

PLANNING COMMISSION

July 10, 2021

8:00 AM

Chairman Jim Masek opened the meeting at 8:00 AM in the meeting room of the City Office Building, 557 4th Street, David City, Nebraska and notified the public of the "Open Meetings Act" posted on the east wall of the meeting room.

Present: Planning Commission members Jim Masek, Keith Marvin, Pam Kabourek, and Jim Vandenberg. Planning Commission member Nicole Gasper was absent. Also, present were City Administrator Clayton Keller, City Clerk Tami Comte, Deputy City Clerk Lori Matchett, Council member Patrick Meysenburg, Mark & Willow Holoubek, Steve Maguire, and John & Teresa Hermsen.

Planning Commission member Pam Kabourek made a motion to approve the minutes of the June 12, 2021 meeting as presented. Jim Vandenberg seconded the motion. The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

Planning Commission member Keith Marvin made a motion to open the Public Hearing at 8:03 a.m. to consider annexing the Holoubek and Ledon properties located in Lots 6 and 7, David City Land and Lot Company's Suburban lots, located in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at the northeast corner of lot 8 in said David City Land and Lot Company's Suburban Lots; thence N89°43'00"E on the North line of said Lots 6 and 7, a distance of 638.12 feet to the Northeast corner of said Lot 6; thence S00°20'16"W on the East line of said Lot 6, a distance of 796.95 feet to the North line of Sypal East Addition to the City of David City, Nebraska, also being the North line of the City of David City's existing corporate limits; thence N89°30'38"W on said North lines, a distance of 447.27 feet to the Northwest corner of said Sypal East Addition; thence S00°33'20"W on the East line of said Sypal East Addition and the West line of said corporate limits, a distance of 149.37 feet; thence N89°27'22"W on said North corporate limits line, a distance of 191.23 feet to the East line of said Lot 8 and the East line of said corporate limits; thence N00°23'53"E on said East lines, a distance of 937.53 feet to the point of beginning, containing 12.7 acres, more or less; Pam Kabourek seconded the motion. The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

Steve Maguire commented, "Mr. Chairman, is it the normal process of this board if you know someone is involved in a real estate tract to notify them in writing of the meeting? Mr. Holoubek received a letter about this meeting; I did not. And I was wondering why he received it when this board recommended restraining orders. The city filed lawsuits on me. The city dismissed the lawsuits. The city acknowledged that we did nothing wrong in that dismissal because it went through city council and the mayor signed off on it. This board knew I was involved in this property but never noticed me, I was wondering why they omitted that?"

City Clerk Tami Comte answered, "When we have to send notice, I look at the assessor's website. I see the owner of the property on the assessor's website and that is who I send notice to. You are not listed on the assessor's website."

Steve Maguire added, "Then why did the city sue me over this property?"

City Clerk Tami Comte responded, "You will have to talk to the Council, I just know who I sent the notice to."

Steve Maguire added, "So the official position is that I just don't get a notice even though you know that I am involved in the property."

City Clerk Tami Comte replied, "Legally, I send it to who is the owner on the assessors website."

Chairman Jim Masek added, "Yeah, and she has to follow whatever is listed legally according to the assessors and so on. She has always done an excellent job at doing that."

Mark Holoubek commented, "Mr. Chairman, my wife and I oppose annexation at this time based on Nebraska Statute 17-405.01. It is a rural property, it is owned by my wife and I. There is no reason to annex the property."

Planning Commission member Keith Marvin asked, "Are you familiar with the case law in Nebraska that says that land could be used for agricultural purposes but still be considered urban and suburban in character? The City of Gretna just went through a case extensively adding hundreds of acres that had corn on them and the Supreme Court supported that case."

Mark Holoubek commented, "We oppose annexation at this time based on the fact that we own the property and it is agricultural in nature."

Planning Commission member Keith Marvin asked, "Clayton, can they do that based on the Memorandum of Understanding that the council approved?"

City Administrator Clayton Keller responded, "I don't know, I just know that if it is not annexed, we cannot move forward with that agreement."

Planning Commission member Keith Marvin added, "Ok, but parts of that agreement have already been executed, correct?"

City Administrator Clayton Keller answered, "Correct."

Planning Commission member Keith Marvin continued, "So therefore, Mr. Holoubek has already got one of the key elements in his situation and is not willing to hold up to the rest of it."

Mark Holoubek commented, "That is incorrect. The property is not sold, a purchase agreement is not in effect until deposit money is deposited in the office of the real estate and that has not been done."

Planning Commission member Keith Marvin asked, "Do you understand that the City cannot move forward on this, from what I understand, because the CRA cannot expend money that is not in the city limits."

Mark Holoubek responded, "One, I do not know what a CRA is and I don't really care what it is. Private property has not been purchased. There is no rush, what's your big rush?"

Planning Commission member Keith Marvin added, "Community Redevelopment Authority. We are trying to get some housing in this community that's affordable."

Mark Holoubek commented, "You could have thought about that for twenty years and you have opposed it for twenty years, what's your rush now? The point is, I have sold this property three times, it has never closed because the people have never come up with the money. Based on my history, I am simply saying, give me the money, let's see if it sells. At this point, you missed your first opportunity to purchase and we had to do an addendum and if the money comes in the fourteenth, my wife and I will reconsider. At this point we have sold it three times; we have never sold it because people have never put the money up. Until we see the money, it's not sold. A purchase agreement is not executed until the money is deposited."

Planning Commission member Keith Marvin asked, "Lori, do you have it on the record that they oppose it?"

Deputy City Clerk Lori Matchett answered, "Yes."

Planning Commission member Keith Marvin asked, "Clayton, Pat?"

