	<p style="text-align: right;"><b>"OPEN MEETINGS ACT"</b></p> <p style="text-align: right;"><b>Planning Commission Regular Meeting City Council Chambers May 5, 2026 - 7:00 PM</b></p>
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**A Copy of the "Open Meetings Act" Has Been Posted at Both Exits**

**AGENDA**

**NOTE: A current copy of the agenda can be obtained at the City Clerk's Office at 218 S. 16th Street, Blair, Nebraska or on the City website at [www.blairne.gov](http://www.blairne.gov). The City Council reserves the right to go into Executive Session at any time.**

1. Meeting called to order and introductions at 7:00 p.m. by Chairman Boesiger.
2. Roll call of members.
3. Approval of minutes from the April 7, 2026, meeting.
4. Chairman Boesiger opens a public hearing to consider a Conditional Use Permit submitted by Curt and Meadow Scott, 2975 Southern Hills Drive, Blair, Nebraska, for a contractor's yard on Tax Lot 203, Section 12, Township 18 North, Range 11 East of the 6th P.M., in the City of Blair, Washington County, Nebraska (600 block of S. 10th Street), for 30 years.
5. Chairman Boesiger opens a public hearing to consider a Conditional Use Permit application submitted by Total Truck & Machine, LLC, 414 S. 5th Street, Blair, Nebraska; Kevin & Melissa Wehrli, owners, for customization and sales of specialized trucks and automotive vehicles on Lot 4, South Acres Subdivision, in the City of Blair, Washington County, Nebraska (414 S. 5th Street), for 25 years.
6. Chairman Boesiger opens a public hearing to consider a Conditional Use Permit application submitted by MCM Rents/Mid-Country Machinery, LLC, 3478 5th Ave, Fort Dodge, Iowa, for a "Rental and Leasing Establishment, Outside and Inside Storage" for heavy equipment rental on Lot 3, South Acres 2nd Addition, City of Blair, Washington County, Nebraska (450 Grant Street) for 30 years.

7. Chairman Boesiger opens a public hearing to consider a Rezone application submitted by AV Tenent, LLC, 1701 County Road 6, Yutan, Nebraska; Andrew Toupin, agent, for the SJAV Subdivision on Tax Lot 267, being all of Tax Lot 248 and part of Tax Lot 249 in part of the Northwest Quarter (NW1/4) of Section 13, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska (13th & Wilbur Streets) Rezoning Tax Lot 267 from Residential Medium Density District (RM) to Agricultural/Highway Commercial District (A/CH).
8. Chairman Boesiger opens a public hearing to consider a Conditional Use Permit application submitted by AV Tenent, LLC, 1701 County Road 6, Yutan, Nebraska; Andrew Toupin, agent, for the SJAV Subdivision on Tax Lot 267, being all of Tax Lot 248 and part of Tax Lot 249 in part of the Northwest Quarter (NW1/4) of Section 13, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska (13th & Wilbur Streets) for the life of the buildings.
9. Chairman Boesiger opens a public hearing to consider an amendment to the City of Blair Zoning Regulations, Article 11, Section 1102 Fences, Hedges and Retaining Walls: Moving the last paragraph of the section to the beginning of the section and renaming "Rural Residential Estate" (RRE) to "Residential Estate" (RE).
10. Report from Staff
11. Motion and second by Commission members to adjourn the meeting.

**A Copy of the "Open Meetings Act" Has Been Posted at Both Exits**

## Planning Commission Regular Meeting

Tuesday, April 7, 2026

Chairman Boesiger called the Blair Planning Commission to order at 7:00 P.M. Members present were Darrel Boesiger, Chris Boswell, Melanie Kaeding, Milt Heinrich, Jim Pounds, Travis Radnor, Ryan Schroeter, and Richard Zelensky. Joe Peleska: Absent. Others present were City Administrator Green, Assistant City Administrator Barrow, and City Attorney Talbott.

The Chairman publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Notice of the meeting was given in advance thereof by publication in the Enterprise or the Pilot -Tribune as shown by the affidavit of publication filed in the City Clerk's office. Notice of the meeting was simultaneously given to the Planning Commission members, and the agenda is filed in the City Clerk's office. Availability of the agenda was communicated in the advance notice and in the notice to the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Agenda Item #1 & 2 – Chairman Boesiger called the meeting to order at 7:00 p.m. followed by a roll call of members.

Agenda Item #3 – Motion by Ryan Schroeter, seconded by Melanie Kaeding, to approve the March 3, 2026, minutes as presented. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Abstain, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 7, Nay: 0, Absent: 1, Abstain: 1. Chairman Boesiger declared the motion carried.

Agenda Item #4 – Chairman Boesiger opens a public hearing to consider and possibly take action on a redevelopment plan entitled: "Redevelopment Plan for the SJAV Tenet Redevelopment Project." Community Development Director Beierman stated the redevelopment program, included in the package, goes to the planning commission first. Then, under state statute, a public hearing is required on the TIF proposal. During that hearing, they review and discuss the plan, especially whether it aligns with the community's comprehensive plan. Then, the commission does not approve it outright, they make a recommendation and forward it to the city council. The city council then takes final action (approval, modification, or denial). Beiermann identified the subject area for the proposed redevelopment program as the property located south of the YMCA and southeast of the intersection of Wilbur Street and 13th Street. It was noted that this area lies within the Blair core area. The area was designated as blighted and substandard, originally in 2002. It was further noted that this designation was reviewed and reaffirmed in 2020 to ensure the continued validity and integrity of the core area. Beiermann noted that the current proposal includes between five and nine apartment buildings, totaling approximately 22 apartment units each. The development is intended to provide a range of housing options, including affordable and equitable housing, with an emphasis on supporting the City's expanding workforce. Beiermann also noted that workforce housing Tax Increment

Financing (TIF) may be incorporated into the project. In addition to residential development, the plan includes designated commercial lots suitable for uses such as childcare facilities, small offices, and similar neighborhood-serving businesses. The proposed mix of residential and commercial uses is intended to complement, but remain distinct from, the more intensive commercial activity located along South 10th Street. Beiermann discussed the role of public-private partnerships in advancing the project, with coordination between the City and private-sector developers. It was further noted that the City has identified land within the area for a future pump station and is working collaboratively on necessary infrastructure improvements, including street development. Overall, the redevelopment is expected to support continued housing growth and encourage expanded commercial activity, particularly near the Highway 75 corridor and surrounding transportation routes. Commission member Pounds questioned the definition of workforce housing. Beiermann stated that the workforce housing is usually a cap on how high the apartments can be rented for or how much a house can sell for. City Administrator Green stated that for single-family homes, the estimated sale price threshold is approximately \$325,000. For apartment units, eligibility is based on construction cost per unit rather than sale price. It was stated that the current state guideline is approximately \$285,000 per unit, and projects constructed at or below this cost may qualify as workforce housing. Green also wanted to clarify that the proposed apartment units are intended to be market-rate housing and are not specifically designated as subsidized units. While individual residents may qualify for housing assistance programs, the development itself is not being marketed as income-restricted or subsidized housing. Andrew Toupin, 1733 Ingle Street, Grand Island, Nebraska, 68803. Another item would be the preliminary plat. I represent Rizer Construction. We are partnering with the current landowners to bring a multifamily and commercial development to the city of Blair. This project is located at the intersection of Highway 75 and Wilbur Street. In total, we are proposing 9-22-unit apartments, which will bring 198 units to the community along with a commercial development along the highway. Our first phase includes 5 apartments, so about 110 units. Rizer is a Nebraska-based development and construction company headquartered in Grand Island. We are a full-service developer, which means we handle everything from land acquisition, design, construction, long-term property management, and maintenance. We build and maintain our own multifamily developments. The reason we are excited about Blair is simple: there is a clear need for housing. Like many communities in Nebraska, Blair is growing. And there is an increasing demand for quality market-rate housing; the project helps this project meet that demand while also supporting local employers who need housing options to attract and retain workers. In addition to the residential component, the commercial lots along Highway 75 will create opportunities for new businesses, expand the tax base, and contribute to long-term economic growth in the area. Now, with a project of this size, there are significant upfront costs, especially related to infrastructure and site development. That is where tax increment financing becomes important. TIF allows us to offset those extraordinary costs and make the project financially feasible. Without it, the level of public improvements and the high construction costs required would make developments like this impossible to move forward. This project is about transforming an underutilized area and something into something that benefits this entire community. It provides housing, it supports economic growth, and it contributes to long-term growth here and there. We are excited about the opportunity to invest in this community. Jennifer Reyzlik, 141 E Baronage Drive, questioned whether Blair needs more apartments. Spoke against this project because there is a wide variety of locations and price ranges of apartments now. Mike Rooks, Gateway Development, address 11961 South 113th Avenue,

Papillion, Nebraska. Rooks stated local housing needs based on a 2021 housing study, which identified a shortage of over 500 housing units. Since that time, 45 to 50 new homes have been built, with some losses due to tornado damage. Even when including recently completed and proposed apartments, the community remains below projected housing needs. Mr. Rooks noted that recent workforce growth, including the expansion of the Dollar General distribution center, has increased demand for housing. Numerous employees currently live outside the community due to limited local options. Mr. Rooks emphasized the need for a variety of housing types, including apartments, duplexes, senior housing, and single-family homes. Apartments were identified as an important and more affordable option to help attract and retain residents, with the potential for individuals to transition into other housing types over time. Gateway Development strongly supports these apartments. Cathy Clough, 1280 S Hwy 75, spoke against this project due to the unknown occupants of the apartment complex with her young family. Also, she would like the developer to construct a privacy fence on the property line dividing her property and the apartment complex. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Melanie Kaeding, second by Chris Boswell to adopt Resolution No. 2026-1 as presented. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #5 – Chairman Boesiger opens a public hearing to consider an amendment to the City of Blair Zoning Regulations, Article 11, Section 1106 Structures To Have Access, adding the option of a “recorded easement meeting the City’s subdivision standards” to the existing access options. Community Development Director Beiermann stated that the next couple of items are to make changes to the language of the subdivision and city zoning regulations. Beiermann reviewed a proposed amendment to allow lots to obtain required access via a recorded easement meeting city subdivision standard. Current regulations require adjacency to a public or approved private street, which can restrict residential development on otherwise buildable parcels, excluding agricultural uses. The amendment would permit recorded easements as an acceptable form of access, provided they meet established design and legal standards. Beiermann stated this would create a clearer and more consistent process for establishing access and allow consideration of building permits for residential structures where adequate access is secured. Beiermann discussed gaps in current subdivision regulations requiring lots to be adjacent to a public or approved private street. Examples include an agricultural parcel where a barn could be permitted without access, but a residence could not, and a condominium scenario where future subdivision could create landlocked lots. Similar concerns were noted for proposed developments with private streets, where some lots may lack direct street frontage. Beiermann stated that allowing access through recorded easements would provide a clearer, more consistent method to ensure legal access for residential and other structures within the city and the two-mile ETJ. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Melanie Kaeding, second by Travis Radnor to recommend approval of the City of Blair Zoning Regulations, Article 11, Section 1106 as presented. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #6 – Chairman Boesiger opens a public hearing to consider an Amendment to the City of Blair Subdivision Regulations, Article 5, Section 502 Streets; Section 502.11: Private Streets and Reserve Strips: Adding “unauthorized” to “There shall be no private streets platted within a subdivision.” And Section 505.03: Access To Lots: Adding private streets or a recorded easement to the existing access options. Community Development Director Beiermann reviewed a proposed amendment to Section 502 to clarify regulations regarding private streets, building on the previous agenda item. It was noted that the current language is inconsistent, with some sections allowing private streets while others imply they are prohibited. The amendment would explicitly recognize "approved private streets" and revise existing language to prohibit only unauthorized private streets. Staff explained that this change aligns the subdivision regulations with zoning provisions and clarifies that private streets are permitted when developed in accordance with City standards. Beiermann stated that the proposed amendments clarify access requirements and reconcile inconsistencies between subdivision and zoning regulations. The revisions would modify existing language to prohibit only unauthorized private streets, thereby allowing private streets when developed in accordance with City standards. The amendments also recognize access via an approved private street or a recorded easement meeting subdivision requirement, including a minimum 30-foot-wide connection to a public street. These changes are intended to provide clear, consistent standards for legal access. City Administrator Green stated that the proposed amendments to the subdivision regulations were to clarify access requirements and align them with the zoning regulations. Staff emphasized that there are two distinct sections of the City code: zoning regulations govern land use and building eligibility, including the requirement that structures have legal access, while subdivision regulations address the design and layout of lots and streets. Green stated the intent is to ensure both sections of the code are consistent and clearly allow for public streets, approved private streets, or compliant easements as valid forms of access. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Melanie Kaeding, second by Jim Pounds to recommend approval of the Amendment to the City of Blair Subdivision Regulations, Article 5, Section 502 and Section 505.03, as presented. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #7 – Chairman Boesiger opens a public hearing to consider an Ordinance adopting an updated Future Land-Use Map for Tax Lot 267 being all of Tax Lot 248 and part of Tax Lot 249 in part of the Northwest Quarter (NW1/4); Tax Lot 179; Tax Lot 160; Tax Lot 163 in the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4), City of Blair; Tax Lot 230, City of Blair; Tax Lot 185; and Tax Lot 281, City of Blair; all in Section 13, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska (the area southeast of 13th and Wilbur Streets and northwest of 10th Street and U.S. Highway 75), changing the Future Land-Use Map designation from Residential to Commercial. Community Development Director Beiermann stated the distinction between future land use and current zoning. Future land use is part of the Comprehensive Plan and provides long-term guidance, while current zoning regulates present-day development and permitted uses. Existing zoning designations (e.g., residential medium density) remain in effect unless a rezoning is requested and approved through the Planning Commission and City Council. Future land use designations help property owners understand potential long-term development options without changing current regulations. The

