



SCOTTSBLUFF CITY
PLANNING COMMISSION AGENDA
Monday, April 8, 2013, 8:00 PM
City Hall, 2525 Circle Drive

**PLANNING
COMMISSIONERS**

GLEN VANDENBERGE
CHAIRMAN

BECKY ESTRADA
VICE CHAIRMAN

ANGIE AGUALLO

DANA WEBER

HENRY HUBER

GARY HUTZEL

JIM ZITTERKOPF

ANITA CHADWICK

- 1. WELCOME TO THE PLANNING COMMISSION MEETING:** Chairman
- 2. NEBRASKA OPEN MEETINGS ACT:** For all interested parties, a copy of the Nebraska Open Meetings Act is posted on a bulletin board at the back of the council chambers in the west corner.
- 3. ROLL CALL:**
- 4. NOTICE OF CHANGES IN THE AGENDA:** Additions may not be made to this agenda less than 24-hours prior to the beginning of the meeting unless added under item 5 of this agenda.
- 5. CITIZENS WITH ITEMS NOT SCHEDULED ON THE REGULAR AGENDA:** As required by State Law, no item may be considered under this item unless the Planning Commission determines that the matter requires an emergency action.
- 6. APPROVAL OF THE PLANNING COMMISSION MINUTES FROM:**
A 2/11/13
- 7. NEW BUSINESS:**
 - A Rezone: Block 2, Adams Addition Replat to the City of Scottsbluff**
Rezone: Lots 4, 5, & 6, Block 2, Adams Addition Replat from R-1A to C-3
Applicant(s): Neal Smith
Owner(s): Oregon Trail Land & Aquatic Trust, DBarB Farms, & Western Terminal Storage
Location: 1105, 1201, and 1215 W. 36th Street
 - B Rezone: Pt of Blk 6A, Panhandle Cooperative Addition Replat**
Rezone: Pt of Blk 6A, Panhandle Cooperative Sub from C-2 to M-1
Applicant: Carl Francisco
Owner: Carl Francisco
Location: 818 Avenue B
 - C Ordinance Text Change Parking**
Text Changes/Additions: Chapter 25, Article 5
Applicant(s): N/A
Owner(s): N/A
Location: Central Business District
 - D Ordinance Text change/addition Telecommunication Facilities**
Text Change/Addition: Telecommunication Facilities Code
- 8. UNFINISHED BUSINESS:**
A None
- 9. ADJOURN**

The public is invited to participate in all Planning Commission Meetings. If you need special accommodations to participate in the meeting, please contact the Development Services Department at (308) 630-6243, 24-hours prior to the meeting.

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City of Scottsbluff, Nebraska

Monday, April 8, 2013

Regular Meeting

Item Appr. Min.1

2/11/13

Staff Contact: Annie Urdiales

Planning Commission Minutes
Regular Scheduled Meeting
February 11, 2013
Scottsbluff, Nebraska

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, February 11, 2013, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on January 4, 2013. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

ITEM 1: Chairman, Glen Vandenberghe called the meeting to order. Roll call consisted of the following members: Henry Huber, Jim Zitterkopf, Angie Aguillo, Dana Weber, Anita Chadwick, and Becky Estrada. Absent: Gary Hutzler. City officials present: Annie Urdiales, Planning Administrator, City Planner, Marlon Johnson, Gary Batt, Code Administrator I.

ITEM 2: Chairperson Vandenberghe informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on the bulletin board in the back area of the Conference Room on the north wall, for those interested parties.

ITEM 3: Acknowledgment of any changes in the agenda: None.

ITEM 4: Business not on agenda: None

ITEM 5: Citizens with items not scheduled on regular agenda: None

ITEM 6: The minutes of 1/11/12 were reviewed and approved as distributed. A motion was made by Estrada, and seconded by Huber. "YEAS": Huber, Chadwick, Weber, and Estrada. "NAYS": None. ABSTAIN: Vandenberghe, Zitterkopf, & Aguillo. ABSENT: Hutzler. Motion carried.

