

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 13, 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, Dennis Scheer, Lynn Sunderman, Michael Cornelius, Maja Harris, Ken Weber, (Tracy Corr, Cathy Beecham, and Chris Hove absent); David Cary, Steve Henrichsen, Brian Will, Christy Eichorn, Mike Brienzo, 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 29, 2015. Cornelius moved approval, seconded by Sunderman and carried 5-0: Lust, Cornelius, Scheer, Sunderman, and Weber voting 'yes'; Harris abstained; Corr, Beecham and Hove absent..

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

May 13, 2015

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

The Consent Agenda consisted of the following items: **PRE-EXISTING SPECIAL PERMIT NO. 32B 1856A and SPECIAL PERMIT NO. 15025.**

Both Consent Agenda items, including Item 1.1, Pre-Existing Use Permit No. 32B, and Item 1.2, Special Permit No. 15025, were removed from the Consent Agenda and had separate public hearings per the request of the respective applicants. It was noted that the applicant for Special Permit No. 15025 has requested a 2-week deferral. There being no other items on the Consent Agenda, no action was necessary.

PUBLIC HEARING AND ADMINISTRATIVE ACTION:

**SPECIAL PERMIT NO. 15025, TO CONSTRUCT A
BROADCAST TOWER ON PROPERTY GENERALLY
LOCATED AT 3825 WILDBRIAR LANE.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

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

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Per the applicant's request, Cornelius moved to defer public hearing and action on this application until May 27, 2015; seconded by Weber and carried 6-0; Lust, Scheer, Harris, Sunderman, Weber and Cornelius; Corr, Hove and Beecham absent.

There was no one present to provide testimony on this item.

**PRE-EXISTING SPECIAL PERMIT NO. 32B, TO ALLOW
AN EXPANDED LICENSED PREMISES FOR THE SALE OF
ALCOHOL FOR CONSUMPTION ON THE PREMISES,
GENERALLY LOCATED AT 2801 NW 48TH STREET.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

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

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Staff presentation: **Brian Will of the Planning staff** provided an overview of this application, identifying the property boundaries and explaining that it is a multi-tenant bay. The applicant's business is located at the north end. The original pre-existing special permit was approved in 2005 to allow for the addition of an outdoor area. The applicant is proposing to expand this area to the north and east by approximately 330 square feet. The Planning Department is recommending conditional approval of this request with the continuation of the use of a 7-foot high privacy fence.

Staff Questions None

Proponents:

David Warneke, the applicant, 906 Gunnison Drive, Lincoln, NE 68521, stated that when they submitted this application, they proposed to put in a lower railing fence similar to what is used by a lot of businesses, i.e. sidewalk cafes rather than using a 7-foot wall. He believes that the existing wall was likely used as a result of the previous standards to screen the area. Warneke reported that directly to the west, it is zoned residential but this is currently an open field and not likely to be developed anytime soon. He proposed that they be allowed to continue the 7-foot wall on the west out 10 feet to provide continued screening to the west but allow them to use a lower railing fence between 36 to 40 inches high on the north and east, which would allow for visibility to the parking lot and N.W. 48th Street.

Opponents: None.

Staff Questions:

Lust asked the about the reason for the 7-foot fence as proposed by staff. Brian Will referred to the site plan, indicating that the B-1 business zoning abuts to R-3 residential zoning in this area. Will indicated that at the time of the original special permit was approved, the area zoned R-3 had the original platting dating back decades ago and it is was noted in the report that development of this area would likely not occur in the near future. However, not long after that, a new development plan was approved for this area and a couple of units have been built. Will indicated that the 7-foot fence would provide for the screening to limit noise and associated activities from the outdoor area if development occurs to the west.

Lust asked if the 7-foot fence is higher than what is required for other beer gardens. Will stated that this would be above and beyond any screening or fencing requirements but feels it is reasonable for commercial zoning with an outdoor component that is next to a potential residential development.

