

MINUTES OF THE MEETING OF THE NORTH PLATTE PLANNING COMMISSION HELD ON THE 22<sup>nd</sup> DAY OF DECEMBER 2020 IN THE CITY HALL COUNCIL CHAMBERS.

MEMBERS PRESENT: Don Weber, Travis Herdt, Marilyn McGahan, Tristen Winder, Nelson Jett, David Fudge, Bonnie Kruse

MEMBERS ABSENT: Jim Bain, Lee Davies

STAFF MEMBERS PRESENT: Judy Clark, Planning Administrator; Kim Backer, Acting Secretary

Notice of the meeting was given in advance thereof, by posting in at least three places in the City as follows: North Platte Public Library, Lincoln County Courthouse, and City Hall offices.

Notice of the meeting was given to the Chairman and all members of the Planning Commission. Availability of the agenda was communicated in the advance notice and in the notice to the Chairman and members of the Commission.

All proceedings thereafter shown were taken while the convened meeting was open to the attendance of the public.

Chair McGahan called the meeting to order at 5:30 p.m. and stated a current copy of the open meetings act of Nebraska is posted at the back of the Council Chambers. Chair McGahan called a moment of silence in remembrance of Planning Commission Member Jim Bain.

2. Weber moved and Winder seconded the motion to approve the minutes of the meeting held November 24, 2020. Roll call vote: "Aye": Winder, Jett, Weber, McGahan, Fudge, Kruse, Herdt. "Nay": None. Absent: Bain, Davies. Motion carried.
3. Public Hearing File No. AM20-009 Discuss and consider action on an application by CJLK, LLC and Kirk and Tyann Nansel for an amendment to the North Platte Comprehensive Plan 2011 Future Land Use Map to amend certain lands from Residential – Medium Density Single, Duplexes, and Multi-Family to Industrial located at 614, 617 and 619 North Grant Avenue on property described as the S ½ of Lot 4 and all of Lot 5, Block 6 Town Lots Co., North Platte Lincoln County, Nebraska and Lot 8 and Lot 9, Block 7 Town Lots Co. North Platte, Lincoln County, Nebraska.

Chair McGahan opened the public hearing for Item Nos. 3 and 4 on the agenda.

McGahan stated that Items #3 and #4 on the agenda involve the same property and may be discussed together but must be acted on separately. If item #3 is not approved item #4 cannot be acted on.

In order to rezone a property it is the duty of the planning commission to ensure that the rezoning is in conformance with the current comprehensive plan. A comprehensive plan may be amended as the planning commission deems appropriate; therefore, prior to approving the rezoning of this property, the City of North Platte's Comprehensive Plan must be amended to ensure conformity of the rezoning. The request for the amendment has been submitted in conjunction with a rezoning. The applicants are requesting the amendment to allow a change in zoning. Planning Staff has no objections to the proposed amendment. Over the past 10 years, properties along West Front Street have continued to transition from residential to industrial and it is anticipated that the trend will continue. Front Street provides easy access to warehouse, office and commercial uses and is a good location for commercial or low intensity industrial type development.

The applicants are requesting the zone change to allow the existing temporary storage container to be placed on the property permanently. The applicants felt if they were requesting the rezoning on 619 N. Grant Avenue they would go ahead and request a rezoning on the neighboring property that they also own for possible future development. Planning Staff has no objections to the rezoning if the amendment to the land use map is approved. Over the past 10 years, properties along West Front Street have continued to transition from residential to industrial and it is anticipated that the trend will continue. Front Street provides easy access to warehouse, office and commercial uses and is a good location for commercial or low intensity industrial type development.

Kirk Nansel, 422 N Garfield, applicant, explained he was requesting the amendment and rezoning to allow his temporary cargo container to remain as a permanent structure located at 619 N Grant Avenue. He further stated that since he owned the other two properties, 617 and 614 N Grant Avenue he felt that he should ask to rezone all of them together to save time and money in the future. He currently does not have any future plans for the properties but have tossed around the idea of a hydroponic greenhouse if he can get that pulled together, but it will be a long time in the future.

Kruse moved and Winder seconded the motion to close the public hearing. Roll call vote: "Aye": Winder, Jett, Weber, McGahan, Fudge, Kruse, Herdt. "Nay": None. Absent: Bain, Davies. Motion carried.

