

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 3, 2013, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Michael Cornelius, Tracy Corr, Chris Hove, Jeanelle Lust, Dennis Scheer, Lynn Sunderman and Ken Weber (Wendy Francis absent); Marvin Krout, Steve Henrichsen, Brian Will, Sara Hartzell, Paul Barnes, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Michael Cornelius called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Cornelius requested a motion approving the minutes for the regular meeting held March 20, 2013. Motion for approval made by Lust, seconded by Hove and carried 5-0: Gaylor Baird, Cornelius, Hove, Lust and Scheer voting 'yes'; Corr, Sunderman and Weber abstaining; Francis absent.

There was no Consent Agenda.

There were no Requests for Deferral, except by staff on County Special Permit No. 13011 (see below).

COUNTY SPECIAL PERMIT NO. 13011
TO ALLOW A TEMPORARY MOBILE HOME
ON PROPERTY GENERALLY LOCATED AT
N.W. 112TH STREET AND W. ROCK CREEK ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 3, 2013

Members present: Scheer, Lust, Hove, Weber, Gaylor Baird, Corr, Sunderman and Cornelius; Francis absent.

There were no ex parte communications disclosed.

Staff recommendation: Conditional approval and deferral, with continued public hearing and action on April 17, 2013.

Staff presentation: **Paul Barnes of Planning staff** explained that this is a request for a special permit to allow for a temporary mobile home to be occupied during construction of a permanent residence located on approximately 20 acres on N.W. 112th Street near W. Rock Creek Road.

The County zoning resolution does allow for the temporary structure to be located on the site for a period of up to three years (which time limit is included in the resolution) or within 30 days of receiving the occupancy permit for the permanent structure. The applicant has stated that the temporary structure will be used for approximately 18 months. The well and septic system on the site will need to be approved by the Health Department prior to occupancy of the mobile home.

Barnes explained that this application needs to be continued to April 17, 2013, due to notification requirements the staff was unable to meet. The adjacent counties that are within three miles of the subject property are required to be notified and a legal ad published in newspapers in those counties. Those newspapers do not publish daily and this application was accepted after the filing deadline, thus the need to defer action on this application for two weeks.

Lust moved to defer, seconded by Corr and carried 8-0: Scheer, Lust, Hove, Weber, Gaylor Baird, Corr, Sunderman and Cornelius voting 'yes'; Francis absent.

Proponents

1. **Ben Hain**, the applicant, stated that he and his wife currently live near Weeping Water, but they will close on their house sale in about a week so they are trying to move to this land, which they own and upon which they would like to start farming. The special permit is needed because it takes longer to build a house than it does to close on a house sale. They want to live on the property in the mobile home until the permanent structure is built. Hain believes that this request is in accordance with sound planning because the permit is allowed for up to 3 years and he is only asking for 18 months, and with good fortune it may be less than that. He is currently working on the septic and well permits.

There was no testimony in opposition.

This application will have continued public hearing and action on April 17, 2013.

SPECIAL PERMIT NO. 13012
FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES
FOR CONSUMPTION ON THE PREMISES OF A
RESTAURANT ON PROPERTY GENERALLY LOCATED
AT SOUTH 50TH STREET AND “O” STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 3, 2013

Members present: Scheer, Lust, Hove, Weber, Gaylor Baird, Corr, Sunderman and Cornelius; Francis absent.

There were no ex parte communications disclosed.

Staff recommendation: Conditional approval

Staff presentation: **Brian Will of Planning staff** indicated that this application would typically be on the consent agenda because there are no issues or concerns; however, the Commission does not see very many of these alcohol permits associated with a restaurant so the staff wanted to take this opportunity to discuss and point out the distinctions.

The property is located in the strip commercial center located southeast of the intersection of South 50th Street and “O” Street, for a Noodles Restaurant located in the western approximately one-quarter of the existing building. Typically, a special permit for alcohol is allowed in commercial, industrial, B, H and I zoning and normally requires a 100 ft. separation from any residential zoning district, residential on first floor, day care facility, state mental health institution, etc. However, a few years ago, some additional regulations were adopted essentially providing unique conditions that apply only to a restaurant. If the alcohol special permit is associated with a restaurant, the 100' separation is reduced down to 25'. In this case, there is H-2 along the north and R-2 on the south and it would not meet the typical 100' separation requirement; however, it does meet the necessary separation requirement since it is a restaurant.

Another distinction is that the liquor special permit must meet the parking requirements of a restaurant, which in this case it does. This application meets all of the requirements for on-sale and the reduced separation requirement for a restaurant.

Corr inquired how much distance there is between the park located to the south and this property. Will did not have the exact measurement but he believes it is well over 100 feet – perhaps 150' if not 200'.

Corr inquired whether there has been any conversation between the Witherbee neighborhood and the applicant. Will advised that the Planning Department would have sent notice to the surrounding property owners within 200 feet as well as any neighborhood and/or homeowner associations on record, and there has been no

comment or response. Corr believes it is important and wants to encourage businesses to include neighborhoods in their application processes.

Proponents

1. **Bruce Duncan** appeared on behalf of Noodles & Company and assured that as a business, this restaurant is not a destination point for people going out for drinks. Their alcohol sales are below 20% of the restaurant food sales. It will be wine and beer only.

Corr stated that she is excited to have this restaurant at this location. It is a good location and this part of O Street needs to be revitalized a little bit and she thinks this will help.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

April 3, 2013

Lust moved to approve the staff recommendation of conditional approval, seconded by Hove.

Cornelius agreed with Corr. This seems like a good location, and as pointed out by staff, it easily meets the requirements of the special permit.

Motion for conditional approval carried 8-0: Scheer, Lust, Hove, Weber, Gaylor Baird, Corr, Sunderman and Cornelius voting 'yes'; Francis absent. This is final action, unless appealed to the City Council within 14 days.

There being no further business, the meeting was adjourned at 1:15 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on April 17, 2013.