Lust asked staff about the potential for requiring a higher fence on the side facing the residentially zoned property. Will noted that the residential district boundary jogs to the

north a little bit and they could potentially to make a compromise to provide higher screening along the west and a portion of the north, using lower screening on the remainder.

Applicant Rebuttal

Warneke indicated that the portion to the north could possibly work but when you look at the area that may be potentially exposed, it seems like the 7-foot fence is a little extreme. Warneke noted that he believes that a new street will be going in as part of the residential development, so there would a street separating them.

ACTION BY PLANNING COMMISSION:

May 13, 2015

Cornelius moved for the approval of the application with an amendment that the screening should be to the west and to north as agreed upon by the Planning Department; seconded by Scheer.

Cornelius noted that he understands both sides of the argument, and stated that since this is a special permit, there is some latitude with regard to the requirements that can be imposed and, in this case, there is a commercial development adjacent to a reasonably high probability of residential development to the west. Part of the responsibility of of the Planning Commission is to try to ease the transition between those two zoning districts, as such, Cornelius believes that this is a reasonable compromise.

Lust noted that she supports Cornelius' motion and is in agreement with his comments. She believes that it makes sense to maintain some privacy fencing on the west and to the jog along the north but it could be open into the parking lot.

The motion for conditional approval of the application as amended carried 6-0; Lust, Scheer, Harris, Sunderman, Weber and Cornelius; Corr, Hove and Beecham absent.

TEXT AMENDMENT NO. 15006, AMENDING SECTION 27.51.030 AND SECTION 27.64.010(H) OF THE LINCOLN MUNICIPAL CODE RELATING TO THE I-3 EMPLOYMENT CENTER DISTRICT TO ALLOW THE CITY COUNCIL TO WAIVE SPECIFIC USE REGULATIONS SET FORTH IN SECTION 27.51.030; AND REPEALING SECTION 27.51.030 AND 27.64.010(H), PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

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

Staff Recommendation: Approval.

AND

USE PERMIT NO. 117E, TO REMOVE THE MAXIMUM FLOOR AREA LIMITATION AND LAND USE TABLE FROM THE USE PERMIT SITE PLAN, ON PROPERTY LOCATED WEST OF SOUTH 14TH STREET AND GARRET LANE. PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

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

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on these two items.

Staff presentation: **Christy Eichorn of the Planning staff** provided a history of the I-3 zoning district which was started in 1999. At that time, the city was looking to develop an area known as employment centers to bring in bigger businesses, office uses, and light industrial uses. There was a need recognized at that time that there should be a portion that could contain retail and office uses, thus, there were percentages developed as part of the I-3 zoning district that could limit these two uses incorporated into the I-3 zoning district. The purpose of the establishing the percentages was to provide some control and as the development matured, there would be a good mix of uses, keeping to the intent of the I-3 zoning district as an employment center district. Eichorn stated that during her research of the original text amendment, she came across a note in the staff report that the planning commission was to conduct a review in a couple of years to see the percentages were still relevant. Eichorn noted that Horizon Business Center took a little longer to develop than what was anticipated; therefore, the percentages never got revisited. Eichorn referred to the table showing the history of amendments that were done on the Horizon Business Center, involving

27 amendments. The majority of these amendments dealt with transferring square footages from different lots, calculating percentages of square footage that was left over from the original approval and also calculating the 15 percent increase in square footage that can be done administratively through the planning director. Eichorn indicated that the majority of the Horizon Business Center, which was the original I-3 use permit district, is now mostly built out and keeping the percentages does not make a lot of sense. It has become very difficult to manage because with the original use permit, they built in flex uses which are not defined in the zoning code but could be retail in nature or industrial or a mix of both. The Horizon Business Center has developed to the intent that it was originally created for, including manufacturing jobs, retail, office, light manufacturing and warehouse and mini storage. Eichorn noted that with the use permit amendment, they are seeking to remove the land use table that specifies the exact amount of square footage that each lot is allowed as well as the specific use type that is allowed on each one of those lots; therefore, allowing it to develop based on all of the uses that would be allowed in the I-3 zoning district. They are not asking to get rid of the percentages for all I-3 zoning districts. There are only three such zoning districts in the city and one of them is Horizon Business Center. The proposed text amendment gives the applicant the ability to ask to either adjust or eliminate those percentages from their particular use permit. These would be taken to the City Council for approval so that the community has a chance to see whether or not it makes sense to eliminate those percentages on a case-by-case basis through the use permit process. The text amendment and the use permit are associated, as they are requesting that the Horizon Business Center to eliminate the land use table, eliminate the land area calculations table, and the minimum floor area requirements and to just regulate that development based on flood plain, setback and height requirements. This would allow the developers to continue to build out within the subdivision as long as they meet these restrictions. The other two I-3 zoning districts would remain as they are today and would not be affected by this text amendment unless they came back to the Planning Commission and City Council requesting a waiver.

