

## MEETING RECORD

**NAME OF GROUP:**

PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:**

Wednesday, March 5, 2014, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:**

Cathy Beecham, Michael Cornelius, Tracy Corr, Chris Hove, Jeanelle Lust, Dennis Scheer and Lynn Sunderman (Maja V. Harris and Ken Weber absent); Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, 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 Jeanelle Lust called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Lust requested a motion approving the minutes for the regular meeting held February 19, 2014. Corr moved approval, seconded by Hove and carried 5-0: Beecham, Corr, Hove, Lust and Sunderman voting 'yes'; Scheer abstaining; Cornelius absent at time of vote; Harris and Weber absent.

There was no Consent Agenda.

**COMPREHENSIVE PLAN CONFORMANCE NO. 14003,  
AMENDMENT TO THE NORTHWEST CORRIDORS  
REDEVELOPMENT PLAN TO IDENTIFY THE  
"AIRPORT ENTRYWAY CORRIDOR" PROJECT.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 5, 2014

Members present: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust; Harris and Weber absent.

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

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of the Urban Development Department,** explained that this is a request to find the declaration of surplus property to be consistent with the Comprehensive Plan. There are three aspects: 1) that the projected entryway

corridor plan be specifically identified in the Northwest Corridors Redevelopment Plan as part of the authorized tasks and functions in that plan; 2) to make a slight boundary adjustment in that corridor to include some city-owned right-of-way between this area and Downtown Lincoln; and 3) to specifically recite that the City is authorized as part of this redevelopment area to purchase the blighted structures that might be there to prepare them for redevelopment. The most critical element is the delineation of this entryway corridor project as being specifically authorized by the redevelopment plan.

Landis went on to state that the redevelopment plan already provides language that is quite consistent with the Comprehensive Plan, but not as detailed as the language now being offered. Today we are being more specific by targeting and identifying the project.

As far as consistency with the Comprehensive Plan, Landis referred to page 4.3, reciting "Major entryways to Lincoln including Interstate 80 and its exits (especially I-180), Highways 77 and 34 from the north, Cornhusker Highway from the east and from the Airport on the west." The Comprehensive Plan goals include maintaining a welcoming atmosphere in these locations.

Michael Cornelius arrived.

Landis then showed renderings of the concept plan for the entryway corridor project. There are plans to execute, including an endowment to allow for its continued maintenance. There is a street construction portion and then the landscaping portion totaling about 9 million dollars. Actual construction is 7.4 million with 5 million being street construction.

Landis also stated that the area being added to the district includes city right-of-way around the highway between Haymarket Park and Antelope Valley.

Hove inquired why the redevelopment area widens out so far from Cornhusker Highway to the south. Landis explained that the area is in a TIF district and found to be blighted. When the district was created in 2006, that was part of the study area. If you are looking for resources, you want to have housetops and you want to have businesses in it because it generates the resources to allow you to do that. The most critical reason is that it is a blighted area.

Beecham inquired whether there are any historic buildings in this blighted area. Landis does not believe so. He is not aware of any and this application has been reviewed by several departments and it has not come up.

Beecham inquired about the plans for plantings on the medians, given the drought we have experienced. **Nicole Fleck-Tooze of the Parks and Recreation Department** stated that the plantings will be primarily native, stylized prairie plantings in an intentional design. There is an irrigation system built into the project for sustainability over time.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

March 5, 2014

Scheer moved to approve a finding of conformance with the Comprehensive Plan, seconded by Beecham.

Lust believes this looks like a good project for the city. It is nice to have our entryway corridors welcoming to the city showing off what we do have, and it looks to be a great improvement in the area.

Motion for a finding of conformance with the Comprehensive Plan carried 7-0: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust voting 'yes'; Harris and Weber absent. This is a recommendation to the City Council.

**COUNTY CHANGE OF ZONE NO. 14001,  
FROM AG AGRICULTURAL DISTRICT TO  
AGR AGRICULTURAL RESIDENTIAL DISTRICT,  
and  
COUNTY PRELIMINARY PLAT NO. 14001,  
MUELLER ADDITION,  
ON PROPERTY GENERALLY LOCATED  
SOUTH OF ROCA ROAD ON 72<sup>ND</sup> STREET.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 5, 2014

Members present: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust; Harris and Weber absent.

