

MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, November 8, 2006, 12:00 - 1:00 p.m., Conference Room 113, First Floor, County-City Building, 555 S. 10 th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Mary Strand and Lynn Sunderman; Tommy Taylor absent. Marvin Krout, Ray Hill, Jean Walker and Teresa McKinstry of the Planning Department.
STATED PURPOSE OF MEETING:	Workshop on proposed text amendments to the Planning Commission Rules, Zoning Ordinance and Subdivision Ordinance relating to application deadlines and time period limitation for Planning Commission action on zoning and subdivision applications.

Ray Hill stated that Planning staff implemented some of Zucker's suggestions and a Friday morning meeting was established between Planning, Parks, Public Works, Health and Building and Safety. This is to review all applications that come in during the week. The counter planner distributes copies to each department for their review. This was difficult for the planner to accomplish when the deadline for new applications was Thursday at 12:00 noon. We informed the development community that the deadline was being changed to Wednesday at 4:00 p.m. Staff then found out that the Planning Commission bylaws stated the deadline is Thursday at 12:00 noon. This will need to come before the Planning Commission as an amendment to the bylaws. This led to other ideas.

The City Attorney's office has reminded Planning Commission that they are to take action and move the application to the next governing body. There was discussion about putting language in the subdivision and zoning ordinance that the Planning Commission can take action or it can be appealed. That led to numerous applications that are just sitting around dormant. If the applications don't expire within a certain amount of time, regulations change and then there is a question of which regulations apply. One proposed application amends the bylaws to change the submittal date and another changes notification that deals with both city and county. Applications put on pending by the applicant expire one year later. The suggested language states that the Planning Dept. would notify the applicant 30 days before the expiration date. The applicant can ask that the application expire or be put on the Planning Commission agenda.

Larson questioned when an application is submitted, does it go to all the departments at the same time for their review? Hill replied that the application is routed to all departments at the same time. This is the main reason the Friday inter-departmental meeting was established. Plans can be hand delivered for other departments review.

Larson questioned the timeline. Hill replied that if an application comes in on Thursday, it is scheduled for the Planning Commission meeting in four weeks.

Marvin Krout stated that during the four weeks, there are a lot of things that happen. The application is legally advertised, letters are prepared and mailed to the surrounding properties, items must be researched to write the staff report and the agenda is prepared and mailed out. He would guarantee that no one writes staff reports faster than four weeks.

Larson wondered what items are final action by Planning Commission. Hill replied that everything is final action except for ordinances that go on to the City Council. Waivers to the zoning and subdivision ordinance go on to City Council. The County Board has a little different procedure.

Esseks wondered if there is a state statute that compels the city as a whole to dispose of an application within a certain period of time. Hill replied no, but that it is the duty of Planning Commission to advise the City Council, County Board and other agencies. There is also the City Charter that talks about the Planning Commission's advisory status.

Krout stated that some states do have timelines established. Lincoln does not have those. Esseks replied he believes that is good. Some applications are so complex and create such controversy that it would be a disservice to look at these applications too quickly.

Carroll wondered if there is proposed text available for the Commissioners' review. Krout replied that the staff report is being written now. It will be supplied to Commissioners.

Carlson questioned if we would be better off saying we are changing the applicant's right to appeal.

Cornelius understands we are talking about changing the deferral.

Esseks is afraid there could be some danger to setting a specific timeline. He would like to see something more qualitative and quantitative.

Krout feels like this has been an issue from time to time. Staff is using this opportunity to bring forward the issue of service.

Carroll wondered what kind of timeline is being talked about for deferral. Hill replied four weeks after the first public hearing.

Carroll questioned if an applicant comes forward with numerous pages of proposed amendments, it could take Planning Dept. more than 30 days to route and review those proposed amendments. Krout is sympathetic to the issue. He thinks that those kinds of issues can be taken care of in three or four weeks.

Strand questioned if an applicant can refuse to have their application put on pending. Hill replied that Rick Peo of City Attorney's office has stated four weeks is a reasonable amount of time to put an application on pending.

