BRIEFING NOTES

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, July 24, 2013, 1:45 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, Michael Cornelius, Tracy Corr, Dennis Scheer and Ken Weber (Chris Hove, Jeanelle Lust and Lynn Sunderman absent); Marvin Krout, Steve Henrichsen, Christy Eichorn, Jean Preister and Teresa McKinstry of the Planning Department.
STATED PURPOSE OF MEETING:	Briefing on "Decks and Other Zoning Modifications"

This briefing occurred immediately following the adjournment of the regular Planning Commission meeting held on Wednesday, July 24, 2013.

Christy Eichorn of Planning presented additional information on a proposal relating to rear yard reductions, decks and minor modifications. The Planning staff recently presented some ideas to the Mayor's Neighborhood Roundtable. Based on some feedback received from the Neighborhood Roundtable, the proposal has been modified. Eichorn advised that the Planning Director will not be moving forward with this proposal in the near future, and if the Commission does not see any merit in this proposal, staff would like to know.

Eichorn reiterated that the purpose of this proposal is the desire to treat residential properties more equally, streamline the development review process and make things easier for reviewers in the city and for the property owners.

Eichorn presented a table setting forth amendments that have done in community unit plans (CUP) and planned unit developments (PUD). Special permits for a CUP are residential developments and PUD's are mixed. The table represents approvals by the Planning Director done administratively that allowed for an adjustment to the rear yard setback. Some were for decks only, some for covered decks and some for the expansion of buildings. The table also consists of a list of adjustments to side yards that have been approved since 2008. The proposals discussed today do not include the side yard. We are only talking about adjustments and modifications to rear yards.

Eichorn then displayed examples of the issues dealt with on a daily, weekly and monthly basis, e.g., a property that is not a regular-shaped lot wanting to do improvements to the existing structure but it encroaches into a rear yard. One of the first things to streamline the process would be to reduce the rear yard from 30 feet or 20% of the depth of the lot to 20 feet or 20% of the depth of the lot. The staff is proposing this in the R-1 through

R-4 districts for single- and two-family lots. This would not be a reduction in the rear lot of multi-family units. Eichorn emphasized that if you have a lot deeper than 150', the most you are going to be required to have is a 30' rear yard setback. As lots get smaller, the area gained by this proposed change gets smaller. Thus, the impact on the smaller lots is very, very small.

Why 20'? There is a significant number of adjustments that the Planning Director has approved in CUP's where they only needed a few feet. If we go to 20', we remove a lot of applications from the process that really only needed 2, 3 or 4 feet in the first place.

Cornelius wondered about new construction. We are making the problem difficult because people will have structures that are built to their lot line. It will be larger and they will want to put a deck on later. Why do we assume that is not the case? Eichorn stated that she will answer that question at the end of the presentation.

Eichorn went on to observe that today we talk about patios, uncovered decks. The code today says that as long as you are less than 3' off the ground, you can go within 2' of your rear lot line. If above 3', you have to stay in your buildable area. Today, a 3,500 sq. ft. area would allow a house just about anywhere. If the house is towards the back of the lot, you could have a patio or short deck off the back and could cover most of the rear yard today. That is not being changed. We are proposing a combination of the rear yard setback still allowing deck encroachment. We heard that there was concern about decks being too tall and anything over the first story would be of concern. Having a covered deck makes it feel like more of an enclosure than open space. We are proposing to reduce the rear yard to 20' or 20% of the depth of the lot, and within that 20' rear yard setback you could have a deck that encroaches up to 10' of the rear lot line, but not any taller than the first story, and it would have to be uncovered.

Another part of the proposal is the ability of the Planning Director to make "minor modifications". In this case, minor modifications would only apply in the R-1 through R-4 districts, and would only apply to single- or two-family dwellings; the minor modifications would only be allowed in the rear yard, and they would only be allowed to be a 5' deviation from the standard requirement. Eichorn then cited some examples. Minor modifications would be an approval that could be granted by the Planning Director; they would allow up to 5' encroachment into the rear yard for a building, covering a deck, or any kind of structure attached to the main building; and there would have to be conditions or criteria attached to the approvals, including notification of the abutting neighbors. And there would be exclusions – they would not apply to CUP's or PUD's – and they would only apply in the R-1 through R-4 districts and only single- and two-family structures.

Eichorn advised that the City Law Department is reviewing these proposals as to legality. We know other communities do this but they may have different legislation. If

the Commission thinks this is a good idea and other groups think it a good idea, then we can move forward.