Staff recommendation: Approval of the change of zone and conditional approval of the preliminary plat.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** explained the two related applications at about S. 72<sup>nd</sup> and Roca Road, about 2 miles north of Hickman. As far as the change of zone from AG to AGR, the property is shown as future low density residential in the Comprehensive Plan. In addition, in looking at cluster zoning, there are several factors reviewed to make sure the land is suitable for AG residential zoning:

Paved roads – Roca Road is paved as well as 68<sup>th</sup> Street one-half mile away.

Water supply – well water in this area is a little spotty; however, Rural Water District #1 and Lancaster County have reviewed this plan and indicate that the rural water district will provide water to this property and the district engineer finds the plans to be acceptable.

Soil conditions for onsite wastewater -- the proposal meets the Health Department requirements for either lagoon or septic.

Emergency services -- this property is about 2 ½ miles away from the Hickman Volunteer Fire Station and on a paved road. It is comparatively close when out in the county.

Agricultural productivity -- there is only a very small area that is shown as prime farm land in this proposal; however, it rates 7 on a scale from 1 - 10 when looking at the property as a whole.

General parcelization of the land surrounding -- the land immediately west and south is all AGR zoned and it is broken into acreages. In addition, across 68<sup>th</sup> Street catty/corner from this property there are over 200 acres of land also zoned AGR that is either in development or already built out as acreages.

Plans for future development -- this property is not in any of the tiers for the City. Hickman zones one mile beyond their city limits and this does not fall into that 1-mile area; however, Hickman also looks at an additional mile beyond, and they show this area in their Hickman Horizon plan as low density residential.

With regard to the preliminary plat, Hartzell noted that there is an existing dwelling, outbuilding and an airstrip nearby which is not part of this request. A family airstrip is a conditional use in the AG district, but staff looks at the approach zones and on the side of the runway there is a lateral transition zone with a 7:1 slope. That area needs to stay clear of all buildings. When they split the house off they identified the lateral transition slope. The slope line is 35'. There is an agreement filed with the Register of Deeds that restricts buildings in that area. The conditions of approval require that this information be made part of the notes on the plat.

Hartzell then discussed the road connections. The original layout showed the connection to an existing road called "Natney", with a connection down to S. 72<sup>nd</sup> and S. 75<sup>th</sup>, and they are making those connections; however, there was no connection to the east leaving a block length over the requirement. Since the staff report was written, a revised site plan has been submitted showing the connection to the east that meets the block length requirements.

Hartzell also pointed out that there is a road named "Harley Road" running along the southern part of the property. There is already a "Hartley Road" in Lincoln, so for safety

and for 911 purposes, the staff is requesting that they select a different name so that it is not so close to another street name.

Hartzell noted that the conditions of approval request that a label be placed on the small outlot up in the corner of the property indicating the purpose of that outlot. She believes it is intended to be transferred to an adjacent landowner.

Hartzell advised that the Commission did receive one letter from an adjacent landowner who owns property touching the southeast corner of this request and they were in support of the project. The Commission also received a letter from property owners owning the seven acres in the northwest corner with concerns about water and what this might mean for the airfield. Hartzell explained that the existing condition is that up to four unrelated abutting property owners touching the airfield would be allowed to use the airstrip; however, the airstrip is not a conditional use in the AGR zoning district. With the transitional slope, a couple of the lots will be very difficult to build upon until that transition slope is removed. In staff's opinion, it does not appear that there will be any increase in air traffic as a result of this application.

Beecham wondered about the ramifications of the eastern road if we have an airstrip right there. Hartzell would assume that as long as the airstrip is being used, they will probably not extend or subdivide that property further. So until that is subdivided there would not be any reason to continue that road outside this area. If someone beyond this area tried to do some development, we would want to make sure there are some proper alignments for a proper connection. Beecham then asked whether the slope line precludes building a road to the edge of the property. Hartzell responded that the transition slope line specifically addresses buildings; however, the language in general is that you have to clear all roads by a height of 15 feet.

