

MINUTE RECORD

PAPILLION PLANNING COMMISSION MEETING AUGUST 31, 2022

The Papillion Planning Commission met in open session at the Papillion City Hall Council Chambers on Wednesday, August 31, 2022 at 7:00 PM. Chairwoman Rebecca Hoch called the meeting to order. Planning & Legal Clerk Andrea Blevins called the roll. Planning Commission members present were Heather Bernady, Judy Emswiler, Ray Keller, Jr., and Wayne Wilson. Howard Carson, Jim Hrabik, John E. Robinson III, Leanne Sotak, and Herb Thompson were absent. Planning Director Travis Gibbons, Senior Planner Michelle Romeo, Deputy City Engineer Derek Goff, and Assistant City Attorney Carla Heathershaw-Risko were also present.

Chairwoman Hoch led those present in the Pledge of Allegiance.

Notice of the meeting was given in advance by publication in the Sarpy County Guide on August 19, 2022. A copy of proof of publication is on file at the office of the City Clerk.

Chairwoman Hoch announced that a copy of the Open Meetings Act is posted in Council Chambers.

Approval of Agenda

Motion was made by Ms. Emswiler, seconded by Mr. Wilson, to approve the agenda as presented. Roll call: Five yeas, no nays. Motion carried.

Approval of the Planning Commission Minutes

Motion was made by Mr. Keller, seconded by Ms. Bernady, to approve the July 27, 2022 minutes. Roll Call: Five yeas, no nays. Motion carried.

FINAL PLAT

Final Plat – A phase one Final Plat for the property legally described as part of Tax Lot 7, Section 12, T13N, R12E of the 6th P.M., Sarpy County, NE, generally located on the SE corner of S 72nd St and Capehart Rd. The applicant is Gene Graves. (Oak Leaf) **FP-22-0004**

Chairwoman Hoch called for the applicant.

Larry Jobeun, 11440 W Center Road Suite C (Omaha), stepped forward to represent the applicant. He summarized that the final plat is consistent with the revised preliminary plat; however, a cluster of lots on the southern end of the plat was being reduced to comply with fire access requirements.

Chairwoman Hoch called for discussion amongst the Commission.

With no further discussion, **Motion** was made by Mr. Keller, seconded by Ms. Emswiler, to recommend approval of the Oak Leaf (Phase 1) Final Plat (FP-20-0004) because it is generally consistent with the Comprehensive Plan, compatible with adjacent uses, and compliant with

Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Final Plat - A request for a Final Plat for the property legally described as part of the E 1/2 of the NE 1/4 lying east of abandoned Missouri Pacific Railroad, together with Tax Lot 1A in the W 1/2 of the NE 1/4, all in Section 31, T14N, R12E of the 6th P.M., Sarpy County, NE, generally located South of S 126th St and HWY 370. The applicant is Founders Ridge LLC. (Founders Ridge (Phase 2)) **FP-22-0005**

Chairwoman Hoch called for the applicant.

Mark Johnson, 11440 W Center Road Suite C (Omaha), stepped forward to represent the applicant. He confirmed that the Phase 2 final plat is consistent with the approved preliminary plat.

With no further discussion, **Motion** was made by Mr. Keller, seconded by Ms. Emswiler, to recommend approval of the Founders Ridge (Phase 2) Final Plat (FP-22-0005) because it is generally consistent with the Comprehensive Plan, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Final Plat – A request for approval of a Final Plat for the property legally described as a tract of land located in all of Outlot D, Seventy Two Place together with part of the NE ¼ of the NW ¼ located in Section 1, T13N, R12E of the 6th P.M., Sarpy County, NE, generally located SE of S 72nd St and Schram Rd. The applicant is Papio Park, LLC. (Seventy Two Place (Phase 2)) **FP-22-0006**

Following Planning Commission consideration of the Seventy Two Place (Phase 2) Revised Preliminary Plat and Change of Zone, Chairwoman Hoch called for consideration of the Papillion Landing Final Plat.