intent is to provide clarity and predictability for property owners regarding both current use and probable future development of their land. Beiermann proposed an amendment to the Future Land Use Map along Highway 75 to support potential rezoning for increased apartment and commercial development in the area. It was noted that properties south of the proposed change, down to the corner of Wilbur, will remain designated as residential medium density (RM). Existing zoning in these areas will not be affected, and current uses will remain unchanged unless a property owner requests and receives approval for a rezoning through the Planning Commission and City Council. The amendment is intended to guide future development while maintaining existing zoning stability for current residential properties. Pam Hanson, 1410 S Hwy 75, spoke against the item, feeling they would be squeezed out at some time. Wendy Rand, 1145 Maple Drive, questioned whether a house would still be able to be built if the change is approved. City Administrator Green stated that an undeveloped parcel is currently under consideration for rezoning by the property owner, who is expected to submit a request next month. It was explained that the current Future Land Use Map designates the area as residential, which does not support a commercial rezoning at this time. As a result, staff recommended presenting a broader amendment to the Planning Commission and City Council to consider updating the Future Land Use designation. This approach accounts for surrounding development trends, as adjacent properties are transitioning to commercial uses, and provides flexibility for potential future requests from current or future property owners. Mayor Mindy Rump, 1663 Washington Street, suggested the possibility that the planning commission could exclude all those lots out of this recommendation for the future land map and just have the larger lot to the north. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Ryan Schroeter, second by Travis Radnor to recommend approval of the Ordinance adopting an updated Future Land-Use Map, with only Tax Lot 267, changing the Future Land-Use Map designation from Residential to Commercial. Commission members voted as follows: Darrel Boesiger: Nay, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 7, Nay: 1, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #8 – Chairman Boesiger opens a public hearing to consider a Preliminary Plat Application submitted by AV Tenent, LLC, 1701 County Road 6, Yutan, Nebraska; Andrew Toupin, agent, for the SJAV Subdivision on Tax Lot 267, being all of Tax Lot 248 and part of Tax Lot 249 in part of the Northwest Quarter (NW1/4) of Section 13, Township 18 North, Range 11 East of the 6th P.M., Washington County, Nebraska (13th & Wilbur Streets). Community Development Director Beiermann stated the zoning district is currently RM - Multi-family Residential High Density. The Future Land-Use Map designates Residential use. There will be a future request for a zoning change when the Final Plat is presented. Plans for the property include three (3) commercial lots and nine (9), 22-unit apartments built in two phases. The first phase will include five (5). Beiermann stated there is ongoing coordination with the Nebraska Department of Transportation (NDOT) regarding roadway access and the potential need for an additional turn lane to accommodate future development. The proposed site plan includes the extension of 12th Street to align with the existing street grid, as well as a secondary access point to the development. Sidewalks are planned throughout the perimeter. A pedestrian crossing is proposed across Wilbur Street, including ADA-compliant truncated domes, to provide access to the YMCA and the adjacent trail system. Staff noted that a flashing crosswalk signal is not currently planned for this crossing. Beiermann stated the development includes several perimeter

retention ponds designed to manage stormwater runoff. These facilities will temporarily store runoff from streets and residential areas and release it into the adjacent creek at controlled rates. The system is designed so that post-development discharge will not exceed existing pre-development runoff conditions. Drainage infrastructure, including ditches and pond sizing, has been engineered to accommodate storm events up to the 10-year event, with additional considerations for larger storm scenarios where applicable. The overall intent is to retain stormwater onsite and ensure no increase in runoff leaving the property compared to current conditions. Commission member Boesiger questioned whether there should be fencing requirements for the plat. Beiermann stated that fencing recommendations should be part of the motion. Robert Warrick, 633 Skyline Drive, questioned who will maintain the retention ponds. Beiermann stated there is an agreement filed on the register of deeds simply stating the tenant is responsible for maintaining the stormwater management practices. Andrew Toupin, 1733 Ingle Street, Grand Island, Nebraska, 68803, stated that no trees on the neighboring properties will be disturbed. We have a maintenance team that will keep the property clean, and the retention ponds will be maintained as well. Sam & Cathy Clough, 1280 S Hwy 75, stated she would like to have a privacy fence constructed between their property and where the apartments are going. Does not want people walking on their property. Also, wanted to know what is going into the pump station. City Administrator Green stated we are working with Rural Water with the NRD and Rural Water District Number 2 regarding providing them with a better water supply. This will be an unmanned pump station. This will be in a pre-fab building. You hardly ever notice it running when you are outside the unit. We have several located around town. You do not really hear them. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Melanie Kaeding, second by Travis Radnor, to recommend approval of the Preliminary Plat Application submitted by AV Tenent with a privacy fence along the southern property line to appear on the final plat, 6' in height, wood or some other durable material. Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #9 – Chairman Boesiger opens a public hearing to consider a Rezoning Application submitted by McCune Development, 11550 I Street, Omaha, NE 68134, E&A Consulting Group, Inc., agent, for a PUD-1, General PUD District overlay located on Lot 7, Hayden Place, First Addition, Replat One, in the City of Blair, Washington County, Nebraska (south and southeast of the roundabout on Kellie Drive). Community Development Director Beiermann stated the zoning is RM - Residential Medium Density. The future land use map designates residential use. The request is for a Planned Unit Development overlay that allows specific allowances to the RM District's regulations for this parcel only. Beiermann stated that different zoning types, like low-density and medium-density, set the basic rules for how land can be used. A Planned Unit Development (PUD) works like an "overlay" on top of those rules. It lets you make changes for a specific piece of property without changing the zoning for everything around it. So, the PUD only affects that one parcel, while the rest of the surrounding zoning stays the same. Beiermann stated the applicant is requesting a minimum lot width of 54 feet within the RM (residential medium density) district. For comparison, current standards require a 70-foot minimum width in RM, and other residential districts, such as low-density and high-density, require no less than 60 feet. Beiermann explained that while not all proposed lots fall below existing minimum standards, the request is necessary to ensure all lots within the

development meet legal lot requirements under the proposed design. The developer has also requested a front and rear yard setback of 25 feet, a side yard of 5 feet, and a street-side yard of 10 feet. Commission member Pounds spoke of his concerns for the side yard distance, especially if there is a window well. Commission member Zelensky questioned if there could be a requirement placed for a grate to be over the window well. Caleb Beasley, with ENH Consulting Group, 10909 Mill Valley Rd, Omaha, is the engineer representing the applicant. Mr. Beasley explained that the requested reductions in side yard setbacks and lot width are intended to increase overall development density. The proposed plan includes approximately 137 single-family lots. The homes are proposed to include 2- to 3-car garages, 3-bedroom layouts, and 1,600 to 1,800 square feet of living space. The applicant indicated that, with the proposed density, the target price point would be approximately \$320,000, intended to support entry-level homeownership and remain competitive with regional housing markets, including Omaha. Mr. Beasley also noted coordination with the city regarding the placement of a future water tower within the development. Lot 138 on the east side of the site has been identified as a suitable location, based on discussions between the developer and City staff. This location is considered beneficial to both the project and the City's long-term utility needs. Also clarified the requested lot width standards. While a minimum frontage of 54 feet is proposed for certain curved street conditions, most lots are intended to be approximately 60 feet wide at the building line, allowing for typical side yard setbacks and a buildable home width of 49 to 50 feet for the proposed single-family product type. Robert Warrick, 633 Skyline Drive, questioned whether there would be any retention ponds. Mr. Warrick also stated there are plenty of empty lots in Blair, and who would be responsible for keeping people off his property. City Administrator Green stated this would be discussed on the next agenda item. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Melanie Kaeding, second by Chris Boswell to recommend approval of the Rezoning Application submitted by McCune Development for a PUD-1, General PUD District overlay as presented. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #10 – Chairman Boesiger opens a public hearing to consider a Replat application submitted by McCune Development, 11550 I Street, Omaha, NE 68134, E&A Consulting Group, Inc., agent, for Bear Creek, Lots 1 thru 138, & Outlots “A” & “B” Inclusive, a tract of land being a replatting of all of Lot 7, Hayden Place First Addition, Replat one, An Addition to the City of Blair, Washington County, Nebraska. (south and southeast of the roundabout on Kellie Drive). Community Development Director Beiermann stated the zoning district is currently RM - Residential Medium Density. A prior agenda request was for a PUD—Planned Unit Development overlay. The Future Land-Use Map designates residential use. Beiermann showed the board where the retention pond would be on the map through a PowerPoint slide. Commission member Heinrich questioned where the sidewalks would be leaving the development. City Administrator Green stated there are sidewalks on the north side of Kellie Drive leading to the highway. Commission member Boesiger has concerns of there only being one ingress and egress. Caleb Beasley, with ENH Consulting Group, 10909 Mill Valley Rd, Omaha, is the engineer representing the applicant. Mr. Beasley addressed concerns related to drainage and pedestrian connectivity. The existing detention basin located in the northwest corner (Outlot A) is being evaluated as part of the required drainage report submitted

to Public Works. Staff noted the basin may need to be expanded or deepened to meet current standards. The development will be designed so that runoff from the site during 10- and 100-year storm events does not exceed pre-development flow rates and may result in reduced discharge to the creek. Mr. Beasley also outlined planned pedestrian improvements. The existing sidewalk along the north side of Outlot A will be extended into the subdivision. A 10-foot-wide trail is proposed along the west side of the internal street (18th Avenue), supported by an expanded right-of-way. Additional sidewalk improvements will include a connection along the south side of Kelly Drive, extending east from the roundabout to provide access to nearby properties and future development. There were no other comments from the floor or in writing. Chairman Boesiger closed the public hearing. Motion by Melanie Kaeding, second by Rich Zelensky, to recommend approval of the Replat application submitted by McCune Development or Bear Creek, for Lots 1 thru 139, & Outlots "A" & "B" as presented. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

Agenda Item #11– Report from staff. City Administrator Green wanted to thank the board for the service that they continue to provide to the City of Blair. Green encouraged the board to come to the April 14th council meeting to see three presentations from firms vying for approval to update our city's comprehensive plan.

