

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 15, 2015, 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: Jeanelle Lust, Cathy Beecham, Dennis Scheer, Lynn Sunderman, Ken Weber, Maja Harris, Chris Hove, (Tracy Corr and Michael Cornelius absent); David Cary, Steve Henrichsen, Brian Will, Tom Cajka, Paul Barnes, Christy Eichorn, Geri Rorabaugh 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 at 1:00 p.m. 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 April 1, 2015, as revised. Harris moved approval, seconded by Beecham and carried 6-0: Lust, Beecham, Sunderman, Harris, Weber and Hove voting 'yes'; Scheer abstained; Cornelius, Corr absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

April 15, 2015

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 15019, SPECIAL PERMIT NO. 15020, STREET & ALLEY VACATION NO. 15003, and WAIVER NO. 15003.**

There were no ex parte communications disclosed.

Scheer moved approval of the Consent Agenda (Item Nos. 1.1, 1.2, 1.3, and 1.4), seconded by Hove and carried 7-0: Lust, Hove, Beecham, Weber, Scheer, Harris, and Sunderman; Corr and Cornelius absent.

Note: This is final action on Special Permit No. 15019, Special Permit No. 15020, and Waiver No. 15003, unless appealed to the City Council within 14 days.

**TEXT AMENDMENT NO. 15003,
DWELLINGS FOR MEMBERS OF A RELIGIOUS
ORDER TO ALLOW AN INCREASE IN DENSITY AND
AMENDING TABLE 27.72.010C TO ALLOW DWELLINGS FOR
MEMBERS OF RELIGIOUS ORDER ON PROPERTY LESS THAN
5 ACRES IN THE AG ZONING DISTRICT.
PUBLIC HEARING BEFORE THE PLANNING COMMISSION:**

April 15, 2015

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

Staff Recommendation: Approval

There were no ex parte communications disclosed on this item.

Staff presentation: **Christy Eichorn of the Planning staff** explained that the text amendment specifically addresses the special permit for the dwellings of a religious order. This amendment influences two special permits on today's agenda – Special Permit No. 15020 and Special Permit No. 15018. Eichorn explained that the amendment allows for an increase in the number of people who can reside within a dwelling for members of a religious order, i.e. convent. If there are more than three unrelated persons, a special permit would be required. Dwellings for members of a religious order is a special permit and it is very specific to the use. In today's code, there are specific square footage requirements that are used to determine the number of people who can reside in the house. The applicant is requesting to have at least six individuals. Based on the calculations of the current code, they would only be allowed to four. The proposed text amendment would allow an increase of up to 100 percent if they are within 600 feet of a school, church, etc. Eichorn explained that 600 feet was determined to be an appropriate distance based on issues discussed at the neighborhood roundtable level – 600 feet is approximately two blocks and used throughout the code for parking standards, etc. This is a general standard that is used when they determine how far people are willing to walk from one place to another. Eichorn further explained that the text amendment would also for dwellings for members of a religious order to be on lots that are less than 20 acres. Currently, the AG zoning district limits a special permit for dwellings of a religious order if it is located on 20 acres or more. Eichorn noted that there are several lots in the 3-mile jurisdiction that are zoned AG and less than 20 acres, they are not considered allowable

for special permitted uses unless it is specifically stated. Referring to the Height and Area Regulations Table 27.72.010, Eichorn indicated that dwellings for members of a religious order function very similar to how churches function, which are allowable on a minimum lot area of five acres. She noted that this amendment would include dwellings for members of a religious order to the table allowing them on a minimum lot size of five acres.

Beecham asked if the text amendment ramifications relating to parking requirements? Eichorn reported that there are special parking requirements for dwellings for members of a religious order but these are not being changed. In the future, if a special permit application and it was deemed more parking might be necessary in that particular instance, than it would be a condition of the special permit.

Hove asked staff if they believe this will set a precedent for future similar developments? Hove noted that he is comfortable with this application but asked about the definition of a *religious order* and whether or not it could be abused. Eichorn explained that this is a special permitted use; therefore, they would be reviewed on a case-by-case basis through the special permit. This text amendment allows for more options for people to come before the Planning Commission to show why they should be granted a special permit in a particular neighborhood zoning district.

Beecham asked if the amendment would allow for a camp counselor housing situation? Eichorn indicated that this would not likely fit the definition as it applies to this particular special permit.

