



**CITY OF SEWARD
City Council
Committee Meeting
Agenda**

Monday, July 10, 2023

7:30 PM

**Council Chambers at the Municipal
Building**

NOTICE IS HEREBY GIVEN that a meeting of the City Council of the City of Seward, Nebraska will be held at 7:30 PM on Monday, July 10, 2023, in the Council Chambers, 142 N 7th Street, Seward, Nebraska in which the meeting will be open to the public. The Mayor and City Council reserve the right to adjourn into Closed Session as per Section 84-1410 of the Nebraska Revised Statutes. An Agenda for such meeting, kept continually current, is available at the Office of the City Clerk, 537 Main Street, Seward, Nebraska, during normal business hours. Individuals requiring physical or sensory accommodations, who desire to attend or participate, please contact the City Clerk's Office at 402.643.2928 no later than 3:30 PM on the Friday preceding the Council Meeting.

City financial claims and related invoices will be available for Council member review, audit and voluntary signatures at the meeting location beginning 30 minutes prior to the scheduled meeting time.

CALL TO ORDER

DISCLOSURE OF OPEN MEETINGS ACT & OTHER NOTIFICATIONS

This is an Open Meeting of the Seward Planning Commission. The Seward Planning Commission abides by the Nebraska Open Meetings Act in conducting business. A copy of the Nebraska Open Meetings Act is displayed on the north wall of this meeting room facility as required. Disclosure of meeting recording processes is posted in the Meeting Room. A participant sign-in sheet is available for use by any Citizen addressing the Commission. Presenters shall approach the podium, state their name & address for the record and are asked to limit remarks to five minutes. All remarks shall be directed to the Chair who shall determine by whom any appropriate response shall be made. The Seward Planning commission reserves the right to adjust the order of items on this Agenda if necessary and may elect to take action on any of them items listed.

CALL TO ORDER

CONSENT AGENDA

MINUTES

1. Consideration of Approval of Draft Minutes of June 12, 2023.

City of Seward Planning Commission

Minute Record

June 12, 2023

The City of Seward Planning Commission met in regular session at 7:30p.m. June 12, 2023, in the Council Chambers at the Municipal Building at 142 North 7th Street, Seward, Nebraska. Upon roll call the following Commission Members were present: Clarence Kotera, Dan Ellis, Ron Wallman, Sue Bowen, Ron Niemoth, and Lacey Koch. Other Officials present: Building and Zoning Director, Tim Dworak, City Engineer, Mike Oneby, and Administrative Assistant, Sara Van Cura.

Absent members were: Russ Souchek, Jeremy Tonniges, Scott Seevers,

All proceedings hereafter shown were taken while the convened meeting was open to the public. The meeting with the Planning Commission was called to order by Chairperson Wallman at 7:30 p.m. He requested that all individuals speaking during the public hearing limit their comments to five minutes.

Minutes

Consideration of Approval of Draft Minutes of March 13, 2023.

Moved by Vice Chairperson Ellis; Seconded by Commission Member Kotera to approve the minutes.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,

Nay: None.

Absent: Souchek, Tonniges, Seevers. Motion carried.

1. Public Hearing 7:30pm: review a special use permit application located at 116 S. Columbia Ave, Seward, Nebraska to allow construction of an accessory building in excess of 900 square feet.

Chairperson Wallman opened the public hearing.

Dworak stated that Matzke would like to have an accessory building of 1450 square feet. A lot less than one acre is allowed up to 900 square feet. He meets all the setbacks for R-3 zoning, the 20 percent required rear yard, and height requirements.

Tom and Danielle Matzke, 116 S Columbia Ave., stated they have a problem with their street. It has a lot of traffic, around 5000 vehicles a day. It's easier for use to face traffic head on. Jodi Brees a neighbor, and Snow from the Lutheran District office has no problem with the plans. There's no parking on Columbia. There is street parking on East Seward for half of the year but there is controversy with East Seward St. It will not be a pole building. It will be sided with asphalt shingles and will match the house.

Commission Member Kotera asked what the height of the building is.

Danielle Matzke stated it will not exceed 16 feet.

Chairperson Wallman suspended the public hearing.

Moved by Commission Member Kotera to approve the special use permit application at 116 S. Columbia Ave to allow an accessory building in excess of 900 square feet; Seconded by Vice Chairperson Ellis.

Vice Chairperson Ellis stated one thing that works in their favor is the size of their lot and the square footage of their rear yard.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,
Nay: None.

