

PLANNING COMMISSION

February 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 to please state their name and address for the record.

Present: Planning Commission members Greg Aschoff, Jim Vandenberg, Pam Kabourek, Robert Hilger, Chairman Jim Masek, City Clerk Tami Comte, and Deputy Clerk Lori Matchett. Alternate Member Brian Small was absent.

Also, present were Building Inspector Gary Meister, Bryon and Mary Forney, Amy Slama, Randy Svoboda, Chris Kozisek, Kenneth Rolenc, Nick and Chelsea Sypal and Dan and Jan Sypal. City Attorney David Levy joined via Zoom.

Planning Commission member Pam Kabourek made a motion to accept the minutes of the January 27, 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 combine agenda item number four and six together for public hearings to consider amending the future land use map and official zoning map by changing the zoning classifications for the following real estate as requested by Nick Sypal. Parcel # 120008428 – Legal description Out Lot 4, West David City Additions as platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 15, North, Range 3 East, with a physical address of 273 West C Street. 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 hearings at 8:02 a.m. to consider amending the future land use map and official zoning map for the property requested by 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.

Nick Sypal introduced himself and stated that he would like to have the property rezoned from R2 to I2, for his processing of wood and storage of equipment for his tree service business. The Sypal's received a letter from the City of David City to cease and desist activity on the property due to the zoning of the property. The property is not currently zoned to allow them to process the wood. Nick and Chelsea have met with several neighbors to get support to have the property rezoned. A copy of the support letter is attached.

Christian Rush from Dvorak Law Firm introduced himself. He represents Bryon and Mary Forney. They are concerned with the property and how this prevents growth and expansion of residential housing in the area. This also brings rodents and additional heavy traffic to the residential area. Copies of the letters opposing the change of the zoning are attached.

Discussion continued regarding the zoning change. Planning Commission members believe that there needs to be some additional research done on the rezoning of the property.

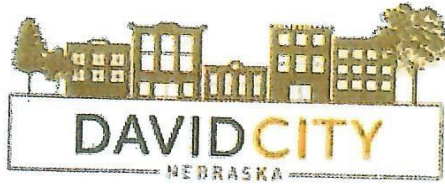
Nick Sypal informed the commission that if rezoning of this parcel does not happen then they will be moving all of the firewood, and tree splitting equipment to the property south of Forney's that is already zoned I-2.

Chairman Jim Masek made a motion to close the public hearings at 8:32 a.m. for the considerations of changing the future land use map and official zoning map. 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.

Planning Commission member Pam Kabourek made a motion to table the consideration of amending the future land use map by changing the zoning classification from residential to industrial heavy for the following real estate as requested by Nick Sypal; Parcel # 120008428 – Legal Description Out Lot 4, West David City Additions as platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 15, North, Range 3 East, with a physical address of 273 West C Street for further study. Jim Vandenberg seconded the motion. The motion carried. Greg Aschoff: Yea, Robert Hilger, Pam Kabourek: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.

Chairman Jim Masek made a motion to table consideration of amending the official zoning map by changing the zoning classification from R-2 – Two-Family Residential to I-2 – Heavy Industrial for the following real estate as requested by Nick Sypal; Parcel # 120008428 – Legal description Out lot 4, West David City Addition as platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 15, North, Range 3 East, with a physical address of 273 West C Street. 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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PAID
JAN - 5 2023

DAVID CITY PLANNING COMMISSION

**CITY OF DAVID CITY
DAVID CITY UTILITIES**

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

DESCRIPTION OF THE PROJECT:

We are looking to rezone this property to (I2)
Our shop location Sypals Tree Service LLC. is zone I2
already, so joining the property to the west of us (Bankouba)
and going north (273 W. C. Street) would keep it from being
spot zoned.

[Signature] 1/5/24
Applicant's Signature

.....
FOR CITY USE ONLY

Date received: 1-5-24 By: [Signature]

Fee Paid: X Yes \$ 150.00 _____ No

Hearing Date: February 10, 2024

Hearing Notice Published: X Yes _____ No

Adjoining Landowners Notified X Yes _____ No

Action Taken: _____

NOTICE IS HEREBY GIVEN that the David City Planning Commission will conduct a Public Hearing meeting on Saturday, February 10, 2024 at 8:00 a.m. in the meeting room of the City Office Building, 490 E Street, David City, Nebraska.

