

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, January 13, 2010, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor; Marvin Krout, Steve Henrichsen, Brian Will, Tom Cajka, 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 Lynn Sunderman called the meeting to order and requested a motion approving the minutes for the regular meeting held December 16, 2009. Motion for approval made by Cornelius, seconded by Francis and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION BEFORE PLANNING COMMISSION:

January 13, 2010

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 09014, CHANGE OF ZONE NO. 09029, SPECIAL PERMIT NO. 09028 and STREET AND ALLEY VACATION NO. 09007.**

Ex Parte Communications: None

Taylor moved to approve the Consent Agenda, seconded by Lust, and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 09028, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 09027
FROM R-3 RESIDENTIAL DISTRICT
TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT
and
USE PERMIT NO. 125A,
ON PROPERTY GENERALLY LOCATED
AT PIONEERS BLVD. AND LUCILE DRIVE.
REQUEST FOR DEFERRAL:

January 13, 2010

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

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone and conditional approval of the amendment to the use permit.

The Clerk announced that the applicant has submitted a written request to defer the public hearing on these applications until Wednesday, April 7, 2010.

Francis moved to grant the request for deferral, with continued public hearing and action scheduled for April 7, 2010, seconded by Esseks and carried 9-0: Esseks, Gaylor Baird, Cornelius, Partington, Taylor, Francis, Larson, Lust and Sunderman voting 'yes'.

There was no public testimony.

COMPREHENSIVE PLAN CONFORMANCE NO. 09015
TO REVIEW THE CREATION OF THE
SOUTH STREET BUSINESS IMPROVEMENT DISTRICT
AS TO CONFORMANCE WITH THE COMPREHENSIVE PLAN.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 2010

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

Ex Parte Communications: None.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Staff presentation: **Brandon Garrett of Planning staff** advised that the South Salt Creek Neighborhood Association did not receive notice of this public hearing; however, the Planning Department will inform the Association of the City Council public hearing date. The Planning Department did notify the South Street Business & Civic Association, and the

Near South, Irvingdale, Everett and Country Club Neighborhood Associations as well as the affected property owners.

The record consists of a letter in support from the Near South Neighborhood Association.

Esseks inquired as to the role of property owners in a BID. Must they agree or approve it? **Ernie Castillo of the Urban Development Department**, the applicant, advised that the property owners are part of the South Street Business & Civic Association; however, if 51% of the property owners come out against the BID, it cannot proceed.

Castillo advised that the Urban Development Department is asking for the Planning Commission support of the proposed BID with a finding that the establishment of the South Street BID conforms with the Comprehensive Plan. Three years ago, a joint effort between Urban Development and Public Works started the South Street business improvement project, including streetscape amenities, plants, trees, ornamental lights, signage, etc., and the best way to address the maintenance issues is to establish a BID. The establishment of the BID insures that future maintenance costs in this area are taken care of. Urban Development has been working with the South Street Business & Civic Association for three to four years.

Gaylor Baird inquired whether the BID is on a time frame or something that would be considered ongoing. Castillo believes it would be considered permanent and ongoing.

Partington inquired about any occupation tax associated with approval of this BID. Castillo advised that the BID will have nothing to do with an occupation tax. It will be assessed per front foot along the corridor. A property owner with 50 feet fronting South Street would be assessed for those 50 feet. For example, the BID on North 27th Street from O Street to Fair Street is currently an assessment of about \$9400/year; and the BID for University Place from Adams to Leighton is about \$11,400/year.

Castillo stated that the next step after approval by the City Council is to work in coordination with the Association board to determine the type of maintenance items and specifications. They will work with the Parks Department; advertise the BID package; and open the bids. The resolution sets forth a maximum assessment for the first year of \$18,000; however, he does not anticipate that it will be that much. It will probably be more consistent with North 48th (University Place) and the North 27th Street districts.

Opposition

1. Gwendell Hohensee, Hohensee Land Company, owning frontage between 10th and 11th on South Street, testified in opposition. He does not believe it has been neither right nor fair that this has been handled in this way. If it was the City's intent that the property owners were to assume upkeep and maintenance costs of these plants on City property, then all landowners affected should have been given written notice of that intent before the

paving plan was adopted. His property was significantly impacted during the repaving; he has also been impacted by the recession and slower business with higher expenses due to the cold and snow. Now the City announces a new burden with this BID proposal. Hohensee stated that he is not a member of the South Street Business Association, and he suggested that some active members of that group have no financial liability for the proposed BID.

Hohensee pointed to what he believes to be several errors and inconsistencies in the proposed resolution, including how the assessments are calculated. He has the least front footage yet he is charged the same as anyone else. He gave suggestions on how the median should be bricked-in to minimize the sidewalk snow removal problem and the need to reopen access to crosswalks.

