

The public hearing to review the conditional use permit submitted by Roger Napton for the repair of sales tractor trailers and cabs. Located on two tracts in northern Antelope County tract one is in N1/2SW1/4 Section 5, Township 2, Range 6 West of the 6th P.M., and tract two is in SE1/4 Section 1, Township 27, Range 7 West of the 6th P.M., Antelope County, Nebraska was opened at 9:36 AM with the following board members responding to roll call: Bolling, Koinzan, Kerkman, Schindler, Williby, Henery and Schwager. Antelope County Zoning Administrator Char Carpenter and Antelope County Attorney, Joe Abler were also present. Others attending the hearing were Joan Wright news reporter for the Neligh News and Leader, Angie Richart news reporter from Pitzer Digital, and Dean Smith. Chairman Schwager asked Char Carpenter to read the public notice published and thereason for the hearing, published on November 25, 2015 in all the county papers that stated the reason for the hearing. Opened public hearing.

Schwager: 9:39 The Truck and Trailer Repair by Roger Napton, we will start on that.

Lisa: We have to reopen and all of that because you just closed it.

Schwager: What is that?

Lisa: We have to reopen because you just closed it.

Jerry: Yes, that's what I'm doing. I am going to reopen this at 9:40 am. I need a motion to reopen this?

Neil: I make a motion to open public hearing.

Merlin: I'll second it.

Schwager: Roll call, Bolling, Henery, Kerkman, Koinzan, Schindler, Williby, and Schwager – all here.

Schwager: We are here for Truck and Trailer Repair Shop Site opened by Roger Napton gave reason – Do you want to go ahead and read the Planning Commission findings?

Char: The Planning Commission had their public hearing last night. They voted to recommend approval with three (3) conditions. One – that there be no ROW parking – to keep ROW clear.

Two –all work shall be done on premises – all work has to be done on site. There has to be a place on site for trucks to pull into.

Three– Yearly review in December.

Jerry: OK, I'm going to ask for presentation form applicant. (to Napton's) Do you guys want to comment on what you got and what is going on? Why don't you come up here and sit in the chair and give us your presentation, your comments.

Roger Napton: First of all I want to thank the board and everybody here. If I had known it was going to be like this I probably would never have opened the business years ago. But, that is not the point. The point is, I did not have a crystal ball of what was all going to happen when I started this, and I am sure nobody else does either. And that is why we are here to get it legal. However, I thought I was legal because that's what I thought I bought was commercial property. – And, I have people that I get calls in the middle of the night to go out and fix a flat or a broken rim out on the highway. I have been called as far away as Bloomfield to get out on the highway, in the middle of the night to help get a farmer off the road so he didn't cause an accident. Maybe it was a trucker, but he was probably hauling grain or whatever. And I got involved with wrecker services because of that, trying to help people. Am I making money? No, I didn't even get time to wash my hands this morning. But anyway, I am trying to run a business. Trying to make it legal. And if we have a problem, we need to talk to each other. Not jump off your tractor and come over and cuss out my employee or my wife, or my son or daughter. If I have a problem with somebody, I go to them. I do not go to his wife or hired man and cuss them out. I probably should not have said any of that. But, that is ridiculous because nobody got killed. We can thank God that nobody got killed. Because just the other day I just about witnessed a tractor and huge grain cart running a car off into the ditch. So we got to work together here. I will do what it takes, and Jerry knows that, Williby knows that. If we have a problem, let's work on it together.

Jerry: OK. Thank you very much. I will ask the Board of Supervisors for questions or any comments.

Schindler: I guess I am a little confused-lost.

Henery: What does that have to do with the application?

Schwager: I understand that part of it.

Schindler: OK, I guess we should just go on.

Koinzan: Maybe we should just have Dean Smith talk.

Schwager: Yeah. He will have the right to talk here pretty soon. If nobody has any questions, I will open up to the public hearing then.

Henery: Can I see what the recommendations and stuff was there, Char?

Kerkman: Can we ask questions then after that?

Schwager: Yes you can. I was wondering I could get these guys to come up here and tell us what is going on. It is 9:45 am and we will open up the public hearing. I ask anybody to testify in favor of it. (No response) I will ask anybody opposed to testify.

Dean Smith: Dean Smith.

Jerry: Would you come up here so you can be on our report.

Dean Smith: And you know, I guess as much as that it is not that I am against it. There has just got to be some regulations on how the business is conducted. We cannot be parking vehicles on the lane of traffic for three weeks. Now I believe Jerry that you told me you plowed snow around them last winter when they were parked out there. Is that...did you tell me that?

Jerry: Yeah. We have. Yeah.

Dean Smith: You told me you ran the snow plow that day. For 2-3 weeks. There has been...he has been urged to get the stuff off the right of way. There is, this is a picture as of Saturday. There is a truck, this is a customer, and that truck is parked in the road ditch. That is Saturday, and it is still sitting there this morning. (Williby: I believe this is facing north.) Yep. There is, I guess a little bit of the issue I have, and I am trying to figure out...how in the world it has flown under the radar this long, from the assessors stand point or any bodies stand point. I guess questions as far as I am concerned were not asked last night or answered. And right here in what the zoning, as far as I understand this paper was approved. This is the permit. What I have circled there is proper parking. And so that was approved by the zoning committee. OK – so CVA brought you a picture and showed you what they are doing. Was there a picture? Where is this truck/trailer repair going to be done?

