

PLANNING COMMISSION

August 10, 2024

8:00 AM

Chairman Jim Masek opened the meeting at 8:00 a.m. in the meeting room of the City Office Building, 490 E Street, David City, Nebraska, and notified the public of the "Open Meetings Act" posted on the west wall of the meeting room. He also notified the public that if they wish to speak to the Commission, please state their name and address.

Present: Planning Commission members Robert Hilger, Greg Aschoff, Pam Kabourek, Jim Masek, Jim Vandenberg, Alternate Brian Small, City Clerk Tami Comte, City Administrator Intern Raiko Martinez, and Deputy City Clerk Lori Matchett. City Attorney David Levy attended via zoom.

Also, present were Building Inspector Gary Meister, Bryon & Mary Forney, Jean Smith, Nick Sypal, Willow Holoubek, and John Shepard of Marvin Planning Consultants.

Planning Commission member Pam Kabourek made a motion to accept the minutes of the July 13, 2024, meeting as presented. Jim Vandenberg seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea, Yea: 5, Nay: 0.

Chairman Jim Masek made a motion to open the public hearing at 8:01 a.m. to consider amending the Zoning Ordinance No. 1060 by amending section 4.09.04 Yard Requirements by amending or removing any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening. Greg Aschoff seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.

John Shepard introduced himself. John works for Marvin Planning Consultants and is currently working on updating our Zoning Regulations with the assistance of a Zoning Working Group consisting of Pam Kabourek and Jim Masek from the Planning Commission, Council President Bruce Meysenburg, Building Inspector Gary Meister, City Clerk Tami Comte, City Administrator Interim Raiko Martinez, and Deputy Clerk Lori Matchett. John stated that the zoning working group spoke about the residential lot requirements of a landscaping and planting buffer, this will be removed from the zoning ordinance in the new updates. Members of the commission thought it was necessary to bring this up at a public hearing.

Chairman Jim Masek made a motion to close the public hearing at 8:09 a.m. to consider amending the Zoning Ordinance No. 1060 by amending section 4.09.04 Yard Requirements by amending or removing any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening. Greg Aschoff seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.

Chairman Jim Masek made a motion to recommend to the City Council the amending of the Zoning Ordinance No. 1060 by amending section 4.09.04 by removing any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective

screening. Pam Kabourek seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.

Section 4.09 Yard Requirements.

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The zoning administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1) more than 30 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this ordinance, and 2) a minority of such structures have observed or conformed to an average setback line.
- 4.09.04 ~~Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.~~
- 4.09.05 Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District, which is adjacent to any residential use, or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening; except in the Downtown Commercial District. Included in the increased yard, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.
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The next item on the agenda was considering amending Ordinance No. 1060 by amending Section 4.09.05 Yard Requirements by amending or removing any yard for a Commercial or Industrial use located within any Commercial or Industrial Zoning District.

Discussion occurred about amending the 40 feet set back to 25 feet set back.

Chairman Jim Masek made a motion to recommend to the City Council the amending of Zoning Ordinance No. 1060 by amending section 4.09.05 Yard Requirements by amending any yard for a Commercial or Industrial zoning district, which is adjacent to any residential use, or district shall be increased to 25 feet and shall contain landscaping and planting suitable to provide effective screening; except in Downtown Commercial District. Included in the increased yard, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high shall be provided adjacent to an adjoining Residential District and Industrial District are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed and commercially available fencing. Pam Kabourek seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.

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The next item on the agenda was the consideration of the request from Nick Sypal for a conditional use permit for the property described as the West Half of the Southwest Quarter of Section 19, Township 15, Range 2 East, Butler County, Nebraska, physical address of 273 West C Street, David City, for processing and storage of wood and firewood and tree servicing use such equipment commonly used for said purpose. This agenda item was tabled from the July 13, 2024 meeting due to a question that was directed to the City Attorney about restrictions on the I2 property. The I2 property was not part of the public hearing.