ITEM 7A: The Planning Commission opened a public hearing for a rezone request from Platte Valley Bank on two parcels of property described as Lot 2, Block 9, Subdivision of Block 9, East Portal Addition (2.11 acres) and Block 4, East Portal Village Addition (12,000 s.f.), situated in the SE ¼ of Section 24, T22N, R55W of the 6th p.m., Scotts Bluff County. The parcels are located between 16th & 17th Avenue and between 17th & 18th Street. Lot 2 is addressed as 1702 17th Avenue and previously known as the Orange Bowl, this property is zoned PBC (planned business center). The second parcel abuts the Orange Bowl property directly north and is vacant. This property is zoned R-4 (heavy density multiple family) and described as Block 4, East Portal Village Addition, this parcel was originally platted and developed by Platte Valley Community Development as part of East Portal Village, which was for low to medium income families. The property to the west has been developed with single family residential homes the property to the north has been developed with seven to eight apartment complexes. Block four has remained undeveloped and is now owned by the bank. Platte Valley would like to change the zoning on both properties to C-2 Neighborhood and Retail Commercial. The C-2 zoning would be a good fit for the neighborhood. To the east of 17th Avenue the

52 area is zoned C-3 Heavy Commercial. To the north and west of the parcels the zoning is R-4 Heavy
53 Density Multiple Family.

54

55 Marlin Johnson, City Planner, gave a brief report to the Planning Commission the Comprehensive Plan
56 Future Land use map designates the PBC parcel as light commercial, and the R-4 parcel as multi family.
57 Because the undeveloped R-4 parcel abuts commercial zoning on two sides and is separated from other R-
58 4 parcels by streets it is reasonable to consider the rezone to C-2. No comments were received from other
59 departments or agencies, minimal comment and no objections were received from the public. The C-2 is
60 a reasonable and transitional zoning of the properties based upon existing zoning and existing land uses in
61 the neighborhood. Staff recommends approval of the rezone of both parcels to C-2 Neighborhood &
62 Retail Commercial.

63

64 Hunter Kosman, representing Platte Valley Bank, spoke in favor of the rezone, the bank is looking to sell
65 the properties and the C-2 designation would allow the use to remain a bowling alley, it will also allow
66 for other permitted uses that could fit in with a residential neighborhood.

67

68 **Conclusion:** A motion was made by Estrada and seconded by Chadwick to make positive
69 recommendation to City Council on the rezone of Lot 2, Block 9, subdivision of Block 9, East Portal
70 Addition (PBC), and Block 4, East Portal Village Addition (R-4) to C-2 "YEAS": Estrada, Weber,
71 Huber, Zitterkopf, Chadwick, Aguillo, and Vandenberg. "NAYS": None. ABSTAIN: None. ABSENT:
72 Hutz. Motion carried.

73

74 **Agenda Item 7B:** The Planning Commission opened a public hearing regarding a final plat which was
75 approved at last month meeting for Block 3, Barbour's Third Subdivision. Marlin addressed the Planning
76 Commission and explained at the last meeting Staff had reported and recommended approval with the
77 addition of a non-access easement. This included an access road on the farm ground above the five acres
78 that was platted out as Block 3. The motion for approval did not specifically mention this additional
79 requirement. The applicant and the surveyor missed this recommendation as well; as they would have
80 objected to the requirement of the non-access easement include the farm ground entrance located near the
81 Highway of the un-platted farm ground. At the Council meeting, Council approved the reading of the
82 rezone. Staff reported that the applicant objected to the non-access easement on the farm ground. City
83 Council tabled the preliminary and final plat and asked to get specific comment from the Planning
84 Commission.

85

86 Staff reassessed the situation and send out additional emails to the State, City Engineer, & Transportation
87 Department for further comments, no further comments or objections were received. If and when the
88 farm ground is developed in the future the development will again come before the Planning Commission
89 and they will be able to review the farm access along with all other parties involved.

90

91 **Conclusion:** A motion was made by Weber and seconded by Aguillo to make positive recommendation
92 to City Council to allow for the farm access until future development of the farm ground on the final plat
93 of Block 3, Barbour's Third Subdivision, City of Scottsbluff, Scotts Bluff County. "YEAS": Huber,
94 Zitterkopf, Chadwick, Weber, Estrada, and Vandenberg. "NAYS": None. ABSTAIN: None. ABSENT:
95 Hutz. Motion carried.

96

97 **Agenda Item 7C:** The Planning Commission had previously discussed wireless telecommunication
98 facilities and was asked by Council to take another look into the possibly of updating the current City
99 Code for Wireless facilities. Current code regulations for telecommunication facilities are listed in our
100 Commercial and Industrial zones as a permitted use by right with a maximum of 150' in height. They are
101 listed as communication facilities, no guy wires, out rigging, or other supporting structures may extend
102 beyond the foundation of the tower.