Chairwoman Hoch called for the applicant.

The applicant did not wish to provide additional testimony regarding this development.

Chairwoman Hoch called for discussion amongst the Commission.

With no further discussion, **Motion** was made by Mr. Wilson, seconded by Ms. Bernady, to recommend approval of the Seventy Two Place (Phase 2) Final Plat (FP-22-0006) because it is generally consistent with the Comprehensive Plan, generally consistent with the Revised Preliminary Plat, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

PUBLIC HEARINGS

Revised Preliminary Plat – A request for approval of a revised Preliminary Plat for the property legally described as a tract of land located in all of Outlot D, Seventy Two Place together with part of the NE ¼ of the NW ¼ located in Section 1, T13N, R12E of the 6th P.M., Sarpy County, NE, generally located SE of S 72nd St and Schram Rd. The applicant is Papio Park, LLC. (Seventy Two Place (Phase 2)) **PP-19-0002R**

Chairwoman Hoch opened the public hearing.

Larry Jobeun, 11440 W Center Road Suite C (Omaha), stepped forward to represent the applicant. Mr. Jobeun displayed the Revised Preliminary Plat, Master Plan, and Phase 2 Final Plat. He explained that the main change provides an internal connection to the proposed development to the south.

Chairwoman Hoch called for proponents and opponents. Seeing no further input, Chairwoman Hoch closed the public hearing and called for Commission Discussion.

With no further discussion, **Motion** was made by Mr. Keller, seconded by Mr. Wilson, to recommend approval of the Seventy Two Place Revised Preliminary Plat (PP-19-0002R) because it is generally consistent with the Comprehensive Plan, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Change of Zone – A request for approval of a Change of Zone from AG Agricultural and R-4 Multiple-Family Residential to R-4 Multiple-Family Residential for the property legally described as a tract of land located in all of Outlot D, Seventy Two Place together with part of the NE ¼ of the NW ¼ located in Section 1, T13N, R12E of the 6th P.M., Sarpy County, NE, generally located SE of S 72nd St and Schram Rd. The applicant is Papio Park, LLC. (Seventy Two Place (Phase 2)) **CZ-22-0004**

Chairwoman Hoch opened the public hearing.

The applicant did not wish to provide additional testimony on this item.

Chairwoman Hoch called for proponents and opponents. Seeing no further input, Chairwoman Hoch closed the public hearing and called for Commission Discussion.

With no further discussion, **Motion** was made by Mr. Keller, seconded by Mr. Wilson, to recommend approval of the Seventy Two Place (Phase 2) Change of Zone (CZ-22-0004) because it is generally consistent with the Comprehensive Plan, generally consistent with the Revised Preliminary Plat, compatible with adjacent uses, and compliant with Zoning and Subdivision Regulations, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Mixed Use Development Agreement Amendment – A request to amend the Sarpy County Power Park East Mixed Use Development Agreement for the property legally described as Lot 1 and Outlot A, Sarpy County Power Park East, generally located on the NE corner of HWY 50 and Capehart Rd. The applicant is Olsson Associates (for Raven Northbrook LLC). (First Amendment to Sarpy County Power Park East Mixed Use Development Agreement) **MISC-22-0011**

Chairwoman Hoch opened the public hearing.

David Madden, 17606 S 22nd Circle (Bellevue), stepped forward to represent the applicant. He explained that the requested change is to amend the maximum sound level section of the agreement to be consistent with current City Code in perpetuity.

Chairwoman Hoch called for proponents and opponents. Seeing no further input, Chairwoman Hoch closed the public hearing and called for Commission Discussion.

Ms. Emswiler asked staff whether the proposed amendment was a formality. Mr. Gibbons answered in the affirmative.