Absent: Souчек, Tonniges, Seevers. Motion carried.

2. Public Hearing 7:30pm: review a minor plat of Ringler 1st Addition.

Chairperson Wallman opened the public hearing.

Dworak stated Mr. Ringler wants to separate 7.2 acres from the rest of the farmland. He wishes to sell that parcel off. Currently it is zoned agricultural, and if it passes there will be a rezone following.

Rob Ringler, 1349 Ridge Run, stated last fall he purchased 154 acres with a center pivot. The people that are living at the residence is looking into purchasing it.

Chairperson Wallman suspended the public hearing.

Moved by Vice Chairperson Ellis to approve the minor plat of Ringler 1st Addition; Seconded by Commission Member Koch.

Chairperson Wallman asked what happens to the bunk space and feeding.

Dworak stated it is allowed to continue as that use.

Chairperson Wallman asked if there was an issue with rural residential located next to the feed lot.

Dworak stated there is not an issue.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,
Nay: None.

Absent: Souчек, Tonniges, Seevers. Motion carried.

3. Public Hearing 7:30pm: review a rezone application of Ringler 1st Addition from AG Agricultural District to RR Rural Residential District.

Chairperson Wallman opened the public hearing.

Chairperson Wallman suspended the public hearing.

Chairperson Wallman stated to let the record show this is the appropriate action.

Moved by Vice Chairperson Ellis to approve a rezone application of Ringler 1st Addition from AG Agricultural District to RR Rural Residential District; Seconded by Commission Member Kotera.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,

Nay: None.

Absent: Soucek, Tonniges, SeEVERS. Motion carried.

4. Public Hearing 7:30pm: review a Preliminary and Final Plat of Hendrix Compound Subdivision.

Chairperson Wallman opened the public hearing.

Dworak stated that Alyssa contacted us about doing an administrative replat for the properties on the east side of Columbia. It did not meet the qualifications. All of the lots meet the criteria for zoning. There are no utility or street extensions.

Alyssa Hendrix, 456 S. Columbia Ave, stated she can answer any questions.

Chairperson Wallman asked Hendrix to explain what the property looks like.

Hendrix explained the current and future layout of the properties.

Chairperson Wallman asked if there were any intentions for additional uses.

Hendrix stated no, and the outlot cannot be built on.

Vice Chairperson Ellis asked for clarification on the number of lots to start with and how many there are now.

Hendrix stated there were five lots. The alley made the fifth lot.

Don Bosak, 129 Bemis Drive, wants to clarify we are just rezoning what is there and not building anything new.

Dworak and Hendrix stated there is no way to access the property to build anything

new.

Rich Wergin, 509 S Columbia Ave., stated many of their concerns are future development, traffic, and noise. He stated that we have to understand this part of the process to get it rezoned.

Chairperson Wallman suspends the public hearing.

Moved by Vice Chairperson Ellis to approve the preliminary plat of Hendrix Compound Subdivision; Seconded by Commission Member Kotera.

Vice Chairperson amends the motion to the Preliminary and Final Plat. Commission Member Kotera seconded.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,
Nay: None.

Absent: Soucek, Tonniges, Seevers. Motion carried.

5. Public Hearing 7:30pm: review a rezone application for Lot 1 and Outlot A, Hendrix Compound Subdivision located in the Southeast Quarter of Section 21, Township 11, Range 3 East of the 6th P.M. from R-3 Urban Residential Mixed-Density District to R-4 urban Residential Multifamily District.

Chairperson Wallman opened the public hearing.

Dworak stated the zoning has to be uniform, and two lots are R-4 and the other are R-3. Both are contiguous. The applicant chose R-4.

Chairperson Wallman suspended the public hearing.

Moved by Commission Member Kotera to approve rezone application for Lot 1 and Outlot A, Hendrix Compound Subdivision located in the Southeast Quarter of Section 21, Township 11, Range 3 East of the 6th P.M. from R-3 Urban Residential Mixed-Density District to R-4 urban Residential Multifamily District; Seconded by Commission Member Koch.

Chairperson Wallman stated He stated to let the record show it has to be under unified zoning for development.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,
Nay: None.

Absent: Soucek, Tonniges, Seevers. Motion carried.

6. Public Hearing 7:30pm: review the 2024 One (1) and Six (6) Year Public Roads Plan for the City of Seward, NE.

Chairperson Wallman opened the public hearing.

