

MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, June 24, 2020, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10 th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Shams Al-Badry, Tom Beckius, Dick Campbell, Tracy Corr, Tracy Edgerton, Cristy Joy, Cindy Ryman Yost and Dennis Scheer; Deane Finnegan absent; Steve Henrichsen, David Cary, Tom Cajka, Rachel Jones, George Wesselhoft and Geri Rorabaugh, and Rhonda Haas (via broadcast) of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Hearing

Chair Corr called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Chair Corr requested a motion approving the minutes, as revised, for the regular meeting held June 10, 2020.

Motion for approval of the minutes made by Campbell, seconded by Al-Badry and carried 7-0: Al-Badry, Campbell, Edgerton, Joy, Scheer, Beckius and Corr voting 'yes'; Ryman Yost abstained; Finnegan absent.

Rorabaugh read a Resolution of Appreciation into the record for Shams Al-Badry. Al-Badry was appointed to the City of Lincoln-Lancaster county Planning Commission on August 5, 2019, to fill an unexpired term, and has resigned to pursue new opportunities involving an out of state relocation. Al-Badry has contributed countless hours towards implementation of the Lincoln-Lancaster Comprehensive Plan and Long Range Transportation Plan; updates to the County and City Zoning Codes, and has reviewed over 142 development applications. The growth and development of Lincoln-Lancaster County has benefitted greatly from her dedicated service.

Cary presented Al-Badry with a plaque and thanked her for her 10 months of service. Cary shared he wished they had more time with Al-Badry, but understands and is happy and excited with the opportunities Al-Badry is facing in her future. Al-Badry expressed her thanks to everyone, for their guidance and support of the community. Al-Badry stated she is sad to go, but knows that everyone will do amazing work.

Beckius moved approval of the Resolution of Appreciation, seconded by Joy.

Beckius thanked Al-Badry for her service, and stated that they hate to lose her to the State of Michigan. They are happy to have had this time to work with her and wished her luck in the future.

Campbell shared that he has enjoyed sitting next to Al-Badry during this time.

Motion carried 7-0: Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

The Clerk noted that there were no public requests for teleconferencing were provided for these proceedings.

Chair Corr called for **Request for Deferral**.

ANNEXATION 20006

TO ANNEX AN AREA SOUTHEAST OF SW 56TH STREET AND WEST O STREET, ON PROPERTY GENERALLY LOCATED AT SW 56TH AND O STREETS;

AND

CHANGE OF ZONE 20011

FROM AG (AGRICULTURAL DISTRICT) TO H-3 (HIGHWAY COMMERCIAL DISTRICT) AND FROM AG (AGRICULTURAL DISTRICT) TO I-1 (INDUSTRIAL DISTRICT), ON PROPERTY GENERALLY LOCATED AT SW 56TH AND O STREETS;

AND

PRELIMINARY PLAT 20002

FOR 55 COMMERCIAL LOTS ON PROPERTY LOCATED SOUTH OF WEST O STREET AND SW 56TH STREET, ON PROPERTY GENERALLY LOCATED AT SW 56TH AND O STREETS

PUBLIC HEARING:

JUNE 24, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr; Finnegan absent.

Staff Recommendation: Two-week deferral.

The Clerk noted that the applicant has requested a deferral on related Items 4.1a, 4.1b, and 4.1c: Annexation 20006, Change of Zone 20011, and Preliminary Plat 20002, for two-weeks to the July 8, 2020, hearing.

Campbell moved to grant the request for a 2-week deferral for public hearing and action to July 8, 2020, seconded by Edgerton and carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

TEXT AMENDMENT 19007**TO AMEND ARTICLES 2, 4, 5, 6, 7, 9, 13 AND 17 OF THE LANCASTER COUNTY ZONING REGULATIONS RELATED TO ALLOWING LARGE AND SMALL SOLAR FACILITIES, AND STATING THAT ACCESSORY SOLAR AND WIND ENERGY CONVERSION SYSTEMS ARE PERMITTED IN ALL ZONING DISTRICTS****PUBLIC HEARING:****JUNE 24, 2020**

Members present: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr; Finnegan absent.

