

MEETING RECORD

Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, April 11, 2023.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, April 19, 2023, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

MEMBERS AND OTHERS IN ATTENDANCE: Lorenzo Ball, Dick Campbell, Tracy Corr, Maribel Cruz, Gloria Eddins, Rich Rodenburg, Cindy Ryman Yost and Tracy Edgerton; Cristy Joy absent. David Cary, Steve Henrichsen, Emma Martin, Jennifer McDonald, Tom Cajka, and Alexis Longstreet of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chairperson Edgerton called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Edgerton requested a motion approving the minutes for the regular meeting held April 5, 2023.

Motion for approval of the minutes made by Campbell, seconded Ball and carried 7-0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg and Ryman Yost, voting "yes"; Edgerton abstained, Joy absent.

Edgerton asked the Clerk to call for the Consent Agenda Items.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

April 19, 2023

Members present: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost and Edgerton; Joy absent.

Clerk noted Comprehensive Plan Conformance 23004 was removed from the Consent Agenda and placed on Public Hearing.

The Consent Agenda consisted of the following items: Comprehensive Plan Amendment 23007, Change of Zone 23020, and Special Permit 20014A.

There were no ex-parte communications disclosed.

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

Campbell moved approval of the Consent Agenda items, seconded by Eddins.

Motion carried 8-0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost, and Edgerton voting “yes”; Joy absent.

Note: This is Final Action on Special Permit 20014A unless appealed by filing a letter to the City Council within 14 days.

Chair Edgerton called for **Requests for Deferral**

COMPREHENSIVE PLAN CONFORMANCE 23004
TO REVIEW AS TO CONFORMANCE WITH THE 2050 LINCOLN-LANCASTER COUNTY
COMPREHENSIVE PLAN, AN AMENDMENT TO THE ANTELOPE VALLEY REDEVELOPMENT PLAN,
TO ADD THE EIGHTEEN N BUILDING REDEVELOPMENT PROJECT, WHICH INCLUDES A FIVE
STORY MULTI-UNIT DWELLING WITH ONSITE PARKING, ON PROPERTY GENERALLY LOCATED AT
18TH & N STREETS.

BEFORE PLANNING COMMISSION:

April 19, 2023

Members present: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost and Edgerton; Joy absent.

Staff Recommendation: In Conformance with the Comprehensive Plan

There were no ex-parte communications disclosed.

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

Staff Presentation:

Dan Marvin, Urban Development, 555 South 10th Street, Lincoln, NE, came forward and stated that this item needed to be brought off consent to explain the values of cost and the evaluations that have been done, and a higher TIF evaluation. The easiest way to move forward was to discuss change in valuation of TIF and cost. A letter was provided detailing the increase prior to the Public Hearing. The plan area includes the area near 18th and N street. This includes part of the right of way. The plan area is to address additional mobility for bike traffic. The project awarded ARPA funds that will provide for the building to have 20 percent affordability. The project will have 85 total units and 17 of these units will be affordable for at least 20 years. Marvin stated that there will be mixed income within the building, and it achieves a lot of the goals.

Proponents:

No one came forward in support.

Neutral:

No one came forward in neutral testimony.

Opposition:

No one came forward in opposition.

Campbell moved to close public hearing, seconded Corr. Motion carried 8 -0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost, and Edgerton voting “yes”; Joy absent.

COMPREHENSIVE PLAN CONFORMANCE 23004

ACTION BY PLANNING COMMISSION:

April 19, 2023

Campbell moved approval; seconded by Corr.

Corr expressed support and that this is a great plan.

Rodenburg expressed support for the bicycle facilities and lanes with this project.

Edgerton expressed support and appreciated the update on the expenses.

Motion carried 8-0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost, and Edgerton voting “yes”; Joy absent.

TEXT AMENDMENT 23006

TO AMEND THE LINCOLN MUNICIPAL CODE, SECTION 27.62.030 CONDITIONAL USES (AGRICULTURAL USE GROUP), TO ALLOW STORAGE OF COMMERCIAL VEHICLES AND EQUIPMENT IN THE AG AND AGR ZONING DISTRICTS

BEFORE PLANNING COMMISSION:

April 19, 2023

Members present: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost and Edgerton; Joy absent.

Staff Recommendation: Denial

There were no ex-parte communications disclosed.