Herdt moved and Jett seconded the motion to approve File No. AM20-009 an amendment to North Platte Comprehensive Plan 2011 Future Land Use Map to amend certain lands from Residential–Medium Density Single, Duplexes, and Multi-Family to Industrial located at 614, 617 and 619 North Grant Avenue. Roll call vote: "Aye": Winder, Jett, Weber, McGahan, Fudge, Kruse, Herdt. "Nay": None. Absent: Bain, Davies. Motion carried.

4. Public Hearing File No. Z20-008 Discuss and consider action on an application by CJLK, LLC and Kirk and Tyann Nansel to rezone certain lands from an R-2 Dwelling District to an I-1 Light Industrial District located at 614, 617 and 619 North Grant Avenue on property described as the S ½ of Lot 4 and all of Lot 5, Block 6 Town Lots Co. North Platte Lincoln County, Nebraska and Lot 8 and Lot 9, Block 7 Town Lots Co. North Platte, Lincoln County, Nebraska.

The public hearing was held, discussed and closed with Item No. 3 above.

Herdt moved and Fudge seconded the motion to approve File No. Z20-008 to rezone certain lands from an R-2 Dwelling District to an I-1 Light Industrial District located at 614, 617 and 619 North Grant Avenue. Roll call vote: "Aye": Winder, Jett, Weber, McGahan, Fudge, Kruse, Herdt. "Nay": None. Absent: Bain, Davies. Motion carried.

5. Public Hearing File No. CU20-007 Discuss and consider action on an application by Sheridan and Collette Sauer, owners, and Industrial Tower West, LLC, purchaser, for a conditional use to allow a 60 foot tall cell tower and telecommunication facility in a B-1 Neighborhood Commercial District located at 1220 West A Street on property described as Lots 5 and 6, Westfield Addition to North Platte, Lincoln County, Nebraska.

Chair McGahan opened the public hearing.

Judy stated that the applicant has stated they are proposing to improve the Viaero Wireless network's frequency strength for indoor building coverage in and around the immediate area of the proposed tower site. The conditional use has been submitted in conjunction with a lot consolidation, Viaero H.S. Administrative Subdivision. In order to meet setback requirements for towers the applicant was required to combine the existing two lots into one lot. Documentation has been submitted for the proposed tower including a copy of their purchase agreement, the preliminary and final subdivision plat, a location map, a current zoning map, a simulation of what the proposed tower would look like if approved, preliminary site plan drawings and maps of projected network coverage. Additionally, the applicant has submitted information regarding additional cell towers in the immediate area and a Determination of No Hazard to Air Navigation as provided by the Federal Aviation Administration.

Judy further explained that it is important to note that Planning Commission has the ability to deny cell tower applications that do not meet certain criteria as set forth in the North Platte Code of Ordinances Section 156.322 Conditional Uses and Section 156.305 Telecommunication Facilities, however, cell towers are protected by the Federal Communications Act and cannot be denied based entirely on perceived health concerns. If Planning Commission feels that a cell tower site is not compatible with the neighborhood or will cause undue hardship in that particular location, they must make any denial of an application in writing supported by substantial evidence in a written record. Planning Staff has no objections to the conditional use permit as presented. The application meets all requirements written in the North Platte City Code of Ordinances Section 156.322

Conditional Uses and Section 156.305 Telecommunications Facilities.

Chris Riha, Site Acquisition Manager, Viaero, 1811 W 2<sup>nd</sup>, Grand Island, spoke on the application and discussed the new design of the tower to look more like a street light instead of the original that was submitted. The new design could be with or without the light structure. He also detailed options for conditions that Viaero could do to help accommodate a more aesthetic feel.

Johnna Arensdorf, 902 W B Street who is also a co-owner of 1215 W B Street, spoke against the application. Ms. Arensdorf read from a letter, submitted as Exhibit 1. She explained numerous health reasons and financial loss as a result of owning property next to a cell tower since property values would take a downturn and it would be more difficult to sell or would sell at a lower price. Additionally, she is adamantly opposed to one business profiting at the expense of others. Some other concerns were the proposed light and camera that were attached to the proposed tower.

Mr. Riha spoke again regarding the light and the camera. Viaero would not be opposed to removing the light and camera and would also not be opposed to inserting slats into the chain link fence to screen from the neighboring properties.

Ms. Arensdorf spoke again and questioned why Viaero has to have their own tower and why they cannot locate on the outside of town.

Mr. Riha was asked to address Ms. Arensdorf's concerns. Mr. Riha referred to the application submitted to the Planning Commission regarding tower strength and the reasons the location was chosen.