Staff Recommendation: Approval

There was no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: Rachel Jones, Planning Department, came forward and stated this would allow solar facilities in the County zoning jurisdiction. Currently, these types of facilities are not allowed in the County jurisdiction, although they are in the City jurisdiction. A special permit would be required in certain zoning districts to ensure compatibility with neighboring land uses. In addition, the code would be updated to specify that accessory solar and wind systems are allowed by right. Jones stated that there is a minor motion to amend, which adds some clarification to the definitions section, and noise standards will apply to solar facilities with substations.

Edgerton inquired what the threshold would be between a small and large size system in kilowatts. Jones stated that it would be 100-kilowatts between the two.

Joy inquired about the height change in the panels from 20-feet to 15-feet for the small systems. Jones stated it was reduced because they do not expect that the panels will exceed the 15-foot height. Joy asked if that is the standard size seen in the industry. Jones said yes. Joy inquired if a waiver could be requested to use larger panels. Jones said yes, the Planning Commission and the County Board could modify, waive and/or add any conditions for a special permit.

Ryman Yost inquired about the property setbacks and the difference between participating and non-participating agreements. Jones stated that the setbacks are to protect those that are not involved in the project, which means that they are non-participating. If the property owner is participating, they should be able to negotiate their own conditions with the operator, because they would have a contract with the operator.

Beckius inquired about the decommissioning process and the requirement to remove to a depth of three feet. Jones stated the site needs to be put back to its prior condition, and she further stated that the industry standard for depth of this type of equipment is normally no more than the three feet, which would make the land tillable for future agriculture. Beckius

inquired about other decommissioning uses currently in the zoning code. Jones stated that there is decommissioning for wind energy in the county, which has similar wording except for the 3-foot depth, because of the difference in the equipment used.

Edgerton stated that they have received a letter of complaint about the noise from a privately owned substation, and she asked if it was found in violation of the standard then it becomes a nonconforming use. Jones said correct. Edgerton asked what that means and what would happen next. Jones stated that the Health Department would address and enforce those types of complaints; steps would be taken to remediate the noise and contact the operator. Edgerton asked how close the substations would be to the farms. Jones explained that there are setbacks built-in on the sides of the solar farm and setbacks to any adjacent house or if there is another use, and she further explained that the county does have larger setbacks, and it could be 100- to 200-feet away. Edgerton stated that it would be relatively close to the actual facility. Jones stated that they could be depending on the circumstances.

Corr inquired if a facility was violating the noise limits and is then becomes nonconforming, would they be required to shut down. **Gary Bergstrom, Air Quality Supervisor with the Lincoln/Lancaster Health Department**, came forward and stated that with the enforcement for noise complaints, the Health Department starts with a compliance-oriented track. First, they identify the problem, and then give them a chance to find a way to get back into compliance, before they move into more of an enforcement approach.

Edgerton inquired if the numbers in the regulation took into consideration the industry and the amount of noise that comes from what is installed, as well as what is in the surrounding properties. Bergstrom stated that the noise levels for this came from what currently exists in the Lincoln Municipal Code (LMC), for the AGR Zoning. He shared that the standards for AG-zoned properties are 50 decibels at night and 75 decibels during that day, and that would be for receiving properties. The increase from 50 decibels to 75 decibels is substantial and would be for more of an industrial area and that is why they went with 50 decibels at night and 60 decibels during the day, which would represent more of an AGR District.

Corr asked if it would be accurate to say that in time as components age they tend to get louder. Bergstrom said that could be the case, because parts can fail or malfunction. Corr asked if any research had been done on how much sound these facilities normally create. Bergstrom stated not a lot of research was done, although there was some discussion with local representatives to try to get a sense of what they should expect for noise levels from a facility that would be around the 100-kilowatt threshold. Corr inquired if it was common to have a private substation. Jones said yes, and most of the larger facilities have a private substation as part of their operation to process the energy created and put into a usable form.

Beckius asked if there are large tracts of land currently zoned industrial. Jones said no.

Proponents:

Davey Levy, Baird Holm LLP, 625 S. 14th Street, came forward in support, and thanked all of the staff for their work on this text amendment. He stated they have come up with a very reasonable set of regulations that the developers will appreciate and be able to understand, which will create opportunity for developers. He then suggested a revision to the language for the setbacks, which would be to clarify that the screening is done, as necessary, to protect the sensitive receptor. In the current proposal, it has screening of the entire property line and this could be an unintended burden on a developer, especially if the surrounding fields are just croplands.

