

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 15, 2014, 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: Cathy Beecham, Tracy Corr, Dennis Scheer, Chris Hove, Ken Weber, Maja V. Harris, Lynn Sunderman and Jeanelle Lust (Cornelius absent); Marvin Krout, Steve Henrichsen, Christy Eichorn, Mike Brienzo, Jean Preister and Amy Huffman 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 October 1, 2014, as amended. Harris moved approval, as amended, seconded by Beecham and carried 5-0: Beecham, Sunderman, Harris, Hove and Lust voting 'yes' (Weber, Corr and Scheer abstained; Cornelius absent).

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

October 15, 2014

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

The Consent Agenda consisted of the following item: **SPECIAL PERMIT NO. 2022E.**

Due to a request from the applicant to amend the conditions of approval, Special Permit No. 2022E was removed from the Consent Agenda and had separate public hearing.

**SPECIAL PERMIT NO. 2022E,
TO REVISE THE LOT LAYOUT, AMEND
USE RESTRICTIONS AND ADJUST COMMERCIAL
SQUARE FOOTAGE,
ON PROPERTY GENERALLY LOCATED AT
SOUTH 27TH STREET AND JAMIE LANE.
PUBLIC HEARING BEFORE PLANNING COMMISSION**

October 15, 2014

Members present: Beecham, Weber, Harris, Corr, Scheer, Hove and Lust; Sunderman declared a conflict of interest; Cornelius absent.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda at the request of the applicant.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this application is to amend an existing special permit for Planned Service Commercial in order to allow for parking on Lot 4, Block 2 as shown on the exhibit. A few years ago, there was an expansion of this special permit and the area was rezoned from O-3 to H-4. At that time, the applicant had had extensive meetings with the neighbors and agreed to the uses, in general, that would not be allowed. That agreement was put on the site plan and in the resolution on this special permit. One of those uses happened to be auto vehicle sales. Eichorn further explained that today, Lot 5, currently DuTeau, is looking to do an expansion for parking. After discussing this change with the applicant, the applicant agreed to keep all screening that currently exists and agreed to do additional screening as a parking lot, whether for employees or vehicles for the dealership. The applicant also held a neighborhood meeting prior to submittal of this application and it is Eichorn's understanding that only one person showed up and was not in opposition.

Eichorn explained that this application was removed from the Consent Agenda because the applicant had some questions and wanted to propose amendments to the conditions of approval, and staff is in agreement with the proposed amendments.

Beecham inquired as to the location of the additional screening. Eichorn stated that today, an auto dealership is not required to screen a display area, but if it is a parking lot, there must be 6' screening. As a parking lot, the applicant would be required to screen along the south border and any other areas adjacent to the parking lot. They are also required to provide parking lot trees. Eichorn clarified that there will be no additional screening along Grainger Parkway.

Beecham asked about any business on Lot E. Eichorn stated that Lot E consists of the Asian Fusion restaurant. The lot to the north is vacant. A private access drive between Lots 3 and 4 will be provided. One of the amendments to the conditions is a clarification that when the approved access is constructed, there will need to be more than 2 trees removed.

Proponents

1. DaNay Kalkowski testified on behalf of **DuTeau Investments**, which owns the Subaru Dealership within this development and which is the current owner of Lot 5 with a contract to purchase Lot 4.

Kalkowski explained that in essence, this special permit amendment moves 5,000 sq. ft. of floor area from Lot 4 to Lot 5 in order to expand onto DuTeau's current existing building. The applicant is requesting to make a limited exception to the approved use restrictions to allow Lot 4 to potentially be used for some parking to accommodate the expanded business. That limited exception would only apply to Lot 4 with a low intensity use. The front door of the business will remain on Jamie Lane; the existing pine trees will remain in place along Jamie Lane; and the applicant has agreed to do the parking lot screening. This amendment will allow potential for a successful local business to grow in a location in a manner that does not really have an impact on the neighbors.