City Administrator Clayton Keller said, "I encourage the annexation. The Community Redevelopment Authority, or otherwise the CRA, cannot move forward with purchasing this property if it is not within the city limits, and that's because in order for us to use TIF to purchase this land it has to go through a substandard and blight study and then it can be designated as blighted and then we can use TIF through a Redevelopment Plan. That can't happen if we don't have it in city limits."

Planning Commission member Keith Marvin made a motion to close the Public Hearing at 8:10 a.m. for consideration of annexing the Holoubek and Ledon properties

located in Lots 6 and 7, David City Land and Lot Company's Suburban lots, located in the SW¼ of the SE¼ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at the northeast corner of lot 8 in said David City Land and Lot Company's Suburban Lots; thence N89°43'00"E on the North line of said Lots 6 and 7, a distance of 638.12 feet to the Northeast corner of said Lot 6; thence S00°20'16"W on the East line of said Lot 6, a distance of 796.95 feet to the North line of Sypal East Addition to the City of David City, Nebraska, also being the North line of the City of David City's existing corporate limits; thence N89°30'38"W on said North lines, a distance of 447.27 feet to the Northwest corner of said Sypal East Addition; thence S00°33'20"W on the East line of said Sypal East Addition and the West line of said corporate limits, a distance of 149.37 feet; thence N89°27'22"W on said North corporate limits line, a distance of 191.23 feet to the East line of said Lot 8 and the East line of said corporate limits; thence N00°23'53"E on said East lines, a distance of 937.53 feet to the point of beginning, containing 12.7 acres, more or less; Pam Kabourek seconded the motion. The motion carried.

Discussion continued.

Willow Holoubek said, "I think the reason that emotions are so high here is, yes we did start to do market research. We didn't file anything. We asked before we did anything with it. And the Sheriff shows up at my door, I have no idea why. And the reason I have no idea why is because I didn't know it had been filed by a county official. We had no idea. So, you have to understand we are coming from a defensive side. Okay? If this property has to be annexed to buy it, there has to be something, somehow that we can say, okay, the City doesn't buy it that it goes back to county property or that the taxes don't go up on it because we are going to farm it forever. If it doesn't go through, we are going to farm that piece forever. And if that money does not come through and this falls through then I expect it to be de-annexed and I expect the taxes stay the county taxes."

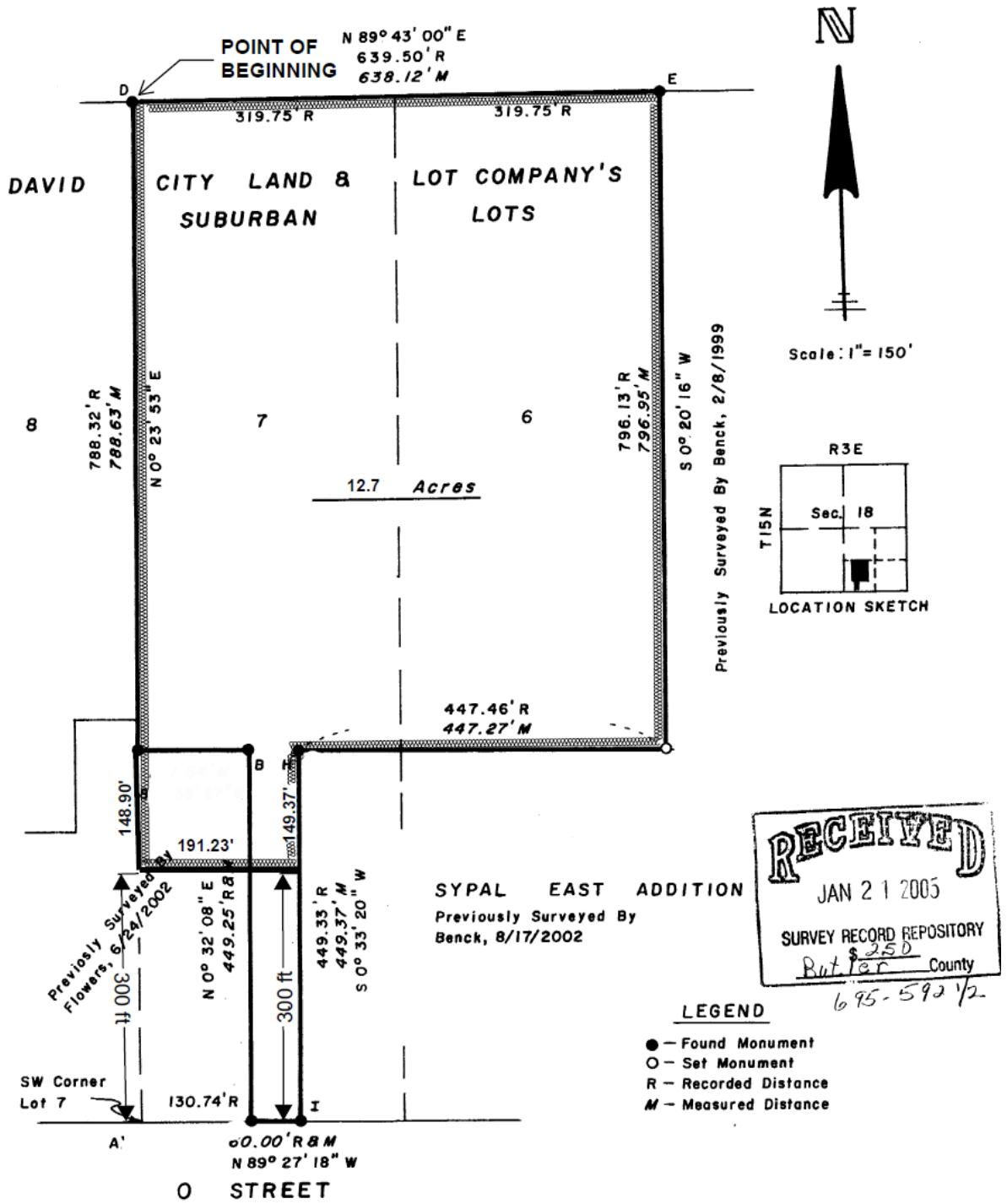
City Clerk Tami Comte said, "It can be de-annexed. We de-annexed the Hein property when the ethanol plant fell through so we can certainly de-annex it if this falls through."