Agenda Item #12 – Motion by Melanie Kaeding, second by Travis Radnor, to adjourn the meeting at 9:06 pm. Commission members voted as follows: Darrel Boesiger: Yea, Chris Boswell: Yea, Milt Heinrich: Yea, Melanie Kaeding: Yea, Joe Peleska: Absent, Jim Pounds: Yea, Travis Radnor: Yea, Ryan Schroeter: Yea, Rich Zelensky: Yea. Commission members present voted: Yea: 8, Nay: 0, Absent: 1. Chairman Boesiger declared the motion carried.

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Shelly Jones, Secretary

Filing Date 4/14/2020

Receipt Number RCPT-0000019012

**APPLICATION FOR CONDITIONAL USE PERMIT**

1. Curt Meadows 8077 2975 Southern Hills Dr Blair, NE 68009 (402)  
Applicant's Name Mailing Address Telephone 995-9990

Email: Curtandmeadows@gmail.com

2. (same)  
Agent's Name Mailing Address Telephone

3. \_\_\_\_\_  
Owner's Name Mailing Address Telephone  
Tax Lot 203, Section 12, Township 18 North, Range 11 East of the 6th P.M., in the City of Blair, Washington County,

4. Nebraska (600 block of S. 10th Street)  
Address and Legal Description of Location - Subject Property

OPD

Current Zoning

5. Build contractor boys for rent @ c in  
Describe the requested Conditional Use  
CONTRACTOR'S YARD

6. Length of request: 30 years  
(All permits approved are for one (1) year unless otherwise noted)

[Signature] 04/12/2020  
Signature of Owner(s) Date

[Signature] 04/12/2020  
Signature of Owner(s) Date

**DO NOT WRITE BELOW THIS LINE**

**PLANNING COMMISSION RECOMMENDATION:**

DATE OF NOTICE: \_\_\_\_\_

DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

**CITY COUNCIL ACTION:**

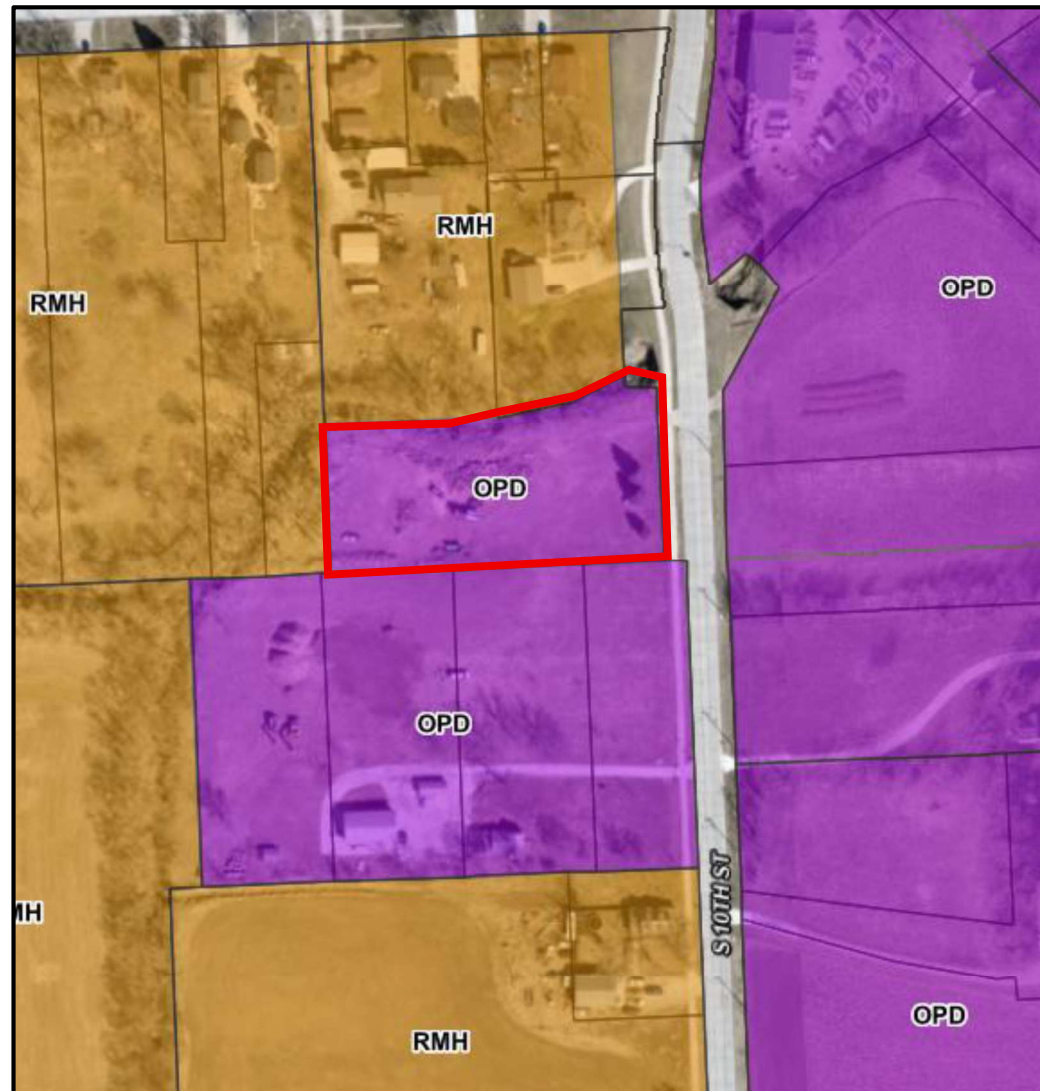
DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

NOTE: THIS CONDITIONAL USE PERMIT IS SUBJECT TO VETO BY THE MAYOR UNTIL THE NEXT REGULAR MEETING OF THE BLAIR CITY COUNCIL.



**Tax Lot 203**



**Zoning: Office Park**

Filing Date 2/18/2026

Receipt Number \_\_\_\_\_

**APPLICATION FOR CONDITIONAL USE PERMIT**

1. Total Truck's Machine, LLC 414 S. 5th St. Blair 531-209-3009  
Applicant's Name Mailing Address Telephone

Email: Kevin@totaltruckandmachine.com

2. \_\_\_\_\_  
Agent's Name Mailing Address Telephone

3. Kevin & Melissa Wenri 452 S. 10th St. Blair 402-510-9471  
Owner's Name Mailing Address Telephone

4. 414 S. 5th St. Lot 4, South Acres a subdivision in the City of Blair,  
Address and Legal Description of Location - Subject Property Washington Co. NE

AML  
Current Zoning

5. Building & Selling vocational trucks (customized work trucks)  
Describe the requested Conditional Use

6. Length of request: 25 yrs.  
(All permits approved are for one (1) year unless otherwise noted)

[Signature] 2-18-26  
Signature of Owner(s) Date

Marie Gordon 2-18-26  
Signature of Owner(s) Date  
Marie Gordon Investments LLC

**DO NOT WRITE BELOW THIS LINE**

**PLANNING COMMISSION RECOMMENDATION:**

DATE OF NOTICE: \_\_\_\_\_

DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

**CITY COUNCIL ACTION:**

DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

NOTE: THIS CONDITIONAL USE PERMIT IS SUBJECT TO VETO BY THE MAYOR UNTIL THE NEXT REGULAR MEETING OF THE BLAIR CITY COUNCIL.

Filing Date 9-18-17

Receipt Number 45361

**APPLICATION FOR CONDITIONAL USE PERMIT**

1. Michael Schnulle Sr 12790 Co. Rd P26 402-290-1104  
Applicant's Name Mailing Address Blair NE Telephone

2. \_\_\_\_\_  
Agent's Name Mailing Address Telephone

3. And Sam LLC PO Box 646 Blair NE 68008 402-668-6549  
Owner's Name Mailing Address Telephone

4. Lot 1 South Acres Blair NE  
Address and Legal Description of Location - Subject Property

5. Truck sales lot, Heavy and Medium Duty Trucks & Trailers, New and Used  
Describe the requested Conditional Use

6. Length of request: 25 yrs  
(All permits approved are for one (1) year unless otherwise noted)

[Signature] 9/15/17  
Signature of Owner(s) Date

\_\_\_\_\_  
Signature of Owner(s) Date

**DO NOT WRITE BELOW THIS LINE**

**PLANNING COMMISSION RECOMMENDATION:**

DATE OF NOTICE: 09-22-17

DATE OF PUBLIC HEARING: 10-03-17

VOTE: 9 TO 0 TO recommend approval as presented for fifteen (15) years.