Mike Oneby, City Engineer, presented the 2024 one- and six-year public roads plan. He stated there are a number of projects that are across two fiscal years.

Chairperson Wallman asked Darrell Zabrocki, County Commissioner, where's the County at on these roads. If they would be moving forward on Bluff Road or 252nd.

Zabrocki stated to get East Seward done and then we can look at 252nd and Bluff Rd. The fairground road is on their plan, but not long term.

Chairperson Wallman closed the public hearing.

Moved by Commission Member Koch to approve the 2024 One (1) and Six (6) Year Public Roads Plan for the City of Seward, NE.; Seconded by Commission Member Kotera.

Vice Chairperson Ellis asked what the current status of the East Seward Project is.

Oneby stated that we had an interruption. Half of the grading, about a weeks' worth of work, then the concrete contractor will mobilize. We are looking at the end of August to get the road open.

Aye: Kotera, Ellis, Wallman, Bowen, Niemoth, Koch,

Nay: None.

Absent: Souчек, Tonniges, Seevers. Motion carried.

7. Administrative Item

8. Reports

9. Agenda Items

10. Upcoming Events

Meeting adjourned 8:40 PM.

Sara Van Cura
Administrative Assistant

PUBLIC HEARINGS

1. Public Hearing 7:30pm: review a Summit Contracting application for a variance from City Code 325-3.3 and 325-3.4, mandatory hook-up to public sewers.

City of Seward Planning Commission
142 N 7th St, Seward, NE 68434

Staff Report
Tim Dworak, Building/Zoning &
Code Enforcement Director
402-643-2928 opt 3 opt 1

<u>APPLICATION TYPE</u>	<u>FINAL ACTION?</u>	<u>DEVELOPER/OWNER</u>
Variance		Summit Contracting/John Southwick

<u>PC HEARING DATE</u>	<u>RELATED APPLICATIONS</u>	<u>PROPERTY ADDRESS, ZONING DISTRICT/USE</u>
July 10, 2023		1217 Izaak Walton Rd, AG, Industrial

ADJACENT ZONING DISTRICTS/USE:

- North, AG, Agriculture – Arthur Knox
- East, I-2, Industrial – Tenneco Automotive Inc
- South, AG, Single Family Residential – Rodney & Carman Koranda
- West, I-2, Industrial – ABCFGS Holdings LLC

BRIEF SUMMARY OF REQUEST:

A request for a variance of City Codes §325-3.3 and §325-3.4 to allow for a septic system as opposed to mandatory hook-up to city sewer.



APPLICATION CONTACT

John Southwick, C# 402-318-8433
123 S 9th St, Seward, NE 68434.

ANALYSIS

Summit Contracting, Inc. has asked to be allowed to install a septic sewer system on their property because of the location and cost to connect to City Sewer. Seward City Code requires mandatory connection to sewer if it is available within 100 feet of the property (§ 325-3.4) and does not allow for septic systems within the Corporate Limits (§ 325-3.3). The City Sewer is located along the south property line and the building site is planned for the north third of the property. In discussions with Staff, there are no plans to install city utilities along Izaak Walton Rd which would make utilities along the north side of the property available. Brandon Koll Water/Waste Water Director and Mike Oneby City Engineer are available should there be any questions for them.

The notice of this Public Hearing was published in the Seward County Independent, letters were mailed to owners within 300 feet, and the subject land was posted.

APPROXIMATE LAND AREA:

15.71 acres or 684461.93 square feet +/-

LEGAL DESCRIPTION:

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 3 EAST OF THE 6th PRINCIPAL MERIDIAN, SEWARD COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER, SAID POINT BEING 133.03' NORTH OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE WESTERLY PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER ON AN ASSIGNED BEARING OF N 89°37'05"W 617.86'; THENCE NORTHERLY, N 0°39'27"E 1119.84' TO A POINT ON THE SOUTH RIGHT OF WAY LINE FOR IZAAK WALTON ROAD; THENCE ON SAID SOUTH RIGHT OF WAY LINE, THENCE EASTERLY ON A CIRCULAR CURVE, TURNING IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 10050.00', A CENTRAL ANGLE OF 3°27'38" AND AN ARC LENGTH OF 607.02'; THENCE EASTERLY, ON SAID CURVE, HAVING A CHORD OF S 85°55'11"E 606.92'; THENCE EASTERLY, S 89°39'21"E 11.13', TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE SOUTHERLY ON THE SAID EAST LINE FOR THE NEXT TWO COURSES, S 0°39'04"W 1026.84'; THENCE S 0°45'12"W 75.02', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 684461.93 SQUARE FEET OR 15.71 ACRES, MORE OR LESS. (PID 800040511)

Prepared by

Tim Dworak

City of Seward Building - Zoning - Code Enforcement Director

July P.C.