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

Staff Presentation:

Tom Cajka, Planning Department, 555 South 10th Street, Lincoln, NE, stated that the proposed text amendment is to allow commercial vehicle storage as conditional use in the AG and AGR zoning districts. Cajka stated that a few of the conditions as part of the text amendment are

vehicles and equipment must be stored within structure or be screened. There is to be no fueling facilities allowed. Minimum lot size of 3 acres and no more than 5000 square feet of the lot may be devoted to the use. Cajka stated that the purpose of this amendment is to legalize a commercial operation located at 8500 Liana Lane which is outside of city limits. This site is used for a party bus business and the buses stored on site with employees coming and going. The Building and Safety Department were made aware of violations from complaints. The proposed text amendment does not fit AG use group. Cajka stated that the approval of text would go beyond what is allowed under home occupations. The Lincoln-Lancaster County Health Department reviewed the text and does not support it. They have concerns with noise, dust, and storage of hazardous chemicals onsite. The 2050 Comprehensive Plan does not support commercial activity in rural areas of the county, it does support commercial development with incorporated areas. There are several passages in the Comprehensive Plan that preserve rural areas for rural use. Commercial vehicles is a broad term, and many could take advantage of said text. The city and county staff have over the years had many commercial uses attempting to locate in the rural areas. Adjacent property owners have submitted complaints in the past from previous occurrences of commercial uses and storage in rural areas. Cajka stated that this could have a negative impact on residents through increased traffic, noise, and dust. This type of use is not associated with rural activities. Commercial uses should be within incorporated towns and commercial zoning districts.

Terry Kathe, Building and Safety Manager, 555 South 10th Street, Lincoln, NE, approached to give a broad overview of the previous years of complaints to commercial activities. Kathe stated that people have taken advantage of AG and AGR zoned areas.

Cajka stated that although the text states only for storage of vehicles, it would be impossible to regulate if they are washing or doing mechanical work on vehicles and would need to be on a complaint basis.

Campbell confirmed with Cajka that if this was inside of the city limits, would have to be on commercial land. Cajka stated that is correct.

Corr asked Cajka if there was another solution that could be applied to just this property. Cajka stated that there is not.

Ryman Yost was wondering about hazardous material storage in general or to this particular property owner, Cajka stated that it is not to this particular property owner, but it opens the door to a lot of other things.

Edgerton asked Cajka how staff was made aware of this situation. Cajka stated that there was a complaint to Building and Safety. Kathe confirmed it was complaint based.

Applicant Testimony:

Bill Austin, Attorney, 2511 S. 77th Place, Lincoln, NE, approached and is representing the owners, Tammy and Dan Casey, of 8500 Liana Lane. Austin stated that the owners have been in operation

at the property since 2014. This property is a 3-acre track of ground. Austin stated in 2018, a building official visited the property and was told if buses were sheltered and no complaints, then no action would be taken. At that time, no action was taken. Last year, a neighbor's complaint prompted another visit from a building official. At that time, they were told that storage of buses on property zoned AG was not permissible. Austin stated that the owners operate about 5 or 6 buses and there is no other activity occurring on the property. Austin stated that fueling will occur elsewhere if this was approved and no hazardous materials are kept on property. The maintenance is done on their property. Austin stated that the AG and AGR districts aren't residential properties, they are rural areas. Austin stated under the use groups outlined in Chapter 27.06 under the zoning code, lists some of the uses but not all support agriculture. There is no policy in place that prohibits commercial use. Austin stated that the applicant is willing to discuss alternatives and listed some proposed conditions that would enable the owners to continue to operate the business on the property. Austin stated that he has a letter in support from a neighbor that he would like to submit (Exhibit 1).

Ball clarified that it is 5,000 square feet that is being requested. Austin answered yes.

Cruz asked Austin what the nature of the complaints that were received from the neighbors. Austin stated he wasn't sure what the nature of the complaints were.

Rodenburg asked what the height would be of the screening. Austin stated that the screening must completely obscure the buses so that they cannot be seen from adjacent properties. The height of a bus is 12 feet.

Campbell asked if Austin had sat down with the Planning Department to discuss options. Austin stated that they met with staff prior to going over a few proposals and received negative vibes from this meeting and is willing to sit down again to see if they could work something out.

Proponents:

Jeff Schroeder, 8501 Liana Lane, Lincoln, NE approached to express support on behalf of himself and his wife. Schroeder stated that the family has resided at their property since 2006 which was before the business started operation. Schroeder stated that he has not had any issues since the company started utilizing the property. The complaints are primarily from a single specific property owner. Schroeder stated that the Caseys have volunteered resources and time to assist in maintenance of community and the entire lane. Schroeder stated that the Caseys have maintained an open communication with the neighbors.

Edgerton asked if Schroeder's property is directly across the lane from the Caseys property. Schroeder stated that it is across and to the south of Caseys property.

