

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 7, 2008, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Gene Carroll, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Lynn Sunderman and Tommy Taylor; Marvin Krout, Ray Hill, Mike DeKalb, Christy Eichorn, Brandon Garrett, Jean Preister and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Gene Carroll called the meeting to order and requested a motion approving the minutes for the regular meeting held April 23, 2008. Motion for approval made by Francis, seconded by Larson and carried 7-0: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson and Taylor voting 'yes'; Sunderman abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

May 7, 2008

Members present: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 08020 AND COUNTY SPECIAL PERMIT NO. 08021.**

Ex Parte Communications: None

Taylor moved to approve the Consent Agenda, seconded by Sunderman and carried 8-0: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 08020, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

**COMPREHENSIVE PLAN CONFORMANCE NO. 08008,
VAN DORN REDEVELOPMENT PLAN.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 7, 2008

Members present: Larson, Sunderman, Cornelius, Taylor, Gaylor Baird, Francis, Esseks and Carroll.

Ex Parte Communications: None.

Staff presentation: **Wynn Hjermstad of Urban Development** presented the proposed Van Dorn Redevelopment Plan. The Commission was briefed on this proposal on April 23, 2008. The Redevelopment Plan is a guide for redevelopment in the area. The next step will be approval by the City Council. Urban Development does not yet have a lot of projects identified in this plan. They are primarily looking at one commercial potential redevelopment project. The rest is primarily public improvements specifically related to Van Dorn Park, i.e. parking lot, drinking fountain, playground equipment and work on the trails in the area. The shelter is going to stay in place.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

May 7, 2008

Larson moved a finding of conformance with the Comprehensive Plan, seconded by Taylor.

Cornelius agrees that the proposed plan does maximize the present infrastructure investment and encourages renovation and reuse of existing historical commercial centers, and that is a reason for a finding in conformance.

Motion carried 8-0: Larson, Sunderman, Cornelius, Taylor, Gaylor Baird, Francis, Esseks and Carroll voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 08016
A TEXT AMENDMENT TO TITLE 27
OF THE LINCOLN MUNICIPAL CODE
RELATING TO PARKING LOTS IN RESIDENTIAL ZONING DISTRICTS
and
SPECIAL PERMIT NO. 08018
FOR A PARKING LOT IN A RESIDENTIAL ZONING DISTRICT
ON PROPERTY GENERALLY LOCATED AT
SOUTH 21ST STREET AND F STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 7, 2008

Members present: Larson, Sunderman, Cornelius, Taylor, Gaylor Baird, Francis, Esseks and Carroll.

Ex Parte Communications: None.

Staff presentation: **Marvin Krout, Director of Planning**, made the presentation and explained that the requirements of the associated special permit call for a change in the zoning text.

The text amendment changes several sections of the Zoning Ordinance concerning requests for parking lots in residential districts, which are currently reviewed and approved by the Planning Commission through the special permit hearing process. The proposed changes would allow the City Council (not the Planning Commission) to permit, on a case-by-case basis, parking or a sign to encroach into the front or side yard setbacks of parking lots that are approved through the special permit process.

The general rule in residential districts is that front yards and side yards are landscaped – not for parking nor for buildings – and there are limitations on paving in some of the residential parking lots. This text amendment would allow, on a case-by-case basis, some or all of those yard areas to be reviewed and considered and recommended by the Planning Commission, but the final decision would rest with the City Council because it is a zoning standard.

Krout further explained that for many years since 1955, there has been one provision or another in the zoning code that has allowed the City Council to consider individual waivers of the front yard setback standards, and those lasted until 1987. The last previous provision allowed the City Council to consider various types of waivers for encroachments into front yards. The most prevalent, until 1987, were for enclosed porches that would encroach into front yards, but in 1987, the recourse to the Board of Zoning Appeals (BZA) became available.

Special Permit No. 08018, also on today's agenda, is a request for special permit for a parking lot. Ten years ago, the BZA approved a variance that allowed the applicant to

encroach into the front yard setback areas. There is still that opportunity to go to the BZA but the BZA has since been working under a different philosophy, taking a more strict view of their area of authority and unless there is some kind of unique character to the site or lot in question that makes it different from the rest of the area, the BZA is generally reluctant to approve variances of all kinds, including this kind.

A couple of months ago, the Planning Commission reviewed a request for parking lot by First Presbyterian Church, which showed encroachment into front yards occupying most of the front yards with its parking. The Planning Commission approved that site plan conditional upon obtaining a variance from the BZA. That request for variance was subsequently denied by the BZA. Now, First Plymouth wants to do the same and has requested the text amendment to avoid going to BZA for the variance. The proposed text amendment would allow review, on a case-by-case basis, with potential for waiver by the City Council using broader authority than the BZA. The staff believes this is a reasonable text amendment. The City Council has similar authority to reduce front yard requirements in other districts, such as community unit plans, use permits and planned unit developments, which often have waivers of the yards.