Willow Holoubek added, "Ok, And I do need an official commitment on that."

City Clerk Tami Comte said, "I can't do that. That is something that you would need to talk to the City Council about. The Planning Commission is just a recommending body to the City Council."

Roll call for the Motion to close the Public Hearing was taken. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

Planning Commission member Keith Marvin made a motion to recommend to the City Council annexing the Holoubek and Ledon properties located in Lots 6 and 7, David City Land and Lot Company's Suburban lots, located in the SW1/4 of the SE1/4 of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, and if the CRA does not follow through with purchasing this, that the Planning Commission would go through the process of de-annexing the property at that point in time. Jim Masek seconded the motion. The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Nay. Yea: 3, Nay: 1, Absent: 1.



Planning Commission member Keith Marvin made a motion to combine agenda items six and eight and open the public hearing at 8:27 a.m. for consideration of amending the Future Land Use Plan Map and Official Zoning Map by changing the zoning classification from FS – Flex Space to I – Industrial on the Future Land Use Map and changing the zoning classification from FS – Flex Space to I-2 – Heavy Industrial on the Official Zoning Map for the following real estate as requested by Timpte Inc. SE1/4 NW1/4 of Section 18, Township 15 N, Range 3 E of the Sixth P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast corner of the Northwest Quarter (NW1/4) of the said Section Eighteen (18); thence along the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18), S88°20'22"W, a distance of 41.07 feet to West right of way of Highway 15; thence continuing on the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18) for the next two (2) courses, S88°03'46"W, a distance of 324.80 feet to the point of beginning; thence S88°03'01"W, a distance of 953.55 feet; thence N01°56'22"W, a distance of 800.00 feet; thence N88°02'58"E, a distance of 940.00 feet; thence S01°49'16"E, a distance of 478.45 feet; thence N88°09'27"E, a distance of 15.35 feet; thence S01°47'41"E, a distance of 321.54 feet to the point of beginning. Jim Vandenberg seconded the motion. The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

Chairman Jim Masek asked, "Is there any other comments or statements regarding this property?"

City Clerk Tami Comte said, "Timpte requested this because they are going to use it as part of their manufacturing facility."

Chairman Jim Masek said, "I think it's something good. We need to keep Timpte here."

Jim Vandenberg added, "And it's adjacent to their current property."

Planning Commission member Keith Marvin made a motion to close the public hearing at 8:29 a.m. for the consideration of amending the Future Land Use Plan Map and Official Zoning Map for the following real estate as requested by Timpte Inc. SE1/4 NW1/4 of Section 18, Township 15 N, Range 3 E of the Sixth P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast corner of the Northwest Quarter (NW1/4) of the said Section Eighteen (18); thence along the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18), S88°20'22"W, a distance of 41.07 feet to West right of way of Highway 15; thence continuing on the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18) for the next two (2) courses, S88°03'46"W, a distance of 324.80 feet to the point of beginning; thence S88°03'01"W, a distance of 953.55 feet; thence N01°56'22"W, a distance of 800.00 feet; thence N88°02'58"E, a distance of 940.00 feet; thence S01°49'16"E, a distance of 478.45 feet; thence N88°09'27"E, a distance of 15.35 feet; thence S01°47'41"E, a distance of 321.54 feet to the point of beginning. Jim Vandenberg seconded the motion.

The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

Planning Commission member Jim Vandenberg made a motion to approve the consideration of amending the Future Land Use Plan Map by changing the zoning classification for FS - Flex Space to I - Industrial for the following real estate as requested by Timpte Inc. SE1/4 NW1/4 of Section 18, Township 15 N, Range 3 E of the Sixth P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast corner of the Northwest Quarter (NW1/4) of the said Section Eighteen (18); thence along the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18), S88°20'22"W, a distance of 41.07 feet to West right of way of Highway 15; thence continuing on the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18) for the next two (2) courses, S88°03'46"W, a distance of 324.80 feet to the point of beginning; thence S88°03'01"W, a distance of 953.55 feet; thence N01°56'22"W, a distance of 800.00 feet; thence N88°02'58"E, a distance of 940.00 feet; thence S01°49'16"E, a distance of 478.45 feet; thence N88°09'27"E, a distance of 15.35 feet; thence S01°47'41"E, a distance of 321.54 feet to the point of beginning. Jim Masek seconded the motion. The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

Planning Commission member Keith Marvin made a motion to approve the consideration of amending the Official Zoning Map by changing the zoning classification for FS - Flex Space to I-2 - Heavy Industrial for the following real estate as requested by Timpte Inc. SE1/4 NW1/4 of Section 18, Township 15 N, Range 3 E of the Sixth P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast corner of the Northwest Quarter (NW1/4) of the said Section Eighteen (18); thence along the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18), S88°20'22"W, a distance of 41.07 feet to West right of way of Highway 15; thence continuing on the South line of the Northwest Quarter (NW1/4) of said Section Eighteen (18) for the next two (2) courses, S88°03'46"W, a distance of 324.80 feet to the point of beginning; thence S88°03'01"W, a distance of 953.55 feet; thence N01°56'22"W, a distance of 800.00 feet; thence N88°02'58"E, a distance of 940.00 feet; thence S01°49'16"E, a distance of 478.45 feet; thence N88°09'27"E, a distance of 15.35 feet; thence S01°47'41"E, a distance of 321.54 feet to the point of beginning. Jim Masek seconded the motion. The motion carried. Nicole Gasper: Absent, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 4, Nay: 0, Absent: 1.