Kalkowski advised the Commission that the applicant did meet with the neighbors prior to submittal of this application. There were three who attended, two of which are directors of the association. There was good discussion and there were no real concerns. Those who attended the meeting did desire that the trees remain along Grainger Parkway. There were no concerns about the limited exception to the potential uses.

Kalkowski pointed out that with this amendment, the applicant can do parking on that lot or it could still be utilized for the uses that are approved today, just 5,000 sq. ft. less.

Kalkowski then referred to the conditions of approval and requested amendments as follows:

- 1.1 Add a Note that Lot 4, Block 2 shall meet the parking lot landscape and screening standards whether the lot is used for parking, storage or display of motorized vehicles, and that existing landscaping along Grainger Parkway is to remain, except in the location of the public access easement.

This amendment makes it clear that one, two or three trees will be lost when the access drive to Grainger is actually built. There is already a 24' public access easement through that location. The applicant was very clear about that with the neighbors.

- 1.2 Revise Site Specific Note #11 to say “A cross parking easement is granted over all drives and parking stalls.” #33 to add “and between Lots 4 and 5, Block 2.”

The staff asked that Note #11 be amended, which would have been a change to the cross-parking. Right now, cross-parking is really only used in connection with two other lots. Because this amends a limited portion of the use permit, the applicant does not want to implement a change that would impact everyone on the site. Therefore, the applicant is instead requesting to amend Note #33 to allow cross-parking between Lots 4 and 5.

- ~~1.4 Remove the parking columns from the Land Use Table, and add a note that parking is per Chapter 27.67 of the Lincoln Municipal Code.~~

The applicant seeks to remove Condition #1.4, which is an attempt to clean up the site plan and remove the columns that deal with parking on the land use table. In support of removing this condition, Kalkowski stated that this special permit has been in existence for a long time and that parking table sort of serves as a “policing” mechanism. It sort of keeps one lot from going in for an expansion, while not being able to meet their own parking requirements on their lot, and then take over someone else’s parking, putting the adjacent lot at a disadvantage. Leaving the table in place helps keep the individual requirements for the individual lots set out so that there is no confusion with multiple property owners.

In summary, Kalkowski submitted that this is an amendment that allows for some potential growth in a successful area without providing additional ramifications to the neighbors.

Corr inquired whether staff attended the neighborhood meeting. Kalkowski indicated that they did not; however, Christy Eichorn and a City Council member were invited. She believes staff took the position that because the applicant had not yet made a formal application, staff thought it was good for the applicant to have an exploratory meeting with the neighbors without staff present.

Corr inquired about the number of parking stalls and Kalkowski did not know but offered to provide the information.

Hove inquired whether the parking would be display parking of vehicles being sold or parking for employees. Kalkowski indicated that it would be either or a combination. It will be whatever works out best on the site. She assured that the applicant will be complying with the parking lot design standards and screening standards.

There was no testimony in opposition.

Staff questions

Corr sought confirmation that the exception to the use restrictions would only apply to Lot 4 with this amendment. Eichorn confirmed that it is specifically for Lot 4 and all of the other restrictions stay in place.

ACTION BY PLANNING COMMISSION:

October 15, 2014

Hove moved to approve the staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Weber.

Lust commented that this appears to be a good expansion for the area and for a business that has run successfully, so she will support it.

Motion for conditional approval, as amended, carried 7-0: Beecham, Weber, Harris, Corr, Scheer, Hove and Lust voting 'yes'; Sunderman declared a conflict of interest; Cornelius absent. This is final action, unless appealed to the City Council within 14 days.

**COMPREHENSIVE PLAN CONFORMANCE NO. 14021,
LANCASTER COUNTY 1 AND 6 ROAD AND BRIDGE
CONSTRUCTION PROGRAM, FY 2015 AND 2016-2020.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 15, 2014

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

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

There were no ex parte communications disclosed.

