

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, November 18, 2009, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor (Leirion Gaylor Baird absent); Steve Henrichsen, Mike DeKalb, Brandon Garrett, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and requested a motion approving the minutes for the regular meeting held November 4, 2009. Motion for approval made by Francis, seconded by Partington and carried 7-0: Cornelius, Esseks, Francis, Larson, Lust, Partington and Sunderman voting 'yes'; Taylor absent at time of the vote; Gaylor Baird absent.

There was no Consent Agenda.

There were no requests for deferral.

**COMPREHENSIVE PLAN CONFORMANCE NO. 09012,
TO REVIEW A PROPOSED AMENDMENT TO THE
LINCOLN CENTER DEVELOPMENT PLAN AS TO
CONFORMANCE WITH THE COMPREHENSIVE PLAN.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

November 18, 2009

Members present: Partington, Taylor, Cornelius, Lust, Francis, Esseks, Larson and Sunderman; Gaylor Baird absent.

Ex Parte Communications: None.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Staff presentation: **Brandon Garrett of Planning staff** explained that this application for conformance with the Comprehensive Plan is for a project at 13th & L Streets. Garrett submitted a revised map for Exhibit IV-159 and Exhibit IV-160 from the Urban Development Department.

This proposed project, known as the “13th and L Redevelopment Project” is approximately one-half acre located at 13th & L Streets, where there is currently a one-story commercial building (a printing company and a restaurant); to the east there is a 27-unit multi-family dwelling building. The proposal was not specific as to the square footage of land use, but the staff understands that the developer is seeking proposals from interested parties as to the ultimate use such as office or perhaps bank type of use with some parking, leaving open the opportunity for residential use in the future.

Esseks noted that the staff report conclusion indicates that the proposed land use is in general conformance with the Comprehensive Plan and some of the general goals of the Downtown Master Plan. He wanted a description of the term “some” of the general goals of the Downtown Master Plan and whether the proposal is in conflict with any of the Downtown Master Plan goals. Garrett suggested that possibly he should have used the term “most”, but the land use plan of the Downtown Master Plan shows this area as future office, and this proposal appears to be consistent with that, with the upper stories being office or residential. The minor conflict appears to be that, in general, the Downtown Master Plan encourages additional residential development. In this case, we already have existing residential development, but it appears that those 27 dwelling units would be removed with this proposal. There is no specific mention in this proposal for replacing those dwelling units, but that opportunity does remain in place.

Esseks observed that the apartment building looks to be in reasonably good shape and wondered whether there are plans to develop residential units in that same area or someplace else in the downtown. He believes there should be compensating residential development for these units that will be lost. Garrett does not believe the Comprehensive Plan nor the Downtown Master Plan have any specific policy or regulation that would require that type of mitigation or compensation for displacing units; however, the Downtown Master Plan does strongly encourage additional residential development.

Garrett could not speak to the quality of the apartment building.

Proponents

1. Wynn Hjermsstad of the Urban Development Department explained that the total project cost is estimated at 6.5 million dollars; it will be a public/private partnership and will generate approximately \$830,000 in Tax Increment Financing that would be put back into the project location, including demolition, site preparation, utility work, streetscape, alley improvements, potential energy improvements to the new building, etc. Other details that still need to be worked out include a determination as to whether changes will be needed to reconfigure off-street parking, drop-off areas, loading zone and access points to accommodate the traffic flow in the area. Urban Development and the developer will be working with Public Works on these issues.

Hjermstad stated that other considerations that need to be included as this moves forward include compliance with the Capitol Environs regulations and the Downtown design standards.

As far as consistency with the Downtown Master Plan, Hjermstad pointed out that this block is designated for office in the Downtown Master Plan and offices are included in this project as well as street level retail, which is also a goal in the Comprehensive Plan and the Downtown Master Plan. Therefore, she believes this project does meet the intent of the Downtown Master Plan.