City Attorney David Levy stated that the conditional use permit application is for the R2 property, not the I2 property. The primary firewood business/use would occur on the R2 property of 273 West C Street.

Chairman Jim Masek asked the City Attorney David Levy about his concern about approving a conditional use permit that goes with the person and not the property when conditional use permits go with the property. Jim Masek wants to make sure that the conditional use permit is done correctly if approved.

A conditional use permit should run with the land and not an individual person.

Discussion continued about the conditional use.

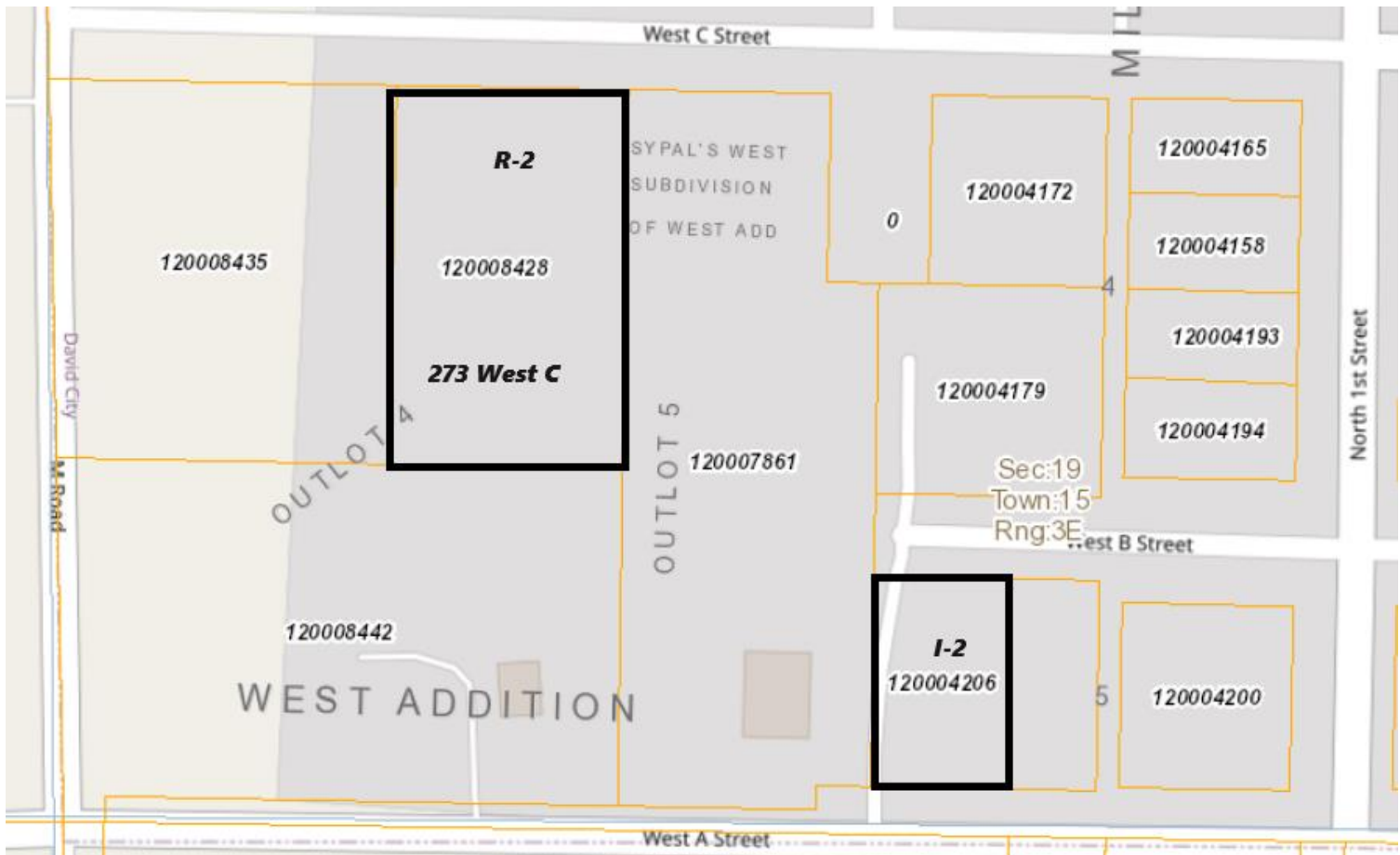
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Nick Sypal introduced himself, the primary firewood business and operation would be on the lot at 273 West C Street, asking for the conditional use permit. The concern Nick has is that the lot that is next to their shop is zoned industrial, has been zoned industrial for several years, and putting a stipulation on the I2 property so that they could not have their equipment stored on the I2 property, with trailers that may have firewood loaded for delivery. An example of his concern is parking a loaded truck with firewood overnight on the I2 property for delivery may be parked on the property, he doesn't want that to become a huge issue and reported for violating the conditions of the property. The tree processing equipment and firewood storage would be placed on the R2 property.