Staff Questions

Cornelius asked if Horizon Business District, assuming the Planning Commission's approval, would have to go before the City Council. Eichorn indicated that they would need to go before the City Council.

Sunderman asked where the other two I-3 zoning districts are located. Eichorn indicated that they are located in the northern part of the city. Sunderman asked for clarification in terms of the Horizon Business Center, stating that it has matured enough that it is expected to completely fill out in the same manner as it doing right now. Eichorn referred to a site plan, stating that there is not a lot buildable land left in this I-3 district.

Proponents

Brad Marshall, Olsson Associates, 601 P Street, representing the applicant, Peters Properties, which owns two of the lots within this subdivision. The applicant is looking to see what could be done with the two parcels purchased years ago which were identified for a bank and fast foot restaurant adjacent to South 14th Street. The applicant is looking for an opportunity to remarket these parcels straight retail and/or office. Marshall indicated that he has been working with Planning Department for a number of years on the Horizon Business Center and knew that a text amendment would be necessary in order to make this change. As they have looked at this, meeting the parameters of the zoning district, they are not requesting any other waivers at this time for the property. Marshall reviewed the site development, identifying where new development is occurring, and he has visited with other the property owners in the subdivision to discuss how this may affect them. He has received position feedback in that this does present an opportunity to them to remarket some of the parcels that they have had difficulty selling. Marshall noted that one of the other two I-3 districts is Landmark Corporate Center in North Lincoln, located by North Star.

Opponents - None.

Staff Questions

Harris asked for an explanation as to what the process would look like if this were to be approved if someone came forth with developing a new district or one not fully developed yet and asked if they would be allowed to ask for modifications to the percentages initially. Would they be required to the 20/30 and then as they build out following the intent of the district, then they might be able to waive the percentage? Eichorn stated that if another application came in for a new employment center district, they would use the same percentages to make sure that they develop an employment center and not another commercial district. The regulations are part of the zoning code and in the I-3 chapter of the zoning code, there was no way to make any sort of adjustments, thus the reason for the proposed text change. Eichorn noted that the minimum construction standards will remain in the code. If an applicant came forth in the future and indicate that these design standards don't work and wants to proposed something different, this text amendment would allow them to do that and come before the Planning Commission to see if it would work and then go on to the City Council for approval. Today, there is no mechanism to ask for the change if it could be a positive change.

Harris asked if the reference to "*this* Title 27" as noted on Page 34, Line 30 of the draft ordinance if the word "this" should be deleted. Eichorn stated that this was added by the Law Department but could check to see if it could be removed.

ACTION BY PLANNING COMMISSION:

May 13, 2015

**TEXT AMENDMENT NO. 15006, AMENDING SECTION 27.51.030
AND SECTION 27.64.010(H) OF THE LINCOLN MUNICIPAL CODE
RELATING TO THE I-3 EMPLOYMENT CENTER DISTRICT TO ALLOW
THE CITY COUNCIL TO WAIVE SPECIFIC USE REGULATIONS
SET FORTH IN SECTION 27.51.030; AND REPEALING
SECTION 27.51.030 AND 27.64.010(H),**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

Sunderman moved to recommend approval of this text amendment; seconded by Cornelius.

