

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, August 24, 2011, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th 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, Nicole Fleck-Tooze, Brian Will, Tom Cajka, David Cary, Christy Eichorn, Brandon Garrett, Sara Hartzell, 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 acknowledged the posting of the Open Meetings Act in the back of the room.

Sunderman requested a motion approving the minutes for the regular meeting held August 10, 2011. Motion for approval made by Francis, seconded by Partington and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

Sunderman requested a motion approving the minutes for the special public hearing held on the 2040 Comprehensive Plan and LRTP on August 17, 2011. Motion for approval made by Francis, seconded by Esseks and carried 8-0: Gaylor Baird, Cornelius, Esseks, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Larson abstaining.

The next item of business was election of chair and vice-chair for a two-year term. Francis nominated Michael Cornelius as chair, seconded by Esseks and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

Sunderman nominated Wendy Francis as vice-chair, seconded by Esseks and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

August 24, 2011

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

The Consent Agenda consisted of the following items: **USE PERMIT NO. 126C, an amendment to the Wilderness Woods Office Park, and STREET AND ALLEY VACATION NO. 10019.**

There were no ex parte communications disclosed.

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

Note: This is final action on Use Permit No. 126C, 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.

CHANGE OF ZONE NO. 11019
TEXT AMENDMENT TO TITLE 27 OF THE
LINCOLN MUNICIPAL CODE RELATING TO
“ENTERTAINMENT RESTAURANT” IN THE
B-2, B-3 AND B-5 ZONING DISTRICTS AND
PROHIBITING AS PERMITTED USE IN THE
I-1 DISTRICT.

REQUEST FOR DEFERRAL:

August 24, 2011

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

The Clerk announced that the applicant's representative has requested an additional two-week deferral.

Francis moved to defer, with continued public hearing and action scheduled for Wednesday, September 7, 2011, seconded by Taylor and carried 9-0: Taylor, Esseks, Partington, Larson, Lust, Sunderman, Francis, Gaylor Baird and Cornelius voting 'yes'.

**CHANGE OF ZONE NO. 11026,
TEXT AMENDMENT TO TITLE 27
OF THE LINCOLN MUNICIPAL CODE
TO ADD “FARM WINERY” AS A PERMITTED
SPECIAL USE IN THE AG AGRICULTURE DISTRICT.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 24, 2011

Members present: Taylor, Esseks, Larson, Lust, Sunderman, Francis, Gaylor Baird and Cornelius; Partington declared a conflict of interest.

There were no ex parte communications disclosed.

Staff recommendation: Approval.

Staff presentation: **Sara Hartzell of Planning staff** explained that this is a proposed text amendment to add “farm wineries” to the AG Agriculture District within the 3-mile limits of Lincoln. Farm wineries were first identified in 1985 as an agricultural use in Nebraska that could promote the agricultural industry and the economy of small towns, in particular. In 1997, a text amendment was adopted by the County Board to add farm winery to the AG and AGR districts in the Lancaster County jurisdiction. At this time, the owners of Country Pines (former Boss Hogs) at 6305 West Adams, applied for a building permit for a farm winery, finding that there was no provision for farm winery in the 3-mile jurisdiction of the City.

Hartzell reviewed the text amendment which adds the definition to the general definition sections based on the state definition. The provision that 75% of the produce must be grown in the State of Nebraska comes from the state definition, “to encourage the production, use in manufacturing and consumption of agricultural products grown within the state by providing for the existence of farm winery operations.” The provisions allow an exemption from the 100' spacing requirement for expansion of the farm winery, the same as a golf course or country club. The conditions for the special permit require that the farm winery shall not manufacture wine in excess of 50,000 gallons per year (this is language from the state permit provisions). The provisions also provide that a farm winery must produce a minimum of 15% of its product from fruit or other agricultural products harvested from the premises following 5 years of business. That 15% provision came from the County language in 1997, which was adopted at that time for the James Arthur Vineyards. The five year time limitation is because it takes about three years from the time the vines are planted before they actually start producing. At the end of five years, the provisions require a report by the farm winery certifying the percentage of product produced from fruit or other agricultural products harvested on the premises.