Planning Commission member Greg Aschoff made a motion to approve the conditional use permit request from Nick Sypal contingent upon the City Council approving the amendment of the Zoning Ordinance No. 1060 Section 5.08.03 R-2 Two-Family Residential – Conditional Uses, along with stipulations of the conditional use permit is only on the 273 West C Street property (Parcel # 120008428) and primary firewood use on this site and not the I2 property (Parcel # 120004200). Jim Masek seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.





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:

273 W. C Street, David City, Nebraska, legally described as a parcel located in the West Half of the Southwest Quarter of Section 19, Township 15, Range 3 East, Butler County, Nebraska

DESCRIPTION OF THE PROJECT:

Sypal Tree Service, LLC seeks a Conditional Use Permit for the processing and storage of wood and firewood and tree servicing using such equipment commonly used for said purposes.


Applicant's Signature

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FOR CITY USE ONLY

Date received: 6-18-24 By: Jami Comte
Fee Paid: _____ Yes \$ Waived _____ No
Hearing Date: 7-13-24
Hearing Notice Published: Yes _____ No
Adjoining Landowners Notified _____ Yes _____ No
Action Taken: _____

The next thing on the agenda was a discussion regarding updates to the Zoning Ordinance.

John Shepard, Senior Consultant with Marvin Planning Consultants introduced himself. John has been working with the Zoning Working Group to provide updates to the Zoning Ordinance. Marvin Planning Consultants were hired to review and go through the current zoning ordinance and make updates and corrections to the current zoning ordinance. The updates were compared with the Comprehensive Plan that the City of David City approved two years prior. The plan is intended to document the future development goals of the City of David City. John provided the members of the Planning Commission copies of the draft of the Zoning Ordinance, described updates that were being made to the zoning with definitions, and recommendations of additions, updated the matrix schedule to an easier-to-read format to find out what types of things are allowed in Zoning Districts, what items are outdated and what additions should be made to the zoning ordinances. These recommendations will be going to a working session with the City Council prior to having public hearings to approve zoning ordinance updates. Big changes happened to Article 5 with Zoning Districts.

Chairman Jim Masek excused himself from the meeting at 9:00 a.m. Vice Chairman Greg Aschoff presided over the remaining meeting.

City Clerk Tami Comte pointed out a correction that will need to be made to Section 7.07 Parking Regulations and parking spots for commercial business – the recommendation is 1 per 500 sq. feet.

John Shepard continued giving a summary of the updates to the Zoning Ordinance. John asked the members of the Commission to look through the Zoning Ordinance draft and let City Clerk Tami Comte and Deputy Clerk Lori Matchett know if they have any additional questions or changes that should be made.

Planning Commission member Jim Vandenberg excused himself from the meeting at 9:35 a.m.

There being no further business to come before the Planning Commission, Planning Commission Vice Chairman Greg Aschoff made a motion to adjourn the meeting at 9:41 a.m. Robert Hilger seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger: Yea, Pam Kabourek: Yea, Jim Masek: Absent, Brian Small: Yea, Jim Vandenberg: Absent. Yea: 4, Nay: 0, Absent: 2.