosswalk and utility easement. Yeas”: Wayman, Estrada, Weber, Aguallo, Redfern, Gompert “Nays” None “Abstained”: None, “Absent”: Chadwick, Huber, Westphal, Zitterkopf
- 12 Weber opened the public hearing for Item 6F regarding a rezone of Lot 2A, Block 8, East Portal Addition from C-3 Heavy Commercial to R-4 Heavy Density Multiple Family Residential at 6:26 PM. Glaubius stated the property is owned by Dick Meyer, and Meyer is seeking a rezone in order to building a multiple family dwelling complex on the lot. Glaubius stated the 2016 Comprehensive Plan Future Land Use Map identifies the area as being residential. Glaubius stated staff recommends a positive recommendation by the Planning Commission to City Council on the approval of the rezone request. Weber closed the public hearing at 6:28 PM. Redfern stated the property to be rezoned is essentially surrounded by residential zoning, and Glaubius confirmed. Glaubius stated a sign was posted on the property and letters were sent to all property owners within 300 feet. Glaubius stated he did receive some calls from neighbors, and they did not have an issue with the rezone. **Conclusion:** Motion by Estrada, seconded by Gompert to make a positive recommendation on the rezone of Lot 2A, Block 8, East Portal

- Addition from C-3 to R-4 the City Council. Yeas”: Wayman, Estrada, Weber, Aguallo, Redfern, Gompert “Nays” None “Abstained”: None, “Absent”: Chadwick, Huber, Westphal, Zitterkopf
- 13 Weber opened the public hearing for 6G regarding a zoning text change to Chapter 25 Article 2 regarding the repeal of the Gateway Green Overlay Zone (GG-O) at 6:29 PM. Glaubius explained that the GG-O zone is a 2,000-foot area along Highway 26, Highway 71, Highland Road, Highway 79-G, and portions of Avenue I and Broadway. Glaubius provided the Planning Commission with the purpose of the GG-O as listed in the Municipal Code, and reminded the Planning Commission that they recently reviewed and approved the site plan for the Tidal Wave Car Wash as it to be located in the GG-O. Glaubius stated the GG-O is focused on landscape design standards, which can also be found in Chapter 25 Articles 5, 6, and 22. Glaubius stated that staff was bringing forward the repeal of the GG-O as developers have balked at the requirements of the GG-O due to the perception of additional requirements and associated increased costs. Glaubius stated he reviewed the GG-O to identify how it is different compared to the City’s Parking, Sign, and Landscaping Codes. Glaubius stated he found 17 aspects in the 7 pages of the GG-O requirements which could not be found elsewhere in Chapter 25. Glaubius stated he has consulted with the code administrators, economic development director, stormwater division, city attorney, and the city manager. Glaubius discussed the supplemental report on the GG-O. Glaubius stated the majority of the GG-O requirements can be found elsewhere in the code, and that staff is recommending a positive recommendation on the repeal of the GG-O by the Planning Commission to the City Council. Glaubius stated some of the requirements are counterintuitive, slows development along the corridor, and is a burden for staff to review and enforce. Bill Trumbull thanked staff for reviewing the GG-O as parts of the code are discombobulated, and working on making the code easier for developers to understand and staff to enforce. Eric Reichert concurred. Weber closed the public hearing at 6:37 PM. Redfern stated she was on City Council when the GG-O was passed, and one reason for its approval was the existing landscaping ordinance was not adequate. Redfern stated the city was concerned about the entrances of the city, especially when Walmart relocated to Avenue I and has a large parking lot with no landscaping. Redfern also stated there was safety considerations regarding parking lots that the GG-O addressed. Redfern asked Glaubius and the Commission if the landscaping code is strong enough to maintain the standards set by the GG-O. Glaubius stated for the most part the landscaping code is, and some aspects of the GG-O will be incorporated into the landscaping code at a later date. Glaubius stated the off-street parking code has requirements on parking lot island landscaping. Redfern stated part of the original intent of the GG-O was to have all the landscaping, off-street parking, and sign code in one spot. Trumbull concurred, but added that the code has gradually changed. Redfern concurred and stated with the staff turnover and new city councilmembers has disrupted the continuity. Redfern stated she believes it is still the City’s intention to have an aesthetically pleasing community. Glaubius stated that the GG-O has text requiring it to be used in conjunction with the landscaping code, and a significant amount of GG-O text is verbatim to the landscaping code. Wayman inquired if developers would still be able to pursue a variance if the GG-O was repealed. Glaubius stated the main means of pursuing a variance would not be changed. Wayman stated that the repeal of the GG-O would remove the additional step of Planning Commission approval of site plans. Glaubius concurred and stated that Tidal Wave Car Wash may have started construction had they not been required to wait for Planning Commission approval. Wayman stated that the GG-O does not permit gravel parking lots, and asked if staff would look more into the off-street parking surface requirements of the city. Glaubius stated that staff can review to see whether gravel parking lots could rather be limited to specific zoning districts rather than be permitted everywhere in the city except the GG-O. Weber stated that the Planning Commission was shown

