

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, July 18, 2023.

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, July 26, 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, Gloria Eddins, Cristy Joy, Rich Rodenburg, Cindy Ryman Yost and Tracy Edgerton. Maribel Cruz absent. David Cary, Shelli Reid, Jennifer McDonald, Andrew Thierolf, Brian Will, Tom Cajka, and Emma Martin 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 July 12, 2023.

Motion for approval of the minutes made by Campbell, seconded Joy. Minutes approved 6-0: Campbell, Corr, Eddins, Joy, Ryman Yost, and Edgerton voting "yes". Ball and Rodenburg abstained. Cruz absent.

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

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

July 26, 2023

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

Commissioner Joy has declared a conflict of interest on Special Permit 23028, and, therefore, will recuse herself from voting on the Consent Agenda.

The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 23010, Comprehensive Plan Conformance 23011, Comprehensive Plan Conformance 23012, Text Amendment 23009, Special Permit 16026A, Special Permit 23014A, Special Permit 23028, Special Permit 23030, Street and Alley Vacation 23004.

Clerk noted that Planning Commission members received a staff memo dated July 25, 2023, regarding CPC23012 (South Haymarket Redevelopment Project) regarding the removal of Phase III from the South Haymarket Redevelopment Project Amendment being recommended for approval as amended.

There was an ex-parte communication disclosed by Eddins and Corr regarding Text Amendment 23009, which was reviewed at a recent Mayors Round Table meeting.

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

Clerk asked if anyone wanted to speak on the consent items. There were two individuals who wanted to testify on Special Permit 16026A and one individual who wanted to testify on Comprehensive Plan Conformance 23010. Edgerton stated that those items will be pulled from the Consent Agenda and moved to public hearing.

Campbell moved approval of the Consent Agenda items, including the staff memo regarding CPC23012, seconded by Corr.

Motion carried 7-0: Ball, Campbell, Corr, Eddins, Rodenburg, Ryman Yost and Edgerton voting "yes". Cruz and Joy absent.

Note: This is Final Action on Special Permit 16026A, Special Permit 23014A, Special Permit 23028, and Special Permit 23030 unless appealed by filing a Notice of Appeal with the City Council or the County Board within 14 days.

Chair Edgerton called for **Requests for Deferral**

STREET AND ALLEY VACATION 23005

TO VACATE A PORTION OF THE SOUTH 1ST STREET (RIGHT OF WAY) BETWEEN PIONEERS BLVD. AND OLD CHENEY ROAD, ADJACENT TO PROPERTY GENERALLY LOCATED AT SOUTH 1ST STREET AND PIONEERS BOULEVARD.

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

Staff Recommendation: Two-week deferral

Clerk noted that a written Communication on behalf of the applicant requesting a 2-week deferral to the August 9, 2023, Planning Commission hearing.

Campbell moved to grant the deferral until the August 9, 2023, hearing, seconded Joy.

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

Ken Winston did not approach the commissioners but did state and request an additional two-week deferral on Street and Alley Vacation 23005 to the August 23, 2023, Planning Commission hearing.

Edgerton stated that the request for deferral typically comes from the applicant.

Abby Littrell, City of Lincoln Law Department, 555 S. 10th Street, Suite 300, Lincoln, NE came forward and stated that motion to delay was made on behalf of the applicant. Littrell stated that the commissioners could make a motion to delay further, but that is not the motion before the commission. Littrell stated that testifiers do not have the ability to request a motion.

Edgerton stated that letters from the community do get forwarded and read by the Commissioners and hold just as much weight as in person testimonies.

Rodenburg asked if zoom was an option for testimony. Edgerton stated that zoom was no longer an available option for testifying.

CITY COMPREHENSIVE PLAN CONFORMANCE 23010
TO REVIEW AS TO CONFORMANCE WITH THE 2050 LINCOLN LANCASTER COMPREHENSIVE PLAN, A PROPOSED AMENDMENT TO THE ANTELOPE VALLEY REDEVELOPMENT PLAN, TO ADD THE "23RD STREET NET ZERO LIVE WORK REDEVELOPMENT PROJECT", TO ADD A MIXED-USE BUILDING WITH RESIDENTIAL AND COMMERCIAL, ON PROPERTY GENERALLY LOCATED AT 23RD AND R STREETS.

PUBLIC HEARING:

July 26, 2023

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

Ernie Castillo, 555 South 10th Street, Suite 205, Lincoln, NE, came forward to discuss the Comprehensive Plan Conformance 23010. The proposed item is a mix use development with

commercial space on the first floor and 9 living units above that. This is the first step in the use of the tax Increment funds.

Applicant:

Ben Kunz, 2539 Rathbone Avenue, Lincoln, NE came forward to discuss that this project is an economic generator for small businesses. Kunz stated that this is net zero ready, which is a high degree of energy efficiency for building construction.

Proponents:

Ken Winston, 1327 H Street, Suite 300, Lincoln, NE came forward and requested that this be removed from the Consent Agenda because it is the first Net Zero Development Plan that is consistent with the Climate Action Plan. Winston stated that this is a big deal and an important step to support and facilitate.

Neutral:

No one came forward for neutral testimony.