Hartzell further explained that the provisions of the proposed ordinance allow the wine produced at the winery to be sold on-site at wholesale or retail; wines produced may be sold at retail for consumption on the premises (open container regulations are covered by

the state licensing requirements); sampling of wine at the winery is permitted in reasonable amounts; the farm winery may sell retail items as an accessory to wine sales; the winery can serve food that is prepared off-site at a Health Department licensed establishment so that the winery does not become a restaurant; the City Council has authority to waive the parking requirements; and the farm winery shall be required to have the necessary license under the Nebraska Liquor Control Act.

Lust understands the 50,000 gallons per year limitation which is set by state statute; however, she wondered where the 15% limit comes from. Hartzell explained that the intent was to maintain the agricultural site of the winery so that it was not just a place to which the grapes were sent. We want the agricultural activity to be going on in that district. Lust wondered whether someone who reported producing 14.5% of the products on the winery site would just be out of the luck.

Hartzell then proposed an amendment to 27.63.810 (b) as follows:

A farm winery must produce a minimum of fifteen percent (15%) of its product from fruit or other agricultural products harvested from the premises following five (5) years of business. Within ninety (90) days following the fifth anniversary of doing business as a farm winery and on an annual basis thereafter, the permittee shall prepare and submit a report to the Building Official certifying the percentage of the farm winery's product produced from fruit or other agricultural products harvested from the premises; or certifying that due to weather or other unforeseen events which caused substantial loss to the Permittee's crop grown on the premises, the available product harvested was below the established minimum of fifteen percent (15%). Upon receipt of satisfactory evidence of such crop loss, the Building Official may grant a waiver of this condition for such year.

Lust noted that the city rules would be different from the county rules if this amendment is adopted. Hartzell clarified that there is no reporting requirement in the county.

Rick Peo, City Law Department, approached suggesting that if there is a violation of the special permit, the Building & Safety Department would report that to the City Council, which could then bring an action to terminate the special permit. It is not automatically shut down. His concern is with the reporting requirement resulting in an enforcement problem down the road. Will we be able to accurately measure the 15% and continually follow up? The 15% requirement is not in the state statute.

Esseks inquired whether the winery may still be in business during the first five years as long as they meet the 75% requirement. Hartzell explained that they would need to meet the 75% requirement to get the special permit, and during that five years it would be assumed that the vines would come into production. Esseks clarified that after the five years, 15% of the produce must be produced on the premises. Hartzell agreed.

Gaylor Baird pointed out that the Commission has recently spent a lot of time thinking about the growth of the city. She wondered whether the staff has confirmed that this type of permitted special use does not cause any potential conflicts with the growth of the city as it moves forward. Hartzell suggested that the 20-acre requirement leaves the land in large enough parcels that development should not be a problem in the future.

Proponents

1. Darrell Stock, attorney for the applicant, appeared to answer any questions. Ben and Nancy Sand are the owners and operators of Country Pines. In their situation, the vines are already planted and are developing as we speak. The five-year phase-in is not an issue to them.

Larson thought that food is prepared at Country Pines. Stock explained that there are several steps in this process. Country Pines is a special permitted community hall, which is separately licensed for liquor. Technically, the liquor statutes are going to require two separate licenses. Country Pines will continue to be operated as a separate operation from the vineyard operation. The winery will not prepare food, but Country Pines will be allowed to continue to prepare food. He believes the Liquor Commission will require separate specified licensed premises for each of the two operations.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

August 24, 2011

Larson moved approval, with the amendment proposed by staff, seconded by Gaylor Baird.

Motion to amend #1. Lust moved to amend to eliminate subsection (b) from 27.63.810, seconded by Francis.

Lust explained that her proposed amendment eliminates the 15% requirement. She does not think it is necessary when there is already a limitation established by state statute that only 50,000 gallons of wine can be produced a year and 75% of what is produced there has to come from the State of Nebraska. She sees no reason to adopt an additional regulatory requirement making sure that 15% of the grapes used in the wine are grown there and why we would adopt further regulating requirements that Building & Safety would have to monitor. There are already limits on the amount of wine so it will not be a distillery, and there is already a requirement that Nebraska products be used in the wine. She also suggested that the staff ask the county to consider eliminating the 15% limitation.

Larson suggested that perhaps that regulation was implemented to keep it from being just a wine producing facility with no vines or no vineyards. He is not opposed to the amendment but there must have been a reason for that language.