Proponents

**1. Matt Langston of ESP** appeared on behalf of the owners, suggesting that this proposed development is a mirror of the properties to the south and to the west. It is also indicative of the intent of Hickman for this area. The change of zone makes it the same as adjacent properties. With regard to the concerns with the preliminary plat with regard to increased traffic for the airstrip, Langston pointed out that it is now licensed as a private airstrip so the public cannot use it and the applicant has no intent to change that condition. As far as the water pressure concerns, Langston stated that he talked with the rural water district and there had been water pressure issues in the past with the 6" water main; however, last summer they completed a parallel 8" main so there is more than adequate water supply as well as being able to loop the system to connect dead-ends.

Lust confirmed that there are no plans for any of these acreages to develop their own airstrips. Langston agreed. That is why the farmstead split was done – to split that parcel with the airstrip off.

Testimony with concerns

1. **Brenda Merry**, 16701 S. 75<sup>th</sup> Street in Hickman, and **Laurie Hovendick**, 17201 S. 75<sup>th</sup> Street Court in Hickman, appeared together, stating that they are not in opposition to this development, but as homeowners in this area they would like some clarification as to where the roads will be located as well as their large concern with the rural water. Merry has lived there over 20 years and testified that there is an issue with the water. She has contacted rural water several times over the years and there are times when they cannot fill the washing machine. What is going to happen when there are an additional 16 homes?

Hovendick wanted clarification as to what infrastructure is going to be in place. What roads will be paved? How will the extension of the road impact their property? Their properties are at the end of that water line on 75<sup>th</sup> Street. They accept that they do meet the minimum requirement but when the sprinkler systems are run in the summer, there are times that they cannot shower and run a washer at the same time. She also wondered whether there is a plan to widen 68<sup>th</sup> Street as it is well-traveled by the Norris community and this will add 16 more homes plus the acreages off Roca Road. You cannot see cars coming from the north.

Staff questions

Lust asked staff to address the concerns raised by the neighbors. Hartzell explained that looping means connecting dead-ends, so it could be that some of the difficulties with the water are due to dead-end water lines in those existing developments. The new property coming in would complete that circle by looping.

Hartzell clarified that the vast majority of the 200 acres on the northwest corner is already developed; there are only 40 acres left that have not been developed with only 2-3 units yet to go in. There will be an additional 13-14 units in that area.

Beecham inquired about the hill and the road, and whether staff is concerned about traffic. Hartzell responded, stating that both Roca Road and 68<sup>th</sup> Street are paved; Roca Road has stop signs; there is a flashing yellow light on that corner and she understands there have been traffic issues at that corner in the past. She was not familiar with the grade of 68<sup>th</sup> Street to the north of Roca Road.

**Pam Dingman, County Engineer**, appeared and stated that she would be happy to visit with the residents about traffic conditions in that area. As we continue to develop on the urban rural fringe, we end up with a lot of traffic issues. The county does constantly monitor and take traffic counts.

Response by the Applicant

Langston explained the looping system on the map. Attaching to the main along Roca Road will boost the water pressure quite a bit and alleviate the problem they are currently having.

**COUNTY CHANGE OF ZONE NO. 14001**  
**ACTION BY PLANNING COMMISSION:**

March 5, 2014

Beecham made a motion for approval, seconded by Cornelius.

Cornelius sees land that is surrounded by AGR, which is a pretty good indicator that this property should also be AGR. And the Comprehensive Plan indicates that this is intended to be rural low density housing, which is the intended use.

Lust commented that it seems like a good use in the area and an appropriate area for locating acreages in the county.

Motion for approval carried 7-0: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust voting 'yes'; Harris and Weber absent. This is a recommendation to the Lancaster County Board of Commissioners.

**COUNTY PRELIMINARY PLAT NO. 14001**  
**ACTION BY PLANNING COMMISSION:**

March 5, 2014

Cornelius made a motion to approve, with conditions, seconded by Hove.

Cornelius suggested that the primary objections that have been raised have been about the use of the airstrip and the availability of water. We have heard from both the County Engineer and the developer that the water situation should be improved by changes to the system, and there is no plan for any future residents to have use of the existing airstrip.

Lust also believes that the concerns that were raised by the neighbors have been adequately addressed by both the applicant and staff.

Motion for conditional approval carried 7-0: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust voting 'yes'; Harris and Weber absent. This is final action, unless appealed to the Lancaster County Board of Commissioners.