**CITY COUNCIL ACTION:**

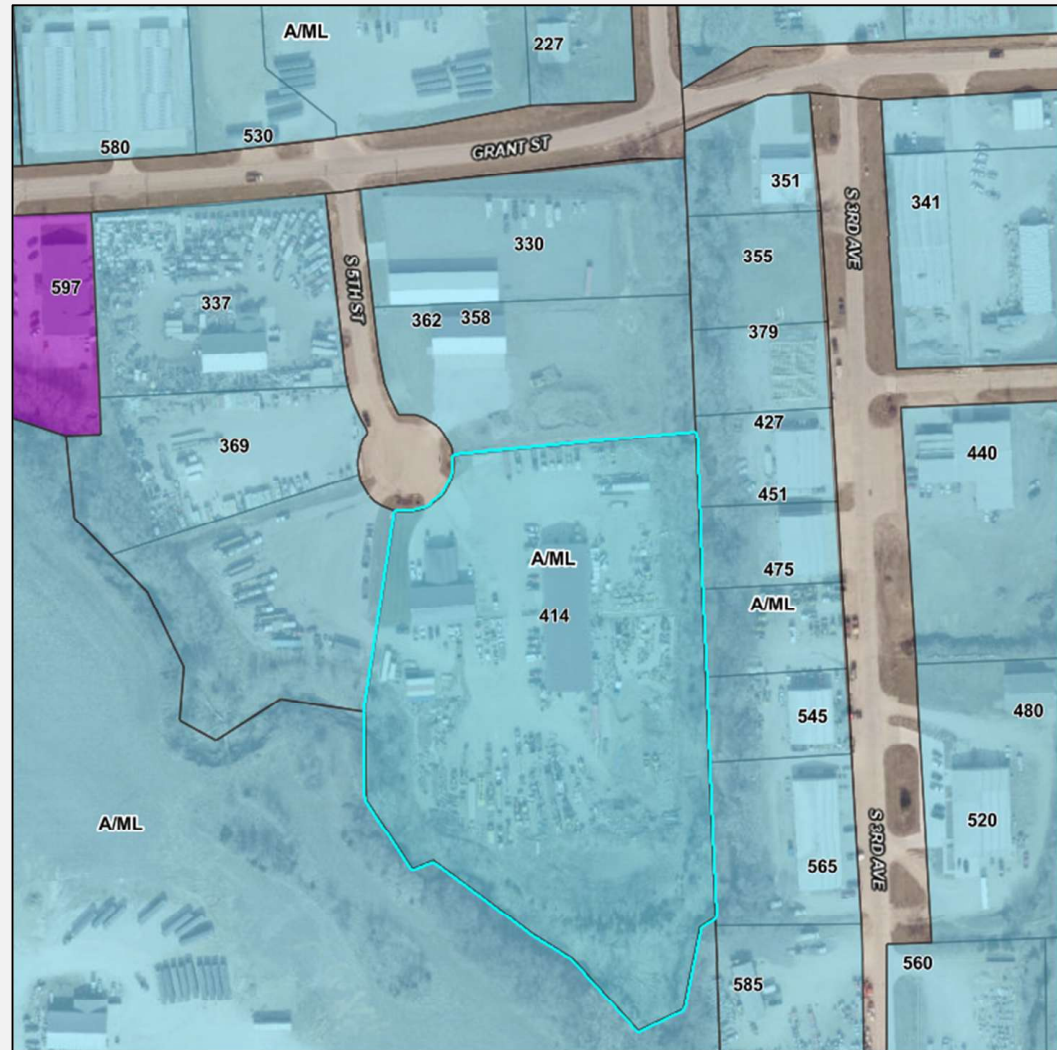
DATE OF PUBLIC HEARING: 10/10/17

VOTE: 8 TO 0 TO approve as presented for (15) years

**NOTE: THIS CONDITIONAL USE PERMIT IS SUBJECT TO VETO BY THE MAYOR UNTIL THE NEXT REGULAR MEETING OF THE BLAIR CITY COUNCIL.**



414 S. 5<sup>th</sup> Street/Lot 4, South Acres Subdivision



Zoning: A/ML – Agricultural/Heavy Industrial & Manufacturing District

Filing Date 4/14/2020

Receipt Number \_\_\_\_\_

MCM Rents/ **APPLICATION FOR CONDITIONAL USE PERMIT**

1. Mid Country Machinery, LLC 3478 5th Ave S. Fort Dodge, IA 50501 515-574-2302  
Applicant's Name Mailing Address Telephone

Email: amandamc@midcountry.com

2. MCM Rents/ 3478 5th Ave S. Fort Dodge, IA 50501 515-571-7545  
Agent's Name Mailing Address Telephone

3. Midcountry Machinery, LLC 3478 5th Ave S. Fort Dodge, IA 50501  
Owner's Name Mailing Address Telephone

4. 450 Grant Street - Lot 3, South Acres 2nd Addition, City of Blair, Washington County, Nebraska  
Address and Legal Description of Location - Subject Property  
A/ML - Light Industrial & Manufacturing  
Current Zoning

5. Heavy Equipment Rental Company for  
Describe the requested Conditional Use Rental and Leasing Establishment  
Outside to Inside Storage

6. Length of request: 30 years  
(All permits approved are for one (1) year unless otherwise noted)

[Signature] 3/27/27  
Signature of Owner(s) Date

\_\_\_\_\_  
Signature of Owner(s) Date

**DO NOT WRITE BELOW THIS LINE**

**PLANNING COMMISSION RECOMMENDATION:**

DATE OF NOTICE: \_\_\_\_\_

DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

**CITY COUNCIL ACTION:**

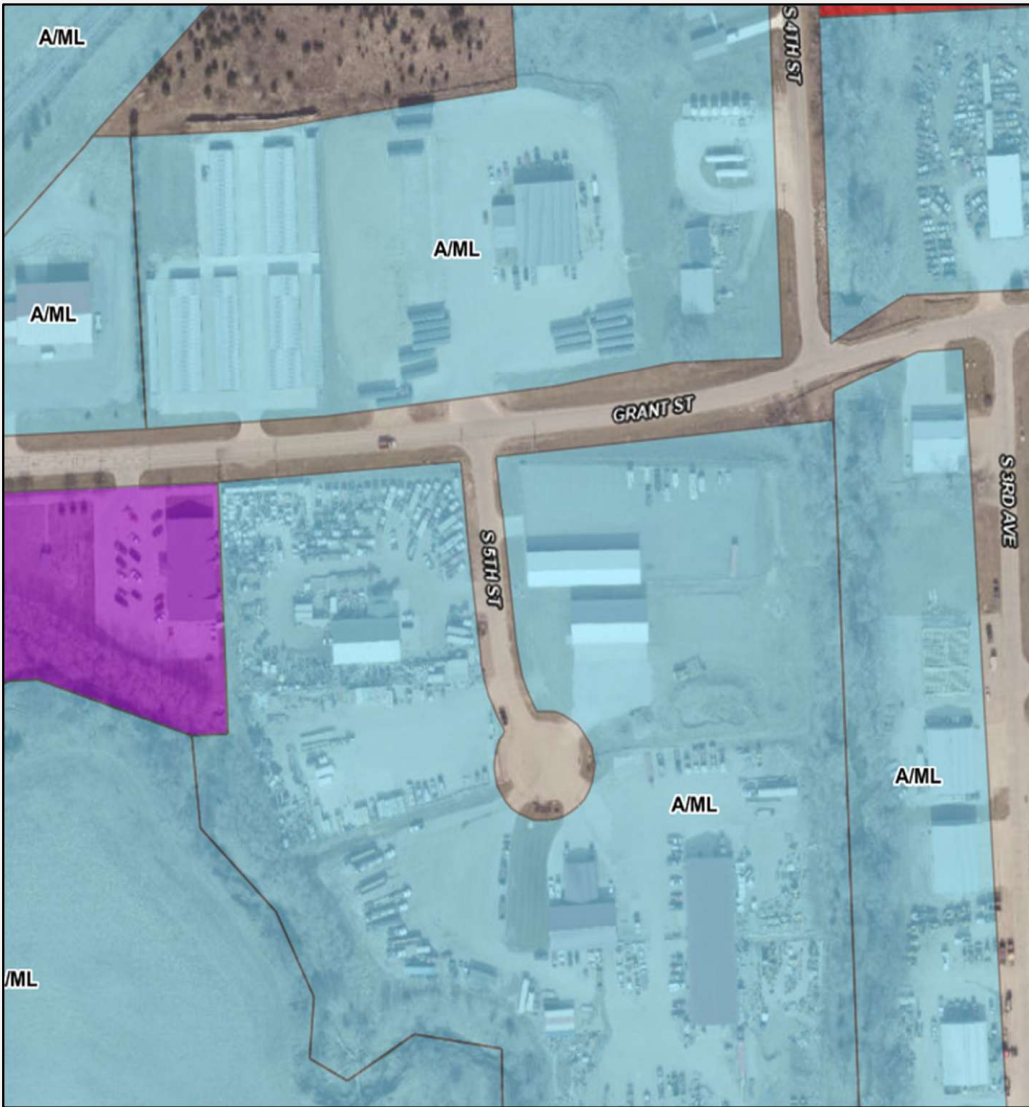
DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

NOTE: THIS CONDITIONAL USE PERMIT IS SUBJECT TO VETO BY THE MAYOR UNTIL THE NEXT REGULAR MEETING OF THE BLAIR CITY COUNCIL.



450 Grant Street: Lot 3, South Acres Second Addition Zoning:



A/ML – Agricultural/Heavy Industrial & Manufacturing

# 450 Grant Street





## EXCLUSIVE OFFERS AND MORE

Exclusive offers and more of what matters for the construction industry, sign up for our mailing list here.

- Products
- Services
- Online Store
- Finance
- Blog
- Financing
- About Us
- Careers

## OUR LOCATIONS

- 450 Grant St Blair, NE 68008
- 3509 Franklin St SW Bondurant, IA 50035
- 3410 Henry St SW, Bondurant, IA 50035
- 3478 5th Ave South Fort Dodge, IA 50501
- 112 8th St, Sergeant Bluff, IA 51054
- 9206 Brewerton Rd Brewerton, NY 13029
- 4734 Sergeant Road Waterloo, IA 50701



# Mid Country Machinery

Mid Country Machinery was founded in 1997 and has become your premier equipment dealer located in Fort Dodge, Iowa and serving the Midwest. We are a privately owned equipment dealer where the owners manage the day-to-day business and have developed business relationships based on competency, integrity, and prompt service.

Filing Date 4/15/2020

Receipt Number \_\_\_\_\_

**APPLICATION FOR REZONING**

- 1. SJAV LLC      1701 County Road 6, Yutan, NE 68073    402.306.2997  
 Applicant's Name      Mailing Address      Telephone
- 2. Andrew Toupin    3568 W Husker Hwy, Grand Island, NE 402.306.2997  
 Agent's Name      Mailing Address      Telephone
- 3. Andrew Toupin    3568 W Husker Hwy, Grand Island, NE 402.306.2997  
 Owner's Name      Mailing Address      Telephone
- 4. Address has not been assigned to property yet  
Address and Legal description of Location - Subject Property  
See attached document for copy of legal Description
- 5. Present Zoning District RM - Residential Medium Density
- 6. Proposed New Zoning: ACH - Agricultural/Highway Commercial District
- 7. ACH allows for Commercial and retail properties in the zoning.  
State briefly your reasons for request