The Planning Commission reserves the right to enter into closed session at any time during the meeting, in accordance with the Nebraska Open Meetings Act, even though the closed session may not be stated on the agenda.

The Agenda will include, but not be limited to the following:

1. Notify the public of the "Open Meetings Act" and the Citizens Participation Rules posted on the west wall of the meeting room;

2. Roll Call;

3. Acceptance of the minutes of the January 27, 2024 meeting; *

4. Public hearing to consider amending the Future Land Use Map by changing the zoning classification from Residential to Industrial Heavy for the following real estate as requested by Nick Sygal:

Parcel # 120008428 – Legal Description Out Lot 4, West David City Additions as Platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 15, North, Range 3 East, with a physical address of 273 West C Street; *

5. Consideration of amending the Future Land Use Map by changing the zoning classification from Residential to Industrial Heavy for the following real estate as requested by Nick Sygal:

Parcel # 120008428 – Legal Description Out Lot 4, West David City Additions as Platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 15, North, Range 3 East, with a physical address of 273 West C Street; *

6. Public hearing to consider amending the Official Zoning Map by changing the zoning classification from R-2 – Two-Family Residential to I-2 – Heavy Industrial for the following real estate as requested by Nick Sygal:

Parcel # 120008428 – Legal Description Out Lot 4, West David City Additions as Platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 15, North, Range 3 East, with a physical address of 273 West C Street; *

7. Consideration of amending the Official Zoning Map by changing the zoning classification from R-2 – Two-Family Residential to I-2 – Heavy Industrial for the following real estate as requested by Nick Sygal:

Parcel # 120008428 – Legal Description Out Lot 4, West David City Additions as Platted in part of the Southwest Quarter of the Southwest Quarter of Section 19, Township 14, North, Range 3 East, with a physical address of 273 West C Street; *

8. Discussion concerning Kozisek Addition;

9. Adjourn.*

The reason for this planning commission meeting is simply to continue doing business as usual. It has come to our attention that a commercial business cannot operate on property that is zoned R-2 which it is. Our intention for the permit we filed was to continue doing the same activities (Splitting Firewood – Storage of Logs and Equipment). Again the current zoning is R-2 and we are trying to change it to I-2 to be in compliance. We have been operating out of this site dating back to 2010. We want to continue to utilize this site as it is vital to our business.

Sincerely,

Nick Sygal 2/8/24 *Melba Sygal* 2/8/24

Please Sign if you support us in our plans for this property

Janet Annin 2/8/24

Paul D. M... 2/8/24

Paul Smith 2/8/24

Frank D... 2/8/24

W. Morgan... 2/8/24

Jamie Conley 2/8/24

Curtis... 2/8/24

Donna Shue 2/9/24

David Scribner
433 South 5th Street
David City, NE 68632

February 5, 2024

David City Planning Commission
490 E Street
David City, NE 68632

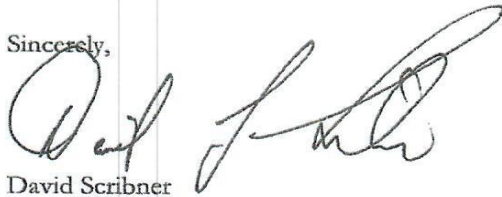
Dear Commissioners:

My name is David Scribner and I am an 84-year-old resident of David City. I have lived in David City my entire life and I am opposed to the proposed zoning change to Parcel No. 120008428 by Nick Sypal.

I am opposed to the zoning change because it will lower the value of my property and it is contrary to the City's master plan to make David City more residential friendly.

There is no need to bring more industrial-heavy zoned property into our residential neighborhoods. I would ask that the Planning Commission deny this zoning variance.

Sincerely,

A handwritten signature in black ink, appearing to read "David Scribner", written over a printed name.

David Scribner

Trent Palensky
141 1st Street
David City, NE 68632

February 6, 2024

David City Planning Commission
490 E Street
David City, NE 68632

Dear Commissioners:

My name is Trent Palensky, and I have lived at 141 1st Street in David City for six years. I am opposed to the proposed zoning change to Parcel No. 120008428 by Nick Sypal.

I am opposed to the zoning change because it will lower the value of my property and it is contrary to the City's Comprehensive Plan to expand David City's residential areas. In addition, I have young children who play in the neighborhood, and changing the zoning of Parcel No. 120008428 could result in heavier use traffic on our street, which would make it unsafe for my children.