103

104 Marlin introduced Henry Jacobsen, an Engineering Specialist in Wireless Communication
105 Towers/Facilities. Mr. Jacobsen gave a history on telecommunication facilities which started back in
106 1876 with the telephone company at that time it became a regulated monopoly. In 1996 it was rewritten
107 to allow for some competition, the competitive local exchange carriers continued until cell phones. At
108 that time the economics completely changed. The demand for wireless capacity is increasing and in the
109 next fifteen to twenty years land lines will be discontinued. Tall towers are not the norm now; short
110 utility towers are what wireless technology is working with. The co-locations on towers do not work well
111 as the more services on the tower the taller the towers need to be.

112

113 Local zoning should be specific and defensible in all zoning districts and not become so onerous that they
114 prohibit the building of a tower. The 1996 rules state that neither state nor local government can
115 discriminate.

116

117 Some of the things to consider when working on the requirements for towers facilities are abandoned
118 towers, making sure that when the towers are removed the property is put back in same condition as
119 before tower was installed. Setbacks - that will allow towers to be tucked in to different areas throughout
120 the city. Review and consult with City before towers are approved with either a conditional use permit or
121 permitted use by right. Require anti-climb on all towers. Towers should be 20' above tree line; 75'
122 should be sufficient height for towers.

123

124 A recommendation was made by Estrada and agreed on by Planning Commission for staff to create a new
125 Chapter or Article for Wireless Communication Facilities guidelines and regulations.

126

127 **ITEM 8. Unfinished Business:** Annie informed the Planning Commission of the date and schedule of
128 the annual Nebraska Planning and Zoning Conference which will be held in Kearney this year. If any of
129 the Planning Commission members would like to attend they should let her know and she will get them
130 registered for the conference.

131

132 There being no further business the Planning Commission with a motion to adjourn made by Estrada and
133 seconded by Weber the meeting was adjourned at 7:20 p.m. "YEAS": Huber, Aguillo, Estrada,
134 Chadwick, Weber, and Vandenberg. NAYS: none. ABSENT: Hutzl (Zitterkopf left at 7:00 p.m. for another
135 meeting). Motion carried.

136

137

138 _____
Glen Vandenberg, Chairperson

139

140 Attest: _____

141 Annie Urdiales

City of Scottsbluff, Nebraska

Monday, April 8, 2013

Regular Meeting

Item NewBiz1

Rezone: Block 2, Adams Addition Replat to the City of Scottsbluff

Rezone: Lots 4, 5, & 6, Block 2, Adams Addition Replat from R-1A to C-3

Applicant(s): Neal Smith

Owner(s): Oregon Trail Land & Aquatic Trust, DBarB Farms, & Western Terminal Storage

Location: 1105, 1201, and 1215 W. 36th Street

Minutes: 2/11/13

Staff Contact: Annie Urdiales

SCOTTSBLUFF CITY

PLANNING COMMISSION STAFF REPORT

To:	Planning Commission	Zoning:	R-1A
From:	Development Services Department	Property Size:	2.5 acres ±
Date:	April 8, 2013	# Lots/Units:	3
Subject:	Rezone parcels from R-1A to C-3		
Location:	1105,1201,1215 West 36 th Street		

Procedure

1. Open Public Hearing
2. Overview of petition by city staff
3. Presentation by applicant
4. Solicitation of public comments
5. Questions from the Planning Commission
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determine final approval

Public Notice: This item was noticed in the paper and a notice was posted on the property

Background

The applicant(s), Neal Smith, trustee of Oregon Trail Land & Aquatics Trust, along with property owners D Bar B Farms (David Baltensperger), and Western Terminal Storage, Inc. (Paul Reed) have requested a rezone for lots 4, 5, and 6, Block 2, Adams Addition replat from R-1A (residential) to C-3 (Heavy Commercial). These parcels are situated on the north side of 36th Street, west of Avenue I. The purpose of the rezone & subdivision is to allow for commercial development on the three lots.