Char: We got a drawing – there is a picture at other end of table.

Dean Smith: OK, I—haven't seen that.

Koinzan: LeRoy has it.

Char: Can I interject her really quickly: What LeRoy is looking at is a series of pictures of aerial shots of that parcel. The assessor's office takes pictures of everybody's parcels – and how it has changed.

Dean Smith: Oh. Oh yeah but what I am saying there was nothing proposed to the zoning committee or to you as to where the parking is going to be and how this is going to work. And right here when I say, it says number and location of parking spaces for customers or the public. And they approved this last night with that, that is part of the document that they approved. What I am getting at is CVA brought you a picture of where the new building is going to be and the tanks will sit around it. From what I've seen from just a flash of it goes around here. It's what I am assuming they passed around to you guys. So like I say, I am not against the business at all. I am not. But we can't be sitting on the road all the time, and you guys just a little bit earlier – (looking for a picture) – (Dean finds it.) A little bit earlier you guys were talking about some concerns with liability, fire extinguishers, and so forth like that. And this addresses my issue of the parking spaces, and Roger can say he was only there 5 minutes; I do not know. I think he was there for more than five minutes – my truck set there for 5 minutes. He was probably there longer than that. This is a picture that my truck driver took this fall during harvest of a tow truck delivering a salvaged truck unto his property. Unloading it into the road ditch – that is where it is being unloaded. This truck and trailer turned off of Highway 20 loaded, and had to stop there. I had not measured it specifically, I do not know if the back end of my trailer was off of Highway 20. But, my driver had no choice he had to stop. And, if the back end of my trailer was not off of Highway 20 whose liability and insurance is going to be tied up in court for five years?

Koinzan: I would say the counties Dean, because we have the most to lose.

Dean: Well, I would have quite a bit too loose just from the grief.

Koinzan: Right.

Dean Smith: You know.

Koinzan: I think we would both hurt.

Dean Smith: Quite honestly, it probably was a good thing that my driver, who has better abilities than I was driving because he came around there slow enough. You know there is a good chance that – and that would be my fault because I didn't have my truck in control. But. There has got to be some issues addressed here. I would like to see him stay there. I do not have a problem at all. But the issues were not even addressed by the Zoning Committee as to where and how this is going to have enough room to function. That's all. You know, and I mean the entire acreages from both parcels were given a conditional use. I guess that is the other thing. I don't understand. I do not understand conditional use at all. But, I do not understand how all acres at both properties can be conditional use. I did not know that is the way the Zoning part of it worked. I do not know. But that is nothing I have to address so it is nothing that I investigated on how it works. Maybe Char could tell-you now. I mean, so I can come in and get a conditional use on 100 acres – that I want to fix trucks and trailers and I would be granted that on the whole hundred acres. I do not know if that is a zoning committee or Supervisor question. But that all I have. Like I say. I guess I am up here in opposition-not to the business. Not to Roger, and his wife. I am opposition to the way the Zoning Committee and the County government has - to a certain extent - let it go this long. There is an aerial photo from the Assessor Websites going way back to the trucks accumulating there (out there). I do not understand but I guess that's all I got. If anybody has got any...Maybe I just rambled, I do not know, I tried not to, but.

Koinzan: Jerry, When do I ask a question?

Jerry: Just a minute, please. OK, thank you very much. OK I'll ask the applicant to clarify...

Char: Kelly has a question.

Kelly: I am just going to bring up these, Property Record Cards. The never have been taxed as commercial. It was brought to my attention earlier this year – I circled the dates they were acquired – It was brought to my attention earlier this year when I met with Char and I think Bob Moore and I even talked about it. We had our assessment off of also what we get from the Zoning Committee as to whether there is a business being operated in a rural area. So we are just waiting for this to come through before we change any assessments.

Jerry: OK, Thank you! I am going to ask the applicant to clarify any issues – Do you want to clarify anything else

Roger Napton: Unless they have any questions for me – I do not have anything.

Jerry: OK, I will ask for anymore testimony – anybody wants to say anything

Char: There's a question.

Alan Bentley: Alan Bentley, as a neutral party, I have no teeth in this fight so to speak, but whatever. I would like the board to discuss why a Supervisor knowingly knew this was going on and didn't do anything about it. It never should have come to this. If a supervisor admittedly knows this and didn't take care of this, it never should have come to this. And if that said supervisor can't do his job then I think he should resign. I am not against this business I am all for all business. I am tired of the way this county is being run, and it's not being professional.

Charlie Henery: Can I say something, Alan. Just to interject. This is---We are dealing with the permit for this business and stuff. We are not dealing with what is going on with this supervisor.

Alan Bentley: No, but this should not have come to this. Would you admit that if this had been taken care a year ago when Jerry admittedly drove around the stuff in the road.

Charlie Henery: That is still not the issue. The issue is we are going to have to not or to grant these people a conditional permit.

Jerry Schwager: I had visited with him after that and before that a little bit too.

Alan Bentley: And what was the conclusion?

Jerry Schwager: They are supposed to get some of this stuff moved. The last time I visited with him, he started moving stuff out of the way. And what he's got on the west side, I don't know what he's got with that on the west side.

Alan Bentley: The appearance of some things that got done in this county guys doesn't appear to be doing it correctly.

