

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, May 5, 2010, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Steve Henrichsen, Mike DeKalb, Tom Cajka, Christy Eichorn, 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 April 21, 2010. Motion for approval made by Francis, seconded by Cornelius and carried 8-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Partington, Taylor and Sunderman voting 'yes'; Lust abstained.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

**May 5, 2010**

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 10002, ANNEXATION NO. 08027, ANNEXATION NO. 10003, CHANGE OF ZONE NO. 10010, CHANGE OF ZONE NO. 10008 and COUNTY SPECIAL PERMIT NO. 10020.**

Ex Parte Communications: None

**Item No. 1.5, County Special Permit No. 10020**, was removed from the Consent Agenda and called under Requests for Deferral.

Larson moved to approve the remaining Consent Agenda, seconded by Francis and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

Note: This is final action on Comprehensive Plan Conformance No. 10002, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**COUNTY SPECIAL PERMIT NO. 10020**  
**FOR A CAMPGROUND FACILITY**  
**ON PROPERTY GENERALLY LOCATED**  
**AT N. 176<sup>TH</sup> STREET AND ADAMS STREET.**  
**REQUEST FOR DEFERRAL:**

May 5, 2010

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

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda.

The Clerk announced that the applicant has submitted a written request for a two-week deferral.

Taylor moved to defer, with continued public hearing and action scheduled for Wednesday, May 19, 2010, seconded by Partington and carried 9-0: Larson, Esseks, Partington, Cornelius, Taylor, Francis, Gaylor Baird, Lust and Sunderman voting 'yes'.

Public Testimony

1. **Jerry Haertel**, 10215 214<sup>th</sup> Street, Greenwood, stated that he is in the process of building a house immediately across the road from this proposed change at 17280 Adams Street. He also indicated that he has talked with the applicant by telephone, the primary crux of the applicant's call being that he wanted to be a good neighbor.

Haertel submitted a letter in opposition, stating that from the standpoint of the proposed activity, he does not have a problem at all with the camping, and that he believes the applicant can do what he wants to do without the special permit. The special permit, however, represents an enormous amount of permanence, i.e. 10 pads site on a 22-acre tract will increase the density way beyond what the county recommends. The rest of the owners have had to buy 20 acres to build a home. In addition, the special permit runs with the land; the special permit transfers with ownership. While the Blakes may live up to what they have proposed, the next owner may not share that same activity and this could be opening the door for permanent residences on the pad sites.

Haertel also submitted that the infrastructure in the area does not support this activity. He has been farming in this area since 1982 and is worried about the nuisance. He is questioning why the applicant needs to have a permanent site to have family and friends accompany him at various times. He can do that without this special permit. Haertel believes this special permit application is under the guise of what will eventually be a commercial activity and that does not comply with AG zoning. This could become a rather sizable activity. Rather than it be a zoning matter and monitored in some manner, perhaps any disturbance could be handled by law enforcement. It appears to be a Pandora's box. Haertel does not believe the applicant needs a special permit if there are just going to be campers there on a temporary basis. RV's are self-contained with their own sewer, water and electrical systems. There is no need for the additional services of sewer, water and electrical for temporary use. Those vehicles are all designed to be parked in a field or in grass or next to a state lake. It does not need to be approached from a permit or a zoning matter. It does not need to exhibit all this permanence. Haertel pointed out that in the city, you are only allowed to park your camper or boat for two weeks on your property and then it has to be moved or stored, and here we are out in the country where now all of a sudden we have opened this avenue for all sorts of things.

**2. Jerry Ruppert**, 2925 N. 58<sup>th</sup>, the owner of property at 16805 Adams Street, which is directly behind the Blake property, testified in opposition. He believes this is going to have an extremely negative impact on his house. His property is lower than the property where this activity is going to take place. With 10 campers there on a permanent basis (essentially a trailer park), there will be a sewage lagoon downhill or some sort of septic system. There is already noise in the area and there will be no peace for the Ruppert property at all. The Planning Commission needs to consider the density. The existing owners all had to buy 20 acres to build one house. With this special permit, there could be 11 houses set up on a permanent basis with sewage, water and electrical hookups, where people can come and go whenever they want. The 10 trailers with a minimum of 2 people and maybe 5 or 6 every weekend will bring 20-50 people to that area. The density is going to be unbearable and the peace and quiet of the community is absolutely disrupted. This will be a negative impact on all of the people in this area.