Krout cautioned that encroachments into yard areas should be considered carefully, but on a case-by-case basis, the Planning Commission can recommend and the City Council can approve these kinds of waivers. In some cases it may mean that you have a tradeoff – if you permit some encroachment and you have a better yield of parking on one lot or two lots, you may be able to avoid taking three lots or four lots to provide the parking to serve the need of the church or other use. In some cases, the City and the facility may be responding to complaints from neighbors about on-street parking.

In this particular case (First Plymouth), the Near South Neighborhood Association, in part responding to the large amount of on-street parking because of First Plymouth, supports the request for special permit.

Krout suggested the services provided to the neighborhood by the facility should be considered against the issue of forcing the facility to move. It must also be remembered that the philosophy of the BZA has changed and there is no other recourse.

With regard to the special permit, the staff is recommending approval, with some conditions of mitigation and more screening than the minimum standard and the addition of one street tree. The staff is also suggesting that access to F Street not be allowed, but to limit the access to the alley access because this lot is the farthest away from the church and intended for employees of the church.

Krout explained that the Public Works Department is recommending that the request to waive the design standard which requires a minimum 15' distance between the nearest parking space and the right-of-way line of an alley or a street be denied. The purpose of this is to make sure there is adequate area for queuing of cars to avoid cars backing up in

the street and into the alley and blocking traffic. Staff has denied this waiver and it is now being appealed to the Planning Commission.

In addition, Krout advised that the Public Works Department has submitted a proposed alternative parking plan that shows two rows of diagonal parking instead of the 90 degree parking, the effect being to narrow down the area that is needed for parking so that there would be about 6' on either side for front yard landscaping, meaning that the landscaping would not need to be on public right-of-way. This alternative plan was provided to the applicant on Monday.

Krout clarified that this is a surface parking lot. The church does have ultimate plans to do some decked parking but they are not in a position to move ahead with that project at this time.

Dennis Bartels of Public Works explained that the conflict with the design standards is the three stalls that are within 6' of the alley. It is a public alley going the full block, paved from F Street west. The design standards provide that all maneuvering space must be on the permittee's property. The end stalls cannot be entered without making a second maneuver, i.e. backing out into the public alley. Public Works has authority to waive the design standards, but Bartels does not believe that the applicant provided the necessary justification for this waiver. The only documentation provided was to maximize the number of stalls on a lot. He did not find that that was within the spirit of the design standards. Public Works is proposing an alternative layout with diagonal parking which provides a 13' aisle and keeps the 15' penetration clear. This would be two less stalls than shown on the applicant's plan. It also keeps the landscaping on private property.

Esseks asked staff to define and show the sight triangle and its purpose. Bartels explained that a lot of it will depend on the situation, but generally you look at where the car is parking or where they can pick up a line of sight for someone coming from the other direction. There will be through traffic coming down the alley at the same time that the parking lot is used. It is basically a line of sight from where the driver's eye is to where you see another car.

Proponents

1. Mark Hunzeker appeared on behalf of **First Plymouth Church**. This is an addition to an existing parking lot that was approved about ten years ago, which is identical in configuration to that which is being proposed with this special permit. The existing screening exceeds the requirements as well as what is proposed for the new lot. The church needs additional parking. The church has doubled in membership since the 1970's. The other central city churches in the community are roughly half the membership that they were in the 1970's. This church is a center of neighborhood activity – music program, community outreach, preschool and daycare – they have all been a very strong part of the Near South Neighborhood for a very long time. Any sort of negative aspect of the parking

and parking lot encroachment into the neighborhood has been more than offset by the positive influence of this institution being a vital part of the neighborhood for a very long time.

Hunzeker acknowledged that this special permit will not solve their parking problem. An additional 38 parking stalls will simply alleviate the problem to a certain extent, giving the staff and other people in the church on a regular basis a place to park that will not take up a lot of space right near the church. It is designed to match the existing facility with the same setbacks, same lighting standards, the same or better landscaping, with a small sign at the intersection of 21st and F Streets for the purpose of defining the edge of the church campus.

With respect to the waiver of the site penetration design standard, Hunzeker submitted that this should not be viewed as being two separate parking lots, but simply a single parking lot with two entrances, one on E Street and one from 21st Street. And from each of those entrances there is more than 40' from the curb line of the street where they take access to the entrance of the parking area. It is a two-way alley, and it is a two-way drive aisle. People have ample opportunity to maneuver into the stalls. He does not believe there is a problem. It does not cause a problem with traffic backing out onto the public street. This is an alley paved only to a certain point and not paved to the west. It is infrequently traveled except for people accessing the parking lot.

In response to the alternative site plan submitted by Public Works, Hunzeker suggested that the use of the angled stalls is an inferior design because it encroaches into the sight triangle at 21st & F Streets. They would lose a stall there and at least one or two more because the design does not provide a location to comply with the lighting standards. The Public Works alternative design shows a 13' wide driving aisle. Hunzeker suggested that drivers cannot see one another backing out of those diagonal stalls. The applicant's proposed design provides for a 23' aisle with 90 degree parking, much like any commercial parking lot in town, providing ample opportunity to view other people on the other side of the aisle.

