

City of Scottsbluff, Nebraska

Monday, October 3, 2022

Regular Meeting

Item Pub. Hear.2

Council to conduct a public hearing set for this date at 6:00 p.m. to consider the Rezone of Lots 1-2 & 5-9 of Block 3, Lots 1-3 of Block 6, Lots 1-7 of Block 7, and Tract C, Hilltop Estates Subdivision.

Staff Contact: Zachary Glaubius, Planning Administrator

Agenda Statement

Item No.

For Meeting of: October 3, 2022

AGENDA TITLE: Council to consider the first reading of the Ordinance regarding the Rezone of Lots 1-2, & 5-9 of Block 3, Lots 1-3 of Block 6, Lots 1-7 of Block 7, and Tract C Hilltop Estates Subdivision.

SUBMITTED BY DEPARTMENT/ORGANIZATION: Development Services

PRESENTATION BY: Zachary Glaubius, Planning Administrator

SUMMARY EXPLANATION: At the September 12, 2022 Planning Commission meeting, staff presented a rezone request from R-1 to R-1A for the above stated lots in the in the Hilltop Estates subdivision. It had come to staff's attention that part of the Hilltop Estates subdivision was not included in the 2017 rezone. As a result, some lots are split between the R-1 and R-1A zoning districts. Both R-1 and R-1A are single-family residential zoning districts. The key differences being smaller lots in R-1A, different setback requirements, as well as two-family dwellings and multi-family dwellings being permitted in R-1A while two family dwellings require a special permit form the Planning Commission in the R-1 zone. Staff consulted the developer on whether they would prefer the subdivision be R-1A or R-1. The developer preferred R-1A. Planning Commission made a positive recommendation on the approval of the rezone request.

BOARD/COMMISSION/STAFF RECOMMENDATION: Positive recommendation on approval by P.C.

Does this item require the expenditure of funds?

_____yes **X** no

Are funds budgeted?

_____yes _____no

If no, comments:

Estimated Amount

Amount Budgeted

Department

Account Description

Approval of funds available

City Finance Director

EXHIBITS

Resolution ☐

Ordinance ☒

Contract ☐

Minutes ☒ Plan/Map ☒

Other (specify) Planning Commission Staff Report

Rev: 12/14/ City Clerk

NOTIFICATION LIST: Yes ☐ No ☐ Further Instructions ☐
Please list names and addresses required for notification.

APPROVAL FOR SUBMITTAL: _____
City Manager

Rev: 12/14/ City Clerk

City of Scottsbluff Planning Commission

Development Services Staff Report – Zachary Glaubius

Prepared on: August 10, 2022 For Hearing of: September 12, 2022



I. GENERAL INFORMATION

- A. Applicant:** City of Scottsbluff Development Services
- B. Proposal:** Request to rezone the following lots and tracts in the Hilltop Estates Subdivision from R-1 Single Family Residential to R-1A Single Family Residential
- C. Legal Description:** Hilltop Estates Subdivision
Block 3: Lots 1, 2, 5, 6, 7, 8, & 9
Block 6: Lots 1, 2, & 3
Block 7: Lots 1-7
Tract C
- D. Location:** Western 1/3 of Hilltop Estates Subdivision and northeast corner of Hilltop Estates Subdivision
- E. Existing Zoning & Land Use:** R-1 Single-Family Residential
- F. Future Land Use Designation:** Rural Residential
- G. Size of Site:** Approximately 11 acres

II. BACKGROUND INFORMATION

A. General Neighborhood/Area Land Uses and Zoning:

Direction From Subject Site	Future Land Use Designation	Current Zoning Designation	Surrounding Development
North	Residential	R-1A Single Family	NPPD Solar Panel Field
East	Residential	R-1A Single Family/R-1 Single Family	Vacant Lots/Existing Acreage
South	Residential	R-1 Single Family	Single Family Dwellings
West	Residential	R-1 Single Family	Fairview Cemetery

B. Relevant Case History

1. The subdivision was platted in 2017.
2. The City of Scottsbluff accepted all improvements in August 2022.

3. No record of a rezone for the listed lots could be found in Planning Commission or City Council minutes.

III. **ANALYSIS**

- A. **Comprehensive Plan:** The Future Land Use Map of the Comprehensive Plan currently shows the site as Rural Residential.
- B. **Traffic & Access:**
 1. Current access is via Hilltop Estate Place or 12th Avenue
- C. **Utilities:**
 1. All lots have access to water and sewer.
 2. Tract C is a stormwater retention pond.
 3. A pipe has been installed in the subdivision that would direct water from the Tract C retention pond to the retention pond located under the solar panels.