PAID
6-5-23 square

City of Seward Planning Commission
Application for Variance

Applicant: Summit Contracting Inc Date: 6/5/2023 Fee: \$ 100.00 Notification: \$ 100.00
Address: 1217 Izaak Walton Rd Phone: (402) 318-8433 Total Due: \$ 200.00
Legal Description: Seward Knox Addition Lot 1

Present/Future Use of Property: Present - undeveloped farm ground. Future home of Summit Contracting office and Shop building

Zoning District: Comm

Site Plan Attached: Yes No

This is a request for a variance from Section 325-3.4 of the Zoning Ordinance.

- A. The existing situation is: The site plan for this property has the proposed office and shop buildings next to Izaak Walton Rd and the public water and sewer running through the lot on the south end of the property. This distance represents roughly 1,000' of private sewer line needed to full fill 325-3.4.
- B. Granting of this petition would permit: Granting this variance to allow a septic tank would reduce the cost of infrastructure by \$65,000. This savings will allow Summit Contracting to allocate these funds to the private water line cost of \$150,000 and to develop our home base in Seward much faster.

NEBRASKA STATE STATUES STATE IN PART THAT: "NO VARIACNE SHALL BE AUTHORIZED UNLESS THE BOARD FINDS THAT THE CONDITION OR SITUATION OF THE PROPERTY CONCERNED OR THE INTEDDED USE OF THE PROERPTY IS NOT SO GENERAL OR RECURRING A NATURE AS TO MAKE REASONABLY PRACTICABLE THE FORMULATION OF A GENERAL REGULATION TO BE ADOPTED AS AN AMENDMENT TO THE ZONING REGULATIONS."

THE UNDERSIGNED ALLEGES THAT:

1. The strict application of the Zoning Regulations would produce undue hardship; in that:
The public water and sewer are located over 100' away from the suitable toilets making the overall cost of the project much higher.
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; in that: The site plan that illustrates that the entire 15.71 acres will be used only by Summit Contracting and not shared by others.
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; in that: The proposed septic system would be located in the center of the North third of the property. This location should not impact neighbors.
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice; in that: _____

NOTE: If this variance is granted, it will not permit a use prohibited in the use district in which the above-described premises is located.

Signature of Authorized Agent


Signature of Landowner

OFFICE USE ONLY:

Date Received: 6-5-2023

Receipt No: _____

B.O.A Case No. _____

Hearing Date: July 10th

DISPOSITION

Approved/Denied: _____

Conditions(See Minutes): _____

Date of Appeal: _____

Hearing Date: _____

Approved/Denied: _____

Conditions(See Minutes): _____

Letter Sent: _____

Permit Issued: _____

ARTICLE III
Public Sewers Required; Prohibited Discharges
[Amended 11-15-1977 by Ord. No. 1101]

§ 325-3.1. Unlawful deposit of wastes.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Seward, or in any area under the jurisdiction of said municipality, any human or animal excrement, garbage, or other objectionable waste.

§ 325-3.2. Unlawful discharge of untreated sewage.

It shall be unlawful to discharge to any natural outlet within the City of Seward, or in any area under the jurisdiction of said municipality, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

§ 325-3.3. Cesspools, privies and septic tanks prohibited.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

§ 325-3.4. Mandatory hook-up.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the municipality and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the municipality, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so; provided that said public sewer is within 100 feet (30.5 meters) of the property line.

ARTICLE IV
Private Sewage Disposal
[Amended 11-15-1977 by Ord. No. 1101]

§ 325-4.1. When applicable.

Where a public sanitary or combined sewer is not available under the provisions of § 325-3.4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

§ 325-4.2. Permit required.¹

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the municipality, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent.

§ 325-4.3. Effective date of permit; inspections. [Amended 11-7-1978 by Ord. No. 1144²]

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice (except Saturday, Sunday and holidays) by the Superintendent.

§ 325-4.4. Specifications.³

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health and Human Services of the State of Nebraska. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§ 325-4.5. Mandatory connection to public sewer when available.

- A. At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- B. When a public sewer becomes available, the building sewer shall be connected to said sewer within 60 days and the private sewage disposal system shall be cleaned

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

of sludge and filled with clean bank-run gravel or dirt.