Andrew Toupin      4/16/2020  
 Signature of Owner(s)      Date

\_\_\_\_\_  
 Signature of Owner(s)      Date

DO NOT WRITE BELOW THIS LINE

**PLANNING COMMISSION RECOMMENDATION:**

DATE OF NOTICE: \_\_\_\_\_

DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

**CITY COUNCIL ACTION:**

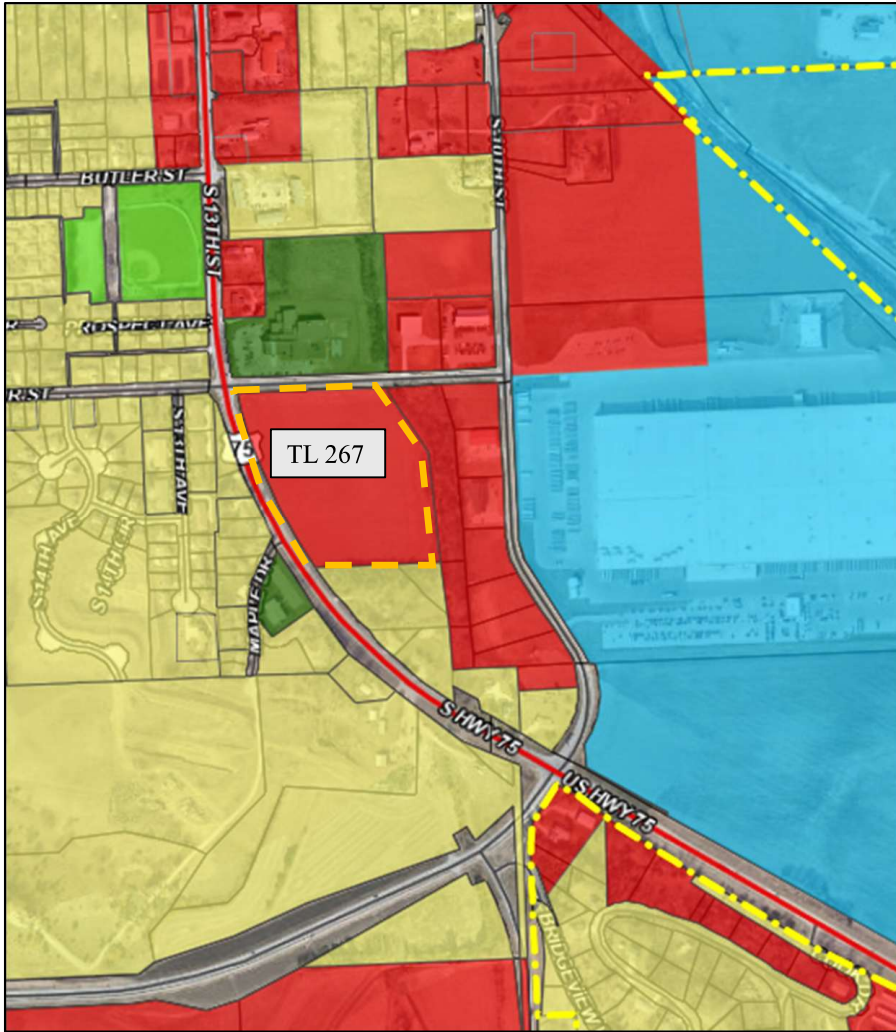
DATE OF PUBLIC HEARING: \_\_\_\_\_

VOTE: \_\_\_\_\_ TO \_\_\_\_\_ TO \_\_\_\_\_

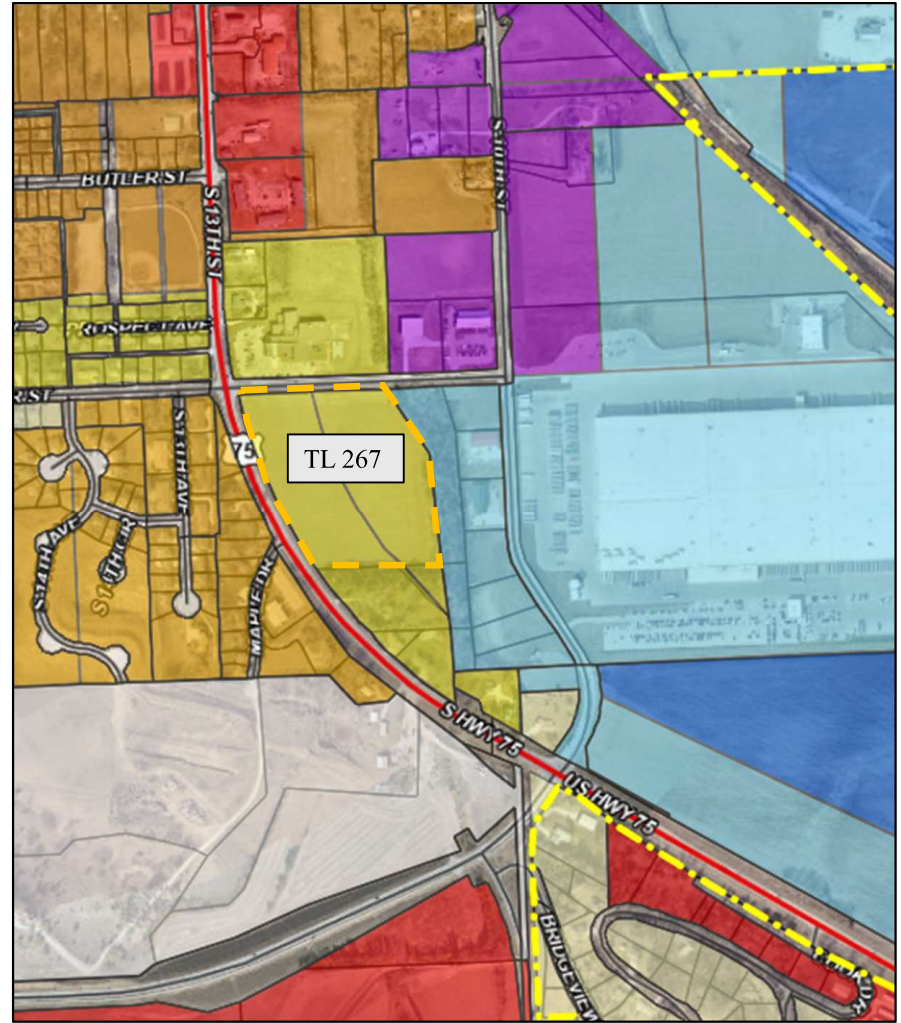
**LEGAL DESCRIPTION**

LOTS 1 (ONE) THROUGH 10 (TEN) AND OUTLOTS 1 (ONE) AND 2 (TWO), SJAV SUBDIVISION, A TRACT OF LAND LOCATED IN TAX LOT 267 BEING ALL OF TAX LOT 248 AND PART OF TAX LOT 249 IN PART OF THE NORTHWEST QUARTER (NW1/4) OF SECTION THIRTEEN (13), TOWNSHIP EIGHTEEN (18) NORTH, RANGE ELEVEN (11) EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 13 T18N R11E; THENCE ON AN ASSUMED BEARING OF S00°18'08"W, ON THE EAST LINE OF THE NW1/4, A DISTANCE OF 1351.57 FEET; THENCE N89°38'57"W, ON THE SOUTH RIGHT OF WAY LINE OF WILBUR STREET, A DISTANCE OF 535.61 FEET TO THE NORTHWEST CORNER OF OUTLOT A, SOUTH 10TH STREET SUBDIVISION AND ALSO BEING THE POINT OF BEGINNING; THENCE S30°19'16"E, ON A WESTERLY LINE OF SAID OUTLOT A, A DISTANCE OF 349.98 FEET; THENCE S03°49'27"E, ON SAID WESTERLY LINE OF SAID OUTLOT A, A DISTANCE OF 502.45 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT A AND ALSO BEING THE NORTHWEST CORNER OF OUTLOT B, SAID SOUTH 10TH STREET SUBDIVISION; THENCE N89°44'30"W, ON THE SOUTH LINE OF SAID TAX LOT 267, A DISTANCE OF 567.02 FEET TO THE POINT OF CURVATURE AND ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 75; THENCE ON SAID EASTERLY RIGHT OF WAY LINE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 17° 54' 08", HAVING A RADIUS OF 2241.83 FEET, AND CHORD BEARING N23°30'31"W A CHORD DISTANCE OF 697.62 FEET; THENCE N13°17'29"W, ON SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 169.60 FEET TO THE INTERSECTION OF SAID EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 75 AND SAID SOUTH RIGHT OF WAY LINE OF WILBUR STREET; THENCE S89°40'08"E, ON SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 674.09 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 560,568.31 SQUARE FEET OR 12.869 ACRES MORE OR LESS.



Future Land-Use Map



Current Zoning Map



**LEGAL DESCRIPTION**

LOTS 1 (ONE) THROUGH 10 (TEN) AND OUTLOTS 1 (ONE) AND 2 (TWO), SJAV SUBDIVISION, A TRACT OF LAND LOCATED IN TAX LOT 267 BEING ALL OF TAX LOT 248 AND PART OF TAX LOT 249 IN PART OF THE NORTHWEST QUARTER (NW1/4) OF SECTION THIRTEEN (13), TOWNSHIP EIGHTEEN (18) NORTH, RANGE ELEVEN (11) EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 13 T18N R11E; THENCE ON AN ASSUMED BEARING OF S00°18'08"W, ON THE EAST LINE OF THE NW1/4, A DISTANCE OF 1351.57 FEET; THENCE N89°38'57"W, ON THE SOUTH RIGHT OF WAY LINE OF WILBUR STREET, A DISTANCE OF 535.61 FEET TO THE NORTHWEST CORNER OF OUTLOT A, SOUTH 10TH STREET SUBDIVISION AND ALSO BEING THE POINT OF BEGINNING; THENCE S30°19'16"E, ON A WESTERLY LINE OF SAID OUTLOT A, A DISTANCE OF 349.98 FEET; THENCE S03°49'27"E, ON SAID WESTERLY LINE OF SAID OUTLOT A, A DISTANCE OF 502.45 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT A AND ALSO BEING THE NORTHWEST CORNER OF OUTLOT B, SAID SOUTH 10TH STREET SUBDIVISION; THENCE N89°44'30"W, ON THE SOUTH LINE OF SAID TAX LOT 267, A DISTANCE OF 567.02 FEET TO THE POINT OF CURVATURE AND ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 75; THENCE ON SAID EASTERLY RIGHT OF WAY LINE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 17° 54' 08", HAVING A RADIUS OF 2241.83 FEET, AND CHORD BEARING N23°30'31"W A CHORD DISTANCE OF 697.62 FEET; THENCE N13°17'29"W, ON SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 169.60 FEET TO THE INTERSECTION OF SAID EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 75 AND SAID SOUTH RIGHT OF WAY LINE OF WILBUR STREET; THENCE S89°40'08"E, ON SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 674.09 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 560,568.31 SQUARE FEET OR 12.869 ACRES MORE OR LESS.



801.01 INTENT: The A/CH - Agricultural/ Highway Commercial District is intended primarily for application to areas along major highway entrances to a community in accord with policies of the comprehensive plan for controlled access to the highway is afforded for the convenience of patrons traveling the highway. For the purposes of Section 77-1343 R.R.S. Neb. the predominant use for this district is agricultural and horticultural uses.

801.04 EXCEPTIONS:(15) Multi-family dwellings

801.02 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

(1) Retail and Service which provide services or supply commodities primarily for the convenience of patrons traveling on state highways and major county road entrances to the community including:

Auditorium, exhibition hall, club

Auto and truck parts stores (retail only)

Athletic complexes and health centers

Barber, beauty, tanning, and manicure shops

Bars, cocktail lounges or nightclubs

Boat sales and services

Bowling alley

Bus depots and transit stations

Car and truck sales, both new and used, with full service and repairs

Car wash

Convenience stores with gasoline sales

Dry cleaning and laundry establishments

Feed, grain, and fertilizer sales

Furniture stores

Garden and lawn supplies stores, nurseries and greenhouses

Hotels and motels

Ice cream and confectionery stores

Lumber and building materials

Medical, Dental or Health Clinic

Offices

Plumbing and heating services

Recreational vehicle sales and service

Rental and lease establishments, inside storage only

Restaurants, including drive in restaurants

Sign Shops

Soda fountains

Theaters

Veterinary services and small animal hospitals

(2) Any principal permitted use in the CCB Central Business District as specified in Section 802.02 if the total structure or building contains principal uses and structures specified in Section 802.02 and such building or structure contains 7,500 square feet or more.

(3) Signs subject to SECTION 1114 of this Ordinance.

(4) Roadside rest areas.