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PAID

JUN 16 2021

CITY OF DAVID CITY
DAVID CITY UTILITIES

DAVID CITY PLANNING COMMISSION

TYPE OF ACTION REQUESTED

- Conditional Use \$100.00 Vacate request: alley, street, etc. \$50.00
- Rezoning/Zoning Amendment \$150.00

LEGAL DESCRIPTION OF THE PROPERTY:

- Please see attachment

DESCRIPTION OF THE PROJECT:

Rezone as I-2 Heavy Industrial

Timple Inc.

[Signature]
Applicant's Signature

FOR CITY USE ONLY

Date received: 6/11/2021 By: Savin

Fee Paid: Yes \$ 150.00 No

Hearing Date: 7/10/2021

Hearing Notice Published: Yes No

Adjoining Landowners Notified Yes No

Action Taken: _____

EXHIBIT "A"

Located in the Southeast Quarter of the Northwest Quarter (SE¼ NW¼) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska and more particularly described as follows:

Commencing at the Southeast corner of the Northwest Quarter (NW¼) of the said Section Eighteen (18); thence along the South line of the Northwest Quarter (NW¼) of said Section Eighteen (18), S88°20'22"W, a distance of 41.07 feet to West right of way of Highway 15; thence continuing on the South line of the Northwest Quarter (NW¼) of said Section Eighteen (18) for the next two (2) courses, S88°03'46"W, a distance of 324.80 feet to the point of beginning; thence S88°03'01"W, a distance of 953.55 feet; thence N01°56'22"W, a distance of 800.00 feet; thence N88°02'58"E, a distance of 940.00 feet; thence S01°49'16"E, a distance of 478.45 feet; thence N88°09'27"E, a distance of 15.35 feet; thence S01°47'41"E, a distance of 321.54 feet to the point of beginning.

Discussion was held in regard to Building Permit # 6723 and the use of metal structures in residential zones.

City Administrator Clayton Keller said, "Real quick, this building permit is one filed by Mr. John Hermsen to put up a prefabricated metal shed. Just so you know what building permit we are talking about. I believe it is in your packets."

Chairman Jim Masek said, "Do you know how big this shed was?"

Planning Commission member Keith Marvin answered, "It's 26 feet by 40 feet."

Planning Commission member Jim Vandenberg asked, "This is on a separate lot?"

City Clerk Tami Comte responded, "It is."

City Administrator Clayton Keller added, "It's in the process of being joined."

Planning Commission member Jim Vandenberg said, "Everybody says how short we are on lots and everything else and letting someone put a metal building in residential and joining lots."

John Hermsen introduced himself and said, "I bought the property from my folks' estate after my mother passed away. Now my dad, we lived on an acreage between here and Brainard, and my dad when he originally bought the property to build on he bought an extra lot to the south of his in part because he didn't want to be crowded from

moving from the country into town. And with the thought he could control who his neighbor might be, with selling it on down the road and recouping some of his money as an investment. Since the time that he purchased it, the city changed its building codes to where the lot was no longer big enough to build a house on it. Which meant that the lot was no longer valuable for anything unless we built something on it. Now, the reason it was not deeded as one lot was because my father's original intent to sell it separately. Really, I was not aware of any of the rules and regulations and what-not, so I never made an attempt to outright purchase the property to combine the lots because I had no idea there was a need to for any reason. But, really have don't have any ability to sell it separately because no one can actually build a house on it."

City Clerk Tami Comte asked, "How big is that separate lot?"

John Hermsen responded, "I believe it is 50 feet by 140 feet. And so, we can't sell it because someone can't build a house on it and someone can't purchase it to build a building on because it is a separate lot. The statutes say you can't build a separate home on. So, we went ahead once I found out that you had to put the lots together, hired an attorney who is, I don't know if the process is done yet, but he started on and said that was not a problem, we hired Clark Grant out of Columbus."

Planning Commission member Keith Marvin asked, "Who told you that it wasn't big enough to build a house on or sell it for a house?"

John Hermsen responded, "I don't know, it could have been my dad of all people."

Planning Commission member Keith Marvin added, "There is a section in our code that talks about non-conforming lots of record. These are lots that were platted prior to many changes to the code that still make them a buildable lot. They just have to go through and make sure that setbacks are somewhat adequate should I say. It could be sold off for a house, it might be smaller house."

City Clerk Tami Comte added, "Well, it's his right if he wants to join the lots."

Planning Commission member Jim Vandenberg added, "Just so he knows what his options are."

John Hermsen said, "I didn't know that was an option. I have been under the impression for years that it wasn't. I'm not an expert on any of this stuff. I never messed with buying and selling property. Or building for that matter. I tried to read through the regulations. I tried to ask for advice wherever I could. I thought that everything I had figured out was a viable plan. A big portion of our plan to build on that lot, we do actually have a need for storage. I did purchase the acreage that the house was on, the property has been in the family name for over one hundred years. My desire was to eventually fix it up and move in. Through circumstances, health and other things, that did not become