I would ask that the Planning Commission deny this zoning variance.

Sincerely,

Trent Palensky


Jean Smith
265 1st Street
David City, NE 68632

February 6, 2024

David City Planning Commission
490 E Street
David City, NE 68632

Dear Commissioners:


My name is Jean Smith, and I have lived at 265 1st Street in David City for over ten years. I am opposed to the proposed zoning change to Parcel No. 120008428 by Nick Sypal.

I am opposed to the zoning change because of how it will change the neighborhood. I worry for the safety of the children who play in the neighborhood. As an older woman, I am also worried about my health and safety. Changing the zoning of Parcel No. 120008428 could put these children and my safety in jeopardy, considering more traffic of heavy machinery and industrial materials in the neighborhood and the potential for a neighborhood nuisance.

I would ask that the Planning Commission deny this zoning variance.

Sincerely,

Jean Smith

A handwritten signature in cursive script that reads "Jean Smith". The signature is written in black ink and is positioned below the typed name "Jean Smith".

Kenny Rolenc
208 N. 1st St.
David City, NE 68632

February 6, 2024

David City Planning Commission
490 E Street
David City, NE 68632

Dear Commissioners:

My name is Kenny Rolenc and I am a life-long resident of David City. I am opposed to the proposed zoning change to Parcel No. 120008428 by Nick Sypal.

I am opposed to the zoning change because it will lower the value of my property and it is contrary to the City's Comprehensive Plan to grow David City's residential areas. Changing the zoning of Parcel No. 120008428 will diminish the residential nature of our neighborhood and could endanger the children who play in the neighborhood. This is why the Future Land Use Map currently has the area zoned as residential and changes certain parcels in the area from industrial-heavy to residential (for example, Parcel No. 120004206).

I would ask that the Planning Commission deny this zoning variance.

Sincerely,

Kenny Rolenc

A handwritten signature in cursive script that reads "Kenneth Rolenc".

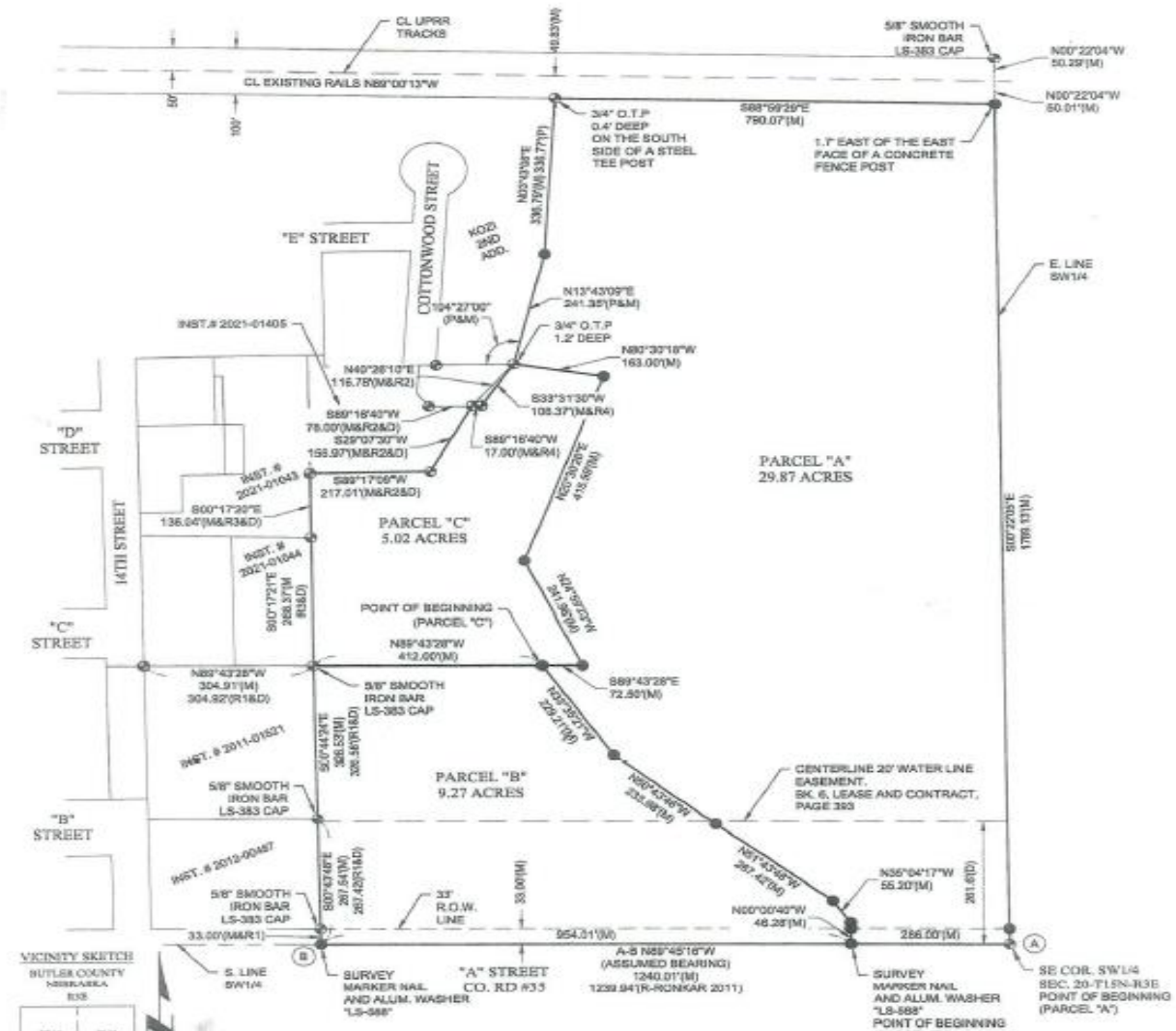
Chairman Jim Masek stated the next item on the agenda was discussion concerning Kozisek Addition.