Jerry Schwager: This is not the issue right now. We are hearing this permit right now, Thanks.

Alan Bentley: That's fine. OK

Koinzan: Some things are not being done correctly. I do agree with that.

Jerry Schwager: What was that? What do you got? I'll ask the same questions of the supervisors so go ahead Greg if you have a question now.

Greg: I just want to clarify with Dean for a second. It appears to me there are two (2) issues here. I want to clarify...your main issue is the road and the right of way. Is that correct, not the business?

Dean: No, uh uh, No. I have...not. The only thing I can say on that is and that is correct. If there was a new business coming in, and wanting to start up. I believe the Zoning Committee would probably have setbacks and requirements that, that business wouldn't be able to be so close to the ROW and so on like that. So no, I guess nothing against the business other than a new applicant with a fresh piece of ground probably wouldn't be able to operate the way this one is.

Greg Koinzan: It is kind of the fruit from the forbidden tree. The applicant has already proved to us he has a willingness to break the law. So to speak. So to me there are two (2) issues: The ROW issue and the business issue. I think we need to address them one at a time – I just think it gets very complicated when you address them together.

Dean Smith: The main issue is the right of way. Yes.

Greg Koinzan: OK. And I don't know the correct channels either. Whether it's the supervisors responsibility like Mr. Bentley pointed out; or the Sheriff's responsibility or the County Attorney's responsibility or the zoning boards responsibility.

Greg Koinzan: But I am all for finding that out.

Jerry: Well, we don't make the laws on that part.

M Bolling: We don't enforce them.

Jerry: Right, we do not enforce them.

Greg: Right, we need to determine that, but I do not know if this hearing is the place to determine all this.

Jerry: No, it is not.

Greg: I believe we need to make the decision whether this business-is going to – what they want to do is correct and then deal with the right of way issues. I think there are issues – there are obviously issues.

Jerry: Well, you are right Greg but the only thing is we do not make the laws, and we do not enforce the laws. Is that right Joe? And that is not our position here. We can only talk – we do not enforce them.

Greg: We can also encourage the people that enforce the laws and represent us to do their jobs. Meaning the county attorney and the sheriff. That is our job as Supervisors

Williby: We direct them.

Greg: We direct them.

Jerry: It is not the only one that people drive down the road with grain heads 45 feet long, and corn heads wider than roads, and drive down 6 or 7 miles.

Neal: Well, we have got people over planting – they are planting in the right of way.

Greg: That is another issue – We seem to talk about the tree issue every meeting.

Charlie Henery: I have some questions too, I would like to address. If we could go on. Have these 2 parcels ever been zoned from agriculture to commercial.

Char: No. The only thing we have done on either property zoning wise was for housing permits.

Henery: So they have never been commercial. So he has never been properly set up?

Jerry: He said when he bought it – he bought it....What?

Roger Napton: It was zoned commercial when I bought it. That is what they represented to me. That is why I bought it.

Charlie: When did you buy it? What year did you purchase it?

Roger: They said last night 2001

Char: This one says 2002. This one says 2005.

Jerry: OK, I guess that is not the issue right now, Charlie

Charlie: No. But the issue is if it is not zoned, it has to be zoned. And there has to a plan that states to do that.

Jerry: That is what he is doing right now. Is that right?

Charlie: And another question is –Is there different Zoning for a salvage yard then say then there is to say CVA's commercial property or the tire shop commercial that wants to go out there. Is there anything out there for salvage?

Char: Everything in Antelope County is zoned agriculture to do something other than that is why you come and get a commercial use permit. To do a commercial business like CVA has done, like they did.

Charlie: That is not my question – My question is, are there separate salvage statutes with the State of Nebraska?

Char: Yes, well to some degree there is because if he wants to do a salvage business, he has to get a salvage license.

Henery: Have you been doing a salvage business?

Roger: Just trucks & trailer repairs.

Henery: So, you do not sell. Say I want to come up there and buy a rim for my truck- you would not sell it to me?

Roger: That is a truck part – the not salvaged.

Charlie: But you took it off of a truck that was salvaged.

Roger: Previously Salvaged. I was just saying that is a part. That is not salvaged. Salvaged is when you tear the wiring out of the truck, and sell the copper. I have piles of this and that, but I'm not, that is not what I am doing.

Henery: I see what you saying there.

Williby: He is not scrapping it.

Koinzan: You testified at the meeting last night that you sold parts.

Char: My understanding is that that means it is salvage business and he needs a salvage license. That is what I have been told by Arvin.

Greg: Does that mean he needs a salvage license before the Zoning Permit.

Char: No, he has to have the Zoning Permit to get the salvage license.

Henery: So, we are here basically zoning these two (2) properties that has never been zoned commercial.

Char: You are giving them a conditional use permit to do a commercial venture on agriculture property.

Henery: OK, so that is our focus for today?

Jerry & Char: Yep!

Henery: So, in that statement, do you have a plan drew up where you are going to do all this? Because that should be part of your permit. That you should come in as Dean pointed it out. As CVA has a picture and plan. You have a plan the building would be so many feet from the road. Parking is not going to be in the road ROW – it is going to be so many feet back. Shouldn't that be part of this permit before we issue it to him?

Char: You can certainly make that a condition before you approve it.

Jerry: You can make that condition if you want to.

Koizan: Isn't that the Zoning Boards responsibility to do that?