Judy read a letter from Linda Deaver, 1221 W B Street, submitted as Exhibit 2. Ms. Deaver's letter stated health concerns and loss of investment in her home.

Judy read an email from North Platte Public Schools, submitted as Exhibit 3. The email stated that the school has some reservation about tower since there is a Verizon tower located on the football field.

Weber moved and Winder seconded the motion to close the public hearing. Roll call vote: "Aye": Winder, Jett, Weber, McGahan, Fudge, Kruse, Herdt. "Nay": None. Absent: Bain, Davies. Motion carried.

After the public hearing, Planning Commission discussed options for conditions on the tower regarding the light, camera and fencing.

Weber stated he has a cell tower by his house and has no effect or concerns of change in value of his home.

Kruse asked about B-1 zoning and what types of businesses would be allowed to locate in the area. Judy read from the zoning code and provided a few examples of allowed businesses in a B-1 District.

When discussion concluded, Judy provided some guidance on types of conditions that could be added.

Herdt moved and Fudge seconded the motion to find the request for a conditional use permit to allow a 60 foot tall cell tower and telecommunication facility in a B-1 Neighborhood Commercial District located at 1220 West A Street meets the minimum standards stated in The North Platte Code of Ordinances Section 156.322 and approve and grant the conditional use permit requested with the condition that all elements of the application are complied with and with the conditions that:

1. No camera
2. No light
3. A 6' wood privacy fence should be installed for screen

based on the following factual findings:

1. The use shall conform to all applicable ordinances, laws and regulations of any governmental jurisdiction.
2. The use shall have adequate water, sewer, and drainage facilities.
3. Ingress and egress shall be so designated as to minimize traffic congestion in the public streets.

4. The use shall in all other respects conform to the applicable regulations of the district in which it is located  
5. The use shall be in harmony with the character of the area and the most appropriate use of the land  
Roll call vote: "Aye": Winder, Weber, McGahan, Fudge, Kruse, Herdt. "Nay": Jett. Absent: Bain, Davies.  
Motion carried.

6. Discuss possible amendment to City of North Platte Code of Ordinances regarding lighting as it pertains to new development.

Judy explained that Planning Staff has been researching possible options regarding regulations when it comes to lighting. Over the past several years there have been a number of occasions when neighbors attending public hearings regarding commercial projects in and around residential neighborhoods have heavily objected to these developments due to perceived issues with lighting of parking lots and buildings associated with these types of developments. Research shows that most developers do consider lighting when developing near residential areas and usually have lights that simply light the property in question, with no intention of installing lights that cause issues for neighboring properties. In discussions with Municipal Light and Water and the City Engineering Department about possible light regulations, the determination was made to try not to over-regulate when developers have updated lighting to meet the needs and concerns of neighboring property owners. Requiring photometric calculations would be sufficient. Brent Burklund, City Engineer, and Boyd Geisler, Municipal Light & Water are present to answer questions regarding lighting placement plans and photometric calculations.

Planning Staff is proposing to add a statement similar to the following regulation from Omaha that reads as follows: *Building permit applications including the installation of outdoor lighting fixtures shall provide appropriate lighting placement plans, photometric calculations, and fixture specifications within the permit application. A lighting plan shall not be required when three or fewer fixtures are installed that do not increase off-site lighting levels.* If the Planning Commission wishes to pursue some lighting regulations, staff will present a detailed proposed regulation at a future meeting. Planning staff feels the need to ensure lighting that is not intrusive to neighborhoods, while not impeding development, is necessary and that the above regulation is a start of regulations that would both allow for development and protect the neighborhood.

Herdt provided an example of the West A Street project and discussed why putting some types of regulations in would be good to protect neighboring properties.

Matt Kibbon, City Administrator, was in the audience and spoke regarding the research that staff has been working on to provide some well thought out regulations that would not hinder development, but still provide some protection for neighboring homes.

Boyd Geisler, ML&W, provided some insight regarding photometric studies and some examples of types of lighting to stay away from.

Planning Staff will move forward with lighting regulations and bring proposed regulations back to Planning Commission at a later date.