a viable option. We used the property out there for storage but we were having constant trouble with vandalism and theft to where we can no longer trust anything out there. We have unfortunately accumulated, what we didn't want to, was a messy back lot for us. We didn't want to but every time we moved something out to the farm it was either stolen or vandalized. So, we currently have property stored at a number of other people's farms around the county. Friends of mine.... Building a building there would alleviate the eye sore and allow us to store things inside. We do have a legitimate need for the building. And at this point it is probably in our best interest, even if there is an option to sell it as a separate property, we think a small house there would diminish the value of our property and the neighbors. So, it would probably be better off if we improved the property by putting the building there that would blend in with the area. When I figured up the building and looked at the codes and stuff it said that it has to match the surrounding structures. So, we decided to build something that was ranch home shaped. Which the houses in the area are. I special ordered it with horizontal siding, which cost me extra, simply because the houses in the area all have horizontal siding on them. We need to reside our house; we plan to reside it matching the color of the building so they definitely blend together when the time came. We had talked to all of our neighbors. We talked to Gary Dinkelman, just to the east of us, because he is going to be facing the place, to see if he had any objections. This was before we knew anyone would raise cane about the metal building, because we didn't want to have him have any reason to have an objection. Now, normally my plan was also to just have a building with no openings facing the street, because I didn't want to have to worry about break ins and thefts, but we went ahead and changed that plan and put a couple of windows toward the street so that it would blend into the houses in the area. We have tried very hard to select colors and size and everything else to conform with all the codes that we believed were in place. We also talked to Mr. Jones to the south of us and he was thrilled with the idea. I talked to him especially because it could possibly interfere with his vision looking out of his house and stuff, absolutely no problem. We talked to Novacek's because they would be next property to the north of us. They not only had no objection to it but they are totally in favor of it. The other person that would be directly adjoining it would be Mr. Johnson to the west of us. And is thrilled with the idea. Everybody is. Mr. Johnson even sent a note saying he was in favor of it. I was going to get some written communications from the other neighbors, I didn't get that done, but I would have no problem in getting that from the neighbors if it would help. I have talked to a number of the builders in the area, like Oborny, Campbell, Novak. I have talked to about eight different contractors and no one saw any issue with me getting it done. In fact, I have a few of them on hold because they thought they would be working on stuff. I thought I have gone above and beyond at the time. The Building Inspector, the first time I contacted him and told him what we wanted to do, he made it sound like, okay it shouldn't be any problems but a formality. I explained to him that there was a certain rush on my part to get things started. Part of the reason was, was because we had seen the price of lumber and steel skyrocket, we knew that there was a possibility it could cost us double if we waited. So, once he had mentioned to us that there shouldn't be any problem, I went ahead and place an order for a building to be built on the property."

I Eric Johnson am the direct
Neighbor of where John Hermsen
is going to build his metal building
and I support it 100%



City Administrator Clayton Keller said, “Mr. Hermsen, do you mind if I make a comment real quick? After our Building Inspector Mike Payne met with Mr. Hermsen, he came in and updated me on the conversation, as he did with every project he was on. He mentioned that he asked Mr. Hermsen for more information before he formally approved it, and hadn’t received that information before Mr. Hermsen ordered the building.”

John Hermsen said, “Right, when I contacted him, I didn’t know what I was supposed to do, I didn’t know what the rules were as far as to start the process. It wasn’t until after I contacted him that I knew I had to submit him more information. So, no I had not given him all the information first. Other than having to conform to whatever regulations they were, which I thought I had.”

Chairman Jim Masek said, “I think you pretty much informed us on everything we need to know.”

Planning Commission member Keith Marvin said, “I have a couple of questions for staff, if they can answer. How big is the building that Daryl Struebing’s building over on 7th and Iowa?”

City Clerk Tami Comte responded, “I can’t answer that.”

Planning Commission member Keith Marvin commented, “That is a fairly big building.”

City Council member Pat Meysenburg said, “That is also a wood structure.”

City Clerk Tami Comte added, "Yeah, that is a stick built."

Planning Commission member Jim Vandenberg said, "That's what bothers me here. It says metal structure."

City Council member Pat Meysenburg said, "City ordinance doesn't allow metal buildings in residential areas."

City Clerk Tami Comte said, "Correct me if I am wrong, Keith, it doesn't really spell out no metal buildings. It says that they have to match the primary structure."

Planning Commission member Keith Marvin answered, "That is correct."

John Hermsen added, "Ours, it should be indistinguishable. If I had read in the regulations that there was a rule against a metal building, we would have never even considered that. We did know about the galvanized roofs and we made certain that that would not be an issue with the building. As far as we knew we were going to be totally in compliance. We actually wanted to build quite a bit differently than we did. We modified it and everything."

Planning Commission member Pam Kabourek said, "According to this Accessory building, I just asked Keith about this, 'the design and construction of accessory buildings shall be consistent with that customarily used in residential construction, similar in color and style to the primary structure on the same lot,' but there are exceptions if they are under 200 square feet and carports under 400 square feet. 'It shall be constructed of new, grade stamped materials, unless approved in advance by the Building Inspector.' Then it says that it should withstand 90 mph winds, sidewall measurements."

John Hermsen responded, "Our building is supposed to withstand 140 mph winds according to the manufacture."

City Clerk Tami Comte said, "Is that section 4, Pam? And also, in R-2 it says it shall be the same as the primary structure."

Planning Commission member Pam Kabourek responded, "Yes, Section 4.14."

Chairman Jim Masek said, "Keith pointed out another item that we will have to deal with will be the size of an accessory building. It is too big to be considered an accessory building."

Planning Commission member Keith Marvin said, "Our limit is 900 square feet in the R-2 District. You would be 1,040 square feet."

John Hermsen said, "That was never ever pointed out to me as an issue at the time. As a matter of fact, I think I asked the former Building Inspector about that. He told me that would not be a problem. I am pretty sure that I brought that item up too."

City Administrator Clayton Keller said, "So, the two issues here that I would like us to discuss, the first one is that the building was ordered before the building permit was issued. You submitted your application and Mike took it and had that conversation with you. You should have waited until he gave you the permit for the building before you ordered it."

John Hermsen said, "I still have a permit of course. The thing is prices have gone up significantly since then, I probably couldn't even afford it right now."