IV. **STAFF COMMENTS**

- A. No record of the listed lots being rezoned to R-1A could be found. The current zoning boundary follows a former property line.
- B. The proposed rezone to R-1A is not a spot zone as the rest of the subdivision is zoned R-1A.
- C. The City has consulted with Mr. Hunter Kosman regarding the rezone. He agreed to the rezone request.
- D. R-1A will allow more types of residential uses than R-1. R-1A includes detached single-family dwellings, duplexes, and multi-family dwellings as principal permitted uses. R-1 is more limited as only single family detached dwellings are a permitted residential use.
- E. The Comprehensive Plan shows this area as rural residential. However, the subdivision is not rural in nature. The subdivision is an “island” of rural residential in the residential future land use map.

V. **FINDINGS OF FACT**

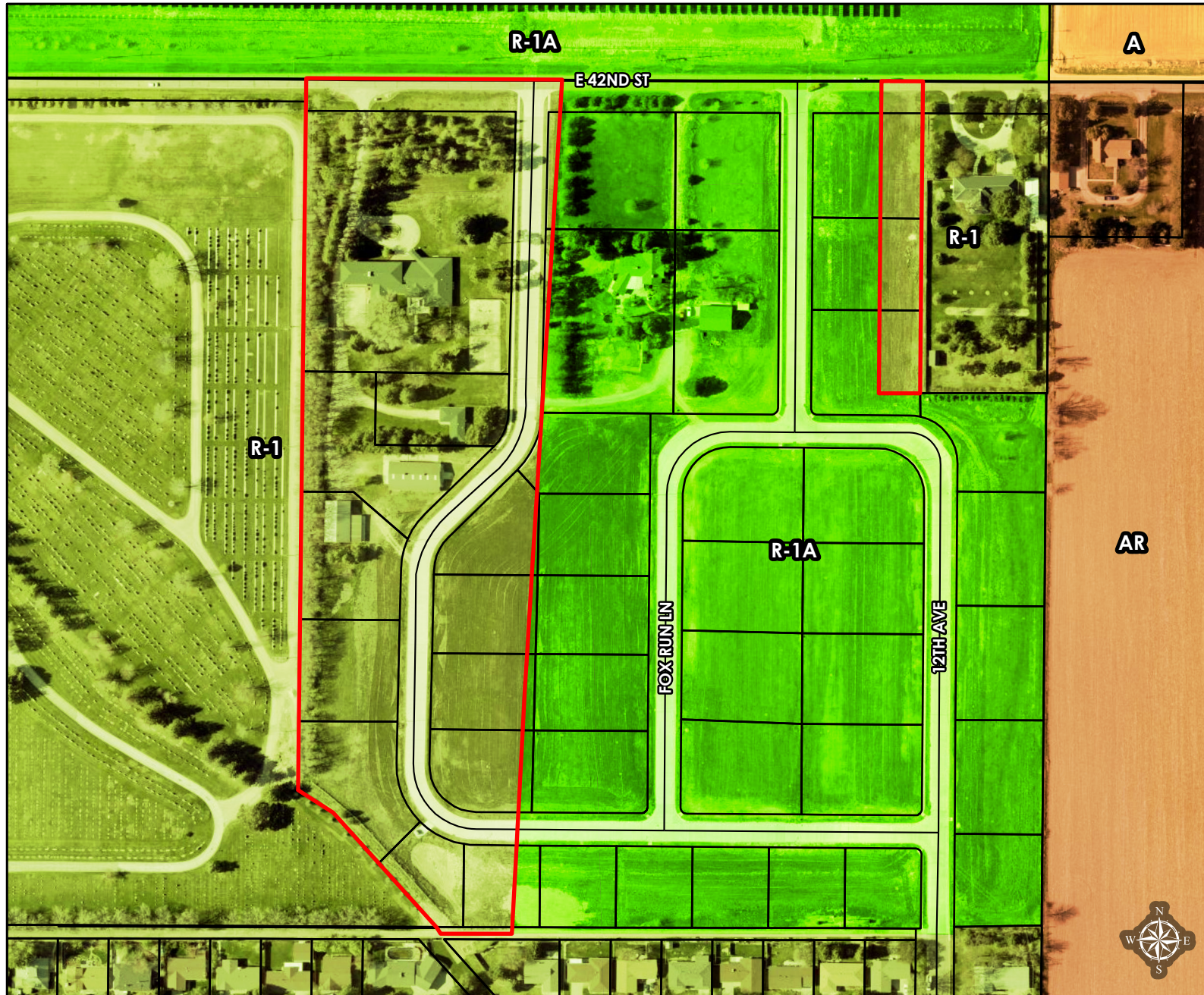
- A. **Findings of Fact to Recommend Its Approval May Include:**
 1. The entire subdivision will be in one zoning district. This is the intent of the subdivision.
 2. The rezone will simplify the zoning regulations of 11 lots which are split by the R-1 and R-1A zoning districts.
 3. The rezone is not a “spot zone”.
- B. **Findings of Fact to Not Recommend Approval May Include:**
 1. The rezone does not align with the 2016 Comprehensive Plan Future Land Use map which designates the area as Rural Residential.