With no further discussion, **Motion** was made by Ms. Emswiler, seconded by Mr. Keller, to recommend approval of the Sarpy County Power Park East Mixed Use Development Agreement Amendment (MISC-22-0011) because it is consistent with the existing agreement, contingent upon the resolution of staff comments. Roll Call: Five yeas, no nays. Motion carried.

Mixed Use Development Agreement Amendment – A request to amend the 370 North Mixed Use Development Agreement for the property legally described as Lots 1 through 7, inclusive, Lots 10 through Lot 14, inclusive, Lots 16 and 17, and Outlots A and B, 370 North, Lots 1 and 2, 370 North Replat One, Lots 2 through 7, 370 North Replat Two, Outlots A and B, 370 North Replat Three, and Lot 1 and Outlot A, 370 North Replat Four, generally located on the NW corner of HWY 370 and HWY 50. The applicant is Noddle Companies. (Third Amendment to 370 North Mixed Use Development Agreement) **MISC-22-0014**

Chairwoman Hoch opened the public hearing.

Ted Zetzman, 2285 S 67th Street (Omaha), stepped forward to represent the applicant. He summarized that the proposed amendment seeks to achieve two objectives: (1) to allow digital signage on internal monument signs, and (2) allow Automotive rental and sales as a permitted use on remnant lot piece that is being consolidated into a lot that allows that use.

Chairwoman Hoch called for proponents and opponents. Seeing no further input, Chairwoman Hoch closed the public hearing and called for Commission Discussion.

Ms. Emswiler asked whether staff has any concerns. Mr. Gibbons stated that the base regulator of the 370 North MU Mixed Use District is CC Community Commercial, which allows electronic signs. He added that both technology and end user needs evolved since the original Mixed Use Development Agreement was adopted.

With no further discussion, **Motion** was made by Mr. Keller, seconded by Mr. Wilson, to recommend approval of the 370 North Mixed Use Development Agreement Amendment (MISC-22-0014) because it is consistent with the Zoning Regulations, contingent upon the applicant completing the Mixed Use Development Agreement amendment process. Roll Call: Five yeas, no nays. Motion carried.

Text Change – A request for approval of an ordinance to amend § 205-11 (Definition of general terms) to add a definition for “deck” and § 205-21 (Fence Regulations) having to do with golf course fences. The applicant is the City of Papillion – Councilmember Tom Mumgaard. (Golf Course Fences Ordinance Amendment) **TC-22-0002**

Chairwoman Hoch opened the public hearing.

Councilmember Tom Mumgaard, 1216 Cork Drive, stepped forward as the applicant noting that his ward includes the Tara Hills golf course. He stated that he authored and advocated for the original prohibition of fences on residential lots that abut City golf courses and believes that such regulation is of benefit to both golfers and the homeowners because it maintains visibility on the course. He advised that some flexibility in the regulations is necessary. For example, prior to the amendment that allows fences in the instance of an in ground pool, homeowners on these lots were prohibited from having pools. He proposed that the regulations be amended due to a need for some fencing in the rear yard to allow homeowners to have a dog run.

Councilmember Mumgaard explained that the fences allowed by the proposed exception should not obstruct the peripheral view of a neighboring property, adding that decks are permitted and already obstruct such views. He added that he believes allowing a fence in the same area as an existing deck does not violate intent of the current ordinance. He explained that he wishes for the language of the ordinance to match the intent. Councilmember Mumgaard noted that he planned to amend the draft ordinance to eliminate the fence material requirement so long as such fencing materials are at least 60% transparent.

Chairwoman Hoch called for proponents and opponents. Seeing no further input, Chairwoman Hoch closed the public hearing and called for Commission Discussion.

Mr. Wilson asked staff how close fences would potentially be to the golf course. Councilman Mumgaard clarified that fences would not be permitted to be any closer to the golf course than the deck on the property. Mr. Gibbons stated that uncovered decks may project up to ten feet into a rear yard setback, which would be equal to a twenty foot setback if the deck is projecting from the rear setback line.