Proponents:

1. **Sister Mary Michael**, 400 S.W. 56th Street, Lincoln, NE, principal of Saint Peters School, applicant, came forward and explained that there are currently three sisters serving at the school. They are requesting to be allowed to go up to six because they hope to serve in the parish for many years and they have several young members joining their parish so believe that they will likely be increasing their school capacity is very probable. In addition, they are entertaining the idea of hiring a student teacher to help train the young sisters. Mother Joan Paul asked if they could propose the text amendment since they are acquiring the property so as not to be limited in the future. Currently, the three sisters ride in one car, and they hope to be a positive impact on the neighborhood. They would like to reside closer to the school.

Opponents: None.

Staff Questions: None.

ACTION BY PLANNING COMMISSION:

April 15, 2015

Hove moved to recommend approval of this text amendment; seconded by Beecham.

Lust stated that this seems like a sensible text amendment, especially with the extra protection of requiring a special permit whenever a similar type of project comes forth. She supports that the application.

Harris agreed with Commissioner Lust and stated that she likes it when a text amendment is associated with a particular application rather than theorizing, so they have a concrete example.

The motion for approval of this text amendment carried 7-0; Lust, Hove, Beecham, Weber, Scheer, Harris, and Sunderman: Corr and Cornelius absent.

**CHANGE OF ZONE NO. 15011, FROM AG TO AGR
ON PROPERTY GENERALLY LOCATED AT
9400 SOUTH 56TH STREET.**

and

**SPECIAL PERMIT NO. 15021, TO ALLOW THE
TRINITY OAKS COMMUNITY UNIT PLAN FOR 17
DWELLING UNITS, INCLUDING WAIVERS, ON
PROPERTY LOCATED AT 9400 SOUTH 56TH STREET.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

April 15, 2015

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

Staff Recommendation: Approval of the change of zone and conditional approval on the special permit.

There were no ex parte communications disclosed on this item.

Staff presentation: **Brian Will of the Planning staff**, referring to the site plan, provided an overview of the project area, bounded by the following major arterial streets: Yankee Hill Road, South 56th Street, Rokeby Road, and South 70th Street. There are two associated applications – one for the change of zone and one for the special permit for a community unit plan, utilizing build-through. The applicant is requesting AGR zoning because the property is surrounded by AGR zoned property. He explained that this area is not eligible to be annexed due to the lack of city utilities. Will explained that although this property is not eligible to be annexed today, it likely will be in the near future as it is in the Tier I,

Priority B of the Growth Tiers. The city limits are moving in this direction. With the idea of doing the build-through in this location within a manner that it can be annexed in the near future makes sense. The applicant is proposing 16 lots in the southeast corner of the property and 1 additional existing lot. The new proposed lots will range from one-half acre to just over one acre in size. If this development were zoned AGR, they could have 3-acre lots. Because this area seems to be close to being annexed, he believes that this more closely approximates urban development. Will stated that about 60 percent of the development is not being platted for development today but rather is being set aside for when it is annexed. The site plan does include a future street and lot layout that resembles something similar to a typical R-3 residential neighborhood. The streets that will serve the 17 lots will be built to city standards. The future streets will not be built until the property is annexed and a future layout is brought before the Planning Commission for approval. Staff is supportive of all the waivers that are being proposed. The most notable conditions of approval relate to the approval of the grading and drainage by Public Works and the placement of individual wells until the property is annexed, as reviewed and approved by the Health Department.

Staff Questions

Lust questioned what the plans are for sewer. Will explained that the sewer will be installed with the street as a single-package plant which will serve all the existing lots until municipal facilities are connected. Will noted that the switch over should be easy.

Harris referenced the letter regarding the existing home having continued access to South 56th Street. Will stated that the request of the property owner is to be allowed to continue to use the existing drive onto South 56th until the property is annexed in the future. Staff is supportive of the use of driveway but, once the property is annexed, the driveway will be eliminated and will access off the internal street network of the property.

Weber asked for clarification on the single-package plant. Will indicated that it has not yet been determined but the applicant may be able to address what is being proposed during his testimony.