Chris Kozisek introduced himself. Chris and his siblings have had the property surveyed. One of the issues with selling one of the parcels is that there is an easement in the middle of one of the parcels for the water line that goes to Jim Vandenberg's property. Chris and his siblings would like to have the water line moved to the right of way and not through the easement. That easement dates back to 1961 between Bock's and Kosch's. Chris is wondering if they want to sell the parcels, who pays to have the water line moved to the right of way instead of an easement right in the middle of the parcel. The Kozisek's plan on selling parcels A and B, and plan on keeping parcel C. Parcel C would need to have an egress and ingress to the property from the street.

City Clerk Tami Comte will be in contact with the City Attorney about the easement questions that were brought up about the water line.

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SURVEY RECORD KOZISEK



NOTE: ALL BEARINGS ARE ASSUMED.

- LEGEND
- MONUMENT FOUND
 - CALCULATED POINT
 - DETERMINED DISTANCE
 - GOVERNMENT DISTANCE
 - MEASURED DISTANCE
 - PLATTEAU DISTANCE
 - RECORDED DISTANCE DONOR 2017
 - RECORDED DISTANCE FORAL 11-11-2020
 - RECORDED DISTANCE FORAL 11-16-2020
 - RECORDED DISTANCE FORAL 8-18-2021

SURVEYOR'S CERTIFICATE:
 I HEREBY CERTIFY THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA; THAT THIS SURVEY WAS PERFORMED IN ACCORDANCE WITH THE LAND SURVEYORS REGULATION ACT IN EFFECT AT THE TIME OF THIS SURVEY; THAT THIS SURVEY WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION, AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Brian J. Foral 11-25-2023
 BRIAN J. FORAL, LS 588



SPACE BELOW FOR CLERK OR REGISTER OF DEEDS USE

DATE	11/28/2023
SCALE	1" = 300'
BY	LSJ
DATE	11/23/2023
FILED	BUTLER CO., NE
BY	LSJ
DATE	11/23/2023
FILED	100
DATE	11/23/2023
FILED	100
DATE	11/23/2023
FILED	100



REPOSITORY STAMP

LEGAL DESCRIPTIONS:

PARCEL "A"

