

PLANNING COMMISSION
July 13, 2024
8:00 AM

Chairman Jim Masek opened the meeting at 8:00 AM 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, they must state their name and address.

Present: Planning Commission member Pam Kabourek, Jim Vandenberg, Greg Aschoff, Robert Hilger, Jim Masek, City Clerk Tami Comte, City Administrator Intern Raiko Martinez, and Deputy Clerk Lori Matchett.

Also, present were Building Inspector Gary Meister, Council Member Liaison Keith Marvin, Police Chief Marla Schnell, Nick & Chelsea Sypal, Jan & Dan Sypal, Bryon & Marty Forney, Willow & Mark Holoubek, Marlene Hein, and Andrew Spader from Matson & Ricketts.

Planning Commission member Pam Kabourek made a motion to accept the minutes of the June 8, 2024, meeting as presented. 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.

Chairman Jim Masek made a motion to open the public hearing at 8:02 a.m. to consider the annexing of the Campbell property located at 175 West A Street, Part of the North half of the Northwest Quarter of Section 30, Township 15 North, Range 3 East of the Sixth P.M., Butler County, Nebraska. 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.

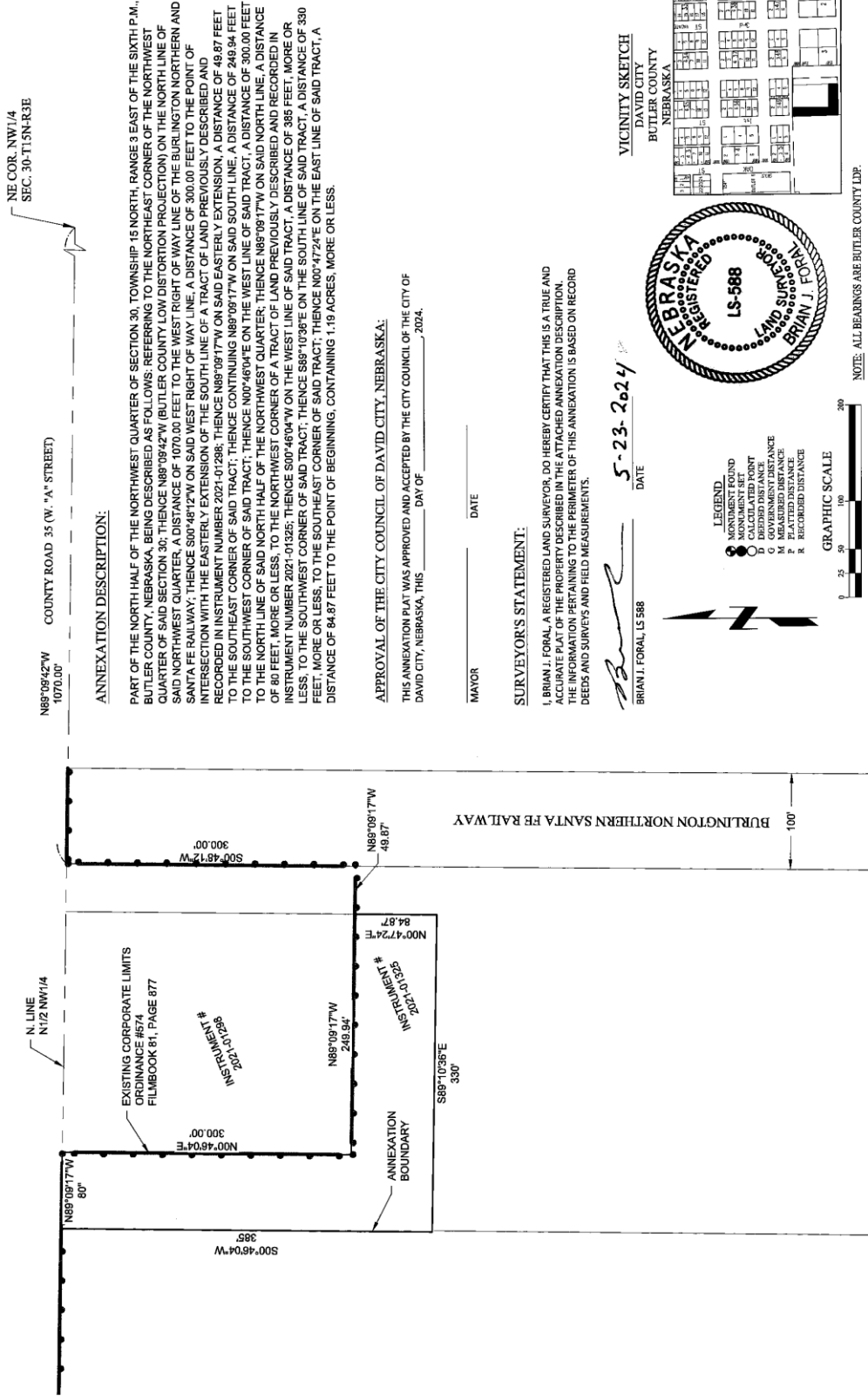
City Clerk Tami Comte spoke on this agenda item, stating that this is a voluntary annexation. Jason Campbell owns the property and is asking for the property to be annexed.