Proponents

Mike Eckert, Civil Design Group, 8535 Executive Woods Drive, Lincoln, representing Pride Homes, the proposed developer of the project. Using an aerial view of the property, Eckert explained that the entire mile section is composed of acreages and, thus, they believe that the change of zone makes sense. The proposal includes a build-out of an acreage development and a future urban reserve component. With the future endeavor over the next few years with the Capital Improvement Program, they will be focusing on getting sewer and water to this site. They are working with city staff in terms of the water connection. Eckert referred to the site plan and explained that the applicant has a vision

for this property, as it is inevitable that it will be annexed in the not too distant future. Their goals are to make it easy for hookup in terms of streets and sewer. The streets will be build to city standards. During the initial acreage component of the development, they are planning for a community sewage system planned. The soil percolates enough in a good portion of the property to basically allows them to have a large septic field in part of the urban reserve component that would be dismantled when sewer comes in. They continue to work on the more efficient design. The sewer system will likely grow as the development grows, which will be fully regulated by the Nebraska Department of Environmental Quality. They have planned adequate connections to Mr. Gibson's property as well as to 60th Street and 58th Street. Eckert believes that the proposal is compatible with the existing acreages but also plans for future annexation.

Opponents

1. John Hollingsworth, 9200 South 60th Street, property owner of the land that abuts the north portion of the proposed development. Hollingsworth noted that he is not necessarily testifying in opposition. He believes that the plan is doable as it is being proposed but he noted that he is concerned about the wells and the impact that this may on the water table as well as the septic system. Hollingsworth reported he has met with the applicant a couple times, and the applicant has done a good job of explaining some components of the development but not all components. Hollingsworth noted that the applicant indicated they plan to have a lateral field across the fence from his property; Hollingsworth stated this would likely need to be quite large to service 16 large homes.

Staff Questions

Beecham stated that there has been recent testimony to the Planning Commission regarding the depth of wells, water availability, etc. for another development, and questioned as to what point in the process the Health Department reviews and approves the wells for a new development.

Will explained that the wells and septic systems are both conditions of approval. If the Planning Commission approves the proposal with these conditions, than the applicant has to satisfy that requirement. These conditions are associated with the special permit and will need to be satisfied before the final plat or any plans can be submitted for building permits .

Response by the Applicant

Eckert addressed the concerns of Mr. Hollingworth and explained that he is working with Doug Smith of Lincoln Lancaster County Health Department. Eckert indicated that he was involved in an acreage development in 2007 north of Pawnee Lake and the water situation

is different, as they had a condition that required them to drop a well on each lot before a building permit could be obtained – all 18 were dropped and all were successful with no apparent repercussions to the neighbors. Eckert stated that for this proposed development, they need to submit the geological study to the Health Department proving that there is adequate water. Eckert stated that there is a line Yankee Hill and Rokeby but neither had been extended because this area has sufficient water, although it is a hard and treatment will be required. Eckert noted that they will comply with the Health Department's requirements, and they will do a 13-perimeter test on the existing well and submit that as well. As for the septic system, an engineer out of Fremont is working on the design, which will most likely include lateral fields, showing the placement in conjunction to Mr Hollingsworth property. Because they are proposing a community system, it has to meet Nebraska Department of Environmental Quality regulations, noting that typically these are designed to be larger than what is needed, noting that a separate hearing will likely be held on the approval of the proposal.

Weber asked how often septic systems are inspected? Eckert explained that discharge systems are required to have a monthly inspection. For non-discharge systems, they are inspected annually to make sure that the lateral systems are working. The type of system that will likely use, is an infiltration system so will likely be inspected annually.

George Gibson, property owner to the east, asked a question regarding the septic system. Chairperson Lust asked that Mr. Gibson ask his question of the applicant's representative.

ACTION BY PLANNING COMMISSION:

April 15, 2015

CHANGE OF ZONE NO. 15011, FROM AG TO AGR ON PROPERTY GENERALLY LOCATED AT 9400 SOUTH 56TH STREET.

Hove moved to recommend approval of this change of zone application; seconded by Weber.

Lust stated that this seems like a good fit for the development that is already existing in the area, although it is a little concerning when we are building more acreages in an area that we anticipate are going to be part of the city fairly quickly; however, she believes the staff and the applicant have come up with a good plan in terms of how it will be integrated into future city growth. Lust noted she supports the application.

The motion for recommended approval of this application carried 7-0; Lust, Hove, Beecham, Weber, Scheer, Harris, and Sunderman; Corr and Cornelius absent.