Ruppert submitted a petition in opposition bearing 26 signatures. The individuals signing the petition believe this will be a permanent trailer park, and they are opposed. Ruppert stated that he would not have purchased his property if the "trailer park" was there.

Esseks inquired whether there is any kind of buffer such as trees which might reduce the impact. Ruppert acknowledged that there is a tree line, but it is less than 200 feet from his property. He does not believe the site plan submitted is accurate. The tree mass is scrub willows and does not extend as far as shown. Ruppert can hear all of the activity from his property. He also suggested that the ATV's represent health and danger issues. The applicant's property gently slopes down onto the Ruppert property in less than 200'.

This application will have continued public hearing on Wednesday, May 19, 2010, at 1:00 p.m.

**CHANGE OF ZONE NO. 09024,**  
**TEXT AMENDMENT TO TITLE 27,**  
**and**  
**MISCELLANEOUS NO. 10002,**  
**TEXT AMENDMENT TO TITLE 26,**  
**RELATING TO SINGLE-FAMILY DWELLINGS**  
**ON SMALL LOTS IN THE R-3 RESIDENTIAL DISTRICT.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 5, 2010

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

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Christy Eichorn of Planning staff** explained the proposal relating to lots with reduced lot area, lot width and yard requirements. This legislation has previously been identified as “small lots”, but Eichorn explained that one of the reasons she is no longer calling it “small lots” is because it sounds like a different type of development, which it is not. We have lots like these all over Lincoln which were developed through the community unit plan (CUP) process. With the CUP, you are allowed to make reductions without a certain set of criteria with which to judge those reductions.

First of all, this text amendment corrects problems that we have with smaller lots in existing CUP’s such as on-street parking; driveways that are too full; and smaller lots and smaller houses without front porches or windows on the front. This text amendment adds some criteria to let both the reviewers as well the development community know the city’s expectations for lots that are less than what is provided for in the zoning district.

Secondly, this text amendment also allows the city to make maximum use of the existing infrastructure. The Comprehensive Plan talks about maximizing the community’s present infrastructure. Public Works indicated that if we approve lots that are smaller than provided for in the R-3 district, it would not have an adverse impact on the existing infrastructure and could make it even more viable.

Thirdly, this text amendment creates alternatives for lots for a growing and diverse community. In the future there are going to be people looking to move from their large lots to smaller lots that are in more walkable neighborhoods and easier to maintain. The lots with reduced lot area and width is a provision that helps protect the neighborhoods in the R-3 district.

This text amendment allows these smaller lots through the special permit process. The special permit to develop small lots on lots currently zoned R-3 would come before the Planning Commission. The developer cannot ask for private streets nor any additional streets not shown on the preliminary plat. So it really cuts back on the processing time for both the applicant and city staff.

Eichorn recited from the staff report, stating that over the past decade, there has been a national trend toward smaller lot and house sizes designed to appeal to a changing demographic profile. There has been an increase in new urbanism and smart growth developments. Lincoln needs to be proactive as it adapts to change in housing needs. If we really want to encourage new urbanism and smart growth, we need to find new and creative ways to help the developers and the city as whole move through the process and not be a hindrance to creative developments.

Esseks noted that the amendment specifies a depth-to-width ratio of 4:1. Eichorn explained that was added because currently in the R-3 zoning district there is provision that allows a 3:1 ratio, unless a townhouse. If a townhouse, that ratio can be administratively adjusted. This amendment allows that same provision that is already in the code for single-family residential houses on lots of reduced size.

Esseks views this as a very large frontage and a very small depth. Eichorn explained that it has to do with the length of the lot instead of the width of the lot. It will be deeper than what would have been provided with the 3:1 ratio. We used the existing language in the code so that it would not cause confusion in interpretation, but we could take a look at changing it; however, it was pointed out that the proposed ordinance does clarify that it shall be the maximum depth of four times its width.

Larson inquired whether there is any provision where these homes have to be grouped in an area or could someone make application in an area where there are larger lots and take one lot and separate it into two or three? Eichorn believes that could be done. If you had a larger lot such as 90' wide inside the 2010 corporate city limits, you could divide it into two 45' wide lots by going through the special permit process.

Larson then inquired whether garages are required for the residences. Eichorn stated that there is not a requirement that you must have a garage. There are provisions that state the width of a garage on the frontage of a house, but no provision that requires a garage. Francis asked Eichorn to share the amount of time the staff has spent working on this legislation. Eichorn advised that the Planning staff worked with a group from the Home Builders Association, including Wendy Francis, and had two briefings for the Planning Commission. There has only been support for this text amendment. There have not been any comments that have said this will be negative for the community. The staff has worked

with many representatives to make adjustments to the language to protect the neighborhood and to be a friend to the development community as opposed to a hindrance.