City Administrator Clayton Keller said, "Right, because he needed to check into more information and get more details from you. The second is, the metal building questions. I wanted the Planning Commission to discuss what the zoning code means by what Pam read. Does that disclude metal buildings in R-2 district or does it not? There is some confusion between elected officials and city staff on what that means. It doesn't flat out say no metal buildings, it just says that it has to be similar in style."

City Clerk Tami Comte said, "It is a gray area. That is for sure."

City Council member Pat Meysenburg added, "In the past the City Council hasn't allowed them. And they made people who were going to put them up, put wood structures and said that the roofs have to be asphalt roofs. We have one guy on the other end of town that has a metal building laying in the weeds, for probably 15-20 years because his permit was denied. How can we put metal buildings up know if we denied other people to do it?"

Discussion continued.

Planning Commission member Keith Marvin said, "Three things, going back off Clayton's comment, is 1) do we need to clarify if we are going to allow metal buildings?; 2) your square footage is bigger than what is allowed right now, so that will have to be fixed in public hearing; and 3) Do we put it as a conditional use permit and will the council go along. They have to bless everything that we send to them as far as those changes. So, we could meet next month, have public hearings, make all these changes and send it to them and they could say no. My thoughts are, we can't do anything today, but if he wants to pursue this further, he needs to come in and fill out the proper applications to make the changes. Are we going to allow this as a conditional use? We would have to add that. Under state law, if it is not explicitly permitted in some way shape or form then it is prohibited. Secondly, we have to change the maximum square footage requirements, because right now you are over those."

John Hermsen said, "If I was to argue back, I would have to state that the former Building Inspector had already verbally told me, okay to the size as far as the square foot. That is a fact, I am not making that up. My memory may be poor but there are a few things now and then that I remember. I have already done a permit. I don't understand the other permit thing you are talking about."

Planning Commission member Keith Marvin said, "Right now, I guess my opinion would be, is if we change these then the city would have to deny the permit. We would need to add accessory structures that are metal."

Discussion continued.

It was suggested that John Hermsen would meet with City Administrator Clayton Keller to fill out permits on Monday, July 12, 2021 and necessary documents to place changes on the next Planning Commission agenda. The next Planning Commission meeting scheduled for August 14, 2021 will have a Public Hearing to recommend to the City Council changes to zoning ordinances by changing the maximum square footage size, and adding a metal building as a conditional use.

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PAID

JUN 14 2021

CITY OF DAVID CITY
ENGINEERING UTILITIES



PERMIT # 6723

BUILDING PERMIT APPLICATION

DATE 6/14/2021

FEE \$75

PROPERTY OWNER'S NAME John Hermesen
OWNER'S ADDRESS 1081 L St. David City
OWNER'S PHONE NO. 402-367-6213

CONTRACTOR Coast to Coast Carpents
CONT. ADDRESS 22525-140 P.O. Box 100 Knoxville AR
CONT. PHONE NO. 479-885-1258 72845

LEGAL DESCRIPTION OF WORKSITE: 19 15 3 David City Lot 5 BIK 1 WT&P ADD.

- | | | |
|--|---------------------------------------|---|
| <input type="checkbox"/> COMMERCIAL/INDUSTRIAL | <input type="checkbox"/> AGRICULTURAL | <input type="checkbox"/> REMODELING |
| <input checked="" type="checkbox"/> GARAGE/STORAGE | <input type="checkbox"/> RESIDENTIAL | <input type="checkbox"/> NEW CONSTRUCTION |
| <input type="checkbox"/> ADDITION | <input type="checkbox"/> DECK/PATIO | <input type="checkbox"/> DRIVE/SIDEWALK |
| <input type="checkbox"/> SIGN | <input type="checkbox"/> FENCE | |

DESCRIBE YOUR PROPOSED WORK: 40' x 26' storage building

SETBACKS REQUIRED: -- FRONT _____ SIDE _____ REAR _____

LOT DIMENSIONS 50 x 140

FOR COMMERCIAL OR INDUSTRIAL ACTIVITY:

FIRE MARSHAL PLAN REVIEW _____	ADA _____	SWPPP _____
ZONING _____	BUILDING HEIGHT _____	2 SETS OF BLUEPRINTS OR PLANS SUBMITTED _____
AIRPORT ZONING HEIGHT REVIEW _____		IS A STATE ELECTRICAL PERMIT REQUIRED? _____

ESTIMATED COST \$ 11,275.00

ELECTRICAL CONTRACTOR none

MECHANICAL CONTRACTOR _____

PLUMBING CONTRACTOR none

APPLICANTS SIGNATURE: John Hermesen DATE: 6/14/2021

FOR OFFICIAL USE ONLY

ACTION

RETURNED FOR LACK OF INFORMATION DATE _____

APPROVED DENIED DATE 6-21-21

REASON FOR DENIAL: Metal structures not permitted in R-2 Zone.

FORWARDED TO: PLANNING COMMISSION DATE _____
 BOARD OF ADJUSTMENT DATE _____

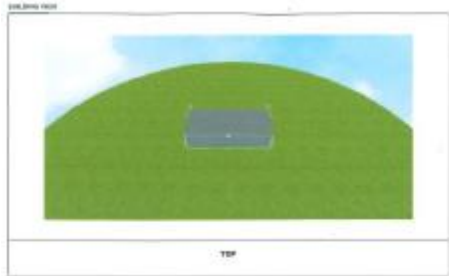
ZONING ADMINISTRATOR'S SIGNATURE: Michael Shily

COPY TO COUNTY ASSESSOR DATE: 6-21-21

IMPORTANT NOTICE:

Applicants and property owners are solely responsible for the information submitted on the application. Information which is incorrect or inaccurate may be cause for rejection of the application. Zoning officials of the City of David City are not authorized to practice engineering, surveying, or architecture. Review of zoning applications by the City of David City is not construed as a substitute for architectural, engineering, surveying, or contractor's services. Applicants are encouraged to consult with a professional architect, engineer, surveyor or contractor when in doubt. Applicants are responsible to comply with all zoning codes of the General Plan and all Ordinances of the City of David City and are cautioned to consult with an attorney when in doubt. No construction shall be started without an approved Building Permit. Applicants are encouraged to obtain certification from a State of Nebraska licensed surveyor to document compliance with zoning regulations. Surveys may be required at any time at the discretion of the City. Applicant must comply with all state electrical, fire, energy and building codes. Call diggers hotline before digging at 1-800-331-5666.