With regard to the screening in the right-of-way, Hunzeker explained that they are requesting to utilize a portion of the 4' between the lot line and the sidewalk for the landscaping, just like on the parking lot on the south half of the block. The church maintains the screening in a way that is trimmed up vertically to avoid getting into the sidewalk area. He does not believe there has been any objection from the Parks Department on this issue.

Esseks observed that they are also wanting to put some bushes outside the property line to the north facing F Street. Hunzeker concurred that there would be some in the area between the sidewalk and the curb on the north side. But, there is a much greater distance

because the east/west streets in this area are 100' wide rights-of-way providing a wider distance from the property line to the curb and sidewalk. They would landscape between the curb and the sidewalk.

Hunzeker also pointed out that, in conjunction with the Planning Department, they redesigned this parking lot to delete the access to F Street and removed a stall so that any parked cars will be back a distance from F Street, providing a fairly straight line giving more consistent setback and additional opportunity to do some landscaping.

Esseks is concerned about setting a precedent with the waiver of the design standard. He asked Hunzeker to provide a very strong reason for approving this waiver. Hunzeker suggested that it should be considered on the analysis of the property involved on a case-by-case basis. He agreed that there could be a concern about setting a precedent, but at the same time, each application must be reviewed on its own merits and in the context of the neighborhood and the property being served. This parking lot serves an institution which is very important and vital for this neighborhood. There is no opposition from the neighborhood. There have been meetings between the church and the neighborhood association and the neighborhood association is supportive of the church and its efforts to alleviate some of the street parking concerns. Hunzeker believes that the existing parking lot on the south half of this block and this addition to it make a lot of sense in the context of providing parking to serve this institution. He did not know whether there would ever be an additional request for a parking lot. At this time there are no such plans, but there have been plans they have dreamed about to having a second deck on the parking lot east of the building, but they do not own enough property there. They don't have very many options. If the variances are not granted, it eliminates approximately half of the area that is available for parking on the same amount of property. It would be impossible to gain 38 parking stalls on these two lots with a 20' setback along 21st Street and 20' setback along F Street. "We need to maximize." Hunzeker stated that the church does not want to discount the impact of having additional parking on the edge of the neighborhood, but he believes they have minimized the adverse impacts to have as little impact on the housing stock in the area as possible.

Staff comments

Buff Baker of Public Works and Utilities, Engineering Services, clarified that Public Works fully supports the parking lot for the church. The only objection is that what the applicant believes to be "a better design" with the site penetration waiver does not help Public Works justify all of the other variances that will be requested. Public Works uses the diagonal parking stalls on public streets with 11' drive aisles, designed for 25 mph speed limit, with very few crashes on public streets when backing out of stalls. He does not believe that is a valid excuse. Public Works is attempting to uphold the design standards. The proposed alternative also allows the applicant to put the screening on their own property and provides the proper sight triangles.

Response by the Applicant

Hunzeker acknowledged that there are 55 degree parking stalls on public streets with 11' drive aisles, but he is not aware of any public streets with 11' or even 13' drive aisles with parking stalls on both sides. In addition, he does have a problem with locating lights in the offset parking stalls if the Public Works alternative is used. The proposed driving aisles will not line up with the driving aisles coming out from the south into the area to the north. If this is to function as a single parking lot, the driving aisles need to line up. 15' is not a good design given the circumstances. The current situation and the applicant's design are the best alternative.

CHANGE OF ZONE NO. 08016

ACTION BY PLANNING COMMISSION:

May 7, 2008

Larson moved approval, seconded by Francis.

As a member of the Board of Zoning Appeals, Carroll acknowledged that the BZA is following a state law that states that it must be a peculiar, unusual and exceptional circumstance or situation to approve a variance and that is why the BZA denied the First Presbyterian request. This text amendment allows opportunity for parking lots in the urban inner city to do this and to help churches get extra parking off the street. He is in favor.

Motion for approval carried 8-0: Larson, Sunderman, Cornelius, Taylor, Gaylor Baird, Francis, Esseks and Carroll voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 08018

ACTION BY PLANNING COMMISSION:

May 7, 2008

Larson moved approval, with the conditions set forth in the staff report, seconded by Esseks. (Approval of the applicant's design but denial of the site penetration waiver).

Esseks made a motion to amend Condition #1.1.1 to in effect remove the landscaping from the public right-of-way in the sight triangle, seconded by Sunderman. Esseks is concerned about safety for pedestrians and traffic.

Upon further discussion, Esseks withdrew the motion to amend and Sunderman agreed as the seconder of the motion.

With regard to the 15' site penetration, Sunderman believes it is important to mirror what is to the south of this particular lot to keep them equal and even, and since this is an alleyway he does not believe the 15' penetration is as important as on a main street; however, this is a waiver that must be approved by the City Council.

Carroll agreed with Sunderman. He does not see the problem with the 15' intrusion of the standard. As far as the landscaping, it is apparent that the church does a very good job and he knows the parking lot will look nice and good for the neighborhood.

Motion for conditional approval carried 8-0: Larson, Sunderman, Cornelius, Taylor, Gaylor Baird, Francis, Esseks and Carroll voting 'yes'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:05 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 7, 2008.

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