§ 325-4.6. Maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the municipality.

§ 325-4.7. Additional requirements.

No statement contained in §§ 325-4.1 through 325-4.6 shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.



PRIVATE ONSITE WASTEWATER TREATMENT FACILITY GENERAL CONSTRUCTION and OPERATION PERMIT

PERMIT NUMBER: GTS220000

Permit Name: Septic Tank and Subsurface Leach Field

Project Description: Private Onsite Wastewater Treatment System (Septic Tank System)

Revised or Superseded Construction Permits: none

Pursuant to Nebraska Administrative Code Title 124, this general construction permit approves the construction of specific types of onsite wastewater treatment systems. This permit document and the associated onsite wastewater treatment system registration form make up the complete permit for the owner of the dwelling/non-dwelling facility identified in the registration.

Compliance with this permit will not be a defense to any enforcement action resulting from endangering the environment, health and human safety, or violating any State statute, regulation, or local ordinance. The permit holder will assure that the installation, operation, and maintenance of all equipment is in compliance with all of the conditions of this permit.

Pursuant to a Delegation Memorandum dated July 1, 2021, and signed by the Director, the undersigned hereby issues this permit on behalf of the Director under the authority of Nebraska Administrative Code Title 124 – On-site Wastewater Treatment Systems.

4/27/2022
Date

Shelley Schneider

Permitting and Engineering Division Administrator



May 15, 2023

Seward Department of Utilities
City of Seward, Nebraska
537 Main Street
Seward, NE 68434

RE: Summit Contracting Seward Office – Septic System
Seward, Nebraska
JEO Project No. P230603.00

To Whom it May Concern:

Summit Contracting desires to construct a new office building along Izaak Walton Rd. The proposed building and improvements will be served by a septic system meeting the requirements set forth by the Nebraska Department of Environment and Energy Title 124 General Construction and Operating Permit GTS220000.

Through discussions with John Southwick, Vice President of Summit Contracting, it was determined that at ultimate build out 50 employees would utilize the proposed office and approximately 60 field staff would also stop into the office from time to time. Metcalf and Eddy have established typical office flows as 13 gpcd for office staff and 4 gpcd for public lavatory visitors which would be a similar use to the field staff. In total, the estimated design flow for this facility is about 900 gal/day at ultimate build out.

Percolation rates were also collected from the site and found to be on average 49.3 min/in. This is within the acceptable range of 5 min/in and 60 min/in. Typical setbacks can also be met at the site. Because the proposed septic system falls within the requirements set forth by the General Permit, an engineered system is not necessary and construction and operation of the proposed septic system can commence when a certified septic installer is ready.

If there are additional questions on this matter, do not hesitate to contact me at abeauclair@jeo.com or 402.474.8744.

Sincerely,

A handwritten signature in blue ink that reads "A. Beauclair".

Aaron Beauclair, *Senior Project Engineer*

PE
Enclosures

6/20/2023

Financial Feasibility Study of the Sanitary Sewer for Summit Contracting, Inc. in Seward, NE

Material take offs and time to complete the job of installing the sanitary sewer for Summit Contracting, Inc. was completed by using the civil engineered plans completed by Stockwell Engineers, Inc. The plans call for 1,069 feet of 8" PVC SDR 35 Sanitary Sewer Pipe and 282 feet of 6" PVC SDR 35 Sanitary Sewer Pipe to tap into the sanitary sewer line on the South end of the property owned by the City of Seward 1,000 feet away. The plan also called for five 48" Sanitary Sewer Manholes and Pipe Bedding Materials. Our estimate to excavate, install, and backfill to the specs of the plans is \$99,033.77.

The estimate excludes permits, bonds, moving existing utilities, removing non packable dirt, hauling in packable dirt, dewatering, and staking elevations.