SPECIAL PERMIT NO. 15021, TO ALLOW THE TRINITY OAKS COMMUNITY UNIT PLAN FOR 17 DWELLING UNITS, INCLUDING WAIVERS, ON PROPERTY LOCATED AT 9400 SOUTH 56TH STREET

Hove moved for conditional approval of this application; seconded by Beecham.

The motion for conditional approval of this application carried 7-0; Lust, Hove, Beecham, Weber, Scheer, Harris, and Sunderman; Corr and Cornelius absent.

SPECIAL PERMIT NO. 15018, PERMITTING A DWELLING FOR MEMBERS OF A RELIGIOUS ORDER ACCOMMODATING UP TO SIX PERSONS, ON PROPERTY GENERALLY LOCATED AT 6225 SOUTH 44TH STREET. PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

April 15, 2015

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

Staff Recommendation: Conditional approval of the special permit.

There were no ex parte communications disclosed on this item.

Staff presentation: **Christy Eichorn of the Planning staff** stated that this special permit is one of two special permits associated with Text Amendment No. 15003 to allow for an increase in the number of residents in a dwelling for members of a religious order. This special permit is for 6225 South 44th Street. The property is located approximately 600 feet from the school and surrounded by mostly single-family residential units. The house that is proposed to be used is going to remain a single-family house but they are going to add two rooms to the basement of the house to accommodate the six members that would potentially be living there.

Proponents:

1. **Sister Mary Michael**, 400 S.W. 56th Street, Lincoln, NE, principal of Saint Peters School, applicant, came forward and stated that there is a 2-car garage and they plan to have a maximum of two cars so they won't need any on-street parking.

Opponents: None.

Staff Questions: None.

ACTION BY PLANNING COMMISSION:

April 15, 2015

Beecham moved for conditional approval of this application; seconded by Scheer.

Lust stated that this a reasonable and nice project and, therefore, supports that application.

The motion for conditional approval of this special permit carried 7-0; Lust, Hove, Beecham, Weber, Scheer, Harris, and Sunderman; Corr and Cornelius absent.

**STREET & ALLEY VACATION NO. 15004, TO VACATE
A PORTION OF THE RIGHT-OF-WAY ALONG
M & L STREETS BETWEEN SOUTH 7TH
STREET AND SOUTH 8TH STREET.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

April 15, 2015

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

Note: Maya Harris has elected to exercise her right of abstention on this application to avoid any appearance of partiality due to her close relationship with the applicant.

Staff Recommendation: Conforms to the Comprehensive Plan

There were no ex parte communications disclosed on this item.

Staff presentation: **Paul Barnes of the Planning staff** stated that this special permit is a request to vacate portions of M and L Streets between 7th Street and 8th Street. Barnes noted that this is a full block located in the South Haymarket which is occupied by the former Meadow Gold Dairy complex. Barnes noted that in 2011 there was a redevelopment agreement approved for reuse of this complex of buildings of which is currently underway. Telesis has been incorporated into the building and there are plans to add a brewery to the site followed by subsequent phases of redevelopment. The vacation is being requested for the location of a geothermal system that is proposed for the development. The applicant wants to add additional geothermal wells in the right-of-way to be vacated as well as to provide for access and control of their loading areas. Barnes explained that there are a lot of docks and overhead doors along the buildings on both L and M Streets, which have existed for decades as loading areas and these areas will continue to be used with the redevelopment project. A study is being conducted in the South Haymarket area which includes a review of the existing rights-of-way. Barnes noted that M and L Streets were both originally platted with 100- foot rights-of-way but over the years, pieces have been vacated; most recently with the vacation of some right-of-way

along 7th Street as part of this redevelopment project. Barnes noted that it is appropriate to look when requests for vacating rights-of-way on a case-by-case basis while maintaining enough right-of-way to be able to function as a street and allow for vehicular and pedestrian traffic as well as street scape elements. The proposed vacation includes a recommendation to include a pedestrian way through the vacated portions of the street and include a functioning sidewalk as part of this redevelopment project. In addition, the South Haymarket Study considers the impact on the adjacent blocks. One concept that is being discussed is the potential to re-establish some of the rights-of-way, i.e. M Street west of 7th Street. They have held discussions with Public Works regarding this proposal and have come up with some designs and found that this proposal would not have a negative impact on this concept and that the city could still dedicate additional M Street right-of-way and still have two lanes of traffic on M Street with the ability for sidewalks and other streets capes.