Char: Usually like Dean said we start with a clean slate. Someone wants to come in and do something. This one we are coming in after the fact.

Merlin: Does he have a limited amount of space?

Char: He has more room to the east.

Koizan: There are 2–20 acre tracts.

Char: Yeah.

Greg: This is from memory but there a 2-20 acre separate tracts. I don't know if they are contiguous or not.

Char: Yes, they are separate locations.

Henery: Right, on that map there – on those maps there-

Char: See he's got room to the east to move things. And the other property is pretty much empty.

Henery: Is that a current map? Does he already have some stuff to the back? How current is that map? (To Mr. Napton) Do have stuff behind this is your building in that open area?

Char: This is 2014.

Henery: So there is room behind that building to but--so you could move your stuff to the back, off of the public ROW to make it safer for people going up & down the road.

Char: There would be room to move stuff toward the east end to allow people to come in, move around without having to park on the road. Make parking spaces for customers, yes.

Henery: When Schilds put that building there they didn't plan on semis coming in and they put the building too close to the road. But it was purchased by you—with the building close to the road and semis coming into there so.

Bolling: Can you move that stuff, so you can have parking right around your building?

Roger: Yes. This is all new to you guys. It is also all new to me. Like I said before I didn't know this was going to be such a hassle.

Bolling: I understand that. What we are trying to do is get you in compliance.

Henery: No, we are trying to make it right.

Roger: Well that is what I want, yes

Bolling: So what we are trying to do is get you in compliance with the laws and stuff. Isn't that right Charlie?

Charlie: That's what we need to do – to basically make it safer for people going up and down that road because we have pictures of stuff sitting on the road and the road right of way.

Jerry: So what you will have to do Roger is probably clean the front, east & end of the front edge, west end of your shop out. Clean that off so when you get a truck drive in, they can drive in on your property. You work on them on your property. You have got to leave 66 feet wide open and if you have a dump truck he needs to drive in and dump it off on your property and stay off the road.

Char: It probably needs to be conditional. (Interrupted.)

Koizan: Char are there setbacks here? I mean what is the rule?

Char: He has got a row of trees there already. Most of time things have to be 50 feet from the right of way. The trees probably already take up that much so anything on the other side of the trees is going to be ok – it will be off the right of way already.

Jerry: It will be off the right of way.

Char: I think that is what Ron was getting at last night during our meeting. You know it is already on his property. But, I know what Dean is talking about too. There needs to be some parking considerations given because it is a place of business. There needs to be allotted space for customers to drive in, to be able to maneuver.

Jerry: That means clean the west side of your shop out, clean that all out up front so when they drive in on that driveway off of the road. They can drive on your property, your right of way. Then they are not on the right of way of the road. You can fix it or work on it or like he showed you. He had a picture of a truck on the road. It should be on your property and not in the middle of the road.

Joe Abler: And that's what the board last night recommended that there should not be any right of way parking, there should be on sight pull in parking.

Char: Yes

Joe Abler: As a condition of this conditional use permit and yearly review.

Char: Come back in a year to make sure things are going smoothly that neighbors are still not complaining. The permit can be yanked at that point in time.

Eddie: I think a year is too long

Koizan: And that is in the permit.

Charlie: A year is too long.

Char: That is the condition that was set last night. You guys can keep those or.....

Kerkman: I think he should get a salvage permit during that point and time too, if they are taking parts off of salvaged trucks.

Schindler: I think a year is a little too long.

Char: And you guys can change any of those – it is just a recommendation.

(Indistinct conversation)

Schindler: That should be done immediately, because that is illegal.

Koinzan: I think there are two issues. And I think we need to address them one at a time. First, the business issue here, and make sure it is compliant. And then if there is a right of way issues, I think we need to address that. I would encourage Dean Smith, if he thinks there is a right of way issue to get on January's agenda and see if the board won't find out what the Sheriff and County Attorney done here. There is an avenue here, but I don't know if it's a zoning issue.

Henery: I think we ought to give these people, if they know now what is going on they will correct the problem. Am I not right?

Roger: Yes.

Henery: You will take it off from the county right of way?

Bolling: And allow yourself parking?

Henery: And allow yourself parking and stuff? Just like Dean said he is not against your business at all. He is against what is going on in the road, and you know what I am saying?

Koinzan: Yes, I do.

Henery: I think there is a way around it so we don't have to...

Schwager: They did clean the stuff up. Roger, what Dean is talking about, when he does go down the road with equipment or his pickup. There is a truck maybe parked there that is still not off the right of way – so that is what they are talking about. You got to clean it out enough so that everything you bring in or if you are working on somebody else's truck – you are on your property.

Roger: I am probably going to have to put up a fence and some signs that say no truck parking, out here.

Jerry: I think you will agree with me you have cleaned up a lot since we've jumped on this. They are wanting it so you are not parking there or parking a truck there or something like that.

Roger: I have been laid up some since August.

Jerry: Which I understand. I think we understand that.

Char: But, it is no different than Central Valley Ag - Royal Division, you don't let the trucks and semi's line up out their door, and on the road, it is the same concept, it is a commercial business. The business has to be done onsite.

Jerry: But that is the thing you have had combines going down the road with 45 foot heads.

Char: I understand.

Jerry: You have had trucks down sitting at Albion clear out on the State Highway down there for a half a mile or so. Which, I think they understand, and their point is good and he just needs to do what we ask you to do. OK. Do you guys have any more questions?