VI. **STAFF RECCOMENDATION**

- A. Staff recommends the Planning Commission make a positive recommendation to City Council to approve the rezone of Lots 1, 2, & 5-9 Block 3, Lots 1-3, Block 6, Lots 1-7, Block 7, and Tract C of the Hilltop Estates Subdivision to R-1A Single Family Residential from R-1 Single Family Residential.

Hilltop Subdivision Rezone

Zoning Overview

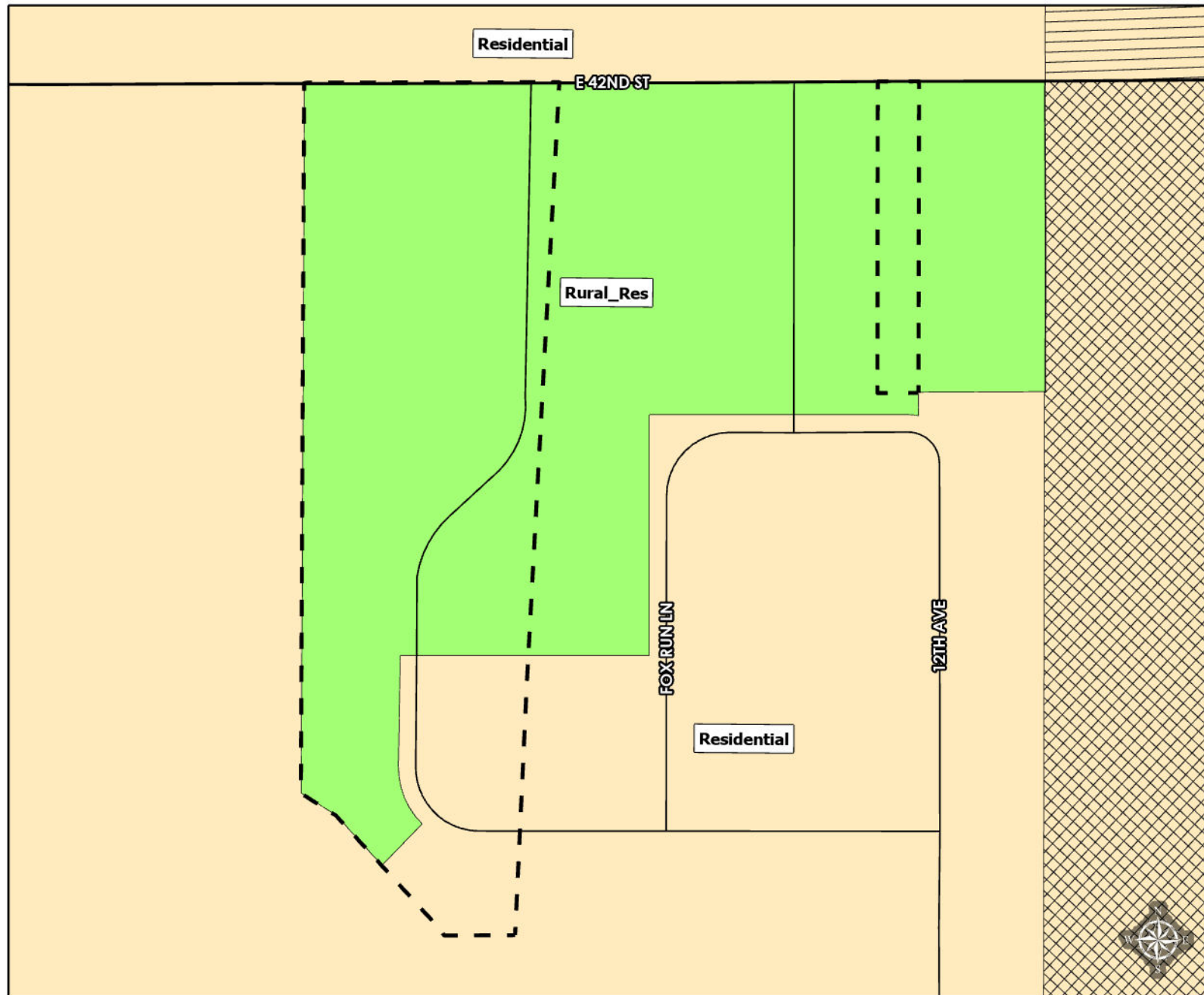


- Proposed Changes
- Street Centerlines
 - Highway
 - Main Road
 - Residential/Rural
- Official City Zoning
 - (A) Agriculture
 - (AR) Agriculture Residential
 - (C-1) Central Business District
 - (C-2) Neighborhood Commercial
 - (C-3) Heavy Commercial
 - (M-1) Light Manufacturing & Industrial
 - (M-2) Heavy Manufacturing and Industrial
 - (O-P) Office and Professional
 - (PBC) Planned Business Center
 - (R-1) Single Family
 - (R-1A) Single Family Medium Density
 - (R-1B) Rural Residential Estate
 - (R-4) Heavy Density Multiple Family
 - (R-6) Mobile Home
 - Parcels

Taylor Stephens
City of Scottsbluff GIS
Created on 9/6/2022
Coordinate System: NAD 1983 (2011)
StatePlane Nebraska FIPS 2600 Feet
Lambert Conformal Conic

The City makes no representation or warranty as to the accuracy, timeliness, or completeness, and in particular, its accuracy in labeling or displaying dimensions, contours, property boundaries, or placement or location of any map features thereon.