Staff presentation: **Mike Brienzo of Planning staff** explained that this program is to be reviewed for conformity with the 2040 Long Range Transportation Plan (LRTP) and the transportation component of the Comprehensive Plan. The findings of the staff are that the program emphasizes roads functioning as arterials and is recommending that this emphasis be continued as recommended in the LRTP. The program has been coordinated with Engineering Services for the coordination of projects within the developing area and the RUTS (Rural to Urban Transition Standards) projects that were requested to be developed along certain roadways, such as 98th Street. The staff finds that the proposed program is in general conformance with the transportation element of the 2040 Comprehensive Plan.

Brienzo noted that the Commission has received some comments concerning two segments of roadway that were not included in the proposed program – 112th Street south of "O" Street and 120th Street. Brienzo pointed out that this program has been coordinated

with staff and the County Engineer. Those two projects are in the transportation plan as “potential paving”, but not within the fiscally constrained element of the transportation plan. They are not included in the program submitted today. The program as submitted, however, does comply with the LRTP. Brienzo assured that all public comments would be forwarded to the County Board for their public hearing scheduled for Tuesday, October 28, 2014, at 7:00 p.m.

Lust asked Brienzo to outline what it is that the Planning Commission is being asked to do in comparison to who makes the determination of what gets paved. Brienzo explained that the staff review is a comparison with the LRTP and the transportation element of the Comprehensive Plan. The Comprehensive Plan was updated in 2011, and it is extended out to year 2040 for potential development of roadways within the urban areas as well as in the county. Through that process, the number of roads that could potentially be developed within the life of the plan were identified. Therefore, that is the fiscally constrained element. That is what the County Engineer uses as a basis for developing new paving throughout the county. Another element used by the County Engineer would be a “roadway sufficiency study” or a survey of conditions of roadways, which helps set the priorities within the program itself.

Lust sought to confirm that the role of the Planning Commission is to determine if the projects listed conform with the LRTP and the Comprehensive Plan that are already in place. Brienzo concurred. The annual program is to be reviewed as to conformity with the transportation element of the Comprehensive Plan.

In terms of gravel roads and safety, Beecham wanted to know what is taken into consideration in determining when to pave a gravel road. Brienzo explained that the County Engineer does a road survey. It should be kept in mind that the County Engineer is responsible for over 1,300 miles of roads throughout the county and about 1,000 are gravel. Each year, they get to drive every mile of that and do a review of the condition of the road and which ones would fit into their maintenance program or rise to the level of paving.

Pam Dingman, Lancaster County Engineer, explained that the County Engineer’s office does review the roads through a number of different criteria – the average daily traffic counts are taken every year and they keep traffic counts on every mile of every county road; they review the conditions of every road with the criteria of the American Asphalt Association. The County Engineer’s office has reviewed all 272 linear miles of paving as well as performed traffic counts on 1,052 linear miles of gravel roads. There are some roads that are just dirt, i.e. minimum maintenance roads that have not been graded or graveled, and those roads are reviewed as well.

Dingman went on to explain that this year, they looked at a combination of roads for paving. In the past, the County Engineer has said that once they grade a road, it will be

paved in the next 2-5 years. However, that has not always happened. The county does not have the money for 26 linear miles. In fact, about 1 to 2.5 miles of new road are paved every year.

Beecham wondered whether big trucks count more in traffic counts. Dingman stated that she would need to check the actual technical parameters used in the traffic counts. She acknowledged that many of the rural roads do have a lot of truck traffic during the harvest seasons and that does become a primary use.

Lust inquired how the one to two miles is selected that is paved per year. Dingman stated that they consider the traffic count and how the roads are being use. They also consider what roads have already been graded/prepped for pavement.

Hove asked Dingman to speak to 112th between A Street and Van Dorn. Dingman responded, stating that the County Engineer does have recent traffic counts on 112th Street and 120th Street in this area. In this particular area, our focus has been and will continue to be paving 98th Street from A Street to O Street. It is a section line road adjacent to Hillcrest that has never been opened. Although it took a decade to acquire the right-of-way, acquisition of the right-of-way has been completed and that section can be graded at some point prior to 2030 and then paved in the next year, pursuant to the agreement. The next road as we move east for paving is 98th from A Street to O Street. There is pavement at 98th and Old Cheney all the way to Highway 2. As we move east, we want to finish the 98th Street corridor.