Esseks suggested that keeping the 15% encourages the growth and cultivation of vineyards. You don't need that many acres to produce the 15%. He believes that those wineries particularly close to the city are a nice addition and attraction to the community. He thinks we should follow the County model. If we are going to have an agricultural use, it should be producing some of its own grapes, at least in part.

Sunderman agreed with Esseks. The 15% is a good part of this text. He does not want to end up with two different regulations between the city and county. He suggested eliminating the reporting requirement.

Francis concurred that it is going to be hard to keep track of the 15% in the reporting aspect and that puts a burden on the city/county inspectors. That is more work that would be harder to prove. She supports the amendment. She likes that we want agricultural activity on these wineries, but how do you account for the 15%?

Esseks suggested that the 15% is a very small proportion of the likely production of grapes needed for a winery. In the absence of this requirement, he is fearful that there will be no vineyards. The 15% at least guarantees some significant vineyards. He agrees the enforcement is perhaps unnecessary.

Lust asked Esseks if he would support the amendment if it only eliminated the reporting requirements. Esseks indicated that he would.

Taylor believes there is a reason for the 15% and he does not think it is a good time to eliminate it, especially since the applicant is not requesting it. He will vote no on the amendment.

Cornelius stated that by and large he agrees with the opposition to the amendment for the reason that we want to insure an agricultural use and the existence of vines on the premises.

Motion to amend #1 to delete subsection (b) of 27.63.810 failed 1-7: Lust voting 'yes'; Taylor, Esseks, Larson, Sunderman, Francis, Gaylor Baird and Cornelius voting 'no' (Partington declared a conflict of interest).

Motion to amend #2. Lust moved to amend to delete the reporting requirements in subsection (b) of 27.63.810, seconded by Esseks.

Gaylor Baird suggested that the permittee should at least certify the 15% once, and maybe not annually thereafter. Otherwise, does it even matter that we have the 15%?

Esseks also suggested that the enforcement could be through neighbor complaint if there are no vineyards there.

Sunderman indicated that he would prefer having both the city and county text amended at the same time.

Cornelius stated that he is more comfortable with this amendment because it does, through the ordinance, encourage the vineyard to have vines and that is an important part of this application.

Motion to amend #2 to retain the 15% minimum, but to delete the reporting requirements, carried 7-1: Esseks, Larson, Lust, Sunderman, Francis, Gaylor Baird and Cornelius voting 'yes'; Taylor voting 'no' (Partington declared a conflict of interest).

Cornelius believes this is a good addition to the ordinance.

Main motion for approval, as amended, carried 8-0: Taylor, Esseks, Larson, Lust, Sunderman, Francis, Gaylor Baird and Cornelius voting 'yes' (Partington declared a conflict of interest). This is a recommendation to the City Council.

CHANGE OF ZONE NO. 11030
FROM R-2 RESIDENTIAL DISTRICT TO
O-3 OFFICE PARK DISTRICT,
and
USE PERMIT NO. 11001,
TO ALLOW FOR GENERAL AND/OR MEDICAL OFFICE USES
ON PROPERTY GENERALLY LOCATED
AT HIGHWAY 77 AND WEST A STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 24, 2011

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

There were no ex parte communications disclosed.

Staff recommendation: Approval of the change of zone and conditional approval of the use permit.

Staff presentation: **Steve Henrichsen of Planning staff** described the proposal, showing a diagram depicting the location of the subject site located on the north side of West A Street immediately west of Homestead Expressway. There is no other commercial zoning within the proximity of this site; however, he pointed out that West A Street at this location is just an overpass over Hwy 77 with no interchange, and a tremendous amount of the boundary of this site is adjacent to Hwy 77 and is generally at or slightly above the grade of Hwy 77, so there is a fair amount of noise impact to the 3.5 acre site. There is one house on the southwest end. The staff also considered the impact of having an office use on this site. There is a church to the west and to the southeast. The site is not within a

residential district, and the access is solely to the arterial street and West A Street. Thus, in relation to the site and the goals of the Comprehensive Plan, the staff recommends approval of the change of zone request.

The staff is also recommending conditional approval of the associate use permit for three buildings for office use on the site.