Chairman Masek made a motion to close the public hearing at 8:03 a.m. to consider the annexing of the Campbell property located at 175 West A Street, Part of the North half of the Northwest Quarter of Section 30, Township 15 North, Range 3 East of the Sixth P.M., Butler County, Nebraska. 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.

(Legal Size copy of Annexation Plat will be attached to the end of these minutes.)



ANNEXATION PLAT
 CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA
 ORDINANCE NO. _____



NE COR., NW1/4
 SEC. 30-T15N-R3E

N89°09'17\"/>

ANNEXATION DESCRIPTION:

PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE SIXTH P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: REFERRING TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 30; THENCE N89°09'17\"/>

APPROVAL OF THE CITY COUNCIL OF DAVID CITY, NEBRASKA:

THIS ANNEXATION PLAT WAS APPROVED AND ACCEPTED BY THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, THIS _____ DAY OF _____, 2024.

MAYOR _____ DATE _____

SURVEYOR'S STATEMENT:

I, BRIAN J. FORAL, A REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE PLAT OF THE PROPERTY DESCRIBED IN THE ATTACHED ANNEXATION DESCRIPTION. THE INFORMATION PERTAINING TO THE PERIMETER OF THIS ANNEXATION IS BASED ON RECORD DEEDS AND SURVEY'S AND FIELD MEASUREMENTS.

BRIAN J. FORAL, LS 588 DATE 5-23-2024

VICINITY SKETCH
 DAVID CITY
 BUTLER COUNTY
 NEBRASKA



- LEGEND
- MONUMENT FOUND
 - MONUMENT SET
 - ADJACENT DISTANCE
 - DEEDED DISTANCE
 - G GOVERNMENT DISTANCE
 - M MEASURED DISTANCE
 - P PLAT DISTANCE
 - R RECORDED DISTANCE