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE SIXTH P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE N89°45'16"W (ASSUMED BEARING) ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 286.00 FEET; THENCE N00°00'40"W, A DISTANCE OF 46.28 FEET; THENCE N35°04'17"W, A DISTANCE OF 55.20 FEET; THENCE N51°43'48"W, A DISTANCE OF 267.42 FEET; THENCE N50°43'46"W, A DISTANCE OF 233.98 FEET; THENCE N33°35'21"W, A DISTANCE OF 229.21 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2011-01521; THENCE S89°43'28"E ON SAID EASTERLY EXTENSION, A DISTANCE OF 72.50 FEET; THENCE N24°59'23"W, A DISTANCE OF 241.96 FEET; THENCE N20°30'26"E, A DISTANCE OF 415.59 FEET; THENCE N80°30'18"W, A DISTANCE OF 163.00 FEET TO THE SOUTHEAST CORNER OF KOZI SECOND ADDITION TO THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA; THENCE N13°43'09"E ON THE EAST LINE OF SAID KOZI SECOND ADDITION, A DISTANCE OF 241.35 FEET; THENCE N03°43'08"E CONTINUING ON SAID EAST LINE, A DISTANCE OF 336.79 FEET TO THE SOUTH RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE S88°59'29"E ON SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 790.07 FEET TO THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE S00°22'05"E ON SAID EAST LINE, A DISTANCE OF 1789.13 FEET TO THE POINT OF BEGINNING, CONTAINING 29.87 ACRES, MORE OR LESS.

PARCEL "B"

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE SIXTH P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: REFERRING TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE N89°45'16"W (ASSUMED BEARING) ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 286.00 FEET TO THE POINT OF BEGINNING; THENCE N00°00'40"W, A DISTANCE OF 46.28 FEET; THENCE N35°04'17"W, A DISTANCE OF 55.20 FEET; THENCE N51°43'48"W, A DISTANCE OF 267.42 FEET; THENCE N50°43'46"W, A DISTANCE OF 233.98 FEET; THENCE N33°35'21"W, A DISTANCE OF 229.21 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2011-01521; THENCE N89°43'28"W ON SAID EASTERLY EXTENSION, A DISTANCE OF 412.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE S00°44'24"E ON THE EAST LINE OF SAID PARCEL, A DISTANCE OF 326.53 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2012-00487; THENCE S00°43'48"E ON THE EAST LINE OF SAID PARCEL, A DISTANCE OF 267.54 FEET TO SAID SOUTH LINE OF THE SOUTHWEST QUARTER; THENCE S89°45'16"E ON SAID SOUTH LINE, A DISTANCE OF 954.01 FEET TO THE POINT OF BEGINNING, CONTAINING 9.27 ACRES, MORE OR LESS.

PARCEL "C"

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE SIXTH P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: REFERRING TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE N89°45'16"W (ASSUMED BEARING) ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 286.00 FEET; THENCE N00°00'40"W, A DISTANCE OF 46.28 FEET; THENCE N35°04'17"W, A DISTANCE OF 55.20 FEET; THENCE N51°43'48"W, A DISTANCE OF 267.42 FEET; THENCE N50°43'46"W, A DISTANCE OF 233.98 FEET; THENCE N33°35'21"W, A DISTANCE OF 229.21 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE NORTH LINE OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2011-01521 AND THE POINT OF BEGINNING; THENCE S89°43'28"E ON SAID EASTERLY EXTENSION, A DISTANCE OF 72.50 FEET; THENCE N24°59'23"W, A DISTANCE OF 241.96 FEET; THENCE N20°30'26"E, A DISTANCE OF 415.59 FEET; THENCE N80°30'18"W, A DISTANCE OF 163.00 FEET TO THE SOUTHEAST CORNER OF KOZI SECOND ADDITION TO THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA; THENCE S33°31'30"W ON THE EAST LINE OF A PARCEL OF LAND PREVIOUSLY SURVEYED AND DESCRIBED BY BRIAN J. FORAL LS-588 AND RECORDED IN INSTRUMENT NUMBER 2021-01839, A DISTANCE OF 106.37 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE S89°16'40"W ON THE SOUTH LINE OF SAID SURVEYED PARCEL, A DISTANCE OF 17.00 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2021-01405; THENCE S29°07'30"W ON SAID EASTERLY LINE, A DISTANCE OF 156.97 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE S89°17'09"W ON THE SOUTH LINE OF SAID PARCEL, A DISTANCE OF 217.01 FEET TO THE EAST LINE OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2021-01043; THENCE S00°17'20"E ON SAID EAST LINE, A DISTANCE OF 136.04 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2021-01044; THENCE S00°17'21"E ON THE EAST LINE OF SAID PARCEL, A DISTANCE OF 268.37 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND PREVIOUSLY DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2011-01521; THENCE S89°43'28"E ON THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 412.00 FEET TO THE POINT OF BEGINNING, CONTAINING 5.02 ACRES, MORE OR LESS.

There being no further business to come before the Planning Commission, Planning Commission Chairman Jim Masek made a motion to adjourn the meeting at 8:53 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.