Hilltop Subdivision Rezone



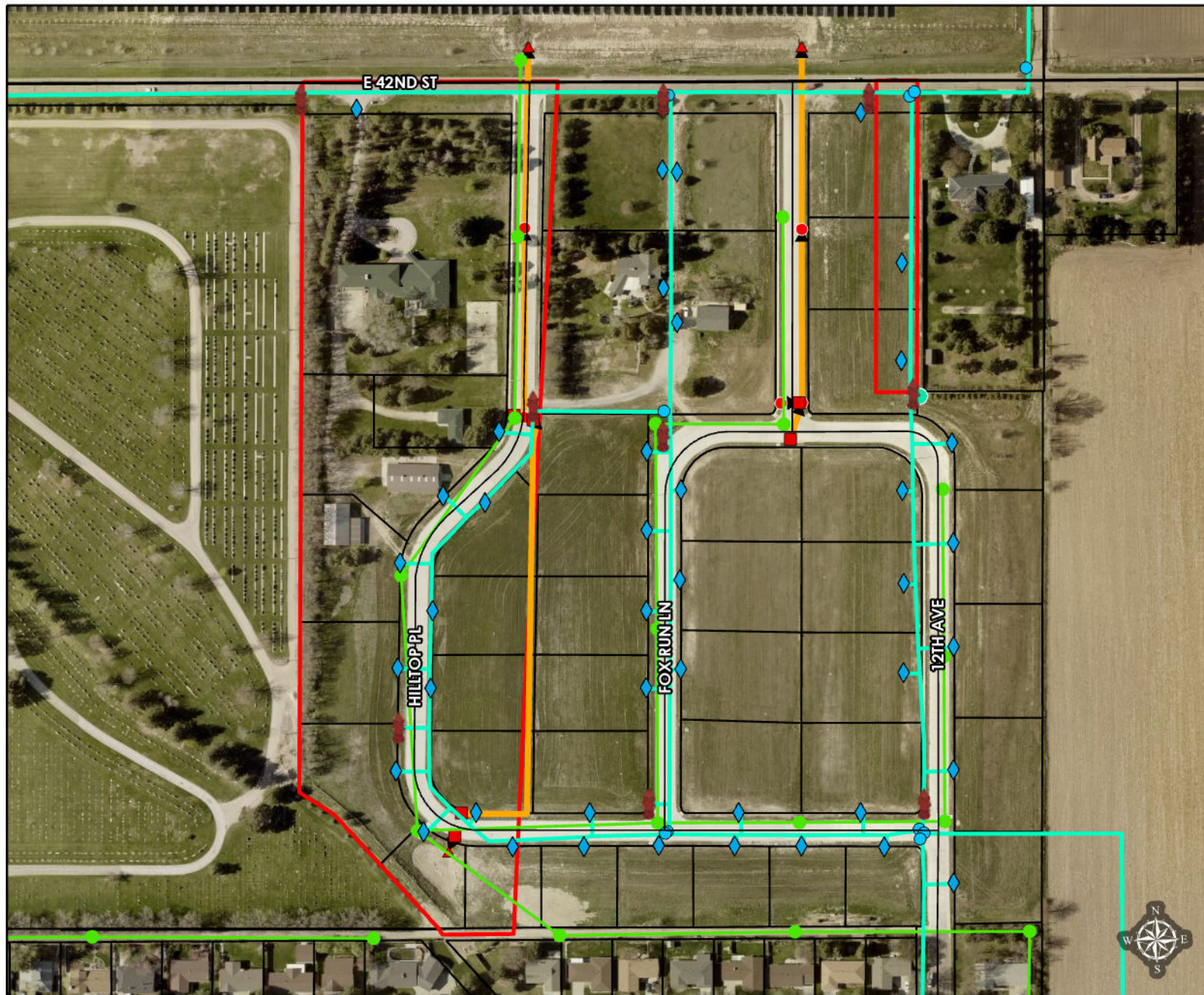
- Proposed Changes
- 2016 Comp. Plan Land Use**
- Automobile Commercial
 - Avenue B and Hospital Campus
 - Central Business District
 - East Overland
 - Highway 26 Commercial
 - Northwest Commercial
 - Residential
 - Rural
 - Rural Residential
 - SE Industrial and Commercial
 - South Broadway
 - WNCC and Surrounding Area
- Street Centerlines**
- Highway
 - Main Road
 - Residential/Rural
- 2016 Comp. Plan Development**
- LTD (10 - 20 yrs)
 - NTD (Less than 5 yrs)
 - STD (5 - 10 yrs)