Please provide a building site plan sketch in the space below. Show any required setbacks, (buildable area), and north arrow.



Planning Commission Minutes

July 10, 2021

Page # 19

Coast To Coast Carports, Inc.
 32525 Interstate 44 Knoxville, AR
 Phone to: P.O. BOX 480 Knoxville, AR, 73846
 Contact # 609-1794

Date: 03/10/21
 Contact # 609-1794

Buyer Name: Julie Hester
Buyer Address: 1301 L Blvd
Phone: (402) 270-4196
Email: juliesterman@gmail.com
City: Deed City
State: NE
Zip: (if different from above) 68532
Unit Location: 1001 L Street, Deed City NE68532

Contact No: 609-1794
Dealer: Coast To Coast Carports
Sales Person: Jason
Phone: 609-1794
County: Butler

Building Type: Standard Garage 30x40x16 Vertical Roof 14 Ga. No Snow Load Certification No Wind Certification

Specifications	Unit Price	All Order CDD
Roof Style: <input type="checkbox"/> Regular <input type="checkbox"/> A-Frame <input checked="" type="checkbox"/> Vertical	Roof Length: 40	Frame Length: 48
Width: 20	Length: 40	Height: 10
<input checked="" type="checkbox"/> 14 Ga. <input type="checkbox"/> 12 Ga.		
20x40 Vertical Roof	1	\$4,195.00
10 Height	1	\$1,890.00
140 MPH - 30 PSF Certified	1	\$0.00
317 Roof Pkts	1	\$0.00
Front Walk Door	1	\$548.00
Back Walk Door	1	\$548.00
Left Door	1	\$675.00
Right Door	1	\$675.00
36x66 Walkin Door on Right	1	\$225.00
16x66 Slings Door on Right	1	\$750.00
16x66 Slings Door on Right	1	\$750.00
36x66 Window on Right	1	\$750.00
Total		\$11,275.00

Color: Roof: Resene Trim: Resene Wall: Resene Walkway: Resene

Electricity Available: Yes No **Permit Req?:** Yes No **Surface:** Concrete Ground Other: Specify _____

NOTES: Please call 1-8-888-888-8888 for more information. Vertical buildings have no overhead and are 1-8-888-888-8888. If you need a special drawing for your building, there will be an additional charge, but it is NON-REFUNDABLE. There is no return or deposit on returned orders.

Payment Options: Check Money Order Cashiers Check Credit Card with 3.5% Processing Fee

Be Card Fee In: CO, TX, IL, OH, CT, PA, & NY

Things you should know...
 Please inform residents of any underground cables, gas lines, or any other utility lines. If utilities are not marked, we will not be liable for the damage.
 We will not be responsible for permits or easements. LOT MUST BE LEVEL OR UNIT WILL BE INSTALLED AS IS ON LOT. If the land is not level or additional area is to be made in the project, a \$100.00 service charge and any additional material costs will be added to the balance. COAST TO COAST CARPORTS, INC. WILL NOT BE RESPONSIBLE FOR REPAIRS OF THE CUSTOMER'S DEPOSIT COLLECTED BY THE DEALER. COAST TO COAST CARPORTS, INC. IS NOT LIABLE FOR ANY DAMAGES AS A RESULT FROM INCLEMENT WEATHER.
 IF YOU HAVE TAX EXEMPT A TAX EXEMPT CERTIFICATE MUST BE ATTACHED TO YOUR ORIGINAL ORDER(S). OTHERWISE, APPLICABLE TAX WILL BE ADDED. NO EXCEPTIONS. Our ground anchors are temporary only. For permanent anchors ask your Dealer or Sales Representative. I have read the terms and conditions of this contract. I agree to all conditions set forth herein and should I fail to make payment in full at time of delivery I understand and agree to allow COAST TO COAST CARPORTS, INC. to pick up the contract and I will be liable for all applicable charges and fees associated with the retail sale and delivery as well as any legal fees incurred by Coast to Coast Carports, Inc. Please keep original invoice for legal matters. COAST TO COAST CARPORTS, INC. RESERVES THE RIGHT TO CANCEL ANY ORDERS.

BUYER MUST INITIAL WARRANTY SELECTION
 See Limited Warranty Explanations on Reverse Side

14 GAUGE - Vulnerability Only 12 GAUGE - Vulnerability & Plus Through Certified Non-certified

If accepted below by COAST TO COAST CARPORTS, INC. (Dealer) at its office in Knoxville, AR, this order becomes a contract between Dealer & the Buyer and conditions herein subject to the terms above & SUBJECT TO THE TERMS AND CONDITIONS ON THE REVERSE SIDE

Seller and Buyer agree that the Seller will sell to Buyer the metal building (MB), described above and install it at the address stated above and that Buyer will obtain all required permits, prepare the site for installation, purchase the Unit and pay the price as stated above.

NO REFUNDS ON SPECIAL ORDERS

Buyer: Julie Hester
Date: 03/10/21
Witness: [Signatures]
Accepted: Coast to Coast Carports, Inc.