Henrichsen noted that the Planning Commission has received one letter in support from the West A Neighborhood Association. The applicant did have a meeting with the neighbors. They would like to have more services and retail out in this area, in particular medical services. The developer was concerned about the cost of the right-hand turn lane as recommended by staff. Staff believed such right-hand turn lane to be appropriate for traffic safety. Subsequent to that meeting, the neighborhood and Public Works were able to work out some revisions to that driveway and both the city and the developer are now in agreement in general about how that right-hand turn lane will be constructed.

Henrichsen also submitted a proposed motion to amend from the applicant, stating that both Planning and Public Works are in favor of the motion to amend, which clarifies that the driveway design will be approved by Public Works with some minor revisions to the design standards. Henrichsen also pointed out that Condition #2.9 should be revised to refer to "...approval of the special use permit has been recorded."

Proponents

1. DaNay Kalkowski appeared on behalf of **Dr. Brad Alderman**, who runs Coddington Dental, providing services to the residents in southwest Lincoln. Dr. Alderman has been actively looking for a site for three years where he can build his own building. It has been difficult to find a site appropriate for commercial zoning in this area. This proposed site is appropriate for an office zone and the applicant is requesting a change of zone to O-3 along with the use permit to allow 11,350 sq. ft. of office and medical office uses. Dr. Alderman would build his building first with the rest of the space available for other users.

Kalkowski went on to state that the intent is to keep this area somewhat transitional, so the conditions of the use permit have some building requirements, the same as in a residential transition district, dealing with the roof and the siding to keep the buildings more residential in character.

Kalkowski advised that the applicant invited the neighbors to a meeting. The plan was originally shown without a right turn lane, and staff requested the right turn lane. There were some concerns because a standard lane ran into some obstacles resulting in a really high cost for this small of a project. They came up with a modified design with Public Works which will allow it to be a little more cost effective. Thus, Kalkowski submitted the motion to amend Condition #2.6 as follows:

- 2.6 Show the location of the requested right turn lane. The turn lane will be constructed at the developer's expense and it shall be constructed in accordance with a design approved by the Public Works Department's standards.

Kalkowski also requested that Condition #2.11 be deleted because it is not necessary. The easements will be shown at the time of final plat.

~~2.11 The required easements as shown on the site plan are recorded with the Register of Deeds.~~

Kalkowski submitted that this is a great location for this type of use.

Larson asked for further information about the right turn lane. Kalkowski explained that it would be a right-in, westbound to northbound right turn lane into the site. When exiting, the traffic would be able to make a left turn. Kalkowski did not believe there would be enough traffic to warrant a traffic light at this location.

Esseks inquired about the height of the buildings with respect to protecting the residential uses to the west. **Tim Gergen of Olsson Associates** believes the O-3 height limitation is 45'. **Marvin Krout, Director of Planning**, stated that he does not believe there is a tremendous compatibility issue.

Esseks noted that the staff report states that most of the property is in the floodplain. How are you dealing with that? Kalkowski advised that the site plan shows a big outlot to the north. If there is some potential to regrade in the future, they may be back before the Commission for a revision. Esseks confirmed that this proposal approves the buildings on the south half of the property. Kalkowski agreed – 11,350 sq. ft. They would have to come back if they develop the north half.

Gergen suggested that it is not a flowing floodplain. It is backed up from Hwy 77.

Support

1. **Deb Vocasek** appeared on behalf of the **West A Neighborhood Association**, and as a 31-year resident of the West A area in support. She expressed appreciation to everyone involved in this project. The West A Neighborhood jumps at the opportunity to get more businesses, especially medical facilities. They are glad that Dr. Alderman is pursuing this and are very much in support. She also expressed appreciation to the applicant for including the neighborhood in the process of the project. The neighborhood is excited about the right-turn lane. She does not believe there is going to be a problem because there just is not much traffic on that road.

There was no testimony in opposition.

CHANGE OF ZONE NO. 11030

ACTION BY PLANNING COMMISSION:

August 24, 2011

Gaylor Baird moved approval, seconded by Francis.

Gaylor Baird agrees that this does have a nice buffer between the highway and residents; it complies with the Comprehensive Plan which calls for compatible infill; it is respectful to residents nearby; and we have the neighborhood association crying out for it.

Taylor likes to see infill in this area.

Francis also believes this is an excellent opportunity for the West A Neighborhood and for this doctor to build some business out there. It is a win-win situation.