pictures of other community entrances when the GG-O was proposed for adoption. Weber stated that the Planning Commission obviously wanted an attractive city entrance, and a balance needs to be found between having an attractive community and not burdening developers. Weber stated the GG-O was to cover the first impressions of the city while the landscaping code was to cover the rest of the city. Weber asked if the GG-O repeal would limit enforcement in the future, and if the Planning Commission should rather amend the GG-O. Weber stated he believes the intent to have attractive looking entrances to the city still exist, and perhaps the GG-O was the first attempt to do this. Weber suggested the landscaping, off-street parking, and sign code be revised prior to the repeal of the GG-O. Weber asked Reichert and Trumbull how they would like to see the code from the developer's side. Reichert stated as a developer, the simpler the code the better. Reichert stated it is challenging to interpret which parts of the code overrides another such as buffer yard requirements versus off-street parking stall requirements. Trumbull stated the GG-O covers a lot of things that are also covered in other areas of codes. Trumbull stated it is difficult to ensure all requirements are being met in both the GG-O and the respective other codes. Trumbull stated that with the GG-O being so broad currently, it is easy for both the city and the developer to miss something. Trumbull stated this leads to uncomfortable situation where the city must determine whether to penalize a developer or accept the oversight. Trumbull stated that if the requirements are in the intended sections such as landscaping requirements being only in the landscaping code, then it is easier for interpretation. Trumbull stated the GG-O was thoughtfully thought out when it was originally approved, but since then other parts of the code have been improved and now there are duplications in the GG-O. Trumbull stated that large developers are used to a streamlined simple formula compared to scattered requirements. Aguallo inquired to Glaubius that staff's intent is to repeal the GG-O, maintain the GG-Os expectations into other sections of the zoning code, and eliminate doublespeak. Glaubius concurred and stated this expectation would be moved to the landscaping code, sign code, and off-street parking code. Redfern suggested the Planning Commission and staff review the other applicable sections of the code prior to outright repealing the GG-O. Redfern stated that once the landscaping, off-street parking, and sign codes have been enhanced, the GG-O could be considered unnecessary and be repealed. Glaubius reviewed the supplement report again with the Planning Commission and inquired which aspects would the Planning Commission like to retain. Wayman stated that he understands the desire for a good-looking community, but the GG-O seems like another barrier for growth, and Aguallo agreed. Wayman used the example of Reichert's fuel station freestanding sign height at Highway 26 and E. Overland Drive. Wayman stated the Planning Commission had to determine whether the sign needed to meet the sign code requirements or the GG-O requirements. Reichert concurred that it was difficult to interpret. Wayman stated he felt that a change to the GG-O needs to happen sooner than later in case it deters potential development. Redfern stated that some of the listed aspects on the supplemental report should not be considered barriers such as screening dumpsters. Wayman and Redfern agreed that most business already want to do this. Redfern stated that most of the aspects of the supplemental report should be incorporated into other parts of the code prior to the repeal of the GG-O. Glaubius reviewed the supplemental report again. Glaubius stated the having landscaping requirements for an entire lot is not reasonable citywide. Glaubius stated that the requirement to bury overhead powerlines is not reasonable either and is one that developers balk at due to the high cost of burying powerlines. Glaubius stated the requirement of having parking behind or between buildings has a good intent, however the wording is inadequate. Glaubius stated that this could be incorporated into the off-street parking code, however questioned whether this requirement should remain. Glaubius used the example of Menards as this requirement would have led to

