

MEETING RECORD

NAME OF GROUP:

PLANNING COMMISSION

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

Wednesday, October 29, 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, Michael Cornelius, Chris Hove, Maja V. Harris, Jeanelle Lust and Ken Weber (Lynn Sunderman absent); Marvin Krout, Steve Henrichsen, Sara Hartzell, Brian Will, Tom Cajka, Paul Barnes, Brandon Garrett, 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 15, 2014. Hove moved approval, seconded by Scheer and carried 7-0: Weber, Beecham, Corr, Harris, Scheer, Hove and Lust voting 'yes' (Cornelius abstained; Sunderman absent).

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

October 29, 2014

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

The Consent Agenda consisted of the following items: **COUNTY COMPREHENSIVE PLAN CONFORMANCE NO. 14023; SPECIAL PERMIT NO. 14043; and STREET & ALLEY VACATION NO. 14008.**

There were no ex parte communications disclosed.

Item No. 1.2, Special Permit No. 14043, was removed from the Consent Agenda and had separate public hearing due to a conflict of interest being declared by Commissioner Lust.

Hove moved approval of the remaining Consent Agenda, seconded by Beecham and carried 8-0: Weber, Beecham, Cornelius, Corr, Harris, Scheer, Hove and Lust voting 'yes' (Sunderman absent).

Note: This is final action on Comprehensive Plan Conformance No. 14023.

SPECIAL PERMIT NO. 14043,
FOR ON-SALE ALCOHOL ASSOCIATED WITH A RESTAURANT
ON PROPERTY LOCATED AT 4747 PIONEERS BOULEVARD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 29, 2014

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

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda due to a conflict of interest being declared by Commissioner Lust.

Vice-Chair Chris Hove chaired the public hearing.

There were no ex parte communications disclosed.

Staff presentation: **Brian Will of Planning staff** presented the request for a special permit to sell alcohol on the premises in conjunction with a restaurant in the small commercial center southwest of the intersection of South 48th Street and Pioneers Boulevard. There is R-2 zoning to the west and south, and the commercial center and property to the north are zoned B-1. The restaurant will not occupy the entire building.

Will explained that the sale of alcohol is regulated by special permit in the zoning ordinance and in those districts where allowed. The special permit provisions require a separation from first floor residential, day care center, park, church or state mental health institution, or from any residential district. However, those separate special permit conditions for a restaurant are modified and the sale of alcohol is allowed to be 25' from a residential zoning district. That is the only separation criteria that applies to this application.

Will went on to state that the staff finds that this request meets all of the criteria for a special permit and is recommending conditional approval.

Harris inquired whether the staff had any additional information on the parking. Will explained that to be a condition of approval and he believes there is well in excess of what is required. He does not believe it will be an issue.

Corr wanted to know how many parking stalls are required for the restaurant. Will responded that the staff is considering the parking requirement based on the entire multi-tenant building with multiple uses. The staff wants to take a snapshot in time of those uses that exist today and then calculate this user coming in. Generally speaking, it is going to be 1 space per 300 sq. ft. of floor area, except for the day care, which is 1 space per employee and 1 space per 10 children. He clarified that for the restaurant, the parking requirement is 1 space per 100 sq. ft. of floor area. It is just a matter of getting the specific information on all of the users to determine whether the parking requirements are being met.

Corr sought to clarify that because this is a restaurant and not just a on-sale facility, the 100' separation rule does not apply. Will concurred. The 100' separation to a residential use, i.e. day care, etc., applies only when it is just an on-sale use and not a restaurant, such as a bar. But, separate and apart from that, there is a special exception for restaurants. All those other criteria no longer apply and now the only separation required is 25' from a residential zoning district. The rationale in creating those provisions was that a restaurant is not a sports bar or other typical on-sale. It is a special set of circumstances just for the restaurant.

Beecham inquired about the access to the parking and the traffic patterns. She has concern with a child care facility on one side and then on the other end there is a dance studio. There are a lot of kids running back and forth out to cars, etc. How will people get in and out, and what times of day will the restaurant be open? Will showed the primary entrance points on the map. The primary entrance to the building/restaurant is to the north. He suggested that the peak demands for the restaurant would be perhaps noon or evenings, which would typically not be the peak demand for the day care, which would be early morning and late afternoon. Beecham inquired about the location of the entrance to the day care. Will did not know for sure, but he believes it is off the east side of the building.