Lust made a friendly amendment to the motion to remove the word "this" before Title 27 on Page 34, Line 30 of the draft ordinance; accepted by Sunderman.

Cornelius indicated that his initial reaction to this was negative, as it seemed like a give-a-way, but after hearing the arguments in favor of it, he is able to see how it contributes to the flexibility to develop a more mature project in the I-3 area with controls to ensure that it does not violate the original intent of the text that is being removed by the amendment. Given this, he is inclined to support it.

Sunderman indicated that he agrees the statements made by Cornelius. The ordinance was approved 15 years ago and it has had a chance to percolate for awhile, and through experience with the ordinance, he believes that this is a prudent movement forward.

Lust stated that given the history of the ordinance and some angst at that time about actually having these type of percentages with the intent to revisit it, it is a good action item to get it cleaned up and allow modifications under the appropriate circumstances.

The motion for recommended approval as amended carried 6-0; Hove, Beecham, Scheer, Cornelius, Corr, and Sunderman; Harris, Lust and Weber absent.

USE PERMIT NO. 117E, TO REMOVE THE MAXIMUM FLOOR AREA LIMITATION AND LAND USE TABLE FROM THE USE PERMIT SITE PLAN, ON PROPERTY LOCATED WEST OF SOUTH 14TH STREET AND GARRET LANE.

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

Sunderman moved to recommend conditional approval of this application; seconded by Harris.

Lust stated that she believes this looks like a good plan for this particular area going forward and, therefore, supports the application.

The motion for recommended conditional approval carried 6-0; Hove, Beecham, Scheer, Cornelius, Corr, and Sunderman; Harris, Lust and Weber absent.

SPECIAL HEARING AND ACTION

THE DRAFT OF THE FY 2016-2019 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) FOR THE LINCOLN METROPOLITAN PLANNING ORGANIZATION (MPO).

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

Staff Recommendation: A finding of general conformance with the 2040 MPO Long Range Transportation Plan.

There were no ex parte communications disclosed on this item.

Staff presentation: **Mike Brienzo of the Planning staff**, reported that each Planning Commission member should have a copy of this year's Transportation Improvement Program (TIP), which is also available on the MPO's website. Brienzo noted that the TIP covers four years from FY2015-16 through FY2018-19 and is a program of projects developed by the Metropolitan Planning Organization, which identifies transportation projects that will be supported with federal funds, require federal review, or have regionally significant impacts. The document is fiscally constrained with federal and local funds for a priority set of projects implemented from the Long Range Transportation Plan. The primary purpose of the TIP is to develop a 4-year list of transportation improvements for federal funding, which will be sought, and to alert other agencies and the public on transportation improvements that are forthcoming. The TIP is basically an extension of the Long Range Transportation Plan. The TIP is developed in cooperation with the Nebraska State Department of Roads, Lancaster County Engineering, City of Lincoln Public Works and StarTran, Airport Authority, the Lower Platte NRD, and Parks and Recreation programming, and the City of Hickman. It was been recommended to the Planning Commission by the MPO Technical Committee for

public review. They are seeking the Planning Commission's review and finding of conformance with the 2040 MPO Long Range Transportation Plan. Brienzo noted that any comments will be included as part of the TIP and are presented to the Technical Committee and Policy Board for their review.

Staff Questions - None.

ACTION BY PLANNING COMMISSION:

May 13, 2015

Sunderman moved to approve a finding of general conformance with the 2040 MPO Long Range Transportation Plan as presented; seconded by Harris.

Cornelius stated that the Planning Commission was briefed on the TIP two weeks ago in depth and noted that it is fiscally constrained and they are somewhat bound by the budgetary limitations of the city in considering its conformance with the comprehensive plan.

Motion carried 6-0; Hove, Beecham, Scheer, Cornelius, Corr, and Sunderman; Lust, Harris, and Weber absent.

There being no further business to come before the Planning Commission, the meeting was adjourned at 1:45 p.m.

Please Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, May 27, 2015.