Strand understands that an application will automatically be dropped one year after it is put on pending. Hill agreed.

Strand wondered what happens if an application is made by someone other than the owner. She has a problem with leaving something on pending that long by someone who doesn't own the property. It has the potential to cloud the title.

Hill stated that the one year applies if the applicant has asked for the application to be put on pending. Krout noted that this does not apply if the Planning Commission puts an item on pending.

Strand questioned the point of having something on pending. Hill replied that a lot of these applications haven't even made it to Planning Commission yet. A lot of them are administrative amendments and other things. Strand thinks there needs to be a deadline.

Carlson thinks this is more of a housekeeping item. An application is submitted and hasn't been acted upon. Krout stated another issue deals with a limitation of time.

Strand believes the City Council should have a deadline also. She does not see the point of putting something on pending indefinitely.

Larson questioned the reasoning behind indefinite pending. Hill replied the reasons are varied. Larson wondered if the Planning Commission can direct the applicant to take an application off pending. Hill replied in the affirmative.

Krout thinks sometimes there can be partial information that surfaces at the City Council meeting. Carroll noted that the same thing could happen with a 30-day deadline.

Carlson thinks the problem lies where the applicant can appear before Planning Commission and request that an application be heard before City Council. He is not sure how this can be resolved.

Cornelius questioned if an item allows for an appeal, how is this different? Carlson thinks the appeal process slows down the applicant a little. Putting something on pending encourages the applicant to submit more information for their case.

Esseks thinks there are tools that can be used. One is to allow enough time to do a thorough job. That should be enough unless there is an increase in the number and complexity of applications. The second tool is we make ourselves persuasive. He thinks there could be more interaction with City Council and County Board. It seems if we want to make more of an impact, we need to find ways to be more persuasive.

Carlson agrees. If someone submits a lot of changes, he thinks the application needs to go back and be reviewed.

Cornelius wondered if some kind of a summation couldn't be done. Hill noted that a factsheet is supplied to the City Council and County Board that is basically a summary of the history of an application.

Carroll thinks delays by Planning Commission happen rarely. Why are we telling the applicant that they can bypass the Planning Commission and show all their cards to the City Council? He thinks we are giving away the store and losing authority to City Council. We don't see a lot of the information that gets provided to the City Council. He would like to see the Planning Commission delay an item if a lot of information is submitted by the applicant on the day of the public hearing. Krout believes that is something that can be practiced with any changes.

Cornelius wonders how that can be true. Savvy applicants will make as much out of the hearings as possible. When the four weeks is up, an applicant will wait till the last hearing to come in with pages and pages of proposed amendments and an application will have to be acted on. Hill stated if the Planning Dept. had more authority to reject an application if enough information is not submitted, that would be helpful.

Esseks observed that the Planning Department's ability to screen the applications is essential. He thinks the Planning Commission is taken seriously. He would not like to see a paid hearing examiner. Staff and Planning Commissioners give careful consideration to all applications. He does not want to do anything to make the process worse. He thinks four weeks are enough but he doesn't want to encourage people to some kinds of delay tactics.

Krout would be willing to delay this application if the Commission so desires. He thinks the Commission has expressed a desire to see these applications go longer than four weeks if new information is submitted. He also heard a suggestion to have City Council and County Board make a more timely decision and items not be put on pending indefinitely. Perhaps some proposed language can be drafted. He would suggest this be delayed another two weeks.

Hill noted the other option would be to go ahead and hold public hearing so the Planning Commission can hear the opinions of everyone. Carroll would like to see the draft language first.

Larson cautioned on the idea of not forwarding the application until all facts are received. This would lead to further criticism of the Planning Dept. Krout noted we try to be expeditious and work with the applicant.

Krout will prepare the draft language and provide it to Planning Commissioners. This will be the topic of a Planning Commission briefing on December 6, 2006 at 11:00 a.m.

The meeting concluded at 1:00 p.m.

Respectfully submitted,

Teresa McKinstry
Planning Department