(5) Row crop agricultural production (planting, fertilizing, harvesting) or alfalfa / feed grass production on parcels which have been regularly used for such production prior to January 1, 2011. No parcel in this zoning district shall be switched to this Use from a different use. Parcels three (3) acres or larger may continue with this Use and other Permitted or Excepted Uses with a minimum separation of fifty (50) feet from any other Use.

801.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted uses and structures shall be permitted including the following:

(2) Offices and retail stores incidental to and on the same site with a highway commercial establishment prescribed in SECTION 801.02 of this Ordinance.

801.04 EXCEPTIONS: After the provisions of this Ordinance relating to exceptions have been fulfilled, the City Council may permit the following conditional uses as exceptions in the A/CH Highway Commercial District in accordance with ARTICLE 14 of this Ordinance.

(1) Automobile service stations

(2) Car and truck detailing shops; provided that no repair garage work is done

(3) Repair Garages

(4) Car and truck sales, both new and used, without full service and repairs

(5) Storage Units, Mini;

(6) Contract construction offices and services, when all materials are contained within the walls of the building

(7) Farm implement and farm machinery fabrication, sales and service, and farm equipment and supplies, sales and service

(8) Mobile Home sales

(9) Amusement parks; carnivals, circuses, outdoor festivals and other transient amusement enterprises; drive in theaters; golf driving ranges; pony rings; skating rinks; and miniature golf course;

(10) Churches and other religious institutions;

(11) Private clubs and lodges;

(12) Public buildings and grounds;

- (13) Go Cart race tracks.
- (14) Overnight recreational vehicle parking areas limited to six spaces in conjunction with another permitted use.
- (15) Multi family dwellings.
- (16) Family day care home, group day care home, or day care center.
- (17) Public Utility structures, services and facilities
- (18) Any principal permitted use in the CCB Central Business District as specified in Section 802.02 if the total structure or building contains principal uses and structures specified in Section 802.02 and such building or structure contains less than 7,500 square feet.
- (19) Rental and lease establishments, outside storage; provided however, no rental or lease establishments for construction equipment shall be allowed.
- (20) Storage, Indoor and Outdoor: All outdoor storage areas which are located within one hundred feet (100') of the right of way, or within five hundred feet (500') of a Federal Aid Primary or Federal Aid Secondary designated street or highway, shall be hard surfaced with concrete, asphalt, recycled asphalt or asphalt millings.
- (21) Recreational Vehicle (RV) Park: RV (also known as a motor home, pull-behind trailer or fifth-wheel trailer) parking shall not be permitted on lots with direct access from a Federal-Aid Primary or Federal-Aid Secondary designated street or highway. RV parks must have accepted connections to the City's sanitary sewer system and to the City's water system with at least one backflow preventer installed at the water meter's connection to the City's water source. Backflow preventers must be maintained per the City of Blair's Municipal Code. Any modification of the sanitary sewer or water requirements must be approved through the City Council as part of the Conditional Use Permit. The Accessory structures are not permitted at the individual RV pads.
- (22) Pet Services, as defined in Section 303.01, subject to the Nebraska Department of Agriculture's Rules and Regulations pertaining to commercial services for Dogs and Cats, as amended

## SECTION 1102 FENCES, HEDGES AND RETAINING WALLS

Fences and Hedges: Notwithstanding other provisions of this ordinance, fences and hedges may be permitted in any required yard, provided that no fence or hedge along the sides or front edge of any front yard shall be over three- and one-half feet (42 inch) in height. Additionally, no fence or hedge shall exceed 2 ½ feet (30 inch) in height when located within the sight triangle of a corner lot.

Notwithstanding the above, any real estate located outside the corporate limits of the City of Blair and which is included in the General Agricultural Zoning District or the Rural Residential Estate Zoning District shall be exempt regarding fences and hedges from the requirements set forth hereinabove in this Section.

A) The following regulations shall apply to the construction of fences.

- 1) No solid fence shall be constructed closer to the street than the front property line. If the sidewalk is located within the front yard, no fence shall enclose the sidewalk, nor shall a fence be constructed nearer than six inches (6") to the sidewalk.
- 2) No fence erected in a required front yard shall materially obstruct the public view. No component of a front yard fence shall exceed forty-two inches (42") in height, nor shall any structural member exceed thirty-six inches (36") in area, as measured using the horizontal cross section.
- 3) No fence shall be constructed which will constitute a traffic hazard as identified in the sight triangle of a corner lot (See Section 1101).
- 4) No fence constructed in the second-front yard (the side yard abutting the street) of a corner lot shall exceed forty-eight inches (48") in height. However, open fences in the second front yard may exceed forty-eight inches (48"), but no taller than seventy-two inches (72"), if the fence is built on or inside the property-line boundary. Examples of an open fence include decorative, picket or wrought iron where 50% of the surface is open and a person can see through the fence. For the purposes of this section, the "second-front yard" shall be deemed to be in the area extending from the front corner of the house to the rear lot line on the side of the lot immediately adjacent to the City Street.
- 5) No fence constructed in the reverse front yard (third front) of a lot shall exceed six feet (72") in height. On corner reverse lots, fences shall not exceed forty-eight inches (48") in the second front.
- 6) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance (examples of hazardous or dangerous fences shall be wire strand fences such as electrical conduit wire fences, barbed wire fences, chicken wire fences, etc.). Permitted types of fences shall include chain link fencing, wood fencing (including split rail and split rail with plastic coated wire backing), wrought iron, plastic, vinyl and other ornamental fencing or masonry (see Item #7).
- 7) Applicants for masonry fences must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines. The side of concrete fences facing any adjoining property or right of way must be brick or stone textured.
- 8) No fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet.
- 9) All fences shall conform to the construction standards of the building code and other ordinances.

- 10) In commercial and industrial districts, maximum height of fences shall be six (6) feet. Except, when industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his/her discretion may allow greater heights.
  - 11) All fences or parts thereof which are solid shall be constructed so that all posts, braces, stringers, and all other structural members faced to the interior or the lot or parcel being fenced.
  - 12) Effective from and after July 1, 1998, the Rules and Regulations of the International Building Code pertaining to confinement and fencing of outdoor pools shall be in effect and shall be enforced.
  - 13) All fence posts shall be made of wood, wrought iron, plastic, vinyl, ornamental fencing, and masonry or of similar material as the remainder of the fence.
- B) The following regulations shall apply to the construction of retaining walls.
- 1) PURPOSE AND INTENT.
    - a) To allow for the review of retaining walls of a size that may impact surrounding buildings, land, and uses;
    - b) To require the construction of retaining walls in a manner consistent with engineering and construction best practices; and
    - c) To lessen the impact of large retaining walls on abutting properties and the public by encouraging the use of landscaping and aesthetically pleasing design elements.
  - 2) APPLICABILITY AND EXEMPTIONS: The regulations and requirements contained herein shall apply to all retaining walls erected in the City of Blair, except the following:
    - a) Retaining walls that are six (6) feet in height or less shall not require a building permit but must meet the requirements of this section.
    - b) A terraced combination of walls, in which each separate wall is six (6) feet in height or less and in which each terrace is at least two times (2x) the height of the next lowest wall, shall not require a building permit but must meet the requirements of this section.
  - 3) GENERAL REQUIREMENTS: Following are the general requirements for retaining walls, including walls six (6) feet in height or less that do not require a building permit. No retaining wall shall be constructed in excess of these General Requirements regarding maximum height or maximum slope without first obtaining a Conditional Use Permit (see Subsection B(4) below).
    - a) Permit and Design - A building permit shall be required for all retaining walls that are over six (6) feet in height. All retaining walls requiring a permit must be designed by an engineer licensed in Nebraska.
    - b) Terracing - Terracing of retaining walls is allowed and encouraged. In a terraced retaining wall system, if a successive wall is setback from the next lowest wall at least two times (2x) the height of the next lowest wall, the walls shall be considered as separate walls. If a successive wall is setback from the next lowest wall less than two times (2x) the height of the next lowest wall, the multiple walls shall be treated as a single wall and the height shall be measured as described in subsection 3(c) below.

- c) Determining Retaining Wall Height - The height of a retaining wall shall be the distance from the grade at the front of the wall to the grade at the back of the wall at the same section. For walls that are not a constant height the largest of these measurements shall be used to determine the height of the wall. Multiple walls treated as a single wall shall be measured from the grade at the front of the lowest wall to the grade at the back of the highest successive wall.
- d) Setback and Maximum Height Requirements –
  - i. Applicants for retaining walls located within three (3) feet of a property line must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines.
  - ii. Retaining walls which discharge storm water at their base from downspout drains located on any structure shall be located at least three (3) feet from the property line. Such discharge locations shall be constructed and maintained to eliminate any erosion from the base of the wall or adjoining property.
  - iii. Front yard(s) – No retaining wall erected in a required front yard shall materially obstruct public view or constitute a traffic hazard as identified in the site triangle of a corner lot (See Section 1101). No retaining wall shall be constructed closer than six (6) inches from the front property line without an easement from the City. No retaining wall in a required front yard shall exceed three and a half (3½) feet in height. No retaining wall bordering and facing the driveway or approved parking areas shall exceed ten (10) feet in height.
  - iv. Side and rear yard(s) - No retaining wall shall be constructed closer than six (6) inches from the side or rear property line. If the face of the retaining wall is towards the inside of the property, a permanent easement must exist for all areas outside the property requiring geogrid support and backfill, and such easements must be recorded against all effected properties. No retaining wall shall exceed ten (10) feet in height.
- e) Wall Surcharge – Retaining walls shall have a maximum 1:4 (25%) slope in the soil surcharge uphill from the retaining wall for a minimum distance of two times (2x) the height of the wall.
- f) Nonconforming Retaining Walls - Retaining walls constructed and/or permitted prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance of nonconforming retaining walls shall be allowed without requiring conformity with these regulations.

4) **CONDITIONAL USE PERMIT REQUESTS TO EXCEED GENERAL HEIGHT AND/OR SLOPE LIMITATIONS:**

- a) A Conditional Use Permit application may be submitted for the following exceptions only:
  - i. Retaining walls to exceed the maximum heights indicated in Subsection B(3)(d).
  - ii. Retaining walls to exceed the maximum 1:4 (25%) slope in the soil surcharge indicated in Subsection B(3)(e).
- b) A Conditional Use Permit application must address, and will be evaluated on, the following criteria:
  - i. That the proposed retaining wall is otherwise in compliance with the provisions of this Section;

- ii. That the proposed retaining wall will not adversely impact adjacent property, the public or public infrastructure;
- iii. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.

~~Notwithstanding the above, any real estate located outside the corporate limits of the City of Blair and which is included in the General Agricultural Zoning District or the Rural Residential Estate Zoning District shall be exempt regarding fences and hedges from the requirements set forth hereinabove in this Section.~~

## **SECTION 1102.01 SATELLITE DISHES, TELEVISION ANTENNAS, WIND GENERATORS**

Satellite dishes over twenty (20) inches in diameter, television antennas, and wind generators shall not be located in the front, other street yard or side yard, but may be located in the rear yard if they are at least five (5) feet from the side lot line, ten (10) feet from the rear lot line, and on corner lots they shall be set back the full required front yard set-back on the other street yard frontage. If these structures are located on top of the main structure, they must meet the minimum set-backs for the district.