The City's comprehensive development plan shows this area of 36th Street as employment center (commercial uses) the properties to the south are zoned C-3, businesses include Western Plains, North Park Transportation, and Mavericks. Properties to the east are also zoned C-3 and include Storage Masters, Miller's Auto Repair, and an office complex, across the Highway to the East is Chili's restaurant. Property directly north is residential.

Planner's Report and Recommendation

APPLICANTS – Neal Smith, D Bar B Farms and Western Terminal Storage

The applicants desire to rezone, respectively, Lot 6, Lot 5, and Lot 4 of Block 2 of Adams Addition to C-3 Heavy Commercial from R-1a Single Family Residential. The three parcels total approximately 2.5 acres.

Lot 5 has a commercial structure that was permitted with a Variance and Lots 6 and 4 are undeveloped. C-3 Zoning exists along both sides of 36th Street in this vicinity with some parcels developed and others not. There is R-1a zoning to the north and Agricultural Zoning to the west. Most of these properties are developed with their respective uses.

Rezone Request, Page 1

The Comprehensive Plan Future Land Use Map designates these parcels as Employment Center, which generally matches Commercial.

No concerns for this proposal were received from other departments or agencies.

There have been no objections received from the public at the time of this Report.

C-3 appears to be a reasonable and logical use of these properties.

Staff recommends approval of the rezone of Lots 4-6 of Block 2 of Adams Addition to C-3 Heavy Commercial.

Planning Commission Recommendation

Approve

Make a POSITIVE RECOMMENDATION to the City Council to rezone Lots 4, 5, and 6, Block 2, Adams Addition Replat to the City of Scottsbluff from R-1A to C-3 subject to the following condition(s):

Deny

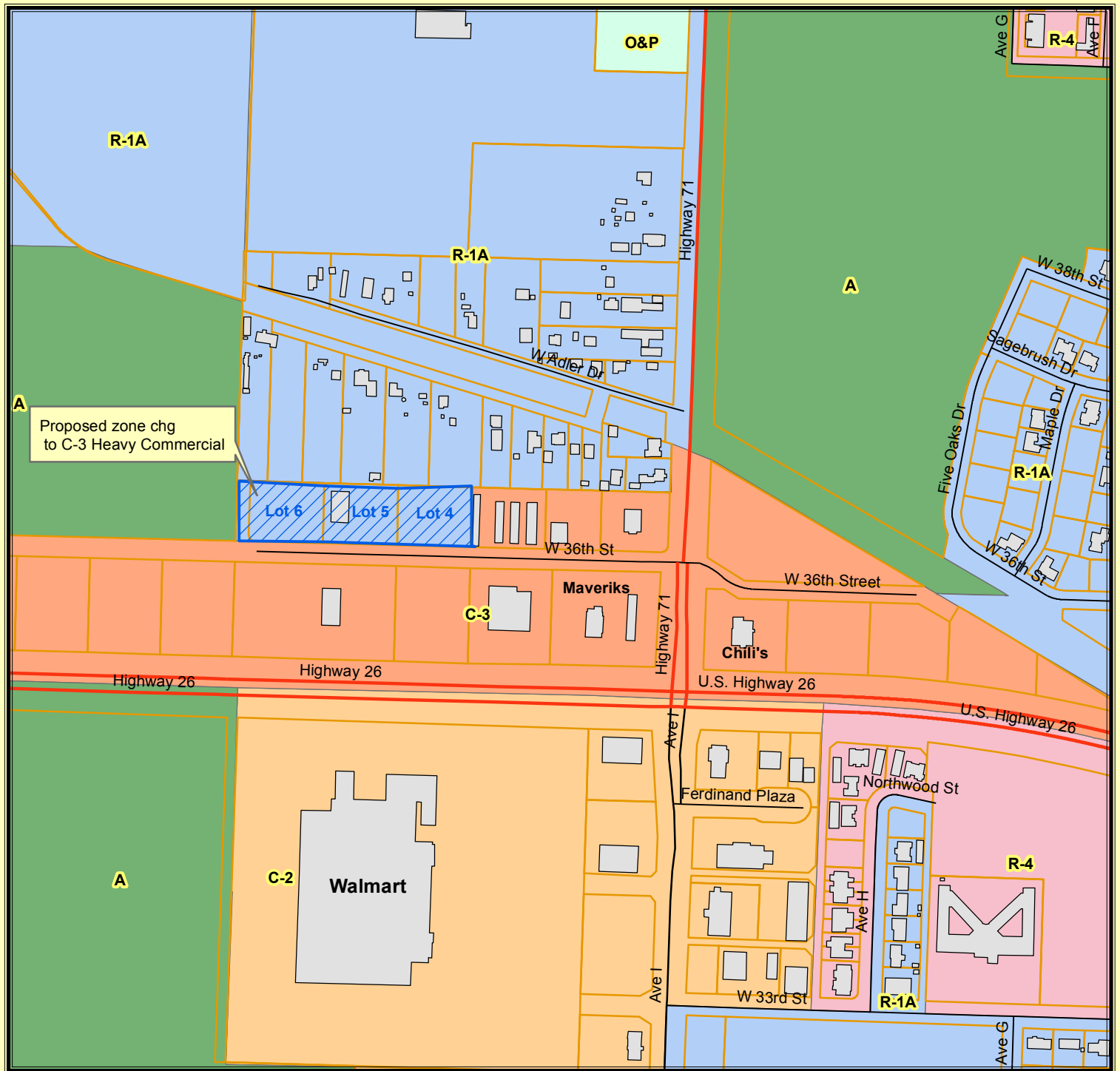
Make a NEGATIVE RECOMMENDATION to the City Council to rezone Lots 4, 5, and 6, Block 2, Adams Addition Replat to the City of Scottsbluff from R-1A to C-3 for the following reason(s):