**COUNTY SPECIAL PERMIT NO. 08021A,  
TO AMEND THE EXISTING HISTORIC PRESERVATION  
SPECIAL PERMIT TO EXPAND THE ASSEMBLY AREA,  
TO ALLOW A BED AND BREAKFAST AS AN EXPANDED  
HOME OCCUPATION AND TO SHOW RECREATIONAL USES,  
ON PROPERTY GENERALLY LOCATED AT  
SOUTH 148<sup>TH</sup> STREET AND VAN DORN STREET.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 5, 2014

Members present: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust; Harris and Weber absent.

Staff recommendation: Conditional approval, as revised on March 3, 2014.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** explained that this is somewhat of a unique and complex application. There are two current special permits on the area shown, including a historic preservation special permit on the property described as Lot 8, IT, with the relocated Leavitt House that used to be on the corner of 70<sup>th</sup> and O Streets. It was moved some time ago to this rural setting and given a historic preservation special permit for a bed and breakfast (B&B). There is a barn on the property as part of the historic preservation special permit approved for 1500 square feet of assembly area and 700 square feet of retail space. There is also a relocated cottage which is the old farm house which was relocated as part of the B&B operation. In total, the existing special permits allow 8 B&B suites and 2 dwelling units. There are currently 6 B&B suites in the house and the cottage is a single-family residence.

The barn has been a difficulty in the conversion process. The original plan was to have the loft of the barn be the assembly area, taking people up to a second floor, but getting fire protection, bathrooms, etc., has been a real challenge. As part of this conversation, the plans have been changed and the barn will be remodeled so that the lower floor will be the assembly area, with an increase of the square footage up to 3600 square feet, 700 of which may be used for retail. That would essentially be the main floor of the barn. The State Fire Marshall and Building and Safety have both reviewed the plans and given preliminary approval.

Hartzell further explained that this is a dual special permit request in that there is an additional request for an expanded home occupation, which is only available in the county, allowing us to take home occupations which are a conditional use and expand them to make them bigger and allow two employees, more outdoor square footage, etc. This is also a request to use an existing cabin on Lot 1 of Prairie Creek Estates 1st Addition for 2 B&B suites. The residence that is part of the home occupation would be on Lot 8, either in the Leavitt House or the cottage. The cabin would be used strictly for B&B suites.

The request also seeks to use the trails in the wooded area along the waterways. Hartzell clarified that the special permit for the Prairie Creek Estates Community Unit Plan allows for walking on those trails. There are two areas – one south of Lot 8 where there is native prairie and one out in front of the cabin. These two areas are the popular wedding sites.

In summary, Hartzell stated that the request before the Commission today is to expand the square footage of the barn used for assembly to 3600 square foot, 700 of which may be used for retail; to include the expanded home occupation for 2 B&B suites on Lot 1; to clarify the use of the wooded areas for trails; and to show the two wedding ceremony areas in Outlots A and B of Prairie Creek Estates.

Hartzell also pointed out that the regulations for historic preservation permits include a list of criteria (See Analysis #11 in the staff report). The Historic Preservation Commission reviewed this application on February 20, 2014, resulting in a favorable review finding the suggested changes to be very in keeping with the barns of that era and the lean-to style would be acceptable with no negative impact on the Leavitt House.

Because of the increase in square footage from 1500 square feet to 3600 square feet, the staff is suggesting an attendance cap of 300 to avoid impacts on 148<sup>th</sup> Street, which is our busiest county road. Parking is shown at 65 stalls, two of which are on pavement for handicap and the rest of which are right off of the drives. The requirement is for 49 spaces so they are showing adequate parking. The applicant would also be allowed to acquire an amusement license from the County Board for up to four larger events of up to 500 people per calendar year.

Hartzell also pointed out that the County Engineer is suggesting some changeable message signs for traffic control purposes.

Hartzell advised that the issues raised by the Health Department have been addressed.

With regard to the expanded home occupation, Hartzell clarified that no more than two persons that are not living in the home can be employed in the use of that expanded home occupation. The cabin is the expanded home occupation area. The parking for the cabin would require 2 stalls and they are showing 4. This special permit is for the use but the applicant is required to get all other appropriate permits.