Char: There are a couple of items. I thought maybe you guys could consider for conditions also. I think one was stated about doing a salvage title or salvage license.

Williby: Question right of way parking on the onsite area.

Jerry: I'll give them a few seconds – and then one of them can make a motion. Somebody can make a motion.

Williby: Is it considered a salvage yard?

Char: If he is selling parts; the way I understand, was told- that if parts are being sold off of vehicles – that means it is a salvage business. I do know the statute inside out and backwards. This is what I was told.

Williby: I don't know if he can comply with the license.

Jerry: Did you realize that Roger, if you sell parts it is still salvage.

Roger: No

Jerry: I didn't either but I'm-----

Char: I do have a copy of the permit in here if he wants to see it.

Williby: I do not if it classifies as being salvage.

Jerry: But, we will have to do the condition so he can go get this salvage license.

Char: Yes.

Jerry: How long does he have after this meeting?

Char: I do not know. There is a copy of salvage permit

Jerry: He has to fill it out?

Char: But, he has to have our permit first, to be able to get the license. That is what I have been told.

Koinzan: (talking about following laws - indistinct)

Jerry: We do not enforce the law. If he breaks the law it is not our job to enforce the laws.

Char: I just enforce the zoning regulations.

Jerry: If I turned in everybody that I've seen we would have the sheriff out there every day. Not his place but all over the county.

Henery: Are we at the point to move on – on this?

Jerry: Yes we are.

Henery: Can I make a recommendation?

Jerry: You can go ahead and make a recommendation or motion. Wait a minute. I will close the public portion of the public hearing. - 10:11 am

Henery: What I would like to do before you do that while I kind of got. What I would really—this is just me talking and you guys—there is six (6) others of us. Have him go home, draw up a plan of how he is going to put up his signs, how is going to correct the problem and come back to the next month to finish the public hearing. Put it on hold—with a plan saying what is going to go on. So that we can look at his plan and decide what he is going to do. In the meantime get his stuff off of our right of way – so it is

safe for the public. See what I am saying is – you draw up a plan, come back to us, we look at the plan before we go further with it.

Jerry: He has got it off the right of way, but the only thing is, the question is, and that's what Deans got is ...

Koinzan: Deans got a picture of yesterday, didn't you Dean.

Jerry: Well, which I knew that is what I am talking – he has got his stuff off the right of way – but they have trucks come in and they park on the right of way that is what he is talking about.

Charlie: Right, I see what you are saying

Jerry: He has cleaned some of the stuff off the right of way.

Charlie: What I am saying is before we go ahead and give him a conditional use permit – that he comes in with a plan saying how he's going to correct the problem.

Jerry: OK. If you want to do this – just table it till next month, then we will...

Koinzan: OK. I've got a question Charlie. I see the logic in that, and I would agree with it. But my question for you is, is that our job to do that or should we send it back to the Zoning Committee and make them do their job.

Charlie: Oh, I think it is before us and we make the final decision anyway. My feeling is if they draw up a plan and come back and say we are going to move this stuff back here and we can give them a certain time limit, whether it is six (6) months or a year – or whatever. But make sure it is immediately out of the road – I know what Jerry saying is the concern is like yesterday Dean pointed out there was something in the road.

Jerry: Yeah that is what I mean. That is what he is talking about.

Charlie: But we know it is there. We know it is a problem. We need to get it out of the way for the public to go through. Whether it is Dean Smith or LeRoy Kerkman going down that road it needs to be open to the public.

Jerry: OK, why don't you go ahead and make a motion to table this till – whatever day you want next month then. You have already told him what you want – but put that in the motion.

Koinzan: Is that the way to go Joe, I mean do you think that is the way to do this, or do we send it back to the Zoning Committee?

Joe Abler: To be honest with you, either way. I mean you guys have the ultimate decision – if you are making a motion to say you need to meet their conditions or you have to come back and draw us up a plan of what you want under the conditional use permit before we can do it. Of you can send it back to the Zoning Board and have them do the exact same thing. I mean it is up to you. Either way it is the same thing.

Jerry: I do not think we need to do that he's got the idea of what he's got to do.

Koinzan: That's fine. I just want to make sure we were doing it correctly.

Jerry: OK, we can.

Henery: I am not opposed to the conditions that were set up by the Zoning Commission.

Schindler: We can add.

Henery: But, I want it down throughout how we are going to do this. Where he is going to put his signs, if and where he is going to put a fence up.

Koinzan: A good faith gesture, basically – but their driveway are usable and remain clear.

Henery: So that the neighbors know, we know, everybody knows what is going to go on before we approve a conditional permit.

Schindler: We can add anything we want.

Koinzan: I would go this way.

Henery: I am not for putting things off when we need to move forward.

Schwager: Yeah, Why don't you put that in a motion and we will get this going.

Henery: I make a motion that we table this conditional use permit and ask Mr. Napton to come back with a plan stating how he is going to do this.

Schindler: Like where he is putting his fence.

Henery: Like the fence, signs, and how he is going to make this work for everybody.

Schindler: Because it is not all his fault, his customers are causing some of the problems (Supervisor Henery answers: Sure), so now you have to figure out a way to let them know that they are not supposed to do this.

Henery: Right, and that is my point and that is why I want to table it and wait until the meeting next month to decide how he is going to make this all work. There is a way to make this all work.