Beecham then inquired whether parents stay in the car, or park and go in to get the kids. Will did not know. Beecham commented that if there are cars that stack up waiting, then there are problems with people picking up kids and coming to the restaurant for dinner. Will observed and reminded the Commission that the restaurant itself is a permitted use in this district. Regardless of this special permit for alcohol, the restaurant can be at this location regardless. The application before the Commission today is about the component for on-sale alcohol. The day care is also a permitted use. In fact, all of the tenants are uses allowed in this district without any additional approval.

Beecham inquired about notification to the neighbors. Will stated that all property owners within 200' received written notification, as well as any neighborhood or homeowner association within ½ mile.

Proponents

1. **Cinthia Rebecca Lopez Cruz**, the applicant, 2310 Garfield Street, explained the type of restaurant and the drinks that they would like to serve. She stated that she has worked in the restaurant business for a long time and has not experienced any difficulties.

Beecham inquired about when the alcohol would be served. Cruz indicated that she has been studying the market and knows that usually people only have about 45 minutes for lunch, but she does want to have all beverages available. She acknowledged that the restaurant is near Union College and stated that they will have different options available for non-alcoholic drinks. "We will be very careful with that".

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

October 29, 2014

Scheer moved to approve the staff recommendation of conditional approval, seconded by Weber.

Hove believes this is a good use for this property, although we do need to think about how it is managed with the child care facility close by.

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

**COMPREHENSIVE PLAN AMENDMENT NO. 14005
(SOUTH SALT CREEK WATERSHED MASTER PLAN);
COMPREHENSIVE PLAN AMENDMENT NO. 14006
(HAINES BRANCH WATERSHED MASTER PLAN); and
COMPREHENSIVE PLAN AMENDMENT NO. 14007
(MIDDLE CREEK WATERSHED MASTER PLAN).
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 29, 2014

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

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Jared Nelson of the Watershed Management Division of Public Works & Utilities** presented the three Watershed Master Plans. The current and proposed master plans include Haines Branch, Middle Creek and the South Salt Creek

Tributaries, which is a continuation of efforts they have been doing for the last decade. A consultant was hired and they have gone through a good public involvement process.

Nelson explained that this is a joint effort between the City, the County and the Lower Platte South NRD, with the funding partly from the NRD as well. The studies generally cut off the three watersheds around the extraterritorial jurisdiction (ETJ) of the City. He pointed out that the entire watershed of Haines Branch goes out into Seward County and Saline County, but for purposes of this watershed master plan, the area has been trimmed off at the City's ETJ .

Nelson advised that some of the components involved in the process included public involvement, review of the assets and the features in the special areas; and getting out in the field to assess the streams and do a lot of field work. The consultants actually walked a lot of the stream miles, including all of the main channels and some of the tributaries that flow into the main channel; they took pictures; and they documented their findings noticed in the field. They walked 28 miles in Haines Branch, 34 miles in Middle Creek and 78 miles in South Salt Creek. This resulted in very good data. A lot of the focus was geomorphic analysis, i.e. the studying of the streams and how they evolve.

Nelson also advised that the public involvement included two public meetings and three newsletters were sent to residents, businesses, homeowners associations, etc. The premise of the master plans is to come up with capital improvement projects. These master plans are just added to the list. All of the capital improvement projects are stream stability projects. He believes that most people will agree that these are good projects.

Nelson shared a synopsis of the capital improvement projects including a priority ranking system and the estimated costs. The stream stability projects include grade control, bank stabilization and stilling basins.

Today's action will add these studies to the Comprehensive Plan. These plans have been approved by the Lower Platte South NRD and the next step will be to proceed to the County Board and City Council.

Harris asked Nelson to explain the term "ETJ". Nelson stated that it is the "extraterritorial jurisdiction" of the City, which is a 3-mile buffer around the City limits.

Responding to a questions asked by Lust about the priority ranking and scores, Nelson explained that the scoring system used includes flooding, safety impacts, and infrastructure that is threatened, so all of the different master plans are scored the same way so that they can be ranked all together collectively.

There was no testimony in opposition.

COMPREHENSIVE PLAN AMENDMENT NO. 14005

ACTION BY PLANNING COMMISSION:

October 29, 2014

Beecham moved approval, seconded by Scheer.

Lust stated that she appreciates all of the work that has gone into these master plans and the detailed work in giving priority for these projects.

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

COMPREHENSIVE PLAN AMENDMENT NO. 14006

ACTION BY PLANNING COMMISSION:

October 29, 2014

Cornelius moved approval, seconded by Hove and carried 8-0: Weber, Beecham, Cornelius, Corr, Harris, Scheer, Hove and Lust voting 'yes'; Sunderman absent. This is a recommendation to the Lancaster County Board of Commissioners and the Lincoln City Council.