Questions of Staff

Beecham stated that this building is land marked and indicated that this is not going before the Historic Preservation Commission since the changes are only impacting the street scape, etc. Barnes stated that this is correct – this does not impact the historical significance of the building. Barnes noted that this property is zoned B-4 so if any parking area were established along 8th Street, those areas would need to meet Downtown Design Standards. Staff have had discussions with the developers about these standards and will continue to work with them on these items as well.

Lust asked for clarification about the location of the dedicated bikeway along N Street. Barnes indicated that a protected bikeway is along N Street from the Jamaican Trail along Arena Drive extending east to 21st or 22nd Street; this is currently under construction and it is anticipated to be completed later this year.

Proponents:

1. **Tom Huston**, 233 South 13th Street, Lincoln, NE, representing the applicant. He has been working with the team of developers over the last six months on this project. In 2011, the city of Lincoln approved the redevelopment project for the first phase of this development. This vacation request facilitates the relocation of two primary employers from their current location at 7th & Q Streets to this new development, including Data Security and Emporium Brewery Company. This will be a better fit for these operations with the ability to expand to the property at 8th and M Streets. The principle reasons for the vacation request is for the expansion of the geothermal well system consisting of 76 new wells which is designed to provide the heating and cooling deliveries for the entire complex. The complex will exceed 175,000 square feet, once fully developed. Referring to an aerial view, Huston showed the proposed locations of the wells along M and L Streets. Huston

noted that one of the primary objectives of the central business district targets the reduction of carbon dioxide, which will be reduced by 754 tons as a result of this project and will more than satisfy the goal for the entire central business district. This matches up well with the sustainable energy and renewable energy objectives of the Comprehensive Plan. The second primary purpose relates to the ability of Telesis and their operations to continue to make this block a fully functioning and economically viable area by providing access and also some additional private areas on the surface use of these properties. Huston noted that the green area on the diagram is intended for the same purpose. The developers have been working with staff over the past several months recognizing that the city has different objectives for the 8th Street corridor because of the primary traffic component that it will become as part of the South Haymarket Plan. A compromise was reached and rather than seeking a vacation, they are going to try to utilize a permanent easement for this area. Huston explained that the reason they did not request an easement for the other areas is primarily because his client is investing approximately \$1.2 million for the installation of the geothermal system to provide the energy and it makes sense that they have long-term ownership to ensure that the investment is secure. Huston stated that the request for street vacation is consistent with the Comprehensive Plan, the Downtown Master Plan and the proposed South Haymarket Plan. The permanency of the ownership and the easement will add to the certainty that will be required for property owner to make the continued investment in this property and will allow the property to become economically viable while preserving the historical significance of the property. Huston thanked the city staff from various departments, including the Mayor's Office, Public Works, Urban Development, and Planning Departments. It is exciting to see this project move forward.

Beecham stated that this is an interesting project which combines two of her favorite components – the preservation of historic buildings and sustainable energy sources. She asked if the energy sustainability from the geothermal system will be able to provide energy to other buildings as well. Huston indicated that it will be sized primarily for the 175,000 square feet of the complex.

Scheer commented about paving over the geothermal well fields and asked if there are plans to provide for some turf and street scape, i.e. plantings. Huston stated that they need to avoid conflicts with any deep root plantings, etc. Huston noted that once they are constructed, continuous maintenance on the wells is not needed. In terms of the depth of the wells, Huston stated that they will be 100s of feet.

Hove asked if the existing buildings will be changed? Huston indicated that there are 15 condominium units but the redevelopment project that has been approved only deals with a few of them. There are multiple condo units that are subject to future redevelopment, which is one of the reasons they used a condominium regime; this allows them to do a phased

redevelopment effort, which will occur as additional uses are determined.

Opponents: None.

Staff Questions: None.

ACTION BY PLANNING COMMISSION:

April 15, 2015

Hove moved to recommend conformance with the Comprehensive Plan; seconded by Beecham.

Beecham stated that this is an exciting project which takes an historic building and uses it in a creative way that is good for the environment. She supports that vacation request.

Lust echoed Beecham's comments stating that this a neat project and she supports the application.

The motion recommending conformance with the Comprehensive Plan for this street and alley vacation carried 6-0; Lust, Hove, Beecham, Weber, Scheer, and Sunderman; Harris abstained; Corr and Cornelius absent.

There being no further business to come before the Planning Commission, the meeting was adjourned at 2:10 p.m.

Please Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, April 29, 2015.