Campbell asked Mr. Levy if the entire area should be screened to ensure the panels would not be visible from a distance. Levy stated that they may be able to see them, but they would be off in the distance, and he further stated that it would affect them more right out their window.

Opponents:

No one came forward.

Staff Questions:

Corr asked if Jones had any thoughts about the screening changes just discussed. Jones stated with the way this is written, it would be along the entire property line of that use, and she further stated that they would not want to base it on existing conditions, because it is possible for those conditions to change. She shared that Mr. Levy has made a good point, because there is a lot of variety in the lots, but the special permit process could look at those conditions and grant a waiver if appropriate.

Beckius stated large scale industrial projects is a permitted use in the industrial zoning, but other zoning districts needing to go through a special permit process, and this would not allow for many without a special permit. He shared that they want the community to know this facility type is encouraged, and he asked Jones how they found that balance of why this should be a special permit use. Jones stated that they followed what the city had in place, and she further stated that if you live near an industrial area, there is an expectation that it could be any kind of industrial use. The AG District does not have an expectation that it could be something like a solar farm by right, because the commercial activities in an AG District are limited to agriculture and not anything else.

Corr inquired if the City's regulations need to be looked at for this type of use now that the County's have been done. Jones said that it has been discussed and they would look at that in the future.

Campbell moved to close the public hearing on this item, seconded by Edgerton and carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

TEXT AMENDMENT 19007**ACTION BY PLANNING COMMISSION:****JUNE 24, 2020**

Campbell moved approval, as amended by staff with the minor revisions to definitions, seconded by Beckius.

Campbell stated that there would be a lot of variation with the screening and should be done on a case-by-case basis. He stated that there should be some sort of parameters in the amendment now, which could be waived.

Beckius stated that he generally supports this proposal as written, and he further stated that he would be open to hear from the other commissioners on their thoughts about screening and if there is an alternative idea. Beckius stated to a certain degree, he views AG zoning and agricultural use as a commercial enterprise, especially when discussing row farming. Beckius wondered if not enough is done to invite more development to occur by large systems, with the limiting of it to the Industrial Zoning District in the County. He stated that they need to invite more development to occur from the large systems, and if it should be a permitted use and allowed in the AG zoning, especially given the setbacks and requirements set forth by staff. This needs to be something that is encouraged and that there are the rules to play by and this would not need to go through a special permit every time. Beckius stated that he would be in support of looking at potentially changing this restriction from a special permit to a permitted use.

Joy stated that she agrees with Commissioner Beckius on the concept of AG being a commercial use and that this could be an allowed use or permitted use, and she further stated that this should be looked at, so there are not as many hoops to jump through. She shared with the screening, she sees a lot of reduction in trees for the maximum production of acreages, so it would depend on screening if land is farmed or if it was a neighboring house. Joy stated she, too, would be open for more discussion.

Scheer stated that he appreciates the comments and likes where this is now, and how it was put together by staff, because it has a more rigorous review process for this type of development. Scheer shared that he continues to think that one of the primary issues with the long range planning is the ongoing interpretation of rural agricultural use, development, living in the area, and what that all means. When discussing the process, it is still good to let the public have their say and have their points known on this type of development. He stated that he would not be in favor of letting solar installation be a permitted use in AG District, because it takes away that process, and he further stated the screening is a protection of the use, rather than screening the new development.

Edgerton stated that she echoes Commissioner Scheer comments on both the screening and permitting process. She stated what the staff has put together for this is thoughtful and is an appropriate balance for the property owners and those in the area, and she further stated that the special permit process enables them to move forward. This is such a change from what is

there starting and a special permit for large systems in the AG District does make a lot of sense to her.

Corr thanked the County Commissioners for having this drafted and being proactive, instead of waiting until there was an application, and she further shared it is easier to set regulations before the applications come in. Corr stated that she agrees with all of her fellow commissioners and sees both viewpoints. This is a good start and it can always be reviewed later to make adjustments; this is a good starting point.

Motion carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

SPECIAL PERMIT 1629J

TO ALLOW FOR THE ADJUSTMENT OF PARKING, ON PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND PINE LAKE ROAD;

AND

USE PERMIT 100E

TO REPLACE OFFICE USE WITH MULTI-FAMILY USE AND INCLUDE 110 DWELLING UNITS, WITH ASSOCIATED WAIVERS, ON PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND PINE LAKE ROAD

PUBLIC HEARING:

June 24, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr; Finnegan absent.