Table

Make the motion to TABLE the rezone lots 4, 5, & 6, Block 2, Adams Addition Replat to the City of Scottsbluff from R-1A to C-3 for the following reason(s):

West 36th St. Rezone

R-1A to c-3



4/8/2013



Map by A. Urdiales: City of Scottsbluff
Coordinate System:
NAD 1983 StatePlane Nebraska FIPS 2600 Feet
Lambert Conformal Conic

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

City of Scottsbluff, Nebraska

Monday, April 8, 2013

Regular Meeting

Item NewBiz2

Rezone: Pt of Blk 6A, Panhandle Cooperative Addition Replat

Rezone: Pt of Blk 6A, Panhandle Cooperative Sub from C-2 to M-1

Applicant: Carl Francisco

Owner: Carl Francisco

Location: 818 Avenue B

Staff Contact: Annie Urdiales

SCOTTSBLUFF CITY

PLANNING COMMISSION STAFF REPORT

To:	Planning Commission	Zoning:	M-1 & C-2
From:	Development Services Department	Property Size:	2.5 acres ±
Date:	April 8, 2013	# Lots/Units:	1
Subject:	Rezone parcel from C-2 to M-1		
Location:	818 Ave. B (Pt. Blk. 6A, Panhandle Cooperative Add)		

Procedure

1. Open Public Hearing
2. Overview of petition by city staff
3. Presentation by applicant
4. Solicitation of public comments
5. Questions from the Planning Commission
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determine final approval

Public Notice: This item was noticed in the paper and a notice was posted on the property

Background

The applicant(s), Carl Francisco (property owner), has requested a rezone for a portion of his lot which is currently zoned with two zoning districts M-1 and C-2, the majority of his lot is M-1 with a small strip to the west and another on the south end of the lot which is zoned as C-2. Mr. Francisco would like to have the C-2 portion rezoned to M-1 to reflect the 11.1 acres as M-1. The zone change will reflect the use of the land and will fit in with the surrounding land uses. Properties to the west and south are zoned C-2, property to the east is zoned M-1, and property to the north is zoned C-3 Heavy Commercial.

The proposed rezone is in compliance with the City's comprehensive development plan. (Employment Center)

Planner's Report and Recommendation APPLICANT – Carl Francisco

The applicant desires to rezone part of Block 6A of Panhandle Cooperative Subdivision Replat to M-1 Light Manufacturing and Industrial from C-2 Neighborhood and Retail Commercial. Block 6A is a single parcel of land with two zonings. The request will simply bring the whole parcel into compliance with the actual use and the M-1 Zoning of the bulk of the parcel.

There is other M-1 Zoning to the east and there is C-2 Zoning to the south and west. Most of these properties are developed with their respective uses.

The Comprehensive Plan Future Land Use Map designates this parcel as Employment Center, which generally matches Light Manufacturing and Industrial.

No concerns for this proposal were received from other departments or agencies.

There have been no objections received from the public at the time of this Report.