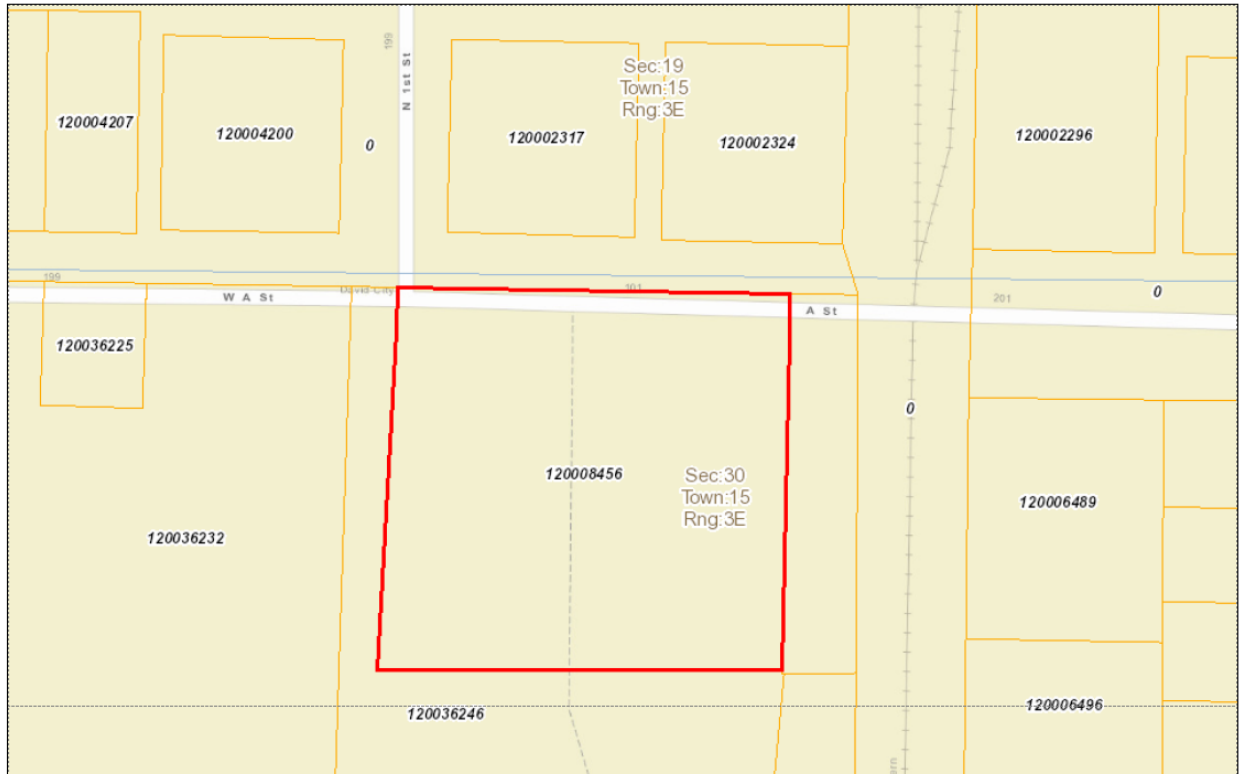


NOTE: ALL BEARINGS ARE BUTLER COUNTY LDP.

PART OF THE N1/2 NW1/4
 SEC. 30, T15N, R3E
 BUTLER COUNTY, NEBRASKA
 ANNEXATION PLAT

ANNEXATION PLAT
 CITY OF DAVID CITY
 BUTLER COUNTY, NEBRASKA
 ORDINANCE NO. _____

PROJECT NO. R240865
 DATE 5/23/2024
 DRAWN BY BJF
 FILE NAME ZABBS_SV.DWG
 FIELD BOOK NA
 FIELD DREW BJF
 SURVEY FILE NO. 2024-117



Planning Commission member Greg Aschoff made a motion to recommend to the City Council the annexation of the Campbell property located at 175 West A Street, Part of the North Half of the Northwest Quarter of Section 30, Township 15 North, Range 3 East of the Sixth P.M., Butler County, Nebraska, described as follows: 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.

Chairman Jim Masek made a motion to open the public hearing at 8:06 a.m. to consider amending the Zoning Ordinance No. 1060 by amending section 4.09.05 Yard Requirements by removing 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 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. 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.

Planning Commission Minutes

July 13, 2024

Page # 4

City Clerk Tami Comte informed the Planning Commission that this was brought up during our Zoning Book updates.

Discussion continued, if the section should be removed or amend the distance required. The recommendation would then go to the City Council.

Building Inspector Gary Meister agreed that this should be left in the Zoning Ordinance but be modified, forty feet is a bit excessive.

Chairman Jim Masek made a motion to close the public hearing at 8:15 a.m. to consider amending the Zoning Ordinance No 1060 by amending section 4.09.05 Yard Requirements by removing 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 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 or 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. 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 table amending the Zoning Ordinance No. 1060 by amending Section 4.09.05 Yard Requirements for further consideration at the next meeting. 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 opened the public hearing at 8:26 a.m. to consider amending the Zoning Ordinance No. 1060 by amending section 5.08.03 R-2 Two-Family Residential - Conditional Uses to include the following language as requested by Nick Sypal, a landowner and taxpayer in David City, Nebraska, proposing the following amendment; 11. The processing and storage of wood and firewood and tree servicing such equipment commonly used for said purposes on a lot no less than one (1) acre in size on which the applicant lives or adjacent to a lot on which the applicant lives, and within three-hundred (300) feet of an "I" Zoning District. Retail sales of such wood and firewood is allowed only subject to express approval as part of a conditional use permit. Any conditional use permit granted pursuant to the section shall be personal to the applicant and shall not run with the land. 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.

Andrew Spader of Mathew & Ricketts Law Firm introduced himself. The goal is to get the firewood processing back on to the R2 Property instead of the I2 property.

All three conditions would need to be met before someone could file a conditional use permit application.

This amendment was a compromise between attorneys to allow the Sypal's to process the firewood on the R2 property.

Nick Sypal introduced himself, the I2 property would stay I2, they are wanting to move the firewood back on the R2 property. Bulk firewood would not be stored on the I2 property. Cedar trees were planted on the R2 property for a natural screening on the west side of the

Planning Commission Minutes

July 13, 2024

Page # 5

property, the trees were planted for two reasons, the natural screening between the properties and to act as a wind break.

Planning Commission member Pam Kabourek asked the Forney's if they were in agreeance with the amendment. Bryon Forney nodded yes.