Staff Recommendation:

Special Permit 1629J
Use Permit 100E

Conditional Approval
Conditional Approval

There was no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: Steve Henrichsen, Planning Department, came forward and stated this is a request to amend a use permit (UP) and special permit (SP) to develop 110 multi-family dwelling units along with revisions to the parking requirements to be 1 stall per 300 square feet for all commercial uses and 1.5 stalls per dwelling unit for residential uses. Additional minor waivers regarding internal lighting and lot area are also included. Henrichsen stated his is the third application that is attempting the residential use, the first two applications were denied.

Edgerton stated the use permit zone is O-3 and the special permit zone is H-4, and inquired if the reason the special permit is involved because of the parking that was described. Henrichsen said correct. Edgerton inquired when the staff report discusses a regional center that encompasses the O-3 and H-4 area. Henrichsen said correct, and it also includes the B-5 on the other corners, as well. Edgerton inquired about a condition that discusses revising storm water quality, grading and drainage plans. Henrichsen stated that this has been reviewed a couple of

times, and staff would have mentioned if it still needed to be addressed. Edgerton stated there was a letter of opposition that discussed letting the residential area tap into the new drainage line. **Bob Simmering, Lincoln Transportation & Utilities (LTU)**, came forward and he stated that he could not answer to watersheds comments.

Al-Badry stated that many of the opposition letters were in regards to traffic concerns, and she asked if LTU has any concerns with the traffic in the area. Simmering stated this was discussed in the previous applications, and all of the intersections have been improved, and LTU has no concerns.

Beckius inquired about a building height requirement for dwelling verses other uses that might be able to go into the O-3 zoning district. Henrichsen stated for O-3 District the height requirements are different and for a residential dwelling, the height limit is 35-feet and a commercial use is 45-feet.

Applicant:

Christina Melgoza, Krueger Development, 8200 Cody Drive, came forward and stated that she would address the question about the drainage for this site. She stated that they offered to the immediate abutting townhomes, who have stated they are already experiencing drainage issues, to tap into a pipe put underground by the developer. She stated the two detention cells onsite would need expanded for additional capacity, because of the additional parking area that they will be paving. Melgoza stated the previous applications had a traffic study done for commercial on the first floor, which was removed from this application. With no commercial for the building, there is even more parking available.

Corr stated that generally there are less trips for residential than for commercial and she asked if that would be accurate. Melgoza said correct. Corr inquired how many stories the apartments would be. Melgoza stated that the apartments would be three stories, which would keep it below the 35-feet requirement.

Campbell asked about the site line. Melgoza said that they would be looking at the third floor of the apartments, because of the elevation.

No one came forward in support or opposition.

Staff Questions:

Corr stated this is the last part of the use permit that has not built out, and asked if that was correct. Henrichsen said correct.

Beckius moved to close the public hearing on this item, seconded by Campbell and carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

SPECIAL PERMIT 1629J**ACTION BY PLANNING COMMISSION:****JUNE 24, 2020**

Beckius moved approval, seconded by Al-Badry.

Beckius stated this is the third time for this application and with the height adjustments; he is in support of this motion. He shared that he wanted to thank Krueger Development for the work that they have done on this and altering their original plans, which is never easy or fun. Beckius stated this makes a lot of sense and is a compromise he feels comfortable with moving forward with, although knowing that it was not necessarily everyone's dream, to begin with.

Campbell stated that he, too, will support this and the reduction in height has been an important part of this, and he further stated that the apartments would provide a stronger buffer for the townhouses behind. The apartments may remove some of the noise from the surrounding area, and they may find that it is quieter.

Scheer stated that he is in support and wanted to express his appreciation to the developer for working through this for a number of years. He explained the height of the buildings was the primary sticking point in the past, and he further stated that he appreciates the work that they have put into this and it will be a great improvement.

Joy stated she is in support of the motion and thanked everyone involved for their hard work. She shared she appreciates their effort and willingness to work with the neighbors during this process.

Corr stated that she is in support of this motion, and she further stated that she appreciates the developer working with the neighbors. Corr stated with the lower height it will be a good project moving forward.