Rezone Request, Page 1

M-1 appears to be a reasonable and logical use of this property and clarifies a situation that was apparently not addressed in the past.

Staff recommends approval of the rezone of that portion of Block 6A of Panhandle Cooperative Subdivision Replat that is not so zoned to M-1 Light Manufacturing and Industrial.

Planning Commission Recommendation

Approve

Make a POSITIVE RECOMMENDATION to the City Council to rezone part of Block 6A, Panhandle Cooperative Subdivision replat situated in the NW ¼ of Section 26, T22N, R55W of the 6th P.M., from C-2 to M-1 subject to the following condition(s):

Deny

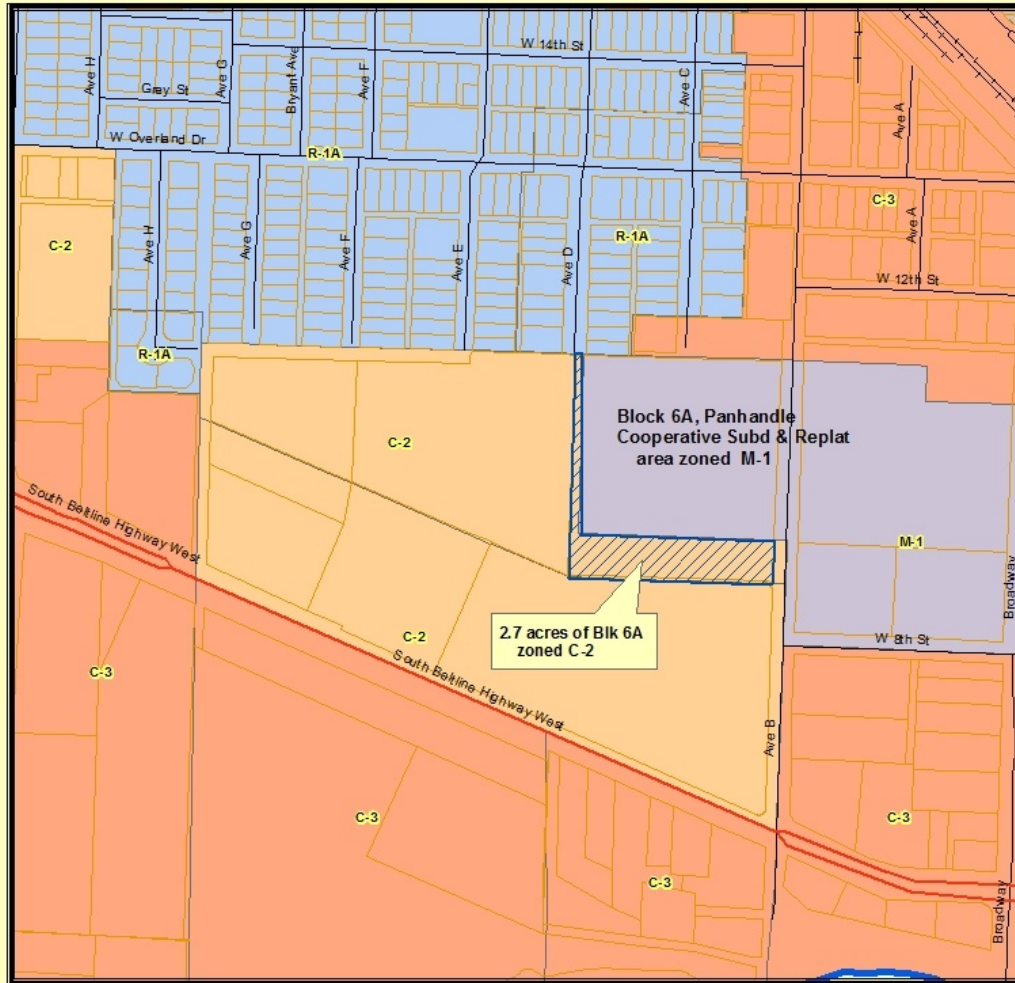
Make a NEGATIVE RECOMMENDATION to the City Council to rezone part of Block 6A, Panhandle Cooperative Subdivision Replat situated in the NW ¼ of Section 26 T22N, R55W of the 6th P.M. from C-2 to M-1 for the following reason(s):