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Hilltop Subdivision Rezone

Utilities Overview



 Proposed Property

Street Centerlines

Highway

Main Road

Residential/Rural

▲ Fire Hydrants

◆ Water Curbstop

● Water Valve

● Water Manhole

— Water Lines

● Wastewater MH

— Wastewater Lines

▲ Outfall

■ Stormwater Inlet

● Stormwater Manhole

— Stormwater Arc

 Parcels

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RGB

■ Red: Band_1

■ Green: Band_2

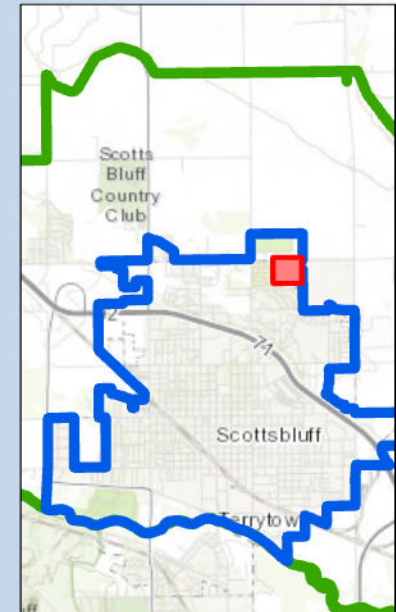
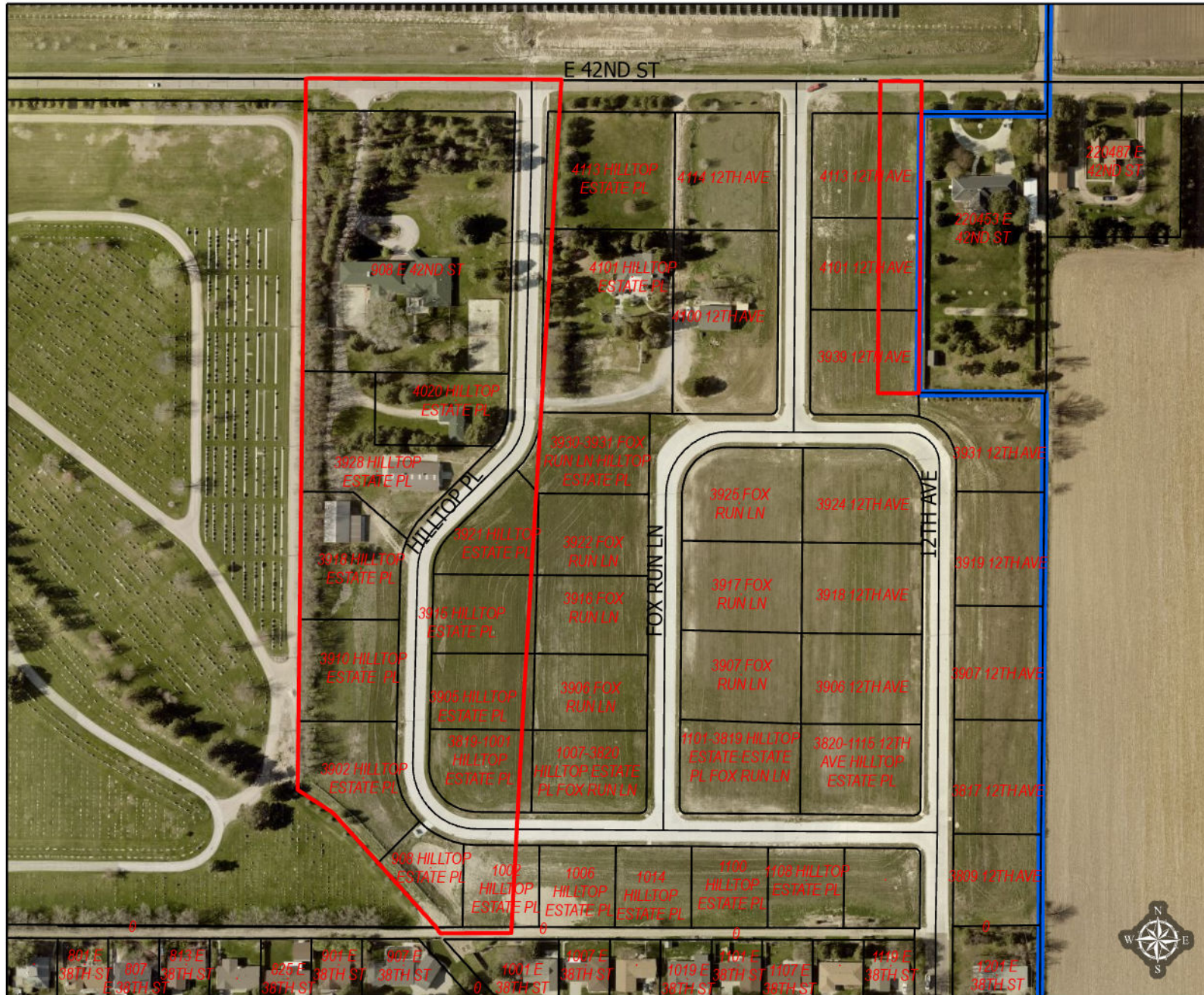
■ Blue: Band_3

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Hilltop Subdivision Rezone

Aerial Overview



- Corporate Limits
- Extended Jurisdiction
- Proposed Changes
- Street Centerline**
- Highway
- Main Road
- Residential
- Parcels
- Address

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PLANNING COMMISSION MINUTES
REGULAR SCHEDULED MEETING
September 12, 2022
SCOTTSBLUFF, NEBRASKA