Coast To Coast Carports, Inc.
 32525 Interstate 44 Knoxville, AR
 Phone to: P.O. BOX 480 Knoxville, AR, 73846
 Contact # 609-1794

Date: 03/10/21
 Contact # 609-1794

Buyer Name: Julie Hester
Buyer Address: 1301 L Blvd
Phone: (402) 270-4196
Email: juliesterman@gmail.com
City: Deed City
State: NE
Zip: (if different from above) 68532
Unit Location: 1001 L Street, Deed City NE68532

Contact No: 609-1794
Dealer: Coast To Coast Carports
Sales Person: Jason
Phone: 609-1794
County: Butler

Building Type: Standard Garage 30x40x16 Vertical Roof 14 Ga. No Snow Load Certification No Wind Certification

Specifications	Unit Price	All Order CDD
Roof Style: <input type="checkbox"/> Regular <input type="checkbox"/> A-Frame <input checked="" type="checkbox"/> Vertical	Roof Length: 40	Frame Length: 48
Width: 20	Length: 40	Height: 10
<input checked="" type="checkbox"/> 14 Ga. <input type="checkbox"/> 12 Ga.		
36x66 Window on Right	1	\$126.00
Electricity: Yes		
Permit Required - Customer To Verify		
Total		\$1,275.00

Color: Roof: Resene Trim: Resene Wall: Resene Walkway: Resene

Electricity Available: Yes No **Permit Req?:** Yes No **Surface:** Concrete Ground Other: Specify _____

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Payment Options: Check Money Order Cashiers Check Credit Card with 3.5% Processing Fee

Be Card Fee In: CO, TX, IL, OH, CT, PA, & NY

Things you should know...
 Please inform residents of any underground cables, gas lines, or any other utility lines. If utilities are not marked, we will not be liable for the damage.
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 IF YOU HAVE TAX EXEMPT A TAX EXEMPT CERTIFICATE MUST BE ATTACHED TO YOUR ORIGINAL ORDER(S). OTHERWISE, APPLICABLE TAX WILL BE ADDED. NO EXCEPTIONS. Our ground anchors are temporary only. For permanent anchors ask your Dealer or Sales Representative. I have read the terms and conditions of this contract. I agree to all conditions set forth herein and should I fail to make payment in full at time of delivery I understand and agree to allow COAST TO COAST CARPORTS, INC. to pick up the contract and I will be liable for all applicable charges and fees associated with the retail sale and delivery as well as any legal fees incurred by Coast to Coast Carports, Inc. Please keep original invoice for legal matters. COAST TO COAST CARPORTS, INC. RESERVES THE RIGHT TO CANCEL ANY ORDERS.

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Seller and Buyer agree that the Seller will sell to Buyer the metal building (MB), described above and install it at the address stated above and that Buyer will obtain all required permits, prepare the site for installation, purchase the Unit and pay the price as stated above.

NO REFUNDS ON SPECIAL ORDERS

Buyer: Julie Hester
Date: 03/10/21
Witness: [Signatures]
Accepted: Coast to Coast Carports, Inc.

6/14/2021

Butler County Assessor

*Lot 5 BK 1
 W T + P Add
 Will Thorpe + Perkins*

Parcel Information	
Parcel ID:	120005111
Map Number	N/A
State Geo Code	2695-19-1-12010-001-5111
Cadastral #	N/A
Images	
Current Owner:	HERMSEN/JOHN T 1081 L ST DAVID CITY, NE 68632
Situs Address:	DAVID CITY
Tax District:	12
School District:	DAVID CITY 56, 12-0056
Account Type:	Residential
Legal Description:	19 15 3 DAVID CITY LOT 5 BLK 1 W T & P ADD
Lot Width:	50.00
Lot Depth:	140.00
Total Lot Size:	7000.00 sq ft

* Disclaimer: This legal description should not be used to prepare legal documents.

Assessed Values				
Year	Total	Land	Outbuilding	Dwelling
2021	\$7,000	\$7,000	\$0	\$0
2020	\$7,000	\$7,000	\$0	\$0
2019	\$7,000	\$7,000	\$0	\$0
2018	\$7,000	\$7,000	\$0	\$0
2017	\$7,000	\$7,000	\$0	\$0

Yearly Tax Information		
Year	Amount	Levy
2020	\$109.72	1.669509

2020 Tax Levy	
Description	Rate
AG. SOCIETY	0.01000000
CENTRAL COMM COLLEGE	0.09200000
E.S.U.#7	0.01500000
DAVID CITY 56	0.78791400
DAVID CITY #9	0.03500000
DAVID CITY	0.50000000
BUTLER COUNTY	0.17619300
56 K8 QUALITY PURPOSE	0.01019200
56 9-12 QUALITY PURPOSE	0.00937900
LOWER PLATTE NORTH	0.03383100

6/14/2021

Butler County Assessor



5 Year Sales History	
No previous sales information is available (for the past 5 years).	

Property Classification			
Status:	Unimproved	Location:	Urban
Property Class:	Residential	City Size:	2,501-5,000
Zoning:	N/A	Lot Size:	<10,000 sq. ft.

Land Information				
Lot Width (ft)	Lot Depth (ft)	Description	Lot Size	Lot Value
50.00	140.00		7000.00 sq ft	\$7,000.00

Residential Datasheet			
Zoning:	N/A	Quality:	
Year Built:	0	Condition:	N/A
Exterior 1:	N/A	Style 1:	N/A
Exterior 2:	N/A	Style 2:	N/A
Bedrooms:	N/A	Bathrooms:	0.00
Plumbing Fixtures:	N/A	Heating/Cooling:	
Basement Size:	0 sq. ft	Min Finish:	0 sq. ft
Base Area:	0 sq. ft	Part Finish:	0 sq. ft
Total Area:	0 sq. ft	Roof Type:	N/A



There being no further business to come before the Planning Commission, Keith Marvin made a motion to adjourn and Chairman Jim Masek declared the meeting adjourned at 9:30 a.m.

Minutes by Lori Matchett, Deputy City Clerk