Table

Make the motion to TABLE the rezone request of part of Block 6A, Panhandle Cooperative Subdivision Replat situated NW ¼ of Section 26, T22N, R55W of the 6th P.M., from C-2 to M-1 for the following reason(s):

C. Francisco Rezone

Subtitle C-2 to M-1



4/8/2013

Map by A. Undale; City of Scottsbluff
Coordinate System:
NAD 1983 StatePlane Nebraska FIPS 2600 Feet
Lambert Conformal Conic

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City of Scottsbluff, Nebraska

Monday, April 8, 2013

Regular Meeting

Item NewBiz3

Ordinance Text Change Parking

Text Changes/Additions: Chapter 25, Article 5

Applicant(s): N/A

Owner(s): N/A

Location: Central Business District

Staff Contact: Annie Urdiales



SCOTTSBLUFF PLANNING COMMISSION Staff Report

To: Planning Commission
From: Development Services Department
Date: April 8, 2013
Subject: Parking Central Business District
Location: Broadway

Zoning: C-1
Property Size:
Lots/Units:
Units/Acre

Background

Staff has researched what other cities codes require for Central Business Districts, Downtown Business Districts & Parking Districts regarding residential units. These areas are exempt from requirements as they are paying taxes into the District and a portion of these funds are used for the use and maintenance of the parking lots in the CBD. Staff had previously proposed the City add this same exemption to our City Code and would like to proceed with this.

The BID has met with City Staff, & Downtown Merchant Group regarding parking requirements for schools, employee, and customer parking. They have discussed several options including parking permits, with posted hours for evening and daytime. Several options have been considered and the group has been unable to decide on the change without making it too complicated, they want to keep it simple and not drive away customers who will shop downtown. With the recent upgrades on Broadway there has been an interest in renovating previously abandoned residential units above commercial buildings. This has added to the parking problems in the Central Business District area educating the employees, the public, and residences in the use of parking lots will help alleviate some of the congestion in the downtown area. Some lots are overflowing while others are empty. The City will keep working with the Downtown merchants for the best solution to the parking in the Central Business District and bring these suggestions before the Planning Commission for review.

The Business Improvement District Board and City Staff recommends approval of the proposed change and will continue to work for the best fit with either, parking permits, signage limiting hours for employee, customer, school, & residential parking in the Central Business District zoning district.

RECOMMENDATION

Approve

Positive recommendation for ordinance to exempt residential units in the CBD to the City Council subject to the following condition(s):

Deny

Negative recommendation for ordinance to exempt residential units in the CBD to the City Council for the following reason(s):

Table

TABLE the ordinance to exempt residential units in the CDB zoning district for the following reason(s):

City of Scottsbluff, Nebraska

Monday, April 8, 2013

Regular Meeting

Item NewBiz4

Ordinance Text change/addition Telecommunication Facilites

Text Change/Addition: Telecommunication Facilites Code

Staff Contact: Marlin Johnson

Community Development Staff has been tasked with creating a section for the Zoning Ordinance regarding Wireless Communications Facilities (WCF).

Currently, the Code does not allow WCFs in Residential or Agricultural Zoning Districts. Adding them as a Conditional Use in Agricultural Zoning seems rational; however adding them to Residential Districts is more problematic from aesthetical and historical perspectives.

The introduction of 4th generation (4G) services imposes a new design challenge. In prior technologies a single, tall tower could serve the entire community with both coverage and capacity, but the demand for high-speed data services in 4G requires the re-use of the finite radio-frequency bandwidth allocated to each service provider/carrier. To do this, it is necessary for carriers to increase capacity for specific areas of high customer demand by constructing additional “local” towers of modest height.

In most regional communities, towers are expressly prohibited in all residential zones by existing regulations that were appropriate in years past when towers were generally of large dimensions. The issue of capacity versus coverage causes us to revisit the regulations, particularly in residential zones. Allowing WCFs in residential zones with an approved Conditional Use Permit (CUP) seems to be the logical method to approach the subject. Generally speaking, the public will want the service but not the tower. We have been advised that these local/utility towers need to be 15-20 feet higher than their surrounding environment, so we could consider a height of about 75’ to be a maximum for these so called utility towers,

Identifying more preferred areas yet enabling complete coverage of high capacity service is probably the most difficult task to consider in creating a regulation. Areas in residential zones that might be perceived as lesser impact could include; parks, public lands, proximity to existing overhead utility corridors and proximity to what might be termed “shadow” structures, such as churches, schools and public facilities, especially those that are multi-story.