Chairman Jim Masek made a motion to close the public hearing at 8:38 a.m. to consider amending the Zoning Ordinance No. 1060 by amending Section 5.08.03 R-2 Two-Family Residential - Conditional Uses to include the following language as requested by Nick Sypal, a landowner and taxpayer in David City, Nebraska, proposing the following amendment; 11. The processing and storage of wood and firewood and tree servicing such equipment commonly used for said purposes on a lot no less than one (1) acre in size on which the applicant lives or adjacent to a lot on which the applicant lives, and within three-hundred (300) feet of an "I" Zoning District. Retail sales of such wood and firewood is allowed only subject to express approval as part of a conditional use permit. Any conditional use permit granted pursuant to this section shall be personal to the applicant and shall not run with the land. 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.

Planning Commission member Greg Aschoff made a motion to recommend to the City Council the amendment to the Zoning Ordinance No. 1060 by amending section 5.08.03 R-2 Two-Family Residential - Conditional uses to include the following language as requested by Nick Sypal, a landowner and taxpayer in David City, Nebraska, proposing the following amendment: 11. The processing and storage of wood and firewood and tree servicing such equipment commonly used for said purposes on a lot no less than one (1) acre in size on which the applicant lives or adjacent to a lot on which the applicant lives, and within three-hundred (300) feet of an "I" Zoning District. Retail sales of such wood and firewood is allowed only subject to express approval as part of a conditional use permit. Any conditional use permit granted pursuant to this section shall be personal to the applicant and shall not run with the land. 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.

Chairman Jim Masek made a motion to open the public hearing at 8:42 a.m. to consider the request from Nick Sypal for a conditional use permit for the property described as West half of the Southwest quarter of Section 19, Township 15, Range 3 East, Butler County, Nebraska, physical address of 273 West C Street, David City, for processing and storage of wood and firewood and tree service use such equipment commonly used for said purpose. 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.

Andrew Spader of Matson & Rickett Law Firm introduced himself again and asked that the Planning Commission approve conditional use permit.

City Council member Keith Marvin introduced himself and asked that the commission put conditions on the I2 properties that they must remove the firewood and not allow them to put back on the I2 property.

Nick Sypal introduced himself, currently he has bulk firewood on the I2 property, they are in the process of selling the firewood, he is estimating that in the next two months the bulk firewood would diminish.

Discussion continued.

Planning Commission Minutes

July 13, 2024

Page # 6

Chairman Jim Masek made a motion to close the public hearing at 8:50 a.m. for the consideration of the request from Nick Sypal for a conditional use permit for the property described as West Half of the Southwest Quarter of Section 19, Township 15, Range 3 East, Butler County, Nebraska, with a physical address of 273 West C Street, David City, for processing and storage of wood and firewood and tree service use such equipment commonly used for said purpose. 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 informed the Planning Commission that the next item on the agenda was the consideration for the request from Nick Sypal for a conditional use permit on the 273 West C Street, David City, Nebraska property.

City Council Member Keith Marvin asked that the public hearing be reopened for additional public comment, because he would like to make a couple of comments.

Chairman Jim Masek made a motion to reopen the public hearing at 8:57 a.m. for the conditional use permit application for Nick Sypal. 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.

City Council member Keith Marvin wanted to let the Planning Commission know that without putting the stipulation on the I2 property that they are allowing the Sypal's to expand their operations.

Planning Commission member Jim Vandenberg agreed with City Council member Keith Marvin that this is allowing them to expand their operation.

City Clerk Tami Comte informed the Planning Commission that they could table the Conditional Use Permit until the next meeting to get clarification and information from the City's Attorney on if there can be a stipulation on the I2 property.

Motion was made to close the public hearing and then was rescinded to allow Bryon Forney to speak at the public hearing.

Bryon Forney introduced himself and spoke about his opposition of the firewood being processed on the I2 property.

Nick Sypal wanted to make sure that the Planning Commission understands that the firewood and wood processing was originally done on the R2 property but were told that they had to cease the processing on the R2 property and move the processing to the I2 property. Nick wants to be able to process the firewood on the R2 property.

Planning Commission member Jim Vandenberg made a motion to close the public hearing at 9:22 a.m. for the conditional use permit application for Nick Sypal. 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.

Planning Commission member Jim Vandenberg made a motion to table the conditional use permit application for Nick Sypal to the August 10, 2024, Planning Commission meeting. 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.

Planning Commission Minutes

July 13, 2024

Page # 7

There being no further business to come before the Planning Commission, Planning Commission Chairman Jim Masek made a motion to adjourn at 9:24 a.m. 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

Minutes by Lori Matchett, Deputy City Clerk