COMPREHENSIVE PLAN AMENDMENT NO. 14007

ACTION BY PLANNING COMMISSION:

October 29, 2014

Cornelius moved approval, seconded by Scheer and carried 8-0: Weber, Beecham, Cornelius, Corr, Harris, Scheer, Hove and Lust voting 'yes'; Sunderman absent. This is a recommendation to the Lancaster County Board of Commissioners and the Lincoln City Council.

**COMPREHENSIVE PLAN CONFORMANCE NO. 14022,
AMENDING THE ANTELOPE VALLEY REDEVELOPMENT PLAN
TO ADD THE "23RD AND O STREET REDEVELOPMENT PROJECT".**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 29, 2014

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

Staff recommendation: A finding of conformance with the 2040 Comprehensive Plan.

There were no ex parte communications disclosed.

Staff presentation: **David Landis, Director of the Urban Development Department**, presented the proposed amendments as the moving party. This amendment alters the existing Antelope Valley Redevelopment Plan to describe a project which then would be the basis upon which the City would bring forward a redevelopment agreement with a

developer. The purpose of this amendment is that the project must be sufficiently described in the redevelopment plan as a basis to proceed forward.

The location is at 23rd and O Street, currently the “Office Max” building. There is a developer who wishes to make use of the building and who is negotiating now for clinic space which would be well located in this area.

Landis showed a rendering which was also provided by Clark Enersen to the Urban Design Committee. Landis believes the response of the Urban Design Committee was generally positive, although there is opportunity to go back to that committee when the design is further along.

This project would be subject to the downtown design standards, meaning transparency of windows, buffering of the parking lot, etc. The intent would also be to add some street trees on O Street. The plan on the back side of the building is yet to be determined. There has been talk about softening the back of that building. Urban Development has suggested a mural of some kind. To replace the entire wall with brick would be very expensive.

Landis then described the project that is currently being discussed which will be \$5.3 million in private investment, yielding \$500,000 of TIF (tax increment financing). The City has made the desire for significant landscaping very clear; however, it would be valuable to allow a clinic to be successful at this location. There is a sewer line or sanitation line under this building. It wasn't something that would have normally been done, or something that would be done now; however, it is a fact on this location and must be dealt with. If you brought the whole building down, it would need to have a different footprint.

Landis believes that the project is consistent with the downtown design standards and the Comprehensive Plan.

Beecham inquired about the Urban Design Committee (UDC) discussion. **Wynn Hjermstad of Urban Development** came forward since Landis did not attend that meeting. She recalled that the UDC had concerns about N Street and would like to see something done there. One of the considerations for the back of the building, in addition to the mural, was the removal of one of the two loading docks that are there now, which would make room for more landscaping on the N Street side. The UDC was also interested in landscaping and building materials. They did like what was shown by the developer, i.e. brick facade. In fact, the UDC suggested that perhaps they would not need to use as much brick and do something a little bit “splashier” on the front. The UDC did mention the downtown design standards and would like the developer to follow those regulations as much as possible. There were no red flags, but the UDC did ask to see the project again when the design is a little bit further along.

Beecham wondered whether there has been discussion about putting an entrance on the N Street side. Landis did not know whether that discussion has been had. The existing building is at the property line, so it is not uncommon to need more space with an entrance or exit. Having the building at the property line really limits what you can do. Beecham also wondered about a sidewalk all the way around the building. She wants there to be a nice way for people to approach on foot.

Hove inquired about environmental issues with the sewer line underneath the building. Landis did not know of any. The situation does not occasion any kind of state or federal environmental review; however, the city would now allow this to be done a second time because it is too difficult to repair something underneath the building.

Support

1. **Mark Hunzeker** appeared on behalf of **Apple's Way, LLC**, the owner of the building. He acknowledged that the owner is in discussions with Urban Development about moving forward. As to the exterior design, Hunzeker indicated that the developer will return to the UDC because the design is not yet final; however, the exterior design is secondary to making sure that the interior works for the prospective tenants, including asbestos removal and essentially rebuilding the entire interior at a price the developer can afford. The developer is dealing with nonprofit agencies and is trying very hard to help them to get something that will house them for quite some time at a rate they can afford to pay. The developer has also consulted with Ed Zimmer about the downtown design standards with respect to the building and he is confident the developer will be able to meet those design standards. Hunzeker stated that the developer is unwilling to spend any more money on the exterior design at this point because one thing undecided is whether or not there will be an addition to the building which could be 5,000 to 8,000 sq. ft. There are a lot of things yet to be determined.

In summary, Hunzeker stated that this plan is a general statement of intent and it fairly represents what will ultimately be done in accordance with a redevelopment agreement.