If these structures are to be located on a double frontage lot, they may be located in the front yard which is opposite of the direction which the majority of the residential structures in the block face as long as they are at least twenty (20) feet from the street right-of-way and five (5) feet from the side lot line.

## **1102.02 WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES**

- 1102.02(1) Purposes
- 1102.02(2) Definitions
- 1102.02(3) Development of Towers
- 1102.02(4) Setbacks
- 1102.02(5) Structural Requirements
- 1102.02(6) Separation or Buffer Requirements
- 1102.02(7) Method of Determining Tower Height
- 1102.02(8) Illumination
- 1102.02(9) Exterior Finish
- 1102.02(10) Landscaping
- 1102.02(11) Access
- 1102.02(12) Stealth Design
- 1102.02(13) Telecommunications Facilities on Antenna Support Structures
- 1102.02(14) Modification of Towers
- 1102.02(15) Certification and Inspections
- 1102.02(16) Maintenance
- 1102.02(17) Criteria for Site Development Modifications
- 1102.02(18) Abandonment
- 1102.02(19) Severability
- 1102.02(20) Conflicts (Repeal of Ordinances)

- 1102.02(1) Purposes.

Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City.

Specifically, the purposes of this Ordinance are:

- (a) To regulate the location of Towers and Telecommunications Facilities in the City;
- (b) To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
- (c) To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- (d) To promote and encourage shared use/collection of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
- (e) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;
- (f) To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
- (g) To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses.

1102.02(2) Definitions.

The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) *Act* means the Telecommunications Act of 1996.
- (b) *Antenna Support Structure* means any building or structure other than a Tower which can be used for location of Telecommunications Facilities.
- (c) *Applicant* means any Person that applies for a Tower development permit.
- (d) *Application* means the process by which the Owner of a parcel of land within the zoning jurisdiction of the City submits a request to develop, construct, build, modify, or erect a Tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an Applicant to the City concerning such a request.
- (e) *Engineer* means any engineer licensed by the State of Nebraska.
- (f) *Owner* means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the zoning jurisdiction of the City who desires to develop, or construct, build, modify, or erect a Tower upon such parcel of land.
- (g) *Person* is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- (h) *Stealth* means any Tower or Telecommunications Facility which is designed to enhance compatibility with

adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and Towers designed to look other than like a Tower such as light poles, power poles, and trees. The term Stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole Tower designs.

- (i) *Telecommunications Facilities* means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include:
  - (1) any satellite earth station dish which is twenty (20) inches in diameter or less, or otherwise regulated under Section 1102.01 hereinabove; and,
  - (2) any amateur radio station operator/receive-only antenna. This section shall not govern the installation of any antenna owned or operated by an amateur radio operator and used exclusively for receive-only antennas and for private noncommercial purposes which shall be regulated elsewhere in the zoning regulations for the City of Blair, Nebraska and the municipal code of the City of Blair, Nebraska.
- (j) *Tower* means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities.

#### 1102.02(3) Development of Towers.

- (a) No person shall build, erect, or construct a Tower upon any parcel of land within any zoning district unless a conditional use permit shall have been issued in the manner provided in Article 14 hereinafter. No person shall build, erect, or construct a Tower upon any parcel of land except within the following zoning districts:
  - 1. A/ML -- AGRICULTURAL/LIGHT INDUSTRIAL AND MANUFACTURING
  - 2. A/MH -- AGRICULTURAL/HEAVY INDUSTRIAL
  - 3. AGG -- GENERAL AGRICULTURAL DISTRICT; provided however, no person shall build, erect or construct a tower within one mile from the corporate limits of the City of Blair, Nebraska, as amended from time to time.
- (b) Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with 1102.02(17) "Criteria for Site Plan Development Modifications."
- (c) No new Tower shall be built, constructed, or erected within the zoning jurisdiction of the City unless the Tower is capable of supporting another Person's operating Telecommunications Facilities comparable in weight, size, and surface area to the Telecommunications Facilities installed by the Applicant on the Tower within six (6) months of the completion of the Tower construction.
- (d) An Application to develop a Tower shall include:
  - (1) The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.
  - (2) The legal description and address of the parcel of land upon which the Tower is situated.
  - (3) The names, addresses, and telephone numbers of all owners of other Towers or fusible Antenna

- Support Structures within a one-half (½) mile radius of the proposed new tower site, including City-owned property.
- (4) A description of the design plan proposed by the Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The Applicant must demonstrate the need for Towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services.
  - (5) An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the Applicant's Telecommunications Facilities on City-owned Towers or usable Antenna Support Structures located within a one-half (½) mile radius of the proposed Tower site.
  - (6) An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to install or collocate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by other Persons located within a one-half (½) mile radius of the proposed Tower site.
  - (7) Written technical evidence from an Engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another Person's Tower or usable Antenna Support Structures owned by other Persons located within a one-half (½) mile radius of the proposed Tower site.
  - (8) A written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
  - (9) Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in 1102.02(5), "Structural Requirements", of this Ordinance.
  - (10) Written, technical evidence from a qualified Engineer(s) acceptable to the Fire Marshall and the building official that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
  - (11) In order to assist the City staff, Planning Commission and City Council in evaluating visual impact, the Applicant shall submit color photo simulations showing the proposed site of the Tower with a photo-realistic representation of the proposed Tower as it would appear viewed from the closest residential property and from adjacent roadways.
  - (12) The Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the City to condition or deny, on the basis of RF impacts, the approval of any Telecommunications Facilities (whether mounted on Towers or Antenna Support Structures) which meet FCC standards. In order to provide information to its citizens, the City shall make available, upon request, copies of ongoing FCC information and RF emission standards for Telecommunications Facilities transmitting from Towers or Antenna Support Structures. Applicants shall be required to submit information on the proposed power density of their proposed Telecommunications Facilities and demonstrate how this meets FCC standards. Applicants shall certify that all franchises or licenses required under federal, state or local law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all such required franchises and/or licenses with the City staff.

(13) Identification of the entities providing the backhaul network for the tower(s) described in the application and other towers or cellular sites owned and/or operated by the applicant.

(e) The Planning Commission may require an applicant to supplement any information the Commission considers inadequate or the applicant has failed to comply. In granting a conditional use permit, conditions may be imposed to the extent that the Commission and the City Council conclude that such conditions are reasonably necessary to minimize any adverse effect of the proposed tower on adjoining properties. The Commission or the Council may deny an Application on the basis that the Applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the City in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.

The Commission and City Council shall consider the following factors in determining whether to issue a conditional use permit, although the Commission and City Council may waive or reduce the burden on the applicant of one or more of these criteria if the Commission and City Council conclude that the goals of this section are better served thereby;

1. Height of proposed tower.
2. Proximity of the tower to residential structures and residential district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed ingress and egress.
8. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures.

No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Commission and the City Council that no existing tower structure alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed tower. Evidence submitted to demonstrate that no existing tower structure alternative technology can accommodate the applicant's proposed antenna may include any of the following (although nothing should be construed to infer that meeting one, some or all of the following shall entitle the applicant to approval).

1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

4. The applicant's proposed antenna would cause interference with the antenna on existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure are commercially unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

#### 1102.02(4) Setbacks.

- (a) All Towers shall be set back on all sides a distance equal to the minimum front yard, rear yard and side yard setback requirement in the applicable zoning district. In addition to the minimum yard setback requirements, all towers shall be set back one (1) additional foot per each foot of Tower height.
- (b) Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
- (c) Setback requirements may be modified, as provided in 1102.02(17), when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

#### 1102.02(5) Structural Requirements.

All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the applicable Building Code, and any other standards outlined in this Ordinance. All Towers in operation shall be fixed to land.

#### 1102.02(6) Separation or Buffer Requirements.

For the purpose of this Ordinance, the separation distances between Towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower. Tower separation distances from residentially zoned lands shall be measured from the base of a Tower to the closest point of residentially zoned property. The minimum Tower separation distances from residentially zoned land and from other Towers shall be calculated and applied irrespective of City jurisdictional boundaries.

- (a) Towers shall be separated from all residentially zoned lands by a minimum of two hundred (200) feet or two hundred (200) percent of the height of the proposed Tower, whichever is greater.
- (b) Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have been granted a conditional use permit but are not yet constructed at the time a conditional use permit is granted pursuant to this Code:
  - (1) Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.

- (2) Self-supporting lattice or guyed Tower structures shall be separated from all other self-supporting or guyed Towers by a minimum of fifteen hundred (1,500) feet.
- (3) Self-supporting lattice or guyed Tower structures shall be separated from all monopole Towers by a minimum of seven hundred and fifty (750) feet.

#### 1102.02(7) Method of Determining Tower Height.

Measurement of Tower height for the purpose of determining compliance with all requirements of this Section shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto which extend more than twenty (20) feet over the top of the Tower structure itself. Tower height shall be measured from grade.

#### 1102.02(8) Illumination.

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of the Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

#### 1102.02(9) Exterior Finish.

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

#### 1102.02(10) Landscaping.

All landscaping on a parcel of land containing Towers, Antenna Support Structures, or Telecommunications Facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the Tower, Antenna Support Structure, or Telecommunications Facilities are located. The City may require landscaping in excess of the requirements in the City Code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

#### 1102.02(11) Deleted

#### 1102.02(12) Stealth Design.

Stealth design is encouraged. The issue of stealth design will be considered as an element of the building design criteria considered as part of the issuance of the conditional use permit.

No signs shall be allowed on any antenna or tower.

#### 1102.02(13) Telecommunications Facilities on Antenna Support Structures.

Any Telecommunications Facilities which are not attached to a Tower may be permitted on any Antenna Support Structure at least fifty (50) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications Facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the zoning administrator, establish the following at the time plans are submitted for a building permit:

- (a) That the height from grade of the Telecommunications Facilities shall not exceed the height from grade of City of Blair Zoning Regulations

the Antenna Support Structure by more than twenty (20) feet;

- (b) That any Telecommunications Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the Telecommunications Facilities. This setback requirement shall not apply to Telecommunications Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City. Setback requirements shall not apply to Stealth antennas which are mounted to the exterior of Antenna Support Structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an Antenna Support Structure.

#### 1102.02(14) Modification of Towers.

- (a) A Tower existing prior to the effective date of this Ordinance, which was in compliance with the City's zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections 1102.02(6), "Separation or Buffer Requirements," 1102.02(15), "Certification and Inspections," and 1102.02(16), "Maintenance," so long as:
  - (1) The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional Telecommunications Facilities comparable in weight, size, and surface area to the discrete operating Telecommunications Facilities of any Person currently installed on the Tower;
  - (2) An Application for a conditional use permit is made in the manner provided in this Article and Article 12;. The grant of a conditional use permit pursuant to this Section allowing the modification or demolition and rebuild of an existing nonconforming Tower shall not be considered a determination that the modified or demolished and rebuilt Tower is conforming; and
  - (3) The height of the modified or rebuilt Tower and Telecommunications Facilities attached thereto do not exceed the maximum height allowed under this Ordinance.
- (b) Except as provided in this Section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This Ordinance shall not be interpreted to legalize any structure or use existing at the time this Ordinance is adopted, which structure or use is in violation of the Code prior to enactment of this Ordinance.