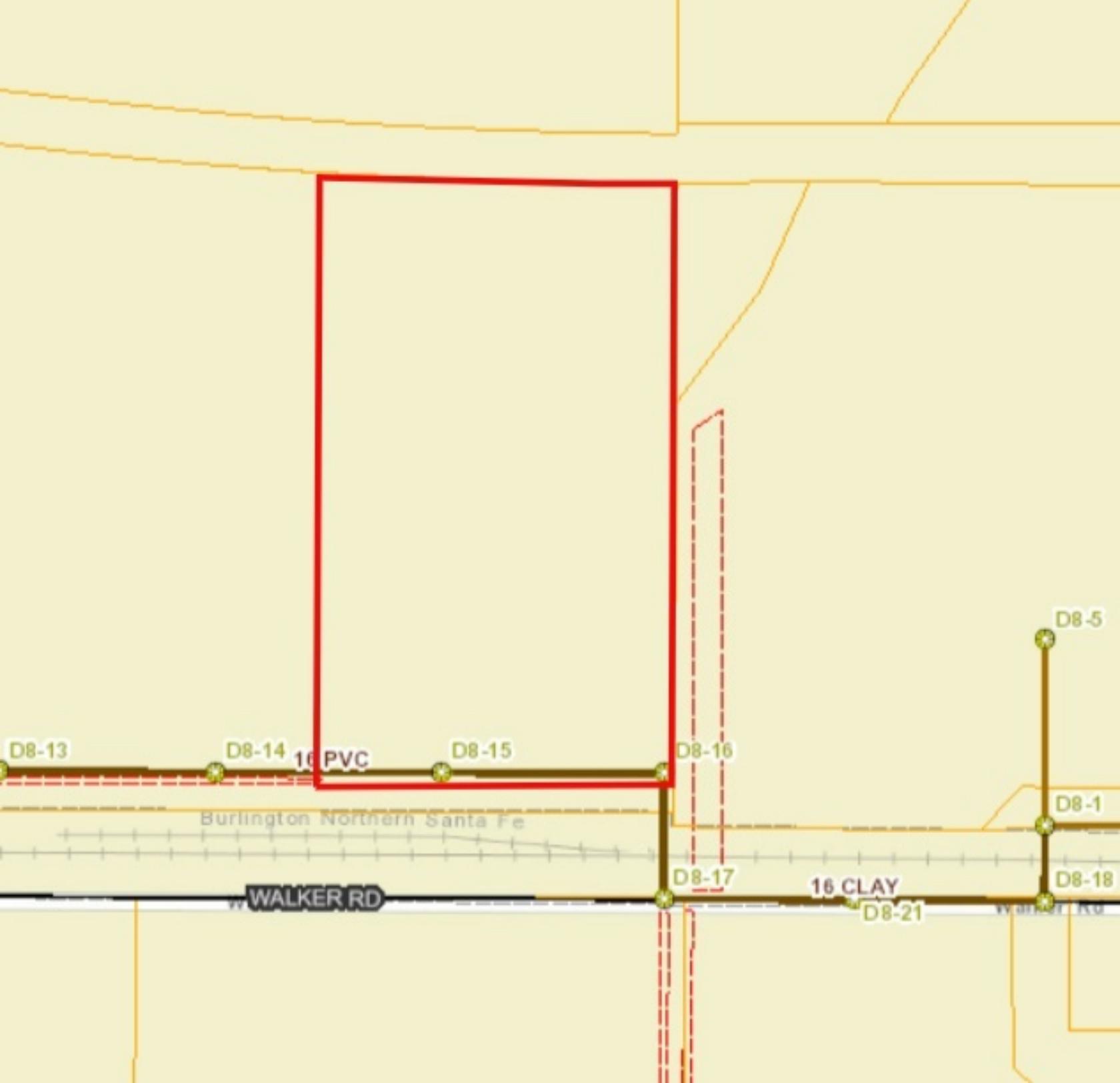
To conserve the overall infrastructure cost, John Southwick with Summit Contracting asked about installing a septic tank with a lateral leach field. At that time Aaron Beauclair, Senior Project Engineer with JEO Engineers was contacted to analysis on the percolation test that was conducted on the site. The percolation test and estimated load on the septic system (900 gal/day) fall within the parameters set forth by the Nebraska Department of Environment and Energy Title 124 General Construction and Operating Permit GTS220000. This permit does not require any further Engineering to be conducted and the licensed contractor is able to design and install the septic system. I have estimated the system that Summit Contracting will need at \$30,000.00

Summit Contracting would gain \$69,033.77 in their infrastructure budget by allowing a variance to the City of Seward building code requiring connection to the city sewer on site.

Stutzman Digging & Excavating

Brett Stutzman – Owner

A handwritten signature in black ink, appearing to read "Brett Stutzman". The signature is stylized and cursive, with a large initial "B" and a long, sweeping underline.



2. Public Hearing 7:30pm: review a text amendment to the City of Seward Unified Land Development Ordinance; Article 44 Administrative Procedures and Penalties; 410-44.3, D Conditional Use Permits Approval Process.