Hartzell submitted proposed amendments to the conditions of approval as follows:

Amend Condition 1.9 to read “Add Historic Preservation Note 2 “Events are limited to 300 or fewer attendees, except that up to 4 events per calendar year of up to 500 attendees may be allowed through the Lancaster County Amusement License process.”

Amend Condition 1.10 to read “Add Historic Preservation Note 3 “Special Event are to be held within the area of the Historic Preservation Special Permit (Lot 8 IT). Wedding ceremonies which are accessory to a special event may be allowed in the areas shown on the site plan near the pond and south of Lot 8 I.T.””

Add Condition 1.15 “On the site plan, show the areas south of Lot 8 I.T. within the native prairie and on the shore of the pond southeast of the Cabin which are to be used for accessory wedding ceremonies.”

Lust does not understand why the area for the wedding ceremonies needs to be specifically designated. Hartzell explained that the area of the wedding ceremonies must be associated with the historic preservation part of the special permit. The rule is that you must show some kind of association with a historic structure or site. The cabin has no relationship to the Leavitt House. The wedding ceremony held at the pond doesn't have any association other than being accessory to a reception being held in the historic preservation permit area. The expanded home occupation regulations do not have big assembly type uses. It allows the B&B but not the weddings out by the pond.

Lust then wondered if there is a reason that the ceremonies or events are limited to weddings. Couldn't you have a family reunion by the pond? Hartzell stated that they can have any type of gathering. It is not limited to weddings. We are just clarifying it because the applicant stated that the two primary sites would be used for the weddings. Only wedding ceremonies can be held at the pond area. You cannot have a family reunion at the pond. It would have to be in the special event area. We don't want to expand the area of the historic preservation permit to cover the entire 126 acres. If the Leavitt House had always been the main house for that farm, that might make it a historic farm. Only the immediate area of the Leavitt House can reasonably be called historic. The historic preservation special permit is the only tool that we have to allow these gatherings.

Lust still does not understand why we can allow wedding ceremonies at the pond but not family reunions. Hartzell attempted to clarify that the wedding ceremony is accessory to the special event, which is the reception happening in the barn.

Corr asked if they could use the cottage as a B&B facility. Hartzell agreed that they do have two more B&B suites if they convert the cottage into two suites. Eight of the B&B suites are through the historic preservation special permit and two are through the expanded home occupation.

Proponents

**1. Bruce Stahr, Nebraska Prairie LLC d/b/a Prairie Inn**, testified as the owner and applicant. In response to previous questions, Stahr affirmed that the applicant does care very much what events are allowed to be held on the property and he would be very

interested in the flexibility to add things. Stahr believes that he has done everything he can to work with everyone, and at many points, he has felt severely curtailed as to what he is going to be allowed to do on the property for and with the guests. This is a restriction that he has accepted but he is not happy with it.

With regard to expansion of the B&B, Stahr purchased the 160 acres in 2002 to put the Leavitt House on and create a B&B. It is a 6-acre homestead parcel only because he needed a homestead parcel, but it is effectively the whole quarter section minus the Prairie Creek Estates development. In 2003 he did move the house. In 2003-04, he took drastic measures to save the original farm house and the barn from falling apart. He worked a couple of years on the barn and fixing up the Leavitt House. He moved into the Leavitt House and worked it as a B&B and it took two years to get it approved.

In July 2010, Stahr opened the Leavitt House as the B&B. They have entertained about 135 people on tours; 4,000 as overnight guests, and 6,000 to 8,000 on weddings and special events. They have had much more success than planned.

In December of 2012, Stahr applied for a building permit for the barn and attempted desperately to improve it as is, with two building principles – maintain all historical characteristics of the barn and maintain dual usage of the structure so that it could include a workshop and place for the horses. Stahr stated that he ran into a lot of problems throughout the past year and as of December 18, 2013, he was still attempting to make that plan happen. However, the permit was denied again by the Fire Marshall, and within 7 days he had to complete a new plan reflecting what is before the Commission today. On January 13, 2014, the architect submitted a complete set of plans, and by February 4, 2014, ESP had completed an official site plan.