Hove then confirmed that 112th Street and 120th Street will not get the attention because 98th will. Dingman's response was that the traffic counts on those particular roads are well under 300. Once the traffic counts reach about 300, the County Engineer will look at grading the road, and once the traffic counts reach 400, it would be considered for paving. The traffic counts are used in prioritization. Dingman stated that she would love to pave everyone's road but the reality is that the finances are very limited. For example, in last year's 1 and 6 program, no bridges were built, and they are not going to be able to build any this year.

Lust wondered whether the thought is that paving of 98th Street will take some of the traffic pressure off of 112th Street and 120th Street. Dingman stated that she does anticipate that, but the reality is that 98th Street is in the 2040 Comprehensive Plan and is the logical next step.

Weber inquired about upgrading existing graded roads. He noted that South 68th Street has the highest traffic count, yet there is no projected grading of that road other than acquisition of the right-of-way in the next five years. What about turn lanes and wider shoulders? Brienzo stated that the transportation plan shows South 68th Street being upgraded in the future with shoulders, but it will remain 2-lane. Brienzo further explained that the plan shows extending South 68th Street as far south as Princeton Road at some

time in the future, based on activity in that corridor. Weber commented that South 68th Street is a very narrow two-lane with a high traffic count. Brienzo acknowledged that Denton Road was paved with shoulders using federal funds. He did not know whether federal assistance is available for South 68th Street.

Dingman then advised that the equation for federal funds has recently changed. Denton Road id receive a large amount. But, now the county is receiving more like \$250,000 of federal funding, so we are becoming more and more limited on federal funds. Federal funds have been used to build one or two bridges a year; however, last year there was only \$80,000 available, and this year they will receive another \$80,000. The bridges in the 1 and 6 program range in cost from \$800,000 to \$1.1 million.

Beecham inquired whether there are any bridges that will be closed if we cannot find funding for improvements. Dingman stated that a bridge will be closed if it is determined to be unsafe. Fortunately, all that were closed in the past are currently open because the County Engineer found the means to repair them. In one case, they had to find steel that was manufactured over 100 years ago. The costs are significant. Dingman advised that she is watching and has testified on LB528, which is a special bill that would allow the county to bond bridges. Lancaster County has 297 bridges, i.e a bridge or culvert wider than 20'. In order to keep up with the County's replacement plan, the bridges need to be replaced at the rate of 6 per year. For the last 20 years, only two or three have been replaced per year. It was zero last year and will be zero again this year. Lancaster County currently has over 80 structures older that 50 years, and 50 structures that were built before 1950.

Beecham inquired whether we know if the closure of the bridges is impacting people in terms of emergency services. Dingman was not aware of any impact on emergency service, although it's just a matter of time. The traffic count for the bridge closed on 176th Street south of Waverly Road was only 76/day, but it is still a bridge that is important to the people living in that corridor. The Raymond Road bridge which is on standby is actually a bridge that has been in the 1 and 6 program since 1998. In a minor rain event, that particular bridge overtops the road for 200 feet, 12 to 18 inches deep. As time goes on, when roads and bridges become dangerous and we do not have funding or money to replace, they will be closed.

With regard to safety, Beecham noted that there has been a lot of press about Saltillo Road in the last few months. What is the cost to put shoulders on a road? How do we track safety, and what it our vision for Saltillo Road in general? Dingman did not have the data with her for comparison of a road with or without a shoulder. Since the shoulder roughly requires 1/3 more pavement, the cost would be roughly 1/3 more. The extra paved shoulder and additional dirt have to be put in place. As far as Saltillo Road itself, an additional 1.6 miles was just paved. Dingman also advised that she sits on a coordinating team with NDOR and the City which is talking about putting a traffic circle on either side of Hwy 77 at Saltillo Road to slow down traffic. She acknowledged that the accidents have

been happening further east. However, at this point, to add shoulders would be incredibly expensive and the County does not have another option at this time.