Schwager: Let's put it down for the 2nd meeting in January.

Henery: Like Dean said – he is not opposed to the business; he probably goes there and buys truck parts.

Koinzan: No, nobody is.

Schindler: Nobody is.

Henery: Nobody is.

Koinzan: I second that motion.

Schwager: I got a motion and a second – any more questions on it? (Roll Call Vote) Kerkman (yes) Schindler (yes) Williby (yes) Bolling (yes) Henery (yes) Koinzan (yes) and I vote yes.

Clerk: So, we are putting this on for another public hearing in January?

Schwager: Well, we already went through most of the public hearing. We will probably just to the bottom of the hearing steps. Right?

Char: You are basically continuing the public hearing so do not close this part out it has been stated, date, and specific time.

Schwager: Yeah, I want to close the motion the second out & findings until the twelve.

Char: So you can leave the public hearing open.

Jerry: Do the second meeting would you

Williby: I think the 12th is 30 days.

Schwager: LeRoy – not LeRoy – Henery is the 2nd meeting alright with you.

Henery: Yeah, second meeting is fine. You do understand what I am saying and how we want a plan and stuff. We can draw it up on a piece of paper like this if you want. Just so you have a plan and state what your intent is to correct the problem.

Bolling: Where your parking is going to be.

Henery: Yeah, where your parking is going to be. Where if you are putting up a fence, put a gate that people have to go beyond that. However, you want to draw up your plan – draw it up and bring it back to us.

Schwager: He will just put this in his motion.

Clerk: So your motion reads: We are going to continue this hearing and ask Mr. Napton to come back with a plan to correct as to how, what and where he will be doing to correct and to continue business. We are going to convene at 9:30 AM on January 12th 2016? (Henery accepts motion). Koinzan seconded. Voting aye: Koinzan, Kerkman, Henery, Williby, Schindler, Bolling and Schwager. Nays none. Motion carried.

Motion by Williby, seconded by Kerkman to go back to regular meeting. Voting aye: Kerkman, Williby, Schindler, Henery, Bolling, Koinzan, and Schwager. Nays none. Motion carried.

10:38 AM – Back to regular meeting.

ANTELOPE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman of the Board, Jerald Schwager

Attest: _____
County Clerk, Lisa Payne

Continuation of Public Hearing on Truck and Tractor Repair Business owned and operated by Roger Napton. The public hearing held on December 9, 2015 was continued to allow the applicant to establish a plan to improve his property, in order to establish a flow for customers and to keep parking off of the road right of ways.

Chairman Schwager opened the continuation of the public hearing at 9:38 AM by taking roll: Koinzan, Kerkman, Williby, Schindler, Henery, and Schwager. Bolling absent. He announces we are completing the public hearing on Roger Napton Truck and Trailer Repair in N1/2SW1/4 Section 5, Township 2, Range 6 West of the 6th P.M., and tract two is in SE1/4 Section1, Township 27, Range 7 West of the 6th P.M., Antelope County, Nebraska. Continued from December 9, 2015.

Jerry Schwager: OK, Roger Napton is going to tell us what he has got here.

Roger Napton: (Hands out a sketch of property.) On the diagram here it just shows my property. What I plan to do here is take the trees that are on 523rd Avenue and Highway 20 corner and take them back 50 or 60 feet, so I can park my trucks that are ready for sale up in that corner. The right of way will be cleared. Up in the corner where I am going to park the trucks that are done. Then I will come if somebody needs work on their trailer they can come in and they can drive in by the shop. This will be cleared out, so they can drive in by the shop and make a U-turn and go back out on the road. It is not working where I have the trucks on the west side with permission from Richard Rader. It is not working over there. There is no electricity over there. I have to setup a portable generator to plug in a truck, especially in this cold weather, to put a charger over there or whatever. It is not working. So, that is my proposal. My plan is to cut the trees down 50 feet back to park trucks as they are done and for sale. Parking for my customers in front of the shop and to make room for a U-turn there. I will work with the county on putting up no parking signs wherever needed, and what type of signs they want. So that is my proposal and I leave it with you. I want to thank you, the board, for allowing me to come present this.

Jerry Schwager: Now, you are talking on the west side you are going to, them trucks are going off that...

Roger Napton: Yeah, it is not working over there because there is no electricity.

Jerry Schwager: OK

Roger Napton: It just doesn't work.

Jerry Schwager: Any questions you want to ask to him, supervisors?

LeRoy Kerkman: You will have them out of there all the time. How about during the summer time? Will you park them over there or not; or are you going to abandon that totally.

Roger Napton: I would have to check with Richard on that, if I have an overflow or something. Because, I cannot control every person that just comes along. Just like the other day, I had a guy come walking in my yard and was talking to me. I looked around and said how did you get here? He said, I parked my truck out on Highway 20. I said, you better go out there and move it. I said bring it up and nose it in my driveway. And so he did. You know because I didn't, how do you control that? You know.

Jerry Schwager: He meant in the summertime if you are taking these trees out, you shouldn't have any trucks parked here in the right of way.

Roger Napton: I shouldn't have to, no. I have got 23 acres there so I can go back.

Jerry Schwager: Well, if you take out enough trees there you should have enough room, even in the summer to park your trucks up there on your own property.

Eddie Schindler: Main concern was trucks that sat there over a period of time.