Hjermstad then reviewed the next steps, which include a finding of conformity by the City Council and continuing to work with the developer on the redevelopment agreement, which also requires Council approval.

As far as the condition of the apartment complex, Hjermstad stated that the inside of the building is not in such good condition. It does meet minimum code, but just barely. It has been red-tagged in the past and has been repaired. In fact, one of the units is totally uninhabitable and it is cost-prohibitive to repair it.

Lust noted that one of the statutory elements listed is that the project may involve the acquisition of property. Does the developer not already own all of the property? Hjermstad stated that the developer does in fact own the property. The term "acquisition" is a common use of Tax Increment Financing and can also include such things as lease buy-downs.

2. Frank Sidles stated that his family is the owner of this property and they have met with the Nebraska Capitol Environs Commission and have proceeded with outlining the intent of this project. At the present time, they are looking for a ground floor area that might house a financial institution – possible drive-thru areas – and they are considering a minimum of three floors, with four being the maximum. The Nebraska Capitol Environs Commission regulations limit the height to 57' so putting up a five-story building would not be possible.

Sidles stated that the apartment building was built in about 1910-1912 as a two-story apartment building. Subsequently, an additional two stories were added, probably unfortunately, because the work creating the contiguity between the two stories was not done very well on the inside. The maintenance is very expensive. Tenants just do not take care of it because it is such an old building. They are not going to repair it because the cost is prohibitive. If they do not get this project going, at some point down the road they would probably tear down this building.

Lust asked Sidles to respond to the staff's suggestion that residential units be considered. Sidles indicated that they have indeed considered it and looked at putting some units on

the fourth floor, but the rents would have to be at least two or three times higher. He is not certain at this particular point in time that one floor of residential on top of two floors of commercial works economically. In fact, at this particular time, it probably doesn't quite fit into the plan.

There was no testimony in opposition.

Staff questions:

Esseks inquired of staff whether the Downtown Master Plan has an element to preserve housing opportunity at reasonable rents. Garrett did not recall whether that is mentioned specifically. There may be general statements about affordable housing, but he would have to research it.

ACTION BY PLANNING COMMISSION:

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Larson moved a finding of conformance, seconded by Francis.

Cornelius commented that this sounds like an opportunity for the area and it does eliminate some housing units but does not close the door entirely as far as residential. He is not sure about the language of preserving affordable housing in the Downtown Master Plan, but he does not know that there is benefit in trying to maintain dilapidated housing. He will support the motion.

Esseks agreed with Cornelius.

Sunderman pointed out that the Downtown Master Plan shows office on this block and there is some retail in use at this point in time. It appears that this project will continue the type of uses that are there and keep the residential opportunity in place.

Motion for a finding of conformance with the Comprehensive Plan carried 8-0: Partington, Taylor, Cornelius, Lust, Francis, Esseks, Larson and Sunderman voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

**COUNTY SPECIAL PERMIT NO. 09024
FOR EXPANSION OF A HOME OCCUPATION
ON PROPERTY GENERALLY LOCATED
AT HIGHWAY 77 AND HICKMAN ROAD.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 18, 2009

Members present: Partington, Taylor, Cornelius, Lust, Francis, Esseks, Larson and Sunderman; Gaylor Baird absent.

Ex Parte Communications: None.

Staff recommendation: Conditional approval, with all references to 8.42 acres revised to 7.42 acres.

Staff presentation: **Mike DeKalb of Planning staff** explained that this application involves the property on which a change of zone from AG to B Business was placed on pending by the County Board while the text amendment for expansion of home occupation in the county was processed. The intended purpose of the applicant for the change of zone was storing recreational vehicles and boats on the site. The staff and the Planning Commission recommended denial of the change of zone, but the County Board felt comfortable based on the location of this site and asked the staff to develop, research and prepare a report on rural business as expanded home occupation, which then prompted the text amendment that was recently supported by staff, the Planning Commission and the County Board.

This is the first application for special permit under that new language and 1) the pending change of zone from AGR to B Business will be withdrawn if this special permit is approved; and 2) allows expansion of what is permitted as a home occupation.