Stahr stated that he is thankful for the opportunity to expand and to serve in Lancaster County and the Lincoln area as a business. Stahr believes that tourism is an important part of Nebraska's produce and he maintains a very unique property in that it represents the two main incomes for the State of Nebraska – agricultural income and tourism. He wishes to continue to maintain the rural feel and support tourism, in addition to prime appealing sites for weddings, family reunions and other special events. This will benefit the county significantly with the tax base he has created. The property is now valued at just under four million dollars on the tax rolls and will be over five million with three more houses being built.

Beecham expressed her appreciation to the applicant for saving this house. She inquired whether the farm house is part of the historic preservation area. Stahr advised that officially, for important reasons, he and his family are the residents of the Leavitt House. He also has the right to live in the cottage house as well as the cabin, which they sometimes do. The cottage house is the original farm house and designed to have two B&B suites.

Beecham referred to some concern raised about a rock concert being held on the property. Stahr stated that it was a member of the Planning Department. Stahr confirmed that any big event of that nature will be on the historic site with a tent, the prairie area and/or the barn. There will be no big impact on any other part of the property.

Hove inquired whether the applicant has had any complaints from any neighbors. Stahr stated, "absolutely none." He believes the neighbors are all very happy with his work. He is president of the homeowners association and has shared this plan with the members of the association.

Hove asked the applicant what rules he would change if he could. Stahr stated that there are many restrictions and he has moved along somewhat hampered just to get it done. He would like be able to do things on the farm land for his guests and with the guests, e.g. hayrack rides or sleigh rides. He has a little buggy that could be pulled by a horse. As literally stated, he will not be able to do those things.

Stahr stated that his other concern is the signage proposed by the County Engineer for events of over 200 people. He believes the number is arbitrary, but if he has 200 people at an event, he will be forced to produce and use changeable message signage that is of significant cost. Stahr submitted that this type of sign is used most frequently on high density urban freeways for roadway and ramp closures, incident management, speed control reductions, warnings of adverse conditions or "special events" (which Stahr acknowledged applies). However, there are seven or eight conditions where these signs are otherwise used which are not applicable to his use, e.g. conveying complex message for conditions ahead; provide decision making information; speed of vehicular traffic expected to drop; queuing and delays; adverse engineering conditions; crash or incident management; changes in road use or pattern occurrence, etc. These are signs with 18" letters. Stahr acknowledged that he is on a county road; however, 99% of the events will occur on Saturdays from 1:00-4:00 p.m. – always during the daytime. This business has about 3 years of history with no adverse conditions reported. Stahr suggested that he has offered to provide folding diamond signs on the two existing historical signs that he could raise up any time he had any large event, such as "Caution - turning traffic". Stahr also requested that if the extra signage is required, he would prefer that the trigger be 300 people as opposed to 200. It is very rare that he has 300 people at an event.

Corr inquired about the average attendance at past events. Stahr stated that 120 to 125 is the overall average. The wedding receptions have occurred every 2 to 3 weeks from late April through late October. It is a three-season barn with no heating and no air conditioning. There will be four restrooms in the barn.

There was no testimony in opposition.

Staff questions

Lust suggested crossing out “wedding ceremonies” and replacing it with “events which are accessory to a special event”. Would that allow more flexibility while still being within the historic preservation restrictions? Hartzell stated that the most important part is that the activities be accessory to the main event. She suggested perhaps the language could be, “activities which are accessory to a special event”, rather than limiting to wedding ceremonies.

**Steve Henrichsen of Planning staff** approached indicating that it was not staff’s intent to bring this up, but, as set forth in Analysis #7 and #8, the applicant began to operate on this site without building permits and has been involved in a two-year struggle with staff to fall within the rules of a previous special permit. That is the reason staff felt it was important to set some specific parameters and go from there. Holding a wedding event in a barn that has not had building permit approval, without the approval of the Fire Marshall, is a very serious concern to be considered, and to make light of the rules and regulations of the city and county is not appropriate.

Henrichsen further suggested that it has not been shown that the rules and regulations of the city and county cannot be followed. The staff attempted to be very careful in setting the rules and there was some concern that life and safety had not been adequately addressed in this situation. The applicant was asked to discontinue the events while this special permit is going through the process.