Charlie Henery: You know on the road right of way.

Greg Koinzan: Are there trucks on the right of way now?

Roger Napton: No.

Eddie Schindler: Trucks that sat there for over 24 hours?

Roger Napton: You mean on the west side?

Eddie Schindler: Any place, you know if they sit there?

Roger Napton: On the west side they never have been on the right of way.

Eddie Schindler: As long as they aren't sitting there for 12 to 20 hours. You know something, I mean you are going to have people come in and stop, but they at least are not parking in the right of way.

Roger Napton: We will have some signs out there.

Eddie Schindler: Yeah, that will help a lot too. If you get no parking signs up.

Jerry Schwager: But, if you have this all cleaned up in front of your shop. There is no reason why anybody should stop on the road. You should have it so they could pull in our driveway and park on your property.

Roger Napton: Unless there has been two or three guys that came in with trucks and trailers and took all the parking. You know, that can happen.

Eddie Schindler: Yeah, but still it is temporary. What we are concerned about is them sitting there overnight or a day or two. Temporary parking you have that no matter where are at.

Roger Napton: Yeah.

Neil Williby: You see that in town. The FedEx truck stops in the middle of the street.

Eddie Schindler: Yeah, like you way when it sits there 10 to 24 hours. That is the problem.

Jerry Schwager: Any other questions you guys want answered?

Charlie Henery: When you are taking these trees out on this intersection, are you going to take it back 60 feet from the 33 feet line?

Roger Napton: Yes.

Jerry Schwager: You said 60 feet?

Roger Napton: 50 to 60 feet. Whatever it takes to drive a truck up there and be able to get it in and out. I do not want to have to move the whole line just to get at one. So, it will have to have some room to back a truck out, and drive a truck in. However, it is going to work. Because it needs to work.

LeRoy Kerkman: When that guy stopped that day, with his truck on the highway, you know that is a State Highway isn't it? We really don't have anything to say about that anyway.

Eddie Schindler: Yeah.

Roger Napton: But, still is a reflection on the business.

Neil Williby: It is on the right of way.

Eddie Schindler: It is a bad situation. It would be better if they didn't, let's put it that way. Like you said.

Jerry Schwager: Any other questions for him?

Greg Koinzan: My main concern is there is nothing in the right of way, now.

Eddie Schindler: Or parked for any length of time.

Greg Koinzan: That is my only concern. But that is not going to be a problem.

Roger Napton: No.

Eddie Schindler: Temporary for an hour or two only.

Jerry Schwager: And another thing, whoever makes the motion that is up to you guys, you are going to have to give him time to get the trees out and get some clean up done.

Neil Williby: Give him some kind of time frame.

Jerry Schwager: Give him a time frame to get stuff cleaned out.

Neil Williby: Even during the winter.

Jerry Schwager: And you understand you have to keep the right of way cleaned out completely all the time.

Neil Williby: It is hard to take a tree out in the winter time.

Jerry Schwager: Anything else?

Eddie Schindler: In our motion it should include there should be no permanent parking on the right of way.

Neil Williby: Absolutely.

Eddie Schindler: But as far as getting in it is OK.

Greg Koinzan: There is two (2) different issues.

Jerry Schwager: If you guys don't want anything else. We are done with Roger here. I need a motion and a second then.

Neil Williby: What kind of a time frame are you looking at?

Jerry Schwager: Well you have got January, February, March, you have got to remember there is going to be a lot of people probably sometime in April running planters and stuff like that down the road. So, he has got to have some time in April because he can't push trees in January, February, and March.

Neil Williby: I realize that.

Jerry Schwager: That is totally up to you guys, but you got to remember everybody is going to start farming in April, pending on the weather.

Neil Williby: How about the 1st of June; is that doable to have the project completed by the 1st of June?

Roger Napton: Yeah.

Charlie Henery: Because you are not having stuff in the road now.

Eddie Schindler: Yeah, so that's a big accomplishment.

Greg Koinzan: Because out top priority, I mean my top priority. This is two (2) different issues. I am willing to zone you, but the right of way is a big issue. This is the third time we have gone over it. So let's do the zoning and be done here. If there is going to be a problem, I am guessing it is going to be stuff in the right of way again. And that is a different issue than zoning.

Jerry Schwager: I think he totally understands that. Ok, I need a motion on it then.

Charlie Henery: So is this the stuff that is the recommendation of the zoning.

Jerry Schwager: That is something that she can give you to know to understand what, what you could put in your

Lisa Payne (Clerk): Basically, Char just gave you a list of suggestions that you can include in your motion to make the permit more user friendly, and to appease the tax payers and/or zoning board.

Charlie Henery: What were the findings of the Zoning board?

Lisa Payne (Clerk): That is right here. No right of way parking-keep right of way clear. All work shall be done on the premises. There has to be a place on site for trucks to pull in. And, a yearly review in December.

Greg Koinzan: And we want to add to that.

Lisa Payne (Clerk): That is their conditions.

Jerry Schwager: That is conditions you want to put on.

Greg Koinzan: Do we want to add to that to have it done by the first of June?

Neil Williby: Planning commission? Is that going to be OK Roger, the first of June?

Greg Koinzan: I so move to take the Zoning Boards recommendations. No right of way parking. Keep the right of way clear. All work shall be done on the premises, there has to be a place on site for trucks to pull in. Yearly review in December and I will add, all work shall be done by the first of June.