Motion carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

USE PERMIT 100E**ACTION BY PLANNING COMMISSION:****JUNE 24, 2020**

Beckius moved approval, seconded by Edgerton and carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

CHANGE OF ZONE 20019**FROM AG (AGRICULTURAL DISTRICT) TO AGR (AGRICULTURAL RESIDENTIAL DISTRICT), ON PROPERTY GENERALLY LOCATED AT SOUTH 110TH STREET AND SALTILLO ROAD****PUBLIC HEARING:****JUNE 24, 2020**

Members present: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr; Finnegan absent.

Staff Recommendation: Denial

There was no ex-parte communications disclosed.

There was no ex-parte communications disclosed relating to site visits.

Staff Presentation: **Tom Cajka, Planning Department**, came forward and stated this is change of zone on 102 acres and is within the 3-mile jurisdiction of the City of Lincoln. The applicant letter stated that due to the cost of the turn lanes for the approved project it is no longer financially feasible without the change of zone and additional lots. Cajka stated that turn lanes are a necessary part of any development next to an arterial street in order to provide for safe entry and exit from the subdivision, and he further stated that Saltillo Road is a very busy road with a history of accidents.

Joy asked where the bypass is in relation to this property. Cajka stated that the bypass is located next to this proposed development. Joy inquired if they have done anything yet with rezoning of what will be highly traveled areas around the bypass. Cajka stated that now it is zoned AG and having the bypass going in does not mean that they would change the zoning.

Edgerton inquired if it was first approved without the conditions for the turn lane on Saltillo Road. Cajka stated that it was approved with the conditions.

Applicant:

Ron DeBoer, 7320 East Gage Road, came forward and stated that he is the owner of the property on Saltillo Road, and he further stated that he wanted to thank the commissioners for allowing him to put the 10 acre lots together, because that was his main plan. This development was to have 10 houses with a driveway at the bottom of the hill where you could see 1,000-feet both ways to enter and exit the development. When driving east on Saltillo Road past 84th Street, the traffic is one quarter of what it is when you travel to the west from 84th Street, and he further stated that 10 houses on 110th Street would not have created much traffic. The County Engineer appealed the approval for this development stating that they did not want any "T" intersections and that is what this would be. This went to City Council, who decided to have turning lanes as a conditional of approval for this development.

Beckius asked if the application before them today is because of an economic burden to install the turn lanes. DeBoer said yes.

Campbell asked what size the lots would be. **Mark Palmer, Olsson Associates, 601 P Street, Suite 200**, came forward and stated that the concept is looking as clustering lots on the southern portion of the property, which would adhere to the requirements of the City Council, with the large turn lanes. He shared that the drainage from this property would not drain towards Lincoln, but it would drain towards Hickman. Palmer shared that this is a unique

property--it is not impeding development and it has a bypass to the north of it, which will impede development because they will not be able to extend roads across Highway 2. He shared that the lot size was three quarters of an acre. Campbell inquired if the lots to the north of the gas pipeline would be an outlot. Palmer said yes, the northern portion would remain in an outlot for future development.

Beckius stated that this application is a result of the additional requirement and unforeseen expenses, and he asked if this is what DeBoer is wanting or is it something that has to be done. DeBoer stated that he wanted to do the 10-acre lots.

Edgerton asked what the cost of a turn lane would be. Palmer said that it was not just the turn lane, because there would be an additional cost of one of the roads needing to be built up, and the cost of both would be \$350,000.

No one came forward in support or opposition.

Staff Questions:

Beckius asked what transpired after the previous application. Cajka stated that it was appealed to City Council and it was then decided that the road that the developer was to put in needed to enter Saltillo Road farther to the east and line up with 110th Street, and he further stated that the turn lanes were a condition of approval. He shared that since then nothing has moved forward on this development.

Applicant Rebuttal:

Palmer stated that they are trying to keep this moving and not wait for the Comprehensive Plan. He shared that there needs to be a discussion on the AG special permit, because there is a lot of cost being added for infrastructure, and it is the cost that will keep it from being affordable to develop.

Campbell inquired if this development would have individual septic systems or a community system. Palmer stated that it would be a community septic system and would be served with rural water.

Corr inquired if they have modified their plans to meet up with the existing 110th Street and will be putting in the turn lanes for the increase. Palmer said yes, this would meet all of the requirements.