Cornelius commented that it is a treat to receive an application where there is support all the way around. He appreciates the cooperation between commercial development and the neighbors.

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

USE PERMIT NO. 11001

ACTION BY PLANNING COMMISSION:

August 24, 2011

Taylor moved approval, with conditions, as amended by staff and as requested by the applicant, seconded by Francis and carried 9-0: Taylor, Esseks, Partington, Larson, Lust, Sunderman, Francis, Gaylor Baird and Cornelius voting 'yes'. This is final action, unless appealed to the City Council within 14 days of the action of the Planning Commission.

MISCELLANEOUS NO. 11004,
TEXT AMENDMENT TO TITLE 26 OF
THE LINCOLN MUNICIPAL CODE
RELATING TO LAND SUBDIVISION
PROCEDURES.

PUBLIC HEARING BEFORE PLANNING COMMISSION

August 24, 2011

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

There were no ex parte communications disclosed.

Staff recommendation: Approval.

Staff presentation: **Brian Will of Planning staff** explained that two of the three changes being recommended by staff are the outcome from a group that was formed earlier this year by the Planning Director, consisting of both public and private sector individuals involved in development review specifically for the purpose of looking at the subdivision process. A series of recommendations came out of that group and a couple of them are included in this proposal in an effort to modify Title 26 (the subdivision ordinance) to simplify and streamline the final platting process.

There are three changes being recommended:

1. The amount of time that is allowed for staff to complete the review and respond back to the applicant after a final plat has been submitted. Currently, the ordinance allows 25 days. This amendment recommends to modify that time to 20 days. In practice, staff believes the 20 days will be sufficient for staff review and comment due to changes to the process and technology. This will allow better service to the development community.
2. The second amendment relates to the form of the final plat. Currently, the final plat sheets are required to be 16 x 22 inches. The group noted the requirement that lien holders sign a final plat. With multiple lien holders in other states, you have this original document potentially going around the country and taking a lot of time to obtain the proper signatures. This amendment would allow those lien holders to sign separate 8 ½ x 11 sheets rather than the original final plat. This will reduce the amount of time to get the final plat recorded. This also allows utility companies to sign separate sheets to release easements.
3. For purposes of housekeeping and clarification, the staff is recommending the deletion of two sections relating to the requirement to submit use permits, special permits, community unit plans and planned unit developments at the time of final plat. The reality is that the final plat is about the last step in the process and there are other sections in the code that require those separate applications to be done. The language is redundant. The same is true for street profiles, which are considered in the larger picture during the preliminary plat, PUD or CUP process.

Francis inquired whether the signatures from lien holders could be done electronically. Will stated that at this time, the city is not doing electronic signatures. The final plat has to have original signatures.

Lust wondered why there needs to be a paper size specification at all. Will acknowledged that issue to have been debated in the past. There are multiple reasons. Without a standard size, it could range from 8 ½ x 11 to something really large. The 8 ½ x 11 standardizes the recording fees. We are allowing the signatures to be on 8 ½ x 11 – we are not requiring it. The signatures can be on the final plat document itself, if so desired. Lust inquired whether they could use 11 x 14, for example. Gaylor Baird suggested that the intent is to make it a simpler, normal size page. Lust stated that she is in favor of the

simplification, but she just wonders why the signature pages need to have a size specification. If you are going to allow a separate acknowledgment sheet, do you care what size it is? Will stated that it is for convenience and it did not appear it would cause any complications. Recording fees are established on the 8 ½ x 11 and 16 x 22, so this proposal fits into the system and will accommodate simultaneous signatures.

Esseks inquired about the release of easements. Will explained that the Commission is not voting for a change in how that is done. This is merely a change to allow a separate sheet other than 16 x 22 to record a final plat. It was part of the larger discussion with the group about easement releases. Typically, easements are not released with final plats, but if you are replatting existing lots and there is an easement that is no longer needed, it is done by a separate process from the final plat. This does not affect that process, although we are discussing and will be attempting to work with the utilities and city staff to do that as part of the final plat. Up to this point, everyone is agreeable, but we have to iron out the details. This will accommodate that.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

August 24, 2011

Larson moved approval, seconded by Francis.

Gaylor Baird believes this is another great example of city government improving its customer service. She hopes developers find that this make the system more amenable and more simple and efficient.