As far as the signage being required on 148<sup>th</sup> Street, Henrichsen acknowledged that it is a county road but it is functioning as a county highway with high speeds. The 200 limitation was the result of staff considering where people are stopping on a high speed facility to turn into this site. Frankly, the County Engineer could require that a turn lane be built. Thus, Henrichsen believes that the staff has gone out of their way not to require a turn lane, which would be much more expensive. The signage is a compromise rather than making a turn lane improvement. Maybe at some point in the future, after showing that these conditions could be met, perhaps it would be appropriate to come back and revisit the number.

Henrichsen also noted that despite the fact that the applicant and staff have talked about this for months, never once had the applicant mentioned wanting to have wedding ceremonies outside of the area of the special permit until just recently.

Henrichsen further pointed out that the staff conditions attempt to respect that the initial special permit was for farmland preservation. We do not want to lose track of the fact that the additional dwelling units were allowed on the site because of farmland preservation. We are trying to respect the fact that a large portion is under a third special permit to allow the dwelling units on the farm land.

Lust reiterated her concern about the specific language of the restriction and whether it is necessary. She understands the history, but as far as language restrictions, is there anything that could make it more expansive than wedding ceremonies? Henrichsen suggested that a two-week delay for staff to discuss this further with the County Attorney would be helpful.

Lust asked the County Engineer why 300 could not be the limit triggering the signage. Why the distinction between 200 and 300? **Pam Dingman, County Engineer**, stated that she has a lot of compassion for what this applicant is trying to do. She is a lover of historic properties, but they do become very complex. At the same time that they become complex, the historic property lovers become so involved and emotionally connected with the property and this process is sometimes tedious. These are labors of love. The MUTC (Manual of Uniform Traffic Control) does call out these sorts of signs for special events. The reason 200 was selected is because staff was looking at most likely 100 cars coming in with 200 people in attendance, resulting in 100 cars arriving in a 15-minute duration. As an engineer, she could require a turn lane because this is also a high speed county highway; it is our most traveled highway; and it is in a rural area. It would be Dingman's engineering opinion that these message boards are put up to alert a change in conditions ahead based on 100 vehicles either making a left or right turn into this property. They are slowing down and nearly stopping to turn. It is a definite change in conditions and a definite drop in speed. The speed limit does not drop where the traffic is turning. Because this applicant has invested a large amount of money, she felt that the message boards to advise other drivers in the area who might not be expecting this change in speed to make a turn, was a compromise. Dingman is preferring the 200 because it would be 100 vehicles arriving at a designated period of time.

Hove wondered why such a substantial message board is necessary. He believes that it goes against the grain of what they are trying to promote with the country atmosphere. Dingman's response was that, "as engineers, we are required to refer to the manual." The manual is the standard that is set forth for alerting people. It is how we have to sign our roads. It is the standard set for us for county, state and city right-of-way.

Hove then asked if something less substantial would be acceptable. Corr agrees. She has seen the signs that say "slow down, expect turning vehicles," and would prefer to do a sign like that as opposed to a message board. Dingman offered to do some research to see if there is any other application provided for in the manual. She reminded the Commission that the staff is stepping back from requiring a turn lane here. As time goes on, depending on what happens, a turn lane may have to be installed. Her goal as County Engineer is to try to protect the county against lawsuits and legal issues, and she is required to follow uniform engineering codes and standards in doing that. She does not have any flexibility when it comes to traffic signage. She does not have the discretion to design the traffic signs. There are a lot of things in engineering that we are not allowed to change without opening up the county to litigation.

Beecham wondered whether the manual makes any distinction between the times of day or the specific days of travel – like weekends as opposed to weekdays. Is that factored into the manual? Dingman stated that it uniformly talks about the rule. In this case, the reality is that we do not have a different speed on the road whether it is Saturday or Monday.

Corr confirmed that the cost of a turning lane would be borne by the applicant. Dingman concurred.

Response by the applicant

Stahr understands the limitations due to protocol and different things, but he disagrees that all of the traffic would be coming in a 15 minute time period. He has not experienced that in three years. Approximately 20% of most big events are the wedding party and families and they are usually already at the site on Friday night. So a portion of the people coming in are already there for a day or two. He suggested that the traffic comes over about an hour period of time. Very few times is traffic stacked up in the driveway, which is 400 feet long. Having lived there for six years, Stahr knows the traffic is significantly less on the weekends. Stahr does want it to be safe. But he would request that some lesser signage be allowed, such as the flip-down diamond signs.