Campbell moved to close the public hearing on this item, seconded Joy and carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

CHANGE OF ZONE 20019

ACTION BY PLANNING COMMISSION:

JUNE 24, 2020

Campbell moved approval, seconded by Joy.

Cajka stated that this is to approve or deny a change of zone, not a development.

Campbell stated that he was initially going to deny this, but with the south portion of this property draining towards Hickman, it would not need to be part of the city drainage system. The north portion when developed could be connected to the city drainage system. He shared that the 10-acre lots would be more appropriate for a build through and clustering them and this would be a difficult place to get to, and he will support this change of zone.

Scheer stated that he was unsure of what he was going to do, but with Commissioner Beckius line of questioning from when this was approve. He stated that he does remember when this first came forward, and now this developer has been put in a catch-22. He shared that he is not thrilled with this and it is not a great place for the applicant to be in, although he has huge concerns with rezoning this area. Scheer stated that he is asking if his fellow commissioners could figure out a way to do this and, if rezoning this is the right way. Scheer stated he wanted to discuss this with his fellow commissioners. Commissioners agreed to continue discussion on this item.

Edgerton said that is where she is at and started where Commissioner Campbell was with denial. She shared that she does not feel comfortable extending AGR to this area, and she further shared that she supports what the applicant's goal is, which was supported the first time around. She stated that she does not know which way to vote and is not happy with the situation that the applicant is in.

Beckius stated that he concurs with his fellow commissioners and is sorry about the applicant's current situation, which was not something that they foresaw. He stated that he, too, has half a notion to vote for this, although it is not probably in the best interest. He stated that he is fine with the original plan from the applicant, and further stated if the community really thought that the turning lanes were needed, they would be there, and they are not. Beckius stated that he does not want to vote for this because he does not feel it is the best-case scenario, but will because the applicant is trapped in a system that is not being helpful. Beckius stated to let the record show that this is a problem, a significant problem. He further stated this is a good way to reflect on when additional requirements and costs are added to a development, they would not necessarily work, and now this is what they have.

Joy stated that there are AGR to the north of the site from as far back as 1997 and at Saltillo Road and 56th Street, and there is precedence here. If it is necessary to have the turn lanes, then give this developer an opportunity at this location. She asked if this development would hurt as the bypass is put through, which would be done in 2023, and she further asked if this is a chance to support further development as the bypass is coming even though the city is not quite ready for it.

Campbell stated that the original proposal would not be going back through the process with the County Engineer in opposition. The turn lanes are at a cost that does not make the original plan an economically viable development. Campbell stated this is an opportunity to help the developer with his second plan, and is not going to hurt the development of the city as it moves forward. Discussion continued on this item.

Al-Badry stated that she is on the same page and torn on what to do, and further stated that the developer is at a disadvantage. She stated that she does not feel comfortable rezoning to AGR especially taking into consideration the long range plan for the City. She stated that the developer has been put in a very unfortunate position and that the discussion on this needs to continue, so this does not happen again. Discussion continued between the commissioners.

Corr stated that she echoes what Commissioner Campbell has stated, and she understands why staff is recommending the denial, and she further stated given the uniqueness of this piece of land and the situation that the applicant is in, she will support the change of zone. She stated that she does not want to go against the Comprehensive Plan, but she feels that there is a lot of uncertainty as to what will happen when the bypass goes through and how it will affect some of the areas.

Motion carried 7-1: Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Al-Badry voting 'no'; Finnegan absent.

SPECIAL PERMIT 20005

TO ALLOW FOR AN ALTERNATIVE TO IMPRISONMENT FACILITY WITH UP TO 6 PERSONS IN AN EXISTING RESIDENCE, ON PROPERTY GENERALLY LOCATED AT 420 SOUTH 28TH STREET

PUBLIC HEARING:

JUNE 24, 2020

Members present: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr; Finnegan absent.

Staff Recommendation: Conditional Approval

Clerk noted on June 10, 2020, the Planning Commission voted to close the public hearing on this application; in addition, action was taken on this item, but failed to receive five affirmative votes at that time. The Commission will only take action on this matter today.

There was no ex-parte communications disclosed.