APPLICATION TYPE

FINAL ACTION?

DEVELOPER/OWNER

ULDO Amendment

PC HEARING DATE

RELATED APPLICATIONS

PROPERTY ADDRESS, ZONING DISTRICT/USE

July 10, 2023

BRIEF SUMMARY OF REQUEST

Review a Text Amendment to the City of Seward Unified Land Development Ordinance; Chapter 410 Zoning and Subdivision, Part 10 Administration and Enforcement, Article 44 Administrative Procedures and Penalties 410-44.3 Amendments, D Approval process.

APPLICATION CONTACT

Tim Dworak

ANALYSIS

Zoning laws dictate what kind of activity or use is allowed within different areas of the local authority. When an individual or business requests to use their property in a manner that differs from the local zoning laws they apply for conditional use permit. If a conditional use is granted to the property or entity that owns the property there needs to be a way to track that information for all to know. When the permit is filed with the County Clerk's office it becomes public record for any research that is conducted about the property.

Prepared by

Tim Dworak

City of Seward Building - Zoning – Code Enforcement Director

§ 410-44.3. Conditional use permits.¹

- A. Purpose. The conditional use permit procedure provides for public review and discretionary City Council approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.
- B. Administration. The Zoning Administrator shall be responsible for the administration of the conditional use permit procedure. The Planning Commission shall review, evaluate, and make a recommendation on each application. The City Council shall approve or deny applications for conditional use permits.
- C. Application requirements. An application for a conditional use permit may be filed with the Zoning Administrator by the owner(s) of a property or the owner's(s') authorized agent. The application shall include the following information:
 - (1) Name and address of the applicant.
 - (2) Owner, address and legal description of the property (shall be verified with a certified copy of the last deed or document of record from the Seward County Register of Deeds office).
 - (3) A description of the nature and operating characteristics of the proposed use.
 - (4) Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.
- D. Approval process.
 - (1) The Planning Commission, following 10 days' notice and publication, shall hold a public hearing on each proposed conditional use permit application and, following such public hearing, shall recommend action to the City Council. A vote either for or against the application by a majority of all Planning Commission members shall constitute a recommendation to the City Council. A vote either for or against an amendment by less than a majority of all Planning Commission members shall constitute a failure to make a recommendation to the City Council.
 - (2) The City Council, following 10 days' notice and publication, shall hold a public hearing on each proposed conditional use permit application and, following such public hearing, shall act on the proposed conditional use permit. On applications that receive a recommendation of approval from the Planning Commission, a majority vote of those members either elected or appointed to the City Council is required for approval. On applications that receive a recommendation of denial from the Planning Commission, a majority vote plus one of those members either elected or appointed to the City Council is required for approval.
 - (3) Protest. If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners, pursuant to Neb. RS 19-905, a majority vote plus one of those members either elected or appointed to the City Council is required for approval. A valid protest petition must meet the following criteria:
 - (a) Submission of the petition in the office of the City Clerk within 14 days after the conclusion of the public hearing on the amendment by the Planning Commission.
 - (b) Notarized signatures by at least one of the following:

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 410-44.3

§ 410-44.3

- [1] The owner or owners of at least 20% of the property proposed for the conditional use permit.
- [2] The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the City and within 300 feet of the proposed rezoning.

E. Required notice and publication. Prior to consideration of amending, supplementing, changing, modifying, or repealing these regulations by the governing body, notice of public hearings shall be provided by the following methods:

- (1) Notice by posted sign. A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than 18 inches in height and 24 inches in width with a yellow or white background and black letters not less than 1 1/2 inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least 10 days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.
- (2) Publication. At least 10 days before the date of hearing, the City Clerk/Zoning Administrator shall have published in a daily newspaper having a general circulation in the City of Seward a notice of the time, place and subject matter of such hearing.
- (3) Notification by mail. At least 15 days prior to the date of hearing, the party initiating the request shall present the City Clerk/Zoning Administrator a certified address list of those persons who own property within 300 feet of the subject site. The City Clerk/Zoning Administrator shall mail notice of the time, place, and subject matter of the hearing to such property owners at least 10 days prior to the date of the hearing.

F. Criteria for review. The Planning Commission and City Council shall review and approve the site plan based on the criteria established in Table 44A² and conformance with applicable regulations in this chapter.