Stahr acknowledged that he owes the county an apology, but this project has moved forward and has been quite successful. The daunting task of keeping up with the regulations has been very hard for him personally. To clarify, Stahr stated that a building permit was taken out for the barn and the cottage house in February 2010, and also on the main Leavitt House. He concentrated all of his efforts in getting the house done and opening the B&B. About a month later, he got a call from Building & Safety indicating that those permits had been canceled because they had exceeded the 180 day requirement to renew the permits. The applicant stated that he did not know those rules. He then gave up for approximately two years.

Stahr then advised that in 2012, he attempted to file a building permit for the barn renovation. It took until April of 2013 to actually be allowed to produce an application for a building permit. All through the winter of 2012 into 2013, based on his application for a building permit in April, Stahr believed that they would be able to complete the project easily for the 2013 seasonal events. They hit delays and restrictions over and over, and requirements were added such as the bathrooms. Reservations for the weddings are made a year or more in advance. He tried to communicate well with people and made promises he thought he could achieve. There are so many things being demanded of him, such as hiring an architect, but it has totally expanded beyond all his personal understanding as to how long this has taken. He agreed that he has made errors but in good faith he will get it done. He wanted to strengthen the barn structure and put new wiring in. That was all he wanted to do. He thought he would have the permit within 2-4 weeks.

Lust commented to the applicant that she knows it has been a lengthy process. She asked the applicant if he would be in favor of a two-week deferral to discuss language to expand the wedding ceremonies to other activities. Stahr stated that he would love to defer the semantics for a certain area, but he needs to fix up the barn and the way the rules are, he cannot do anything until everything is approved. It is now March. It is a seasonal business and he has events scheduled. He wants to comply, but he already has to wait two weeks for the appeal process as it is now. So, deferring two weeks now means four weeks.

Hartzell suggested that language could be added to the conditions so that at a later date, additional accessory uses could be in those areas by administrative amendment. She suggested that "...additional accessory activities may be permitted by administrative amendment" could be added to Condition #1.10.

**ACTION BY PLANNING COMMISSION:**

March 5, 2014

Corr moved to approve the staff recommendation of conditional approval, as revised, with amendment to Condition #1.10 to allow additional accessory activities by administrative amendment, seconded by Hove.

Corr loves this property. The applicant has done some amazing things which have taken a lot of time and money. Reading through the lines, she believes this is a situation where one city department has created some problems for another city department and she does not think the applicant should be penalized for that. He has tried to do the right thing in good faith. She does not believe the applicant knew the rules. They were trying to get the building permits and they were trying to do the right thing. She does not want to penalize the applicant for that. She is not sure about the cap on attendance. She does understand the safety concerns from the County Engineer. And having been on that road, she admitted that she did feel a little vulnerable traveling slow looking for the turn.

Lust stated that she will support the proposal, as amended, adding the language for administrative amendments. Regarding the sign issue, having personally defended lawsuits where municipalities have not complied with the manual and seen the high dollar verdicts and settlements, she does not believe there can be any flexibility on the signage. She understands the importance of the requirement and it is a reasonable compromise away from a turn lane. She wants to look forward. It is unfortunate what has happened in the past. She complimented the applicant and staff for getting to "yes".

Motion for conditional approval, as revised, with amendment, carried 7-0: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust voting 'yes'; Harris and Weber absent. This is final action, unless appealed to the Lancaster County Board of Commissioners.

\*\* break \*\*

**SPECIAL PERMIT NO. 985A,  
AMENDMENT TO KESS KOVE COMMUNITY UNIT PLAN,  
ON PROPERTY GENERALLY LOCATED AT  
SOUTH 60<sup>TH</sup> STREET AND KESS DRIVE.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** March 5, 2014

Members present: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust; Harris and Weber absent.

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

Mark Hunzeker appeared on behalf of the applicant, stating that they have met with staff and request an additional two-week deferral to continue to work with staff on a possible tweak to the compromise.

Hove moved to defer, with continued public hearing and action scheduled for Wednesday, March 19, 2014, seconded by Cornelius and carried 7-0: Hove, Corr, Beecham, Cornelius, Scheer, Sunderman and Lust voting 'yes'; Harris and Weber absent.

There being no further business, the meeting was adjourned at 2:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 19, 2014.