Neutral:

No one came forward in neutral testimony.

Opposition:

Rich and Tammy Eymann, 8420 Liana Lane, Lincoln, NE approached and live directly west of the Caseys. Rich stated that with the text amendment being commercial this will lower his property value. He stated that the noise is constant and interrupts his family time when they are outside. Rich stated that the buses run for about 4 hours at a time while they are being cleaned. Rich stated that the drivers are coming and going at all times of the night. Tammy had pictures of the traffic, trucks, and the lights (Exhibit 2) that show time stamps of buses arriving and departing. Tammy wanted to reiterate Jeff's statement about assisting the community and stated that is true, but the homeowners all maintain the road. She noted that 84th street is not paved and dust coming from one direction is fine but coming from both directions is a lot to handle. She stated about 5 or 6 buses coming in and out multiple times and multiple days all throughout the weekend. Rich stated that there is also a mechanic full-time and that a fence cannot be built big enough so that they could not see the buses.

Eddins asked where the buses are in connection with the Eymann property. Rich Eymann stated that the mechanic, who is on the property most of the time, turns the buses around, turns on the bus lights and moves them. That is how the light shines in their house.

Ryman Yost asked how long the business has been operating. Rich Eymann stated that it was previously started in 2014 and said that when they bought the house, the buses were not visible.

Heather Ferguson, 8601 Liana Lane, Lincoln, NE approached to reiterate that she has concerns regarding property value, street maintenance, noise, and traffic that has previously been noted. Ferguson stated that she has been calling in over the past couple of years regarding this property. Ferguson stated that the buses have infringed on her enjoyment of her property. This amendment affects more than just the people on this lane.

Staff questions:

Corr asked for clarification that if they were storing buses in a building right now, would that still be against current zoning. Cajka stated that is correct, it would be considered Commercial Storage, which is not allowed.

Campbell stated that along Highway 2, there have been areas that have storage of motor homes, boats, and vehicles with outside storage outside of city limits, what zoning is that? Cajka is unfamiliar with the specific area that Campbell is referring to.

Steve Henrichsen, Planning Department, 555 S. 10th Street, Lincoln, NE approached to address the comment made about the applicant previously meeting with staff and not willing to work with the applicant. Henrichsen stated that he attended that meeting and stated that it is not a compatible use, and it is not about just one bus service. There are a lot of issues and enforcement of issues not compatible with this. If it was allowed, there would be a negative impact on rural land and value. Henrichsen stated that it would be impossible to enforce the 5000 square foot area. This text amendment is a significant change and one that they would not support.

Applicant Rebuttal:

Austin approached and stated that they are willing to sit with staff again. Austin understands the concerns that enforcement will always be difficult. The Caseys have proposed a solution and they are trying to minimize the concerns of the neighbors. Austin hopes that something could be come up with to allow continuance of the business at the property.

Campbell moved to close public hearing, seconded Ball. Motion carried 8-0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost, and Edgerton voting “yes”; Joy absent.

TEXT AMENDMENT 23006

ACTION BY PLANNING COMMISSION:

April 19, 2023

Campbell moved to approve the denial of Text Amendment 23006, second by Eddins.

Campbell stated that he can empathize with the business owners, but his concern is that it could give more opportunities for others to take advantage of throughout the county.

Eddins expressed empathy with the neighbors. But the bus can be loud, and she experiences this personally. Eddins will be denying this also due to the can of worms that it will open in the future.

Ball agreed with fellow commissioners and plans to deny also. He stated that it would be difficult to enforce.

Corr agreed with fellow commissioners that this opens the door to so many other issues that could happen in the community. Corr stated that she would support it if it was an individual property-based application and not something that would affect the county as a whole.

Rodenburg agreed with fellow commissioners and wished it could be a case by case. Rodenburg stated that property values are looked at a lot but do not take into consideration if you are by garbage trucks or a beautiful pond. The noise factor could reduce the property value in this case. Rodenburg stated that he will be voting to deny.

Edgerton agrees with fellow commissioners and will be denying this application.

Motion carried 8-0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost, and Edgerton voting “yes”; Joy absent.

Edgerton stated that anyone wishing to speak on an item not on the agenda, may come forward and do so.

Campbell moved to adjourn the Planning Commission meeting of April 19, 2023, seconded by Eddins.

Motion carried 8-0: Ball, Campbell, Corr, Cruz, Eddins, Rodenburg, Ryman Yost and Edgerton voting yes'; Joy absent.

There being no further business, the meeting was adjourned at 2:10 pm.