Cornelius commented that perhaps this will ease some of the onerous administrative requirements without changing the ability of the city to regulate what it needs to regulate.

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

**THE DRAFT LINCOLN/LANCASTER COUNTY
2040 COMPREHENSIVE PLAN**

and

**THE DRAFT LINCOLN MPO 2040 LONG RANGE
TRANSPORTATION PLAN (LRTP).**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: August 24, 2011

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

There were no ex parte communications disclosed.

Staff presentation: **Nicole Fleck-Tooze** of Planning staff briefly described what was discussed in the workshop preceding this meeting:

--several comments from the Near South Neighborhood Association relating to redevelopment; the number of dwelling units anticipated city-wide for infill in areas of existing residential zoned land; and concerns about neighborhood pools;

--suggestion for an appendix listing the various task forces and committees that have contributed over the years to the development of the Comprehensive Plan and other plans recognized in the Plan;

--comments received related to importance of strong library system;

--comments from the Mayor's Pedestrian and Bicycle Advisory Committee supporting the vision and goals set forth in the LRTP, noting that the intent to focus on place making, mixed use redevelopment and sustainability supports walking and biking; this group is also in support of Complete Streets and the items in the needs based plan;

--changes to the Neighborhoods & Housing chapter relating to rural areas regarding the strategy for transfer of development rights referring to respecting property rights by compensating owners who agree to the transfers;

--changes relating to the guiding principles as discussed at the August 17th meeting;

--additional changes proposed to reflect some of those suggestions encouraging public investment in neighborhood infrastructure and services; continuing policies that maintain a mix of single-family and multi-family housing and support home ownership and sustainability;

- changes to Parks, Recreation & Open Space relating to neighborhood pools, i.e. renovation of five neighborhood pools to bring in compliance with accessibility guidelines;
- new strategy to consider incentives to encourage higher densities;
- some minor changes for clarification that were proposed for the water elements by Public Works.

David Cary of Planning staff then explained the proposed amendments to the Transportation chapter and the Long Range Transportation Plan (LRTP), all of which have been posted on the Web site, including a summary page which attempts to break down the funding changes that have occurred during the process, with a related list of projects for roadways and a corresponding map.

The newly proposed changes to the draft LRTP and the Transportation chapter of the Comprehensive Plan are a result of the City's budget process that was just completed and adopted on August 22nd. There is an additional influx of 7.1 million dollars for transportation purposes. We are required to have a financially constrained transportation plan. We can only have enough projects and programs funded in the transportation plan related to the revenues coming in.

There is additional funding equating to approximately 2.5 million more per year to put towards existing spending on the capital program for roadways to be newly constructed and paved or to be widened. That will bring up the amount of available funding in 2040 to a higher amount overall, with 15 more capital roadway projects. This additional funding will also contribute to the costs of the South Beltway.

Another major change is that 4.6 of the 7.1 million dollars is specifically going toward street rehabilitation. This gets very close to the 12 million dollar number that was identified in the draft plan released in July. The new funding allows that shift to occur almost immediately as the revenue comes in over the next three years.

We have talked about the sidewalk rehabilitation program as being an important need that is being underfunded. At this time, we are able to get \$500,000 per year, which is what is being spent currently. This is a result of some of the commitments made in the budget process to allocate the new funding toward other items.

Fleck-Tooze also noted a change to the priority growth tiers map to show some additional areas within the existing city limits in northeast Lincoln, in the area of North 84th and Adams and further south as Tier I, Priority A.

Esseks inquired whether the increased funding for road rehabilitation and new construction will result in some improvement in sidewalks. Cary believes that it will because there is going to be increased funding for rehabilitation of existing streets, and there are often times improvements to the sidewalks at the time of that rehabilitation of the street, including curb ramps for ADA and crossings of existing streets. There is an opportunity to do more of the sidewalk improvement in the future with this additional roadway rehabilitation planning.