Beecham inquired whether the plan would vary at all if someone's yard backs up to the trail system. Eichorn observed that in the past, it has been more likely that an adjustment to the rear yard would be made if a yard backed up to open space. A trail system would likely be considered open space. Staff has struggled with a good definition of "open space". It is something that has to be considered on a case-by-case basis in terms of the impact of the encroachment on the neighboring properties.

Scheer stated that he is not opposed to this proposal because he does not think there is enough of this activity going on that makes that big of a difference. However, he is concerned about the really big picture. For example, the Planning Commission spends a lot of time and thinks long and hard about how a subdivision or CUP or PUD fits the land or that "place" within our community. Those places get developed with setbacks in place and all the conditions and waivers that get negotiated. Then we come back many decades later and start to chip away at those parameters. If it happens too much, do we start to lose the meaning of time in our community? If we allow too much of it to happen, we could lose the character of the original intent. Scheer believes there is a need to still be cognizant of those kinds of things. He reiterated that he is not opposed. He just thinks it could change places, maybe not necessarily negatively but in a way about which we are not thinking.

Beecham commented that it is important to think about the open space and the impact on the homeowner. Because we are so proud of our trail system, we need to make sure we are not creating a trail system with huge decks on either side. It is just something we need to balance.

As far as the next steps on this proposal, Eichorn requested that comments be emailed to ceichorn@lincoln.ne.gov. Staff will then take any additional comments back to the Neighborhood Roundtable for further discussion and more feedback. At that point, the intent is to let other members of the community know about this proposal. If any of the three tiers proposed are not acceptable, the staff wants to know that up front before reaching out to the community.

Weber confirmed that this is an attempt to to streamline the process, and wondered whether staff anticipates an uptake in requests because of these changes. Eichorn explained that a decrease in the processing of applications would be anticipated. Reducing the rear yard from 30 feet to 20 feet will make a significant difference. If most people found out they had that little extra space, it would decrease the amount of applications and the money spent to apply. The minor modifications goes back to the point of treating our residential areas equally, and if people are trying to do improvements in older areas, we should not put up barriers. We need to help them improve their property. Eichorn further explained that we are already allowing these

modifications on a case-by-case basis. This is an attempt to just make it easier for the few that want to do it.

If it is easier, Weber wondered whether staff anticipates more people wanting to do it. Eichorn suggested that if we just did the first step of reducing the rear yard, that will take out a number of applications.

Cornelius clarified that people will still do it but they will not have to go through the process. Beecham suggested that if it is easier, more people may do it. Weber does not think that would happen.

Scheer pondered that perhaps we want to retain the character of 1953. If it is difficult to do a deck that is out of character for that place, then it should be difficult to make that happen, in his opinion. He doesn't think it will happen that much but it is something that should be considered.

Marvin Krout, Director of Planning, approached and agreed somewhat with Scheer's comments; however, he cautioned about "freeze-drying" neighborhoods. Lifestyles are much different now than they were in the 1950's. People want decks more than they want the green lawn. We need to balance that question of what we are trying to create and whether there are values to be preserved with the fact that market demands are changing. In some ways, we are trying to be responsive to the way people want to use their property today, which is different than 50-60 years ago. Scheer countered saying that in his neighborhood, he probably couldn't have a deck to the extent that he might want, but he can do a patio, and he believes a patio serves an equal purpose as a deck in many cases. He suggested that those are the kinds of thought processes that should be considered. He pointed out that at every meeting, the Planning Commission talks about "does this fit?". However, he agrees that this probably will not happen enough to make it a big deal.

Krout offered that in the older neighborhoods where there are deeper lots, there are also usually deeper rear yards. He does not think we will see a lot more, but there are exceptions and we want to make older neighborhoods and older homes competitive with what people want today. Reducing the rear yard in those older neighborhoods may allow attaching garages to the rear of homes in some cases where they cannot be today. Lots of people want to be able to drive into their garage and walk into their house. We allow garages that are detached to be closer to the rear lot line, but if you want to attach your garage to your house in the rear, it has to be 28' back in a 142' lot. That may be difficult to do. Part of this is to try to make those older neighborhoods more flexible and more marketable.

Beecham suggested that there might be some value in running this proposal by the Historic Preservation Commission and the Urban Design Committee.

Meeting adjourned at 2:20 p.m.

Respectfully submitted,
Jean Preister, Administrative Officer
Planning Department