G. Scope of approval.

- (1) The Planning Commission and/or City Council may, at their discretion, apply a conditional use permit to a specific owner or applicant. The approving agencies may establish special site development or operational regulations as a condition for approval of a conditional use permit.
- (2) The Planning Commission or City Council, in cases of appeal, shall not grant a conditional use permit for any home occupation/home-based business which is otherwise prohibited under § 410-31.10 of these regulations.

H. Lapse and revocation of permit.

- (1) A conditional use permit shall become void six months after its effective date if the applicant has not carried out development or occupancy during that period. After such expiration, the applicant must reapply for another conditional use permit, following the procedures of this section.
- (2) The City Council may revoke a conditional use permit should the operation of the use subject

2. Editor's Note: Table 44A is included as an attachment to this chapter.

§ 410-44.3

to such permit violate the conditions under which the permit was granted.

§ 410-44.3

I. Previously approved conditional use permits.

- (1) Any conditional use approved under regulations in effect before the effective date of this chapter shall be considered to have a valid conditional use permit, subject to requirements imposed at the time of its approval.
- (2) Any use lawfully established before the effective date of this chapter and required by this Unified Land Development Ordinance to have a conditional use permit within its respective zoning district shall be deemed to have such a valid conditional use permit, provided that it complies with all other applicable provisions of this chapter.

ORDINANCE NO. 2023-

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF SEWARD, CHAPTER 410 ZONING AND SUBDIVISION, ARTICLE 44 ADMINISTRATIVE PROCEDURES AND PENALTIES TO BETTER DEFINE CONDITIONAL USE PERMITS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD AS FOLLOWS:

That Chapter 410 of the Municipal Code of the City of Seward is hereby amended as follows:

Section 1. That §410-44.3 (D) be amended as follows:

D. Approval Process.

- (1) The Planning Commission, following 10 days' notice and publication, shall hold a public hearing on each proposed conditional use permit application and, following such public hearing, shall recommend action to the City Council. A vote either for or against the application by a majority of all Planning Commission members shall constitute a recommendation to the City Council. A vote either for or against an amendment by less than a majority of all Planning Commission members shall constitute a failure to make a recommendation to the City Council.
- (2) The City Council, following 10 days' notice and publication, shall hold a public hearing on each proposed conditional use permit application and, following such public hearing, shall act on the proposed conditional use permit. On applications that receive a recommendation of approval from the Planning Commission, a majority vote of those members either elected or appointed to the City Council is required for approval. On applications that receive a recommendation of denial from the Planning Commission, a majority vote plus one of those members either elected or appointed to the City Council is required for approval.
- (3) Protest. If a valid protest petition opposing an amendment is filed with the City Clerk by eligible property owners, pursuant to Neb. RS 19-905, a majority vote plus one of those members either elected or appointed to the City Council is required for approval. A valid protest petition must meet the following criteria:
 - (a) Submission of the petition in the office of the City Clerk within 14 days after the conclusion of the public hearing on the amendment by the Planning Commission.
 - (b) Notarized signatures by at least one of the following:
 - [1] The owner or owners of at least 20% of the property proposed for the conditional use permit.

[2] The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the City and within 300 feet of the proposed rezoning.

- (4) A conditional use resolution shall be drafted outlining the conditional use requested, the legal description of the property, and may include any required special conditions relevant to such requested special use.
- (5) Notice of any conditional use resolution approved by the City Council shall be filed by the Building Inspection Department, with the Seward County Register of Deeds within ten (10) calendar days.

SECTION 2. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. WHEN OPERATIVE; PUBLICATION IN PAMPHLET FORM. This ordinance shall be published in pamphlet form and shall be in full force from and after its passage, approval and publication or posting as required by law.

Dated this _____ day of _____, 2023

CITY OF SEWARD, NEBRASKA

Joshua Eickmeier, Mayor

ATTEST: _____
Derek Bargmann
City Clerk

**ADMINISTRATIVE ITEMS
REPORTS**

1. Report on Meetings Attended

**FUTURE REQUESTS FOR COMMISSION AGENDA ITEMS OR
ADMINISTRATIVE ACTION
ANNOUNCEMENT OF UPCOMING EVENTS
MOTION TO ADJOURN**

I, Derek Bargmann, the duly appointed qualified and acting City Clerk of the City of Seward, Nebraska, hereby certify that the foregoing Notice of Meeting and Agenda for such meeting has been posted in the following places: Seward City Hall, Seward Municipal Building, Seward County Courthouse, Seward Memorial Library and CityofSewardNE.gov

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City.

Derek Bargmann, City Clerk

Date