Allowing towers to be constructed on private land as either a permanent easement or land rental arrangement probably needs to be an option. Allowing the creation of utility sub-lots that do not meet the minimum lot size for the district should also be considered, although that will probably require amending other portions of the Code. Allowing antennas to be located on existing structures should be considered as an administrative review and approval if subject to a maximum additional height above the existing structure, perhaps 12’, and with some kind of blending in language for aesthetical purposes.

Issues that we want to be pre-addressed in any Code will include; FAA approval, FCC approval, local Airport Zoning approval, security fencing, un-climbable structure, color, maintenance and upkeep, abandonment/de-commissioning and compliance with E-911 Public Safety Access Points (PSAP). Co-location has always been preferred. Although co-location may not be as feasible with shortened towers, the matter should still be addressed in the Code.

Parks, especially larger ones, could be good locations to maintain some setback from residences. There may be some instances where utility easements might be a reasonable location, subject to not interfering with underground utilities. There may be some instances where Public Right-of-Way could be a reasonable location. Although zoning regulations typically apply to private property it seems reasonable to have any applications on public property be required to follow the CUP format.

Overhead utility corridors typically have numerous poles that might range from 30-50 feet in height, or taller. Locating individual towers up to 75 feet in height adjacent to these types of facilities would not be a drastic change of use. These existing utility lines, poles and towers do not typically require engineered plans for their structural components. These types of locations might include the consideration of utility sub-lots. Utility sub-lots may only need to be about 2000 square feet for the new type of facility. Allowing such lots will still require some form of legal access and recognition that the parcel will not be served by water and/or sewer, in addition to amending applicable aspects of the existing zoning and subdivision regulations.

Existing structures could be used as antenna support structure, again perhaps with a mix of administrative approval or CUP requirement. Existing structures might also be considered for shadowing a tower. Putting a 75' tower behind or beside a multi-story structure, or a church with a steeple, might be another way to bring the service into a residential zone without putting it in someone's front yard. These facilities are very directional and may need some flexibility in location versus the center of the top of a building, for instance.

Setbacks are another issue that has traditionally been required, often to a very restrictive level. It seems that requiring compliance with a sufficient Structural Code should lessen those needs. We have been advised by the industry that these towers will be standing when your home and/or other structures are gone. Setbacks from lot lines do not seem too applicable. Setbacks from residences might be a fair consideration, perhaps the height of the tower. This will need to be discussed. Should there be required setbacks from schools? If a 75 foot tower were located near a 40 foot school building, what might the dangers be in a tornado, for instance? It seems that the occupants would already be in a storm designated location. Collapsible towers might be a consideration, yet it seems that one might be inherently increasing the risk of collapse if that plan is built into the structure.

There are two general areas that must be considered as we look into allowing these facilities into our neighborhoods. One is that the services that are provided by WCFs have been traditionally been provided by a string of telephone poles. Although WCF providers are not a traditional utility they do provide a functionally equivalent service. Most of the public and our emergency service providers will want the service, so we have some obligation to allow the delivery of that service. In all likelihood a handful of WCF utility towers will ultimately replace the myriad of poles and cables associated with landline telephony.

The other area of interest is the legal requirements from the Federal government that have a bearing in these matters, even though in some aspects they seem to supersede the intent of zoning regulations. The 1996 Federal Telecommunications Act grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of

telecommunications services. It references that a local government shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. The question of potential health impacts may arise but no local government may regulate the placement of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. The full text of the Act is available at www.fcc.gov.

This should give lots to consider. Meanwhile, we are steadfastly working on a draft for consideration. Although it may not be in your packet, we will get it to you ASAP. We do not expect to recommend a specific document for adoption at this hearing. Our goal would be to have that available for the May hearing after another round of discussion. The primary aspect missing at this point is public involvement. We ask that the Planning Commission expressly push for that at the April hearing. Perhaps the newspaper will publish an article to that effect. If not, we will do our own press release to insure that the public involvement is solicited prior to any Planning Commission recommendation to the Council on these matters.

Please call if you have any questions or require additional information.

City of Scottsbluff, Nebraska

Monday, April 8, 2013

Regular Meeting

Item Unfin. Biz1

None

Staff Contact: Annie Urdiales