#### 1102.02(15) Certification and Inspections.

- (a) All Towers shall be certified by an Engineer to be structurally sound and in conformance with the requirements of the Building Code and all other construction standards set forth by the City's Code and federal and state law. For new monopole Towers, such certification shall be submitted with an Application pursuant to 1102.02(3) of this Ordinance and every five (5) years thereafter. For existing monopole Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every five (5) years thereafter. For new lattice or guyed Towers, such certification shall be submitted with an Application pursuant to 1102.02(3) of this Ordinance and every two (2) years thereafter. For existing lattice or guyed Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every two (2) years thereafter. The Tower owner may be required by the City to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the

Tower is jeopardized.

- (b) The City or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City Code and federal and state law.
- (c) The City reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner. All expenses related to such inspections by the City shall be borne by the Tower owner.

#### 1102.02(16) Maintenance.

- (a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (b) Tower owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- (c) All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.
- (d) All maintenance or construction of Towers, Telecommunications Facilities, or Antenna Support Structures shall be performed by licensed maintenance and construction personnel.
- (e) All Towers shall maintain compliance with current RF emission standards of the FCC.
- (f) In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

#### 1102.02(17) Criteria for Site Plan Development Modifications.

- (a) Notwithstanding the Tower requirements provided in this Ordinance, a modification to the requirements may be approved by the City Board of Zoning Adjustment (“Board of Adjustment”) as a variance in accordance with the following:
  - (1) In addition to the requirement for a Tower Application, the Application for modification shall include the following:
    - (i) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.
    - (ii) A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.
    - (iii) A technical study that documents and supports the criteria submitted by the Applicant upon which the request for modification is based. The technical study shall be certified by an Engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.

- (iv) For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contact and negotiate an agreement for collocation, and the result of such attempts.
- (v) The Board of Adjustment may require the Application to be reviewed by an independent Engineer under contract to the City to determine whether the antenna study supports the basis for the modification requested.

The cost of review by the City's Engineer shall be reimbursed to the City by the Applicant.

- (2) The Board of Adjustment shall consider the Application for modification based on the following criteria:
  - (i) That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
  - (ii) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
  - (iii) In addition, the Board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.
- (b) In addition to the requirements of subparagraph (a) of this Section and the requirements of Article 13, in the following cases the Applicant must also demonstrate, with written evidence, the following:
  - (1) In the case of a requested modification to the setback requirement, 1102.02(4), that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the alternative for the Person is to locate the Tower at another site which is closer in proximity to a residentially zoned land.
  - (2) In the case of a request for modification to the separation and buffer requirements from other Towers of 1102.02(6), "Separation or Buffer Requirements," that the proposed site is zoned A/MH or A/ML and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in 1102.02(6).
  - (3) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of 1102.02(6), if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping and other buffers to screen the Tower from being visible to residentially zoned property.
  - (4) In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to:
    - (i) facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower;
    - (ii) to meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an

Engineer(s) that demonstrates that the height of the proposed Tower is the minimum height required to function satisfactorily, and no Tower that is taller than such minimum height shall be approved.

- (c) In addition to the foregoing, the Applicant must demonstrate that, by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of his property, the strict application of any enacted regulation under this article would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property. The Board of Adjustment may authorize a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution. No such variance shall be authorized by the Board of Adjustment unless it finds that:
- (a) The strict application of the zoning regulation would produce undue hardship;
  - (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - (c) 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; and
  - (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from the variations for purposes of convenience, profit or caprice.

1102.02(18) Abandonment.

- (a) If any Tower shall cease to be used for a period of 180 consecutive days, the City Council shall notify the Owner, with a copy to the Applicant, that the site will be subject to a determination by the City Council that such site has been abandoned. The Owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the City Council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-five (75) days, dismantle and remove the Tower.
- (b) To secure the obligation set forth in this Section, the Applicant (and/or Owner) shall post a bond in an amount to be determined by the City Council at the time of the approval of the issuance of the conditional use permit based on the anticipated cost of removal of the Tower.

1102.02(19) Severability.

That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

**(END OF SECTION)**

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## **SECTION 1102 FENCES, HEDGES AND RETAINING WALLS**

Fences and Hedges: Notwithstanding other provisions of this ordinance, fences and hedges may be permitted in any required yard, provided that no fence or hedge along the sides or front edge of any front yard shall be over three- and one-half feet (42 inches) in height. Additionally, no fence or hedge shall exceed 2 ½ feet (30 inches) in height when located within the sight triangle of a corner lot.

Any real estate located outside the corporate limits of the City of Blair and which is included in the General Agricultural Zoning District (AGG) or the Rural Estate (RE) Zoning District shall be exempt regarding fences and hedges from the requirements set forth hereinabove in this Section.

A) The following regulations shall apply to the construction of fences.

- 1) No solid fence shall be constructed closer to the street than the front property line. If the sidewalk is located within the front yard, no fence shall enclose the sidewalk, nor shall a fence be constructed nearer than six inches (6") to the sidewalk.
- 2) No fence erected in a required front yard shall materially obstruct the public view. No component of a front yard fence shall exceed forty-two inches (42") in height, nor shall any structural member exceed thirty-six inches (36") in area, as measured using the horizontal cross section.
- 3) No fence shall be constructed which will constitute a traffic hazard as identified in the sight triangle of a corner lot (See Section 1101).
- 4) No fence constructed in the second-front yard (the side yard abutting the street) of a corner lot shall exceed forty-eight inches (48") in height. However, open fences in the second front yard may exceed forty-eight inches (48"), but no taller than seventy-two inches (72"), if the fence is built on or inside the property-line boundary. Examples of an open fence include decorative, picket or wrought iron where 50% of the surface is open and a person can see through the fence. For the purposes of this section, the "second-front yard" shall be deemed to be in the area extending from the front corner of the house to the rear lot line on the side of the lot immediately adjacent to the City Street.
- 5) No fence constructed in the reverse front yard (third front) of a lot shall exceed six feet (72") in height. On corner reverse lots, fences shall not exceed forty-eight inches (48") in the second front.
- 6) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance (examples of hazardous or dangerous fences shall be wire strand fences such as electrical conduit wire fences, barbed wire fences, chicken wire fences, etc.). Permitted types of fences shall include chain link fencing, wood fencing (including split rail and split rail with plastic coated wire backing), wrought iron, plastic, vinyl and other ornamental fencing or masonry (see Item #7).

- 7) Applicants for masonry fences must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines. The side of concrete fences facing any adjoining property or right of way must be brick or stone textured.
  - 8) No fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet.
  - 9) All fences shall conform to the construction standards of the building code and other ordinances.
  - 10) In commercial and industrial districts, maximum height of fences shall be six (6) feet. Except, when industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his/her discretion may allow greater heights.
  - 11) All fences or parts thereof which are solid shall be constructed so that all posts, braces, stringers, and all other structural members faced to the interior or the lot or parcel being fenced.
  - 12) Effective from and after July 1, 1998, the Rules and Regulations of the International Building Code pertaining to confinement and fencing of outdoor pools shall be in effect and shall be enforced.
  - 13) All fence posts shall be made of wood, wrought iron, plastic, vinyl, ornamental fencing, and masonry or of similar material as the remainder of the fence.
- B) The following regulations shall apply to the construction of retaining walls.
- 1) PURPOSE AND INTENT.
    - a) To allow for the review of retaining walls of a size that may impact surrounding buildings, land, and uses;
    - b) To require the construction of retaining walls in a manner consistent with engineering and construction best practices; and
    - c) To lessen the impact of large retaining walls on abutting properties and the public by encouraging the use of landscaping and aesthetically pleasing design elements.
  - 2) APPLICABILITY AND EXEMPTIONS: The regulations and requirements contained herein shall apply to all retaining walls erected in the City of Blair, except the following:
    - a) Retaining walls that are six (6) feet in height or less shall not require a building permit but must meet the requirements of this section.

- b) A terraced combination of walls, in which each separate wall is six (6) feet in height or less and in which each terrace is at least two times (2x) the height of the next lowest wall, shall not require a building permit but must meet the requirements of this section.
- 3) GENERAL REQUIREMENTS: Following are the general requirements for retaining walls, including walls six (6) feet in height or less that do not require a building permit. No retaining wall shall be constructed in excess of these General Requirements regarding maximum height or maximum slope without first obtaining a Conditional Use Permit (see Subsection B(4) below).
- a) Permit and Design - A building permit shall be required for all retaining walls that are over six (6) feet in height. All retaining walls requiring a permit must be designed by an engineer licensed in Nebraska.
  - b) Terracing - Terracing of retaining walls is allowed and encouraged. In a terraced retaining wall system, if a successive wall is setback from the next lowest wall at least two times (2x) the height of the next lowest wall, the walls shall be considered as separate walls. If a successive wall is setback from the next lowest wall less than two times (2x) the height of the next lowest wall, the multiple walls shall be treated as a single wall and the height shall be measured as described in subsection 3(c) below.
  - c) Determining Retaining Wall Height - The height of a retaining wall shall be the distance from the grade at the front of the wall to the grade at the back of the wall at the same section. For walls that are not a constant height the largest of these measurements shall be used to determine the height of the wall. Multiple walls treated as a single wall shall be measured from the grade at the front of the lowest wall to the grade at the back of the highest successive wall.
  - d) Setback and Maximum Height Requirements –
    - i. Applicants for retaining walls located within three (3) feet of a property line must first locate the property pins or have a licensed surveyor locate or set the property pins to confirm the location of the property lines.
    - ii. Retaining walls which discharge storm water at their base from downspout drains located on any structure shall be located at least three (3) feet from the property line. Such discharge locations shall be constructed and maintained to eliminate any erosion from the base of the wall or adjoining property.
    - iii. Front yard(s) – No retaining wall erected in a required front yard shall materially obstruct public view or constitute a traffic hazard as identified in the site triangle of a corner lot (See Section 1101). No retaining wall shall be constructed closer than six (6) inches from the front property line without an easement from the City. No retaining wall in a required front yard shall

exceed three and a half (3½) feet in height. No retaining wall bordering and facing the driveway or approved parking areas shall exceed ten (10) feet in height.

iv. Side and rear yard(s) - No retaining wall shall be constructed closer than six (6) inches from the side or rear property line. If the face of the retaining wall is towards the inside of the property, a permanent easement must exist for all areas outside the property requiring geogrid support and backfill, and such easements must be recorded against all effected properties. No retaining wall shall exceed ten (10) feet in height.

e) Wall Surcharge – Retaining walls shall have a maximum 1:4 (25%) slope in the soil surcharge uphill from the retaining wall for a minimum distance of two times (2x) the height of the wall.

f) Nonconforming Retaining Walls - Retaining walls constructed and/or permitted prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance of nonconforming retaining walls shall be allowed without requiring conformity with these regulations.

4) CONDITIONAL USE PERMIT REQUESTS TO EXCEED GENERAL HEIGHT AND/OR SLOPE LIMITATIONS:

a) A Conditional Use Permit application may be submitted for the following exceptions only:

i. Retaining walls to exceed the maximum heights indicated in Subsection B(3)(d).

ii. Retaining walls to exceed the maximum 1:4 (25%) slope in the soil surcharge indicated in Subsection B(3)(e).

b) A Conditional Use Permit application must address, and will be evaluated on, the following criteria:

i. That the proposed retaining wall is otherwise in compliance with the provisions of this Section;

ii. That the proposed retaining wall will not adversely impact adjacent property, the public or public infrastructure;

iii. That the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.