Gaylor Baird asked staff to address Mr. Hohensee's concerns. Castillo addressed the points raised by Hohensee. The BID board requested that the snow removal be included, but it is going to be included as an alternate in the BID specifications. If done as an alternate, it can then be reviewed and accepted or declined. The main worries were 13th, 17th, 16th, the mental health clinic, people who take public transit and Saratoga School. The snow is pushed into the crosswalks. One of the desires was not so much in the dead of winter, but to keep it a pedestrian friendly area, so that is where the snow removal came from, but it will be asked for as an alternate item.

Castillo addressed the small park on 14th Street. Originally, the plan showed closing of 14th Street to the north. It is a very tight corner and Public Works wanted to close that street to traffic. In talking with the business owners, they compromised on a right-in only, so just half of the park was developed with a bench and trash receptacles, three or four planting areas and 3 or 4 trees.

Gaylor Baird then inquired why businesses would be willing to take on these costs. Castillo suggested that it is an area benefit and does a lot to enhance the area. From the beginning when we started having public meetings and focus groups, we informed the area that we were looking at it both from a Public Works and an Urban Development standpoint. Part of the streetscape process is the establishment of the BID for future maintenance costs. Things will be assessed equally across the frontage. Mr. Hohensee will be assessed more, but the front footage is divided into the total equally so that every parcel will be paying determined on their front foot space.

Partington wondered why there has been no testimony in support by the city or these businesses that will be involved. Then three business owners in the audience were acknowledged as being in attendance and in support.

Larson commented that these types of BID's are common throughout the country. Who collects the tax? Castillo advised that the assessment is made by Urban Development and goes to the County. This action does not create the BID – we're just setting up the

possibility of the BID and it is up to the business owners to approve or disapprove. This is not a vote on any kind of increased tax but to make it possible for the business owners to set up their own district. There will be another public hearing at the City Council.

Francis inquired whether it is appropriate for Lancaster Manor to be included. Castillo stated that when this project was started, Lancaster County owned that land and agreed to be assessed. Since the zoning has now been changed to R-4 (which zoning cannot be included in the BID), Urban Development does have plans to make contact with the new owner of Lancaster Manor and ask that they pay into the BID. This will occur prior to the public hearing before City Council.

The members of the BID board are property owners or business owners that would be in the BID.

ACTION BY PLANNING COMMISSION:

January 13, 2010

Lust moved a finding of conformance with the Comprehensive Plan, seconded by Gaylor Baird.

Larson commented that this type of entity is widespread throughout the country, and the biggest ones are normally in the downtown areas. The Downtown Lincoln Association is a good example and it insures the continuity of maintenance of the area. He believes that BID's are generally a good idea and that the BID's have not abused their power. There is always the opportunity for a majority of the business owners to force change. Larson believes that this is a very good plan and it would make sure that the South Street valuations will be maintained and that the area will not become run down over the years.

Francis commented that anytime there is a BID in a smaller older neighborhood, it does have a small gathering of businesses. It is a win situation for that community.

It appears to Gaylor Baird that the BID will be supportive of the multiple goals of the South Street redevelopment plans, such as security and aesthetics of the neighborhood, and should be of benefit to the local businesses on South Street.

Motion for a finding of conformance with the Comprehensive Plan carried 9-0: Esseks, Gaylor Baird, Cornelius, Partington, Taylor, Francis, Larson, Lust and Sunderman voting 'yes'. This is a recommendation to the City Council.

MISCELLANEOUS NO. 09010

STATE FAIR PARK REDEVELOPMENT AREA

BLIGHT AND SUBSTANDARD DETERMINATION STUDY.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 13, 2010

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

Ex Parte Communications: None.

Staff recommendation: A finding of reasonable presence of substandard and blighted conditions.

Staff presentation: **Brandon Garrett of Planning staff** referred to the letter received from Heritage Nebraska regarding the impact upon the Industrial Arts building located within the study boundary. Garrett clarified that any specific issues relating to the future of that building or any buildings on this site would be addressed during the process of the redevelopment plan, which will also come before the Planning Commission for review as to conformance with the Comprehensive Plan.

This is a blight study generally covering the area of the former State Fair Park, now known as Innovation Campus. This is not a recommendation for finding of conformance with the Comprehensive Plan, but rather a situation where the Planning Commission is being requested to find that there is a reasonable presence of blight and substandard conditions within the boundaries of this study area.

Proponents

1. David Landis, Director of Urban Development, advised that the 231 acres of State Fair Park were studied by Hanna:Keelan, the consultant hired by the University, and they found that all four of the statutory blight conditions are present and that nine of the twelve statutory substandard conditions are present in the area.

The State Legislature proclaimed 40 years as the standard. The water mains that serve State Fair Park now can handle the existing uses, but they would not be able to handle the need of any upgraded facilities. They are aging and would not meet projected uses that would put this land to a higher and better use.