Corr wondered whether the expansion will go to the east. Hunzeker concurred, stating that it will have to go to the east. There is a very large sewer conduit which runs under the building. It has recently been realigned so he is confident that it will not need major repairs. The storm sewer runs through the middle of the building north and south.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

October 29, 2014

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

Beecham commented that she has waited a long time for this building to be upgraded. They have done a nice job with the design, but she believes it is also fair to talk about the back of the building, especially with the potential of using TIF. There is a school on N Street and a lot of the other business that face N Street. She agrees that economy is important but she would love to see this side of the building improved. She appreciates the effort so far and will support it.

Corr agreed that the N Street facade is important, and since we are using TIF, we need to encourage some improvements on that side as well. The other businesses on the blocks on either side do face N Street, so it is important to have that continuity there as opposed to an uninviting blank wall.

Motion carried 7-0: Weber, Beecham, Cornelius, Corr, Harris, Hove and Lust voting 'yes'; Scheer declared a conflict of interest; Sunderman absent. This is a recommendation to the City Council.

TEXT AMENDMENT NO. 14010,
CHAPTER 26.23 OF THE LINCOLN MUNICIPAL CODE
RELATING TO PEDESTRIAN WAY EASEMENTS AND
MEASUREMENT OF BLOCK LENGTHS

and

TEXT AMENDMENT NO. 14011,
SECTION 27.72.180 OF THE LINCOLN MUNICIPAL CODE
RELATING TO PEDESTRIAN WAY EASEMENTS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 29, 2014

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

Staff recommendation: Approval.

Ex parte communications: Corr disclosed that she attended the Mayor's Neighborhood Roundtable on October 13, 2014, where these two text amendments were presented.

Staff presentation: **Tom Cajka of Planning staff** explained the proposed amendments. It is being requested that the pedestrian way easement requirement be widened from a minimum of 5 feet to a minimum of 15 feet. The easement would be located on outlots and maintained by a homeowners association if the subdivision had other common open space or private streets which are maintained by the homeowners association, which would relieve the individual property owners from the maintenance of the pedestrian way easement. Cajka acknowledged that there could be some rare instances where a subdivision does not have any common open space. In that situation, the pedestrian way easement would be on private property, but this is very rare.

Cajka explained that another reason for widening the pedestrian way easement is that the 5' easements have caused some difficulties in the past. Some people feel they are unsafe and there are issues with having room to remove snow.

This proposal also changes the requirement that buildings be 10' away from a pedestrian easement. This application would change that setback distance to 5'. In most cases the pedestrian way easement is on an outlot and there will still be ample space from the actual sidewalk and any fence. The setback would be 12.5 feet from the centerline to the building, thus with a 15' wide outlot, 12.5 feet from the centerline of the sidewalk to the building would end up being 5', which is the same as a side yard setback in most residential districts.

Cajka then explained that the third change is more of a clarification of how to measure block length. There have been some different interpretations over the years about how to measure the block length and the subdivision ordinance is not really clear. The proposal is to measure the entire perimeter of the block and divide by two. That would be the block length. This does not change the block length of 1,320 feet, except for a neighborhood that was platted prior to December 31, 1949, where the maximum block length would change to 1,000 feet. The reason for 1,000 feet in these older neighborhoods is because there are smaller blocks, so in order to keep the character of the neighborhood with any kind of infill redevelopment, it is being recommended that the block length be changed to 1,000 feet.

There was no testimony in opposition.

TEXT AMENDMENT NO. 14010

ACTION BY PLANNING COMMISSION:

October 29, 2014

Cornelius moved approval, seconded by Weber.

Cornelius commented that the Commission has indeed seen applications that have resulted from the problems that arise with the minimum requirement of 5' for pedestrian easements, and there are problems with perceived safety and problems with maintenance. It is a good step forward to alleviate those problems with the wider easement.

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

TEXT AMENDMENT NO. 14011

ACTION BY PLANNING COMMISSION:

October 29, 2014

Beecham moved approval, seconded by Scheer.

Lust commented that it is always nice when we can make amendments for clarification purposes so that people know what the standards are before they get into the process.

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

ITEMS NOT APPEARING ON THE AGENDA:

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

Gary Vocasek, resident of the Village of Hallam and member of the Village Board, referred to requests for zoning changes that the Commission may see in the near future for a proposed wind farm in southwest Lancaster County. He requested that the Commission give very careful consideration to such zoning changes and what it will do to the adjacent property owners.

There being no further business, the meeting was adjourned at 2:00 p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, November 12, 2014.