The Planning Commission for the City of Scottsbluff met in regular scheduled meeting on Monday, September 12, 2022 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 September 1, 2022. 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, Becky Estrada, Dave Gompert, Callen Wayman, Mark Westphal, Dana Weber, Angie Aguillo, Jim Zitterkopf Linda Redfern (Alternate, Quorum present so excused). "Absent": Anita Chadwick, Henry Huber. City Officials present were Zachary Glaubius, Planning Administrator, Taylor Stephens, GIS Analyst, Stormwater Specialist Leann Sato, and Gary Batt, Code Administrator II.
- 2 Chairman Dana 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 11, 2022 meeting were reviewed. Conclusion: a motion was made by Aguillo and seconded by Estrada to approve the minutes from July 11, 2022 meeting. "Yeas" Zitterkopf, Aguillo, Westphal, Wayman, Weber, Gompert, Estrada "Nays": "Absent": Chadwick, Huber "Excused": Redfern (alt.) The motion carried.
- 6 Item 6B: Chairman Weber opened a public hearing at 6:02 PM regarding a Rezone of Lots 1- 2 & 5-9 of Block 3, Lots 1-3 of Block 6, Lots 1-7 of Block 7, and Tract C, Hilltop Estates Subdivision, situated in the Northwest Quarter of Section 13, Township 22N, Range 55 West of the 6th P.M., Scotts Bluff County C. Glaubius stated staff had discovered part of the Hilltop Estates subdivision was rezoned with the other part in 2017. Glaubius stated the subdivision is split between R-1 and R-1A Single Family. Glaubius stated there were several lots that were split between zoning districts, which would complicate future construction due to different requirements in the districts. Glaubius stated he had spoken with Hunter Kosman, the developer, on the rezone, and he was agreeable to it. Glaubius stated the main difference was the setbacks and lot sizes as R-1 has a minimum lot size of 12,000 square feet compared to the 5,500 square feet requirement in the R-1A district. John Blomstedt, a property owner within 300 feet spoke to the Planning Commission. Blomstedt inquired what the rezone change meant. Blomstedt inquired if the lots could be further subdivided with the rezone. Glaubius stated they would be able to split into 5,500 square foot lots with the approval of the rezone. Blomstedt stated he was told duplexes would be permitted in the subdivision with the rezone to R-1A, and expressed concern about future duplexes decreasing his property value. Wayman and Weber stated the majority of the subdivision was already zoned R-1A, and therefore duplexes were already permitted. Weber stated duplexes are permitted in R-1A and in R-1 with a special permit. Weber stated duplexes

will be permitted regardless of R-1 or R-1A zoning district. Blomstedt asked what a special permit meant. Weber stated a property owner would need the Planning Commission's permission to build a duplex in the R-1 zoning district. Blomstedt stated he was told when he purchased his property that duplexes could only be built on the southern edge of the subdivision. Glaubius stated there could be a homeowner's association convenient that has that restriction. Blomstedt asked if the HOA covenant took precedence over the zoning district. Weber stated the HOA covenant would be in addition to the zoning requirements. Weber stated the zoning requirements are enforced by the City, while HOA covenant requirements have to be enforced by the HOA. Blomstedt stated the HOA requires 17,000 square foot lots and no duplexes except for the southern lots. Weber stated the rezone would not have a big effect on the subdivision as the HOA further restricts development. Weber reiterated that the HOA requirements would have to be enforced by the HOA. Westphal asked what the average lot size in the subdivision was. Blomstedt stated the majority of the lots are a half-acre or larger. Weber closed the public hearing at 6:10 PM. Weber stated staff is recommending a positive recommendation on the approval of the rezone. Westphal asked if the developer was pursuing the rezone to sell lots faster. Glaubius stated the rezone request is from the City. Wayman stated the proposed rezone is to clean up the zoning map. Batt stated this rezone request is to correct an oversight in 2017 when the majority of the subdivision was rezoned. Aguillo stated the rezone would eliminate lots with mixed zoning districts. Westphal asked if a duplex could be put in with this rezone. Glaubius stated the City would permit it, but the HOA covenant prohibits it. Glaubius stated the City does not enforce HOA covenants and does not research them. Westphal asked if there were different height restrictions. Batt stated the maximum height for both zoning districts is 35 feet. Westphal stated he was not in favor of the rezone as the Blomstedts were told there would not be duplexes built near them, and the rezone was just to make a pretty map for the City. Weber stated duplexes still could have been built near them with the present R-1 zoning, and the only difference is the necessity of a special permit.