Landis pointed out that the consultants saw the majority of the buildings from the inside as well as the outside and there are plenty indications of blight. The statutory findings for blight and substandard have been met.

Lust inquired how it was that Hanna:Keelan was the consultant hired by UNL. Landis stated that there are a limited number of people who can do this work in the state. In the

City of Lincoln, the firm of Hanna:Keelan has extensive expertise. Urban Development would have suggested Hanna:Keelan had the question been asked. There is no requirement to use a professional set of planners for a blight study, and you don't actually have to have a blight study under Nebraska Law. However, the City Council would need to be prepared to justify themselves if ever challenged. Therefore, the City has determined that it is best to get a study done to provide a rational basis for the decision. We are doing more than what the Law requires in bringing this study forward.

Landis went on to suggest that when a developer is looking at a piece of land, tax increment financing (TIF) is available if blight and substandard conditions exist. The blighting creates a redevelopment tool they would not otherwise have. The use of TIF is valuable, particularly when you have 231 acres without an infrastructure mechanism to make that work.

Francis confirmed that a blight study doesn't necessarily mean that every building in that study area is going to be demolished. She asked Landis to address the Heritage Nebraska letter and the Industrial Arts building concern. For example, when "the triplets" were being moved, the best thing that could have happened is that they be demolished. But because of the historical significance they were moved out of the blighted area. In other words, just because we are declaring State Fair Park as blighted, there is still hope of saving the Industrial Arts building. Landis concurred that not every structure is blighted and substandard – the word is predominance (51%). You are allowed to create a district that has a mixture of blighted and substandard and non-substandard. Some of the non-blighted areas can serve as an anchor to attract developers. If this designation is given, it does not require UNL to do anything. It says you now have passed through the gateway that would allow us to think about the use of a redevelopment tool called tax increment financing. We will do a redevelopment plan that will come to the Planning Commission identifying projects. The most appropriate time to ask the question about the Industrial Arts building is during the redevelopment plan process. The owner of that building is UNL.

Larson did not realize there were some non-publicly owned lands in this area. How much is there? Landis did not have the answer other than what is within the study.

Support

1. Jennifer Dam, Assistant Director of the Office of Institutional Research and Planning for UNL, in charge of Campus Planning, testified in support. UNL recently conducted an intensive planning process to develop a master plan and business development strategy. The Board of Regents approved those plans on November 20th and delivered them to the Legislature on December 1st. This is the first step in redevelopment of the property. It opens the door to be able to use TIF in the future as a financing mechanism. They expect the infrastructure costs to exceed 20 million dollars in the first

phase and over 50 million dollars for the entire project. UNL is in the process of starting the redevelopment planning process.

2. Dan Worth, architect, Board member of Heritage Nebraska and the Nebraska State Historic Preservation Association, which nominates structures to the national register, testified in support. Heritage Nebraska has reviewed the study and finds that it is accurate. Heritage Nebraska is looking forward to working with the University on the redevelopment plans. The ruling by the Nebraska State Preservation Officer that there are structures in the area that are eligible for the National Register, opens the door for use of historic preservation tax credits as another tool in combination with TIF. However, Worth cautioned that any adverse effect upon those buildings needs to be considered because if impacted adversely, that could impact whether federal funds could be used in redevelopment of parts of the campus in the future.

3. JL Schmidt, Executive Director of Heritage Nebraska, testified in support, but cautioned that there is historic significance of the properties in the Nebraska Innovation Campus and he is hopeful that there will be no adverse effect on the historic features of the property. Schmidt offered the services of Heritage Nebraska and the Historic Trust for Preservation in bringing together the redevelopment plans.

There was no testimony in opposition.

Larson inquired what properties within the area are privately owned. Garrett explained that early on in the process there was some railroad property mixed in through the area and he believes that has been resolved through some title searches. He suggested that any other reference to private property was more projecting to the future for redevelopment of this area where UNL would sell or long term lease the property within the boundary to private entities to be eligible for TIF.

ACTION BY PLANNING COMMISSION:

January 13, 2010

Francis moved a finding of reasonable presence of substandard and blighted conditions, seconded by Larson.

Francis believes this is an excellent use of TIF funds and the next step of many to come with State Fair Park.

Larson commented that this is a step for the future and will bring considerable amount of private investment. Therefore, it is very important that we move the process along and let it proceed.

Gaylor Baird believes that there is overwhelming evidence of blight and substandard conditions.

Cornelius observed that the question before the Commission is rather narrow and technical, and the report is very specific and detailed.

Motion for finding of reasonable presence of substandard and blighted conditions carried 9-0: Esseks, Gaylor Baird, Cornelius, Partington, Taylor, Francis, Larson, Lust and Sunderman voting 'yes'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:00 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on January 27, 2010.

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