Roger Napton: I do have a problem with a little bit of that.

Greg Koinzan: Also, to make of record to accept his drawing.

Roger Napton: I do have a problem with that. Because, I have the state patrol or the County Sheriff come in requesting, can you come out on the road, can you come out wherever and put a wheel on or put a bearing on or replace a rim so a guy can move his truck that is out on the highway or wherever. So, I can't be restricted to do my work only on my premises. Do you see what I am getting at? Because, I get called out on the road even.

Charlie Henery: That is two (2) separate issues. We are talking the zoning on your place.

Roger Napton: Just the work on the place has to be done; the work has to be done.

Greg Koinzan: Your place of work is not on the county right of way.

Eddie Schindler: But if he has to go out, that is a different issue.

Greg Koinzan: Right, that is a different issue. That is off site, it is different, it is off site.

(Indistinct conversation.)

Eddie Schindler: That is with any issue.

Jerry Schwager: Greg made the motion, Charlie?

Neil Williby: Charlie made the second.

Jerry Schwager: And Charlie seconded. Any other questions?

Charlie Henery: Could you reread that motion Lisa, please?

Lisa Payne (Clerk): Motion to accept recommendation of Zoning Board and added to be done by June 1st, 2016. I didn't list them out because I will copy and paste them.

Charlie Henery: We should accept what he brought in.

Greg Koinzan: And his plan as accepted in the motion so we have record of it.

Lisa Payne (Clerk): And accept the map/drawing as presented by applicant.

Jerry Schwager: OK, is everybody satisfied with what we got. We got a motion and a second. I will read the findings:

Roger Napton - Bar ZZ Ranch and Repair
Tract in N1/2 SW1/4 5-27-6
Tract in SE1/4 1-27-7

FINDINGS:

YES 1. That the Zoning district in which the proposed use is to be located is Zoned AG-G (General Agricultural District).

YES 2. The proposed use that is the subject of this application is not a permitted use in such zoning district.

YES 3. The applicant has filed an application for conditional use.

YES 4. That said application has been reviewed by the Antelope County Planning Commission.

YES 5. That the Antelope County Planning Commission has held a public hearing as required by the Zoning Regulations.

YES 6. That the Antelope County Planning Commission has recommended that the conditional use permit be granted. (If applicable-subject to certain conditions set forth in the recommendation).

Subject to: No Right of Way Parking -keep ROW clear. All work shall be done on the premises- has to be a place on site; For trucks to pull in; Yearly Review in December

YES 7. That on December 8, 2015, a public hearing was held before this Board.

YES 8. That Notice of hearing was published at least 10 (ten) days prior to the hearing, said date of publication being November 24, 2015. Said publication was in the Elgin Review, Neligh News & Leader, Orchard News and the Clearwater Record.

YES 9. That the exhibits and comments introduced at the Planning Commission public hearing(s) are hereby incorporated into this record. That opportunity for additional evidence, comments and arguments was made.

YES 10. That the proposed use is a conditional use, reasonably compatible with surrounding land uses with regards to traffic generation, noise, odors, dust, vibrations, and potential air, soil or water pollution or explosion or other hazards.

YES 11. That this Board has considered the property, size and location of the requested improvement, the use of the improvement, location of access to public roadways, adequate access to water and sewage supply, parking considerations, nearby residences and other nonagricultural uses with in one (1) mile of the property in question, water surface drainage and any issues regarding wetlands, as required by Zoning Regulation section 1002.

YES 12. That said conditional use permit is compatible with the Antelope County Comprehensive Plan.

Jerry Schwager: I will take roll call now. Koinzan?

Greg Koinzan: Yes.

Jerry Schwager: Henery?

Charlie Henery: Yes.

Jerry Schwager: Williby?

Neil Williby: Yes.

Jerry Schwager: Kerkman?

LeRoy Kerkman: Yes.

Jerry Schwager: Schindler?

Eddie Schindler: Yes.

Jerry Schwager: And I will vote yes. OK, thank you very much. I need a motion to go out of Board of Equalization.

Charlie Henery: I make a motion to go out of Board of Equalization and back to regular session.

Eddie Schindler: I second motion.

Voting aye: Henery, Schindler, Koinzan, Henery, Kerkman, and Schwager. Bolling absent. Nays none. Motion passed.

Dean Smith: With what you guys just did. How does that affect the requirements you put on him a month ago. In regards to cleaning up in front of his shop. I have not seen the drawing or anything.

Greg Koinzan and Jerry Schwager: Agreed the map/drawing does show it is cleared.

Motion by Supervisor Koinzan, seconded by Supervisor Henery to:

I so move to take the Zoning Boards recommendations.

- 1) No right of way parking.
- 2) Keep the right of way clear.
- 3) All work shall be done on the premises, there has to be a place on site for trucks to pull in.
- 4) Yearly review in December; and I will add
- 5) all cleanup work and organization shall be done by the first of June.

And I will acknowledge and make of record to accept his drawing/working plan.

Voting aye: Koinzan, Henery, Schindler, Williby, Kerkman and Schwager. Bolling absent. Nays none. Motion carried.

ANTELOPE COUNTY BOARD OF SUPERVISORS

By: _____
Chairman of the Board, Jerald Schwager

Attest: _____
County Clerk, Lisa Payne