Beecham inquired whether the South Beltway will take some of the traffic off Saltillo. Dingman believes that it will. The first mile east of Hwy 77 is a little under 8,000 cars today. By the time you get within 2 miles of a county boundary, it decreases down to 132 cars/day.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

October 15, 2014

Beecham moved to find the program to be in conformance with the Comprehensive Plan, seconded by Scheer.

For what the Planning Commission is being asked to do, i.e. find the program to be in conformance with the Comprehensive Plan, Lust believes that it is. It is unfortunate that every time we have these discussions we hear about the sorry state of a lot of the infrastructure in both the city and county. She wishes that something could be done, especially when it is starting to affect public safety. But, as for what the Planning Commission is being asked to do, she believes that the proposed program does conform with the fiscally constrained LRTP.

Motion for a finding of conformance carried 8-0: Beecham, Weber, Harris, Corr, Scheer, Hove, Sunderman and Lust voting 'yes'; Cornelius absent. This is a recommendation to the Lancaster County Board of Commissioners.

**TEXT AMENDMENT NO. 14007,
AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE
TO CORRECT ERRORS AND MAKE CLARIFICATIONS.**

REHEARING BEFORE PLANNING COMMISSION:

October 15, 2014

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

Staff recommendation: Approval

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this is a re-hearing on a text amendment that was previously on the consent agenda and approved by the Planning Commission. After being approved by the Planning Commission, but before being scheduled on the City Council agenda, it came to the staff's attention that one of the clarifications needed to be expanded to include the Mayor as one of those entities that have

the ability to appeal any decision. There are several areas in the code where this occurs.

This re-hearing also adds a correction or clarification to Section 27.69.030 to clarify the intent for maximum sign area is 500 sq. ft., and that the total allowable sign area for architectural elevation is 30% of that architectural elevation. These rules have been in place for a very long time. This amendment just clarifies how that regulation has been enforced and will continue to be enforced.

Harris noted that on page 35, one of the references to the “mayor” is not capitalized while all of the other ones are. She also raised a question about the major entertainment and event use group and how the number 500 was reached. Eichorn explained that a few months ago there had been some questions at Building & Safety with regard to use groups. The number 500 was added to give some perspective to what is considered to be a big or large crowd, such as Pinnacle Bank Arena or Pershing. The 500 number is not specific. It was added just to give some general guidance, depending on the character of the use. Harris inquired whether that is generally how it has been interpreted previously. Eichorn’s response was that the staff had not had to interpret it until just recently. This is a new category that distinguished large event activities such as Pinnacle Bank Arena, motor racing, etc., thus we needed to provide some clarification because we did not have that term before 2009. For example, Speedway Sporting Village had talked about having uses in their activity areas, such as weddings, dog agility shows, etc. The question then came up – if they do dog agility shows, does that then kick them into a different kind of use group? Staff discussed it and 500 was determined to give guidance on that trigger.

Scheer referred to Section 27.02.200 where “story” is defined. Line 5 talks about “6’ above grade as defined herein for more than fifty percent of the total perimeter”, and then line 6 strikes grade and replaces it with “ground elevation”. Is line 5 to be changed to “ground elevation” as well? Eichorn stated that the way it is written is correct. Building & Safety requested this change because they felt that the way ground elevation was being utilized in line 5 was different than the way it was being utilized in line 6. With how they were interpreting that in terms of the building code, it made more sense to distinguish those two. This will make it more consistent with the building code.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

October 15, 2014

Beecham moved approval, seconded by Scheer.

Lust commented that she is always glad to see that we are cleaning up things that make it easier and more useful to the people that have to use the zoning code.

Motion for approval carried 8-0: Beecham, Weber, Harris, Corr, Scheer, Hove, Sunderman and Lust voting 'yes'; Cornelius absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:50 p.m.

Please note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on October 29, 2014.

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