Cornelius commented that through the process of the LPAC, a needs based projection for what the LRTP would require was developed, i.e. what would be required to meet the transportation needs of Lincoln and Lancaster County as we move forward into the future toward 2040. We identified or determined that the important priority for Lincoln would be maintenance of our existing infrastructure. He is happy we got this windfall, but he is disappointed that we have taken a hit in the already severely underfunded bicycle and pedestrian rehabilitation line item. While small compared to the others, it is underfunded by a greater percentage than any of the others. He is happy that we do have the needs based plan that points out that we are failing to maintain this infrastructure. Where can we look for that funding, and what can we do moving forward to achieve the goals that we identified through the LPAC process? Cary suggested that it is an ongoing process. The Plan is updated on a regular basis. There is also the annual review process that allows opportunity to try to affect that discussion. In the implementation section of the transportation plan, we have added new strategies to say we need to continue the discussion so that we don't forget about it.

Gaylor Baird agreed with Cornelius. She hears a little disconnect – we have to find funding and to have this kind of huge windfall and not have a piece go to something we have identified as important shows that it is not very high on the priorities. She feels very much less confident that there will be money for sidewalks anytime in the future if not a cent of it goes to the bike and pedestrian rehabilitation.

Lust expressed concern about voting on the entire Comprehensive Plan based on the premise that we want denser growth in the city whereby we need to encourage people to walk and get exercise, encourage neighborhoods that are walkable, etc. She is concerned about the fact that we are not providing funding for the very thing that makes that possible. She is worried how that will affect the rest of the plan. This wasn't just about, "should we fund sidewalks". This is an overall Comprehensive Plan. We started with the premise that people want denser growth and new urbanism. She suggested that under-funding the rehabilitation of the pedestrian system that we have by a factor of five is going to have a significant detrimental effect on the overall plan that the Commission will be asked to voted upon in a week.

Public Testimony

1. Jon Carlson offered congratulations to the new chair and vice-chair, and expressed appreciation to Lynn Sunderman for his services as Chair.

Carlson stated that he is here to speak based on the feedback, calls and comments he has received from different neighborhood associations through his various roles with the city. He is excited about the plan and the components of the plan keeping the center of the city vital and the center of downtown strong.

Carlson believes that most of the comments raised by the Near South neighborhood individuals have been addressed by the changes that have already been recommended by the staff, but there are three left:

- 1) the notion of “obstacles to redevelopment”;
- 2) reducing size of the planned unit development (PUD); and
- 3) the 1,000 infill units called for in the plan in existing neighborhoods.

Obstacles to Redevelopment. Carlson understands there was a long process to identify issues. But the feedback he gets from neighborhoods is that they are seeing a draft plan that contains bullets that indicate to them that neighborhoods represent an obstacle or obstruction or that neighborhood associations are somehow not valuable. He knows that is not what the plan is trying to communicate, but the majority of the neighborhood associations are not satisfied. He acknowledged that staff has made some changes to this section but perhaps there needs to be an additional section based on neighborhood brainstorming exercises. Carlson suggested that at some point, it seems like we can work too hard to try to fix what is not really a problem. Carlson suggested that the section labeled “obstacles to redevelopment” should be removed from the plan. The strategies can continue to exist. There is no other section that has the comments of a few constituents. The strategies are in there and can live independent of the individual comments that the neighborhoods find offensive.

Esseks agrees that the current language needs to be changed, but it may be healthy to have a section on obstacles so that we are frank with ourselves and our community that there are obstacles that have to be dealt with. Esseks proposed rewording in such a way that no group has been slighted but that we do realize there are economic and political obstacles.

Carlson stated that he did try to rewrite the section but it doesn't make it any better. The strategies are the important part.

Larson stated that in looking back on all of the discussion and actions we have had in the last two to three years about density, including the move to downzone so many of the neighborhoods, he believes that he was mistakenly thinking that neighborhoods were opposed to additional density when actually what they were opposed to was additional density with poor design. He wishes there was some way to strengthen the design standards and make that part of the Comprehensive Plan. It is not the number of people, but the design standards of the new infill development. Carlson agreed. The strategies that follow cover that.

But, Sunderman does not know what it means if the strategies remain in place and the obstacles of redevelopment are removed. Carlson suggested changing it to “Strategies for Encouraging Redevelopment.” Sunderman thinks the obstacles are real and need to be addressed. There are reasons developers work on the fringe, and that is because it is easier and more predictable. The concerns of the developers (the people who will be working on increasing our density) need to be addressed. Carlson agreed, but he suggests that the way they are addressed are by the 20+ strategies that follow. Sunderman disagrees. He thinks the obstacles need to be put on the table. He is talking about unpredictability.