DeKalb stated that the staff is recommending approval, with conditions. Based on the sketch of the layout concept submitted by the applicant, it appeared that certain waivers would be needed; however, staff worked with the applicant to prepare a concept plan using some aeriels and making adjustment for the acquisition of the Department of Roads for right-of-way. With the new concept plan, it appears that the buildings will meet the buffering requirements. The waivers to which the staff is recommending denial are not needed to accomplish the applicant's intent.

Larson recalled that the concern during the debate on the change of zone was that it is located on an entryway into the City. He would want to see some sort of screening from Highway 77 before he would vote in favor. DeKalb noted that Condition #2.2 in the staff report, to which the applicant has agreed, does require screening between the buildings using the standard that the city uses for outside storage, which is 60% screening of the vehicle plane from ground elevation to 10' high, with at least 30% plant material involved.

Lust sought confirmation that retail sales of trailers would not be allowed. DeKalb advised that the applicant has indicated that to be something he would have desired, but he is willing not to do so. The primary intent is the storage of the vehicles.

Esseks noted that the recently passed legislation provides for a minimum of 10 acres. This application is seeking a reduction to 7.42 acres. This is the first proposal of this type that we are considering. How can we in the future maintain the 10 acres when here we are granting them 7.42? DeKalb reminded the Commission that AG zoning is the basic 20-acre minimum. There was a desire to keep the acreage large enough to accommodate various types of uses with some buffer, but at the same time recognize a lot of pre-existing lots in the county. He believes there was general consensus at the 10 acres – it ended up being the comfortable number recognizing that County Board has ability to adjust that limitation

by special permit. In this case, the accommodation may be justified because it is a grandfathered buildable lot, reduced by acquisition of right-of-way by the Department of Roads. There is a house with five to six acres available for this use if appropriately screened and buffered.

Esseks is concerned about an access lane to the house and this use because Highway 77 is a busy, fast highway. With someone coming out of that property going north with a trailer in tow, or going south, are we setting up some type of traffic hazard? DeKalb does not expect this to be a high traffic use. There is a break in the median so there is access all the way across. DeKalb presumes this is an approved residential access by Department of Roads and will need an updated approval by the Department of Roads for this limited commercial activity. If the Department of Roads determines that this specific use needs some kind of additional turn lane, they will have to get that before the County can sign off on the special permit.

Proponents

1. Mike Rosecrans, the applicant, appeared to answer any questions. There is a long exit off the main highway in place (turning lane) when coming from the north. So you are not blocking the highway at all to turn into the site and you would not be blocking anyone coming from the south. You can park between the two lanes and wait without blocking traffic going north or south.

Rosecrans acknowledged that he agrees with the staff recommendation and conditions of approval.

Larson inquired whether the storage of the boats and trailers will be visible from Highway 77. Rosecrans demonstrated on the map where the vehicles and buildings will be located on the site. There is approximately a 20' lift of a natural hill on the front. There are also a lot of fresh trees along the hill on the front.

Larson believes this is a great project and is certainly needed as long as it doesn't trash up our entrance to the city.

Partington stated that he drove north and south and he agreed with the applicant about the traffic issues and visibility issues.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

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Larson moved approval, with conditions, as revised to 7.42 acres, seconded by Partington.

Sunderman believes this is a plan that will go together nicely and supports the intent of the recently approved legislation for home occupied businesses in the country. This small adjustment of the size is appropriate for this case. The one concern will be answered by the experts at the Department of Roads.

Motion for conditional approval, as revised, carried 8-0: Partington, Taylor, Cornelius, Lust, Francis, Esseks, Larson and Sunderman voting 'yes'; Gaylor Baird absent. This is a recommendation to the Lancaster County Board.

There being no further business, the meeting was adjourned at 1:40 p.m.

Note: This minutes will not be officially approved until the next regular meeting of the Planning Commission on December 2, 2009.