Francis confirmed that this legislation has come about because the city is trying to make the process for development more user-friendly. Eichorn explained that the staff had heard from the development community that it would be beneficial to find a better way to process smaller lots because there might be a need for more smaller lots in the future as opposed to having to go through the big CUP process. For those reasons, the Planning staff is trying to be proactive in providing an easier process.

Francis asked Eichorn to explain the provision that is being put in place to give proper notice that this type of development might occur in certain areas. Eichorn explained that if your property is in the R-3 zoning district today, there is still the possibility that undeveloped land could be developed as a CUP with lots smaller than those currently around you. This special permit provides that same public hearing process so that it is not a surprise to anyone. The reason for the line between 2010 and some other time is that we are providing notice to the community now that these lots should be acceptable in the R-3 district. By the time we start to develop areas outside of the 2010 corporate city limits, it will not be a surprise that there could be smaller lots created next to individuals.

Esseks stated that he is impressed with the qualitative standards and asked Eichorn to summarize the efforts to make these smaller buildings relatively attractive. Eichorn explained that attractiveness was a consideration but the focus was mostly from a community public health and safety standpoint. We need eyes on the street frontage with windows and doors facing the street instead of garages. We have talked about reducing the size of the garage with it being back and even with the facade of the rest of the house; and you need to have a front door and at least one window that face the street. These are more health and safety perspectives than just aesthetically pleasing. We also have criteria for a certain amount of curb space in front to provide for on-street parking, which slows down the traffic and provides a buffer for pedestrians on the sidewalk.

Larson expressed concern about the areas that may have wider lots such as 200 feet. Eichorn suggested that the larger lots are generally in the R-1 district. Larson wondered about a situation in R-1 with the larger size lot requesting a change of zone to R-3 so that they could use this small lot process. Eichorn suggested that the Planning Commission and City Council would have to ask themselves several questions. For a change from R-1 to R-3, consideration needs to be given to the surrounding zoning and whether or not R-3 would be appropriate. Then, if we determine that area is appropriate for R-3, we would go through the process of deciding whether or not it is appropriate to have smaller lots through the public hearing process. There is nothing in this text that prohibits that kind of application.

Support

1. **Lois Hartzell**, Vistar Homes, 5540 N. 19<sup>th</sup> Street, testified in support. She is one of the local builders that sat in on all of the different meetings involving this proposal. She commended the Planning Department for their diligence in finding ways to streamline the development process. She builds narrower homes, which it is a great way to achieve home ownership. A narrower lot will cost \$13,000 less than buying a normal size lot. And as you know, every additional lot will be additional impact fee revenues and additional property taxes. She requested that the Planning Commission support this legislation.

Francis extended appreciation to Hartzell for her involvement and input.

Hartzell further commented that the looks of the homes are important and it provides the safety issue for seeing the streets, etc. Street parking was a very big issue as well.

There was no testimony in opposition.

**CHANGE OF ZONE NO. 09024**

**ACTION BY PLANNING COMMISSION:**

May 5, 2010

Taylor moved approval, seconded by Francis.

Cornelius stated that in preparation for this hearing today, he reviewed the R-3 zoning district in which this is being applied. The ordinance does say that this is a zone for use in developing areas, with strong encouragement for the general use of CUP's (which to some extent this is a replacement), and improved innovative design. These R-3 districts are generally located in the growth areas and it seems like a reasonable use of the zoning ordinance to create higher density in those areas.

Taylor believes this legislation is crafted very well and he appreciates the help of the developers. It will be a good asset to the community.

Sunderman believes it will be an asset and will simplify the CUP process. He likes the details of the windows and addressing the parking issues.

Motion for approval carried 9-0: Larson, Esseks, Partington, Cornelius, Taylor, Francis, Gaylor Baird, Lust and Sunderman voting 'yes'. This is a recommendation to the City Council.

**MISCELLANEOUS NO. 10002**

**ACTION BY PLANNING COMMISSION:**

May 5, 2010

Lust moved approval, seconded by Larson and carried 9-0: Larson, Esseks, Partington, Cornelius, Taylor, Francis, Gaylor Baird, Lust and Sunderman voting 'yes'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 19, 2010.

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