Gaylor Baird suggested achieving both goals by adding a short summary instead of bullets, i.e. that we have heard that the cost of land assembling, lending practices, zoning issues and consensus-building are challenges. In other words, discuss strategies without making it look like a list of complaints as opposed to a quick study on the issues.

Larson also suggested that the plan recommend consideration of the impact fee structure based upon the actual cost to the city for whatever infrastructure costs come about from this. He can see that a developer probably doesn't put too much more time into a 20-unit development on the edge than he does to one vacant lot development in the inner city, and the cost to the city is hardly anything for the infill but considerable for the development on the edge. This could be another incentive for developers. Cornelius pointed out that this issue is bulleted in section 6. Larson thinks there is an injustice there that needs to be looked at.

Cornelius asked Carlson to respond to the rewording that staff has proposed. Carlson stated that he appreciates that and it encouraged him to sit down and try to do more rewording and he eventually got to the point where he was working it to death. Cornelius wondered how Carlson felt about removing the main heading about obstacles and suggested “strategies for encouraging infill or redevelopment” with a short paragraph about the obstacles. Carlson would like consensus-building there as opposed to obstacles.

Taylor stated that he has problems with the idea of projecting the problem without solutions. That should be part of the process. Cornelius pointed out that the strategies include the solutions. Taylor thinks the process should be reversed.

Reducing the size of Planned Unit Development. Carlson pointed out that prior to 2004, the PUD was basically never used. It existed but it was very highly regulated. In 2004-05, the regulations were liberalized and essentially we created a “write your own zoning overlay” to facilitate some creativity. He recalls the discussion was to try to make sure there was a minimum size to provide enough space to make the creative solution work, but also to try to direct and make sure we weren't creating an end-run around zoning. The language “consider reducing” makes sense. The plan itself is meant to give guidance for future action and this notion about reducing the size of the PUD is going to take some discussion to include more neighborhood individuals and more developers. Carlson

believes that “reduce” the size of the PUD creates a mandate. “Consider” reducing the size of the PUD says this is a tool we want to look at.

Lust wondered about removing the word “consider” throughout that page because it seems when we are talking about strategies, that’s what we are doing (considering). None of these things are going to be done for sure. There are a lot of things in here that are out of our control, such as building and zoning fees. Given that this is a strategy section, Lust believes it would make more sense to eliminate any kind of fuzzy language.

1,000 infill units. Carlson stated that he applauds the Planning Department because early on they understood immediately that neighborhoods would be very interested on “where it is and how will it look”. There has been a lot of attempt to be very specific, i.e. we don’t mean tearing down houses. The development is intended to be on vacant lots and accessory dwelling units. The neighborhoods understand that, for the most part, but Carlson relayed the comment he has heard and suggested that the only way it can work is if this Planning Commission and future Planning Commissions really do honor the plan to the extent that that notion of these 1,000 infill units is closely tied to the idea of design standards. He wants to create a plan that gives guidance that will say, “here is what the plan meant and here’s where it meant.” We have done a lot of work to create design standards that will build the product and make it appropriate. We need to be able to tie the dwelling units to tough, tight design standards. The infill needs to enhance the neighborhood.

Lust noted that the staff has revised some of the language about existing neighborhoods and infill and wondered whether Carlson thought it was strong enough. Or does it need to be even more tied to well designed and appropriately placed dwelling units? Carlson stated that the Comprehensive Plan has that interesting tension between “the plan is viable” and “the plan is a guide.” It should not include the exact standard and the exact design specification. Alluding to “well designed” and “appropriately placed” is the key. He does not know how much is enough.

Gaylor Baird asked the Planning staff to take one more look at tightening the linkage between redevelopment and infill in existing neighborhoods and the importance of design standards. She agrees that it is important to older and established neighborhoods. She would like to see language that links them more closely without changing the 1,000 units.

There was no other public testimony.

The Chair reminded the public that there is additional hearing taking place at the end of the Planning Commission’s regular meeting on Wednesday, September 7th, which begins at 1:00 p.m., followed by action on the draft Plan and the draft LRTP also on September 7th.

Cornelius then expressed his personal appreciation to Lynn Sunderman for his service as the chair, and that he appreciates the confidence of the Planning Commission members in electing him as the new chair.

There being no further business, the meeting was adjourned at 2:50 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 24, 2011.

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