Mr. Wilson asked whether golf course staff had been consulted about the amendment. Mr. Mumgaard stated that he has spoken to the groundskeepers over the years, and they did not seem to have an issue with the fence rules.

Chairwoman Hoch asked whether a fence would be denied for properties that have at grade patios in the rear yard. Councilman Mumgaard stated that fences would not be permitted on

properties with only at grade patios because such patios do not create the same visual obstruction as a deck.

Chairwoman Hoch asked whether a homeowner on a golf course lot could now plant a hedge in lieu of a fence. Councilman Mumgaard stated that a person could plant a hedge, and that similar landscaping does exist on the course now. He added that regulating landscaping may be a step too far.

Ms. Emswiler asked whether there is a big issue with homeowner on the golf course constructing fences where they are not allowed. Councilman Mumgaard stated that there were two code enforcement cases in recent history where the homeowners were ordered to move the fences, but that he is unaware of any open violations. Ms. Emswiler suggested that the ordinance amendment aims to fix a problem that does not exist. She added that she is not in favor of allowing chain link fences as it will cheapen the look of the golf course and neighboring lots.

Councilman Mumgaard added that the proposed amendment will add a definition for the word "deck," which is cited in the existing code, but is not defined. He added that the current code uses building lines to determine fence placement, which in some cases could include a deck. Mr. Gibbons clarified that the previous Planning Director made an interpretation that a covered deck could be considered part of the principle structure for the purposes of defining fence placement; however, uncovered decks must follow the building lines as defined in code. Ms. Romeo stated that the current code allows fences behind the rear building line on golf course lots in two instances: (1) certain bluff lots in Eagle Hills, and (2) as required to enclose an in ground pool. She added that the proposed amendment would also treat uncovered decks as the limiting line for golf course lots. She added that that the current interpretation regarding covered decks is more permissive with respect to fence location than Councilmember Mumgaard's proposed change to the pending amendment.

Ms. Emswiler reiterated that she is not in favor of allowing chain link fences on the applicable lots. Ms. Romeo clarified that the proposed amendment as presented to the Planning Commission would not allow chain link but Councilmember's proposed change would allow any fence material, including chain link in the applicable area.

Councilman Mumgaard stated that he intends to amend the current proposal to also keep the fence from exceeding the boundary of the house, therefore, with ten-foot side yard setbacks, such fencing would be located at least twenty feet away from the neighboring house. He added that he also wishes to amend the permitted fence height for this exception to not exceed the height of the deck and railing on the lot as to not be more intrusive than the deck itself.

Chairwoman Hoch asked whether there would be a maximum fence height limit that would apply for elevated decks. Ms. Romeo stated that residential fences are limited to six feet in height so the maximum height would be the lesser of the height of the deck with railings included or six feet.

Mr. Wilson suggested that the hearing for this amendment should be continued to allow the language to be amended to reflect Councilman Mumgaard's intent. Mr. Wilson and Ms. Emswiler

both stated that they are not in favor of the amendment. Mr. Wilson added that the proposal will be difficult to enforce.

Mr. Keller suggested that there should be restrictions on the fence type allowed. He echoed Mr. Wilson's suggestion to continue the hearing. Councilman Mumgaard stated that he was not opposed to a continuance.

Chairwoman Hoch explained the options for a Motion to either continue the public hearing or vote on the amendment.

With no further discussion, **Motion** was made by Mr. Keller, seconded by Mr. Wilson, to continue consideration of Ordinance No. 1975 (TC-22-0002) to a future Planning Commission meeting to be determined by staff and the applicant. Roll Call: Five yeas, no nays. Motion carried.

OTHER BUSINESS

With no further business to come before the Commission, **Motion** was made by Mr. Wilson, seconded by Ms. Bernady, to adjourn. The meeting adjourned by unanimous consent at 8:00 P.M.

CITY OF PAPILLION



Rebecca Hoch, Chairwoman