7. Discuss Missing Middle Housing and the steps needed to comply with the newly adopted Nebraska Legislative Bill.

Judy explained that LB 866 Requirements for the cities are as follows:

On or before July 1, 2021, and every two years thereafter, each city shall submit a report to the Urban Affairs Committee of the Legislature detailing its efforts to address the availability of and incentives for affordable housing through its zoning codes, ordinances, and regulations. The report must include:

- Overview of the city's current residential zoning requirements
- The percentage of areas in the city zoned for residential use that allow the construction of multi-family and middle housing

- A breakdown of new residential construction in the city over the past five years (single-family, multi-family, middle housing) with estimates of cost
- If zoning codes, ordinances, and regulations provide for density bonuses or other concessions or incentives
- If zoning codes allow for accessory dwelling units
- What incentives, both direct and regulatory relief, the city applies to encourage development of affordable housing
- Must include progress of efforts being made toward an Affordable Housing Action Plan that must be complete by 2024.

The Urban Affairs Committee of the Legislature may require any city to present its report to the committee at a public hearing.

On or before January 1, 2024, each city with a population of less than fifty thousand inhabitants shall adopt an affordable housing action plan and the plan shall include:

- Goals for the construction of new affordable housing units, including multi-family housing and middle housing, with specific types and numbers of units, geographic locations, and specific actions to encourage the development of affordable housing, middle housing, and workforce housing.
- Goals for a percentage of areas in the city zoned for residential use that permit the construction of multi-family housing and middle housing
- Plans for the use of federal, state, and local incentives to encourage affordable housing, middle housing, and workforce housing including the Affordable Housing Trust Fund, the Local Option Municipal Economic Development Act, tax-increment financing, federal community development block grants, density bonuses, and other nonmonetary regulatory relief.
- Updates to the city's zoning codes, ordinances, and regulations to incentivize affordable housing

Any city that fails to adopt an affordable housing action plan as required shall be required to allow development of:

- Middle housing in all areas in the city zoned for residential use that allow for the development of detached single-family dwellings;
- Duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings
- City shall amend any building zoning ordinances or regulations as needed to comply with this section.

Planning Staff has provided the above information to make Planning Commission aware of zoning amendments that are required to be made prior to January 1, 2024. Missing Middle housing refers to Duplexes, Triplexes, Quadplexes, Cottage clusters, Townhouses, and Workforce housing (housing that meets the needs of working families). Our current zoning regulations do not allow Missing Middle housing in R-L, R-1, R-2, and R-4 zoning districts and will need to be amended. It is important that Planning Commission understands the mandates of LB 866 in order to support staff when these zoning amendments are presented in public hearing form. These zoning changes are likely to cause some disagreements at upcoming public hearings regarding amendments that will allow development of multi-family residential in areas that have historically been single-family only districts. The city has the ability, through zoning amendments, to allow multi-family that will conform to standards in certain neighborhoods, but does not have the ability to essentially zone "out" multi-family residential developments in those areas.

The city has started the process through the last amendment to the comprehensive plan that added some language regarding affordable housing/missing middle housing. The foundation is in place through the comprehensive plan to allow future updates in the zoning code.

Kruse asked about the passage of LB866 and definitions of "Missing Middle" housing.

Fudge asked if the City of North Platte could use Lincoln's Affordable Housing Action Plan as a guide or starting point for North Platte.

Mark Woods, 902 North Emory, asked what comes first, action plan, zoning regulations or could they all be completed at one time.

Judy stated that we have already began the process through the amendment of the Comprehensive Plan that was adopted last month by adding some wording regarding affordable housing, so the base is set and ready for the city to start moving forward. It is a complete process where we will look at rezoning and new regulations at the same time.

Woods asked if lot size could regulate location of the multi-dwellings.

Judy explained that if the city chooses to change the regulations, lot size would be a factor, but to remember the city has some options to require certain standards to meet LB866 regulations but cannot eliminate multi-family in any of the residential zoned areas, just how they are built in certain areas, which could effectively make it more cost efficient to locate in certain areas.

Fudge questioned how there were duplexes currently in R-1 zoned areas.

Judy stated that if she remembered correctly those were considered town houses and were allowed because the property owner went through the Board of Adjustment and were granted variances to side lot lines which allowed the townhomes to build over the lot line.

Planning staff will move forward with some guidelines and planning commission will be working with these regulations over the next several years.

8. Old Business. There was no old business to be discussed.
9. New Business. Election of Officer to occur at the next Planning Commission meeting.
10. Adjourn. Chair McGahan adjourned the meeting at 7:21 p.m.

Respectfully Submitted,

Judy Clark  
Planning Administrator