SPECIAL PERMIT 20005

ACTION BY PLANNING COMMISSION:

JUNE 24, 2020

Campbell moved approval, seconded by Beckius.

Campbell stated while he is frustrated that there are no rules in place, and he thinks that this is a very important program for transitional movement for women from a prison situation to a normal life. He stated that his biggest concern is that there is no city department responsible to ensure that this home has staff 24 hours a day for disturbances that might happen, and he further stated that if there were issues at this facility, they would be able to take action to remove the special permit. He shared that this needs to be discussed before another one comes forward, because currently there are no means to reject something like this under the present rules that are in place.

Joy stated in prior discussions they have been given the opportunity to have the special permit identify and flag areas or places to give the city the ability to oversee and at least have notification of where everything is and what is going on in the city. She stated that she is in support of the motion.

Al-Badry stated that she, too, would support the motion. She stated that the applicant did a thorough job explaining the rules and responsibilities. She stated in addition, as Commissioner Campbell has mentioned, that there does need to be some type of regulations or a pathway to help better understand how to support applicants that come forward with something like this.

Beckius stated that he did view last week's proceedings online and this is tough. He shared with the comments received and viewing this online. He does not find that there is any more threat to the health, safety or welfare to the community by allowing this special permit, than there would in general. It appears that the applicant is taking reasonable and appropriate steps to assure that any threats to welfare and safety are addressed in a rigorous manner. Part of living in a community is that most of the time anyone can live next to you and that is an accepted part of living in this community. Beckius stated that who lives next to you has nothing to do with the Planning Commission and the land use seems appropriate, and is in support

Scheer apologized for having left early at the last meeting. He stated that he is in support, and further stated that there is nothing within the Planning Commissions purview that would give cause to vote against this; however, as fellow commissioners have stated clearly, there are a lot of loose ends on other aspects of the program. He stated that there are other applications where they need to be within compliance and how complaints get handled, and he further stated without the compliance, it makes this feel incomplete.

Edgerton stated keeping in mind that the text amendment for the alternative to imprisonment facilities was first put into place in 2005, and she further stated that this is the first special permit application that has come forward under that. In the meantime, a new law went into effect in the last five years about transitional housing. These two items and their time period seem to be in disconnect, in the terms of what can be done with what was put in place in 2005. Edgerton stated that it was a missed opportunity to revisit this before an application came forward. With the state of the regulations currently, she stated she would vote in favor of this.

Ryman Yost stated that Nebraska State Probation has dropped the ball by not requiring rigorous licensing of their facilities. She stated that she thinks this is a problem and it looks as if this will be approved today. There are numerous facilities in this community that provide transitional living, half-way houses and many more facilities and they are help to more rigorous standard such as health, safety and licensing with many of them being nationally accredited, and she further stated that she is not sure that this program meets that level. She stated this type of facility needs better standards moving forward.

Corr stated that this is hard for her and she agrees with Commissioner Ryman Yost, that there needs to be a path for people coming out of incarceration. Corr stated that it was unclear with the testimony at the last Planning Commission and maybe there was a mix-up about which property was being discussed, and she further stated that it is hard for the commissioners to tell if the testimony is accurate. She stated she firmly believes that this type of use needs to be studied more, because that has been a lot of time that has passed between the text amendment and where we are at today with our environment. She stated that she hopes to look at the text amendment and make some clarifications on what needs done.

Motion carried 6-2; Al-Badry, Campbell, Edgerton, Joy, Scheer and Beckius voting 'yes'; Ryman Yost and Corr voting 'no'; Finnegan absent.

Note: This is **FINAL ACTION** on **Special Permit 20005** unless appealed by filing a letter in the Office of the City Clerk within 14 days.

Corr stated at this point, we generally invite anyone wishing to speak on an item not on the agenda to come forward and do so. However, we are suspending this portion of the hearing until further notice. If you do have comments please direct them to Plan@lincoln.ne.gov or by calling 402-441-7941.

Beckius moved to adjourn the Planning Commission Meeting of June 24, 2020, seconded by Joy and carried 8-0: Al-Badry, Campbell, Edgerton, Joy, Ryman Yost, Scheer, Beckius and Corr voting 'yes'; Finnegan absent.

Meeting adjourned 3:21 p.m.

Note: The Planning Commission will not formally approve these minutes until their next regular meeting on Wednesday, July 8, 2020.

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