the back of the building facing Highway 26. Glaubius stated the xeriscaping section of the GG-O is only a suggestion, and there is no ability to enforce it. Glaubius stated the xeriscaping suggestion would be more effective as a brochure or handout instead of being in the municipal code. Glaubius stated the GG-O screening standards could be easily incorporated into the existing screen standards of the landscaping code. Glaubius stated that some of the wording of the GG-O is illogical for example the requirement of grease containers to be no more than 20' feet from residential zoning districts. Glaubius stated the landscaping screen standards are stricter than some of the GG-O screening requirements. Glaubius stated the requirement to screen rooftop equipment and equipment from sidewalks is desirable, but questioned whether the city needed to have this requirement since most developers already do this. Glaubius stated the complete prohibition of outdoor storage could not be applied citywide. Glaubius stated the GG-O buffer yard requirement had been incorporated into the landscaping code tonight. Glaubius stated the requirement of shrubs to be planted within 10' of the primary structure foundation at a density that will obscure 60% of the building foundation after 5 years except sides and rear if used for service/loading was an asinine requirement, and impractical for the city to enforce. Glaubius stated the planting layout requirements have a good intent, but places a large burden on staff to ensure the requirements are being met. Glaubius stated the landscaping code already has requirements on the layout of trees. Glaubius stated the size requirements for perennials and ornamental grasses should be incorporated into the landscaping code as tree and shrub minimum sizes are already defined there. Glaubius stated the paved off-street parking can be added to the off-street parking code. Glaubius stated he spoke with Stormwater Specialist Leann Sato regarding the stormwater retention landscaping requirement, and this may be better placed in the stormwater chapter of the municipal code. Glaubius stated the 3% impact fee if landscaping cannot be provided in the GG-O has not been enforced, and the Finance Department was not aware of this. Glaubius stated the necessity of Planning Commission site plan approval could be eliminated as staff already reviews the site plan. Trumbull inquired whether a public hearing would be necessary if sections of the code were changed. Glaubius stated public hearings would be required, but the changes could be consolidated into fewer ordinances. Weber stated it was the intent of staff to repeal the GG-O, however he would like to have the Planning Commission to further review the GG-O prior to taking action. Weber stated he wanted to consider keeping the GG-O in order to maintain attractive entrances to the city. Weber stated he would like to have staff and the Planning Commission explore this more at the January meeting. **Conclusion:** Motion by Estrada, seconded by Wayman to table the repeal of the Gateway Green Overlay Zone. Yeas": Wayman, Estrada, Weber, Aguallo, Redfern, Gompert "Nays" None "Abstained": None, "Absent": Chadwick, Huber, Westphal, Zitterkopf

- 14 Item 7: Glaubius reported in staff reports about the upcoming Panhandle Planning Workshop on January 25, 2022, and the Planning Commission is invited to attend.

Item 8: No Other Business

- 15 Weber introduced Item 9 regarding scheduling the next Planning Commission meeting on January 10, 2022.

- 16 Adjournment: Motion by Estrada, seconded by Zitterkopf to adjourn the meeting at 7:09 PM. Yeas": Wayman, Estrada, Weber, Aguallo, Redfern, Gompert "Nays" None "Abstained": None, "Absent": Chadwick, Huber, Westphal, Zitterkopf

Chairman Dana Weber

Zachary Glaubius, Secretary