- 7 **Conclusion:** Motion by Wayman, seconded by Gompert to make a positive recommendation on the approval by the city council for a rezone from R-1 to R-1A of Lots 1- 2 & 5-9 of Block 3, Lots 1-3 of Block 6, Lots 1-7 of Block 7, and Tract C, Hilltop Estates Subdivision. "Yeas" Zitterkopf, Aguillo, Wayman, Weber, Gompert, Estrada "Nays": Westphal "Absent": Chadwick, Huber "Excused": Redfern (alt.)
- 8 Item 6C: Chairman Weber opened the public hearing regarding a proposed ordinance text change to Chapter 25 Article 19, Article 12, Article 15, and Article 3 regarding the Floodplain Overlay Zone at 6:15 PM. Glaubius stated the ordinance change is predominantly to Article 19 which is the Floodways article. Glaubius stated the reason for the proposed ordinance text change was to improve the City's Community Rating System score. Glaubius stated the CRS is a FEMA program that the City participates in that give property owners in the floodplain a discount on their flood insurance premiums. Glaubius stated there was approximately 794 eligible properties and 2,002 structures in the flood area. Glaubius stated the City is currently at a score of 9. Glaubius stated 10 is the minimum and 1 is the best. Glaubius stated Sato was working with a FEMA representative to improve the City's score to 8. Glaubius stated each number is a 5% discount. Glaubius stated the existing floodplain ordinance was modified to be more consistent with the Nebraska Department of Natural Resources's model floodplain ordinance in the proposed change. Glaubius stated the most important change was adding the requirement to elevate mechanical and utility equipment above the base flood elevation. Glaubius stated the City is already required to require this elevation by FEMA, but did not have it in ordinance text. Glaubius stated the name of Article 19 would also be changed from "Floodways" to "Floodplain Overlay Zone." Glaubius stated floodway/floodplain references were

updated to reflect the new name in Articles 12 and 15. Glaubius also stated the ordinance text change included the repeal of 25-3-22 regarding the Floodplain Zoning District. Glaubius stated the Floodplain Zoning District is not utilized by the City and is redundant. Glaubius stated updated flood terminology was included in the proposed text change such as changing the 100- and 500-year flood to the 1% and 0.2% flood chance as used by FEMA. Glaubius stated staff recommends a positive recommendation on the approval of the ordinance text change. Weber closed the public hearing at 6:18 PM. Weber inquired about mechanical and utility elevation requirement being currently enforced. Glaubius stated it is being enforced, but not in city code. Weber stated the proposed ordinance text change does not really change much. Weber stated with the 5% discount per score, the City could save property owners up to 50% on flood insurance premiums. Westphal and Aguillo stated this would be hugely beneficial to the community. Weber inquired how to improve the score to 1. Sato stated we were ineligible as we are not located on the coast. Sato stated there was only one community in the nation that had a score of 1.

- 9 **Conclusion:** Motion by Westphal, seconded by Estrada to make a positive recommendation to the city council to approve the proposed ordinance text amendment change to 4-1-10 and 4-1-2. "Yeas" Aguillo, Zitterkopf, Westphal, Weber, Gompert, Wayman, Estrada "Nays": "Absent": Chadwick, Huber "Excused": Redfern (alt.) The motion carried.
- 10 Item 7: Staff Reports. Glaubius stated there was two subdivisions originally on the meeting agenda and notices were mailed out, however not all required information was submitted in time to have public hearings on September 12, 2022. Glaubius stated he expects them to be on the October 10, 2022 Planning Commission meeting. Glaubius stated staff is working on more ordinance text changes including some to Chapter 21 regarding cul de sac diameters. Glaubius stated that Stormwater Specialist/Floodplain Manager Leann Sato has been moved to the Development Services Department from Public Works. Glaubius stated Code Administrator I Sheila Hort retired and Code Administrator I Logan Lund has filled her position.
- 11 Item 8: Other Business: The Planning Commission recognized Mark Westphal and Anita Chadwick for their service to the Planning Commission as their terms expire on September 30, 2022.
- 12 Weber introduced Item 9 regarding scheduling the next Planning Commission meeting on October 10, 2022
- 13 Item 10: Adjournment
- 14 Adjournment: Motion by Westphal, seconded by Estrada to adjourn the meeting at 6:25 PM. "Yeas" Aguillo, Zitterkopf, Westphal, Weber, Gompert, Wayman, Estrada "Nays": "Absent": Chadwick, Huber "Excused": Redfern (alt.) The motion carried.

Chairman Dana Weber

Zachary Glaubius, Secretary