Opposition:

No came forward in opposition.

Staff Questions:

There were no staff questions.

Campbell moved to close public hearing, second Joy.

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

COMPREHENSIVE PLAN CONFORMANCE 23010

ACTION BY PLANNING COMMISSION:

July 26, 2023

Campbell moved to approve Comprehensive Plan Conformance 23010 to find in compliance, second Joy.

Ball stated that the climate plan is something that is great to see come forward. This is a positive thing.

Campbell agreed with Ball, and it is great to see more come forward with aiding in the goals that will be set though the Planning Department.

Edgerton agreed and is excited for this to move forward and will be voting yes in support.

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

SPECIAL PERMIT 16026A

TO ALLOW FOR A CUP (COMMUNITY UNIT PLAN) FOR 14 DWELLING UNITS, ON PROPERTY GENERALLY LOCATED AT SOUTH 68TH STREET AND PRINCETON ROAD.

PUBLIC HEARING:

July 26, 2023

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

Staff Recommendation:

Conditional Approval

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, came forward and stated that this application is to amend a previously approved Community Unit Plan (CUP). This amendment adds approximately 72 acres to the boundary of the CUP. With this addition to the property, it allows for an increase from the original seven units to 14 units. The lots range from one acre to three acres. Each lot will have their own individual water and septic system. A well status report has been reviewed by the Lincoln-Lancaster County Health Department and Lower Platte South Natural Resource District (NRD) and concluded that water quantity should not be an issue. The NRD did note that there are nitrate levels and that it can be remedied by each individual property owner.

Corr asked Cajka to clarify the staff report stating that there are seven lots being added to total 14 but it references 10 new lots. Is this because of three lots being taken away from the lower section and added to the new section at the top? Cajka stated that is correct, that the three lots were removed from the lower section and added to the top new section. Corr asked what the dam restarted references in the staff report. Cajka stated that the engineer consultant will need to answer that.

Campbell asked if the northwest lot on the corner part of the CUP is. Cajka stated that it is not part of the CUP. It is occupied with a house.

Applicant Testimony:

Mike Eckart, Civil Design Group, 8535 Executive Woods Drive, Suite 200, Lincoln, NE came forward and stated that this project started a few years ago with an approval of nine original lots. Eckart stated that there will not be a community sewer. Eckart stated that they have worked with the county extensively on accessing 68th Street. The County has approved

funding for the widening of 68th Street. Eckart stated that it was worked out with the County to do five new lots then will be limited until the widening project is completed. Once the widening is completed, then they can proceed with the remaining lots. Eckart stated that there is a dam that is not functional on the property and water just flows through. Eckart stated that if it was needed to be used, then they have accounted for where the water will need to flow.

Edgerton asked if there is any timeline on the widening of 68th street. Eckart stated that construction could possibly be in 2026 but that is depending upon government funding which could be delayed. Edgerton asked if this is part of the development agreement and Eckart stated that it is a note in the community plan. Edgerton asked what five lots would be done first. Eckart stated the ones closest to the road would be started first.

Proponents:

No one came forward in support.

Neutral:

No one came forward for neutral testimony.

Opposition:

Betty Mason, 23130 South 54th Street, Firth, Ne came forward and wanted to speak about the safety of 68th Street. Mason stated that 68th Street is a dangerous road with fatalities and that by adding a concentrated housing development there, that is a concern with her. There currently is a hill at the entrance to the housing development. Mason is encouraging delay of approval until the road is approved and does not want people to die. Mason gave a testimony of the dangers of the road. Mason's last concern is the letters that were received stated Docs Creek 1st addition and is concerned about more addition to this are planned. If that is the case, then a few questions and concerns about the safety of the roads, is there enough water and there is no guarantee if the road is going to be approved.

Jacob Mason 23130 South 54th Street, Firth, NE came forward to discuss the fatality of the classmates near this development and is requesting the Planning Commission to be against approving Special Permit 16026A. Mason stated that the improve of the road and the installation of the shoulders, it can still take 3 more years for this to be approved and made safe for the development. This is only if construction is approved and started in 2026. It may be pushed back on time pending Federal Aid. Mason is requesting that the Planning Commission hold the approval of SP16026A until South 68th Street is improved for all the patrons.

Staff Questions:

Corr asked if the 1st Addition is going to lead into more additions and density. Cajka stated that the term 1st Addition is used when amending a previous approved plan. Cajka stated that the previous CUP allowed nine lots but was limited to seven lots because of the open space

requirement of 70 percent of the total area. Corr asked if there was a request of more density would one of the bigger lots need to be split. Cajka stated that more acres would need to be added to get more lots. Cajka stated that this application is routed to the County Engineering Department and to the County Sheriff with specific requirements and guidelines. The County Engineering Department has approved the location of the street based on the guidelines.

Edgerton stated that the way the current CUP is worded, that three lots could be built on without any action of the Planning Commission. Cajka stated that previously, an administrative amendment was done to increase the lot size of a specific lot to 12 acres and to do that and maintain the 70 percent open space, it resulted in the loss of the additional building space.

Corr wanted to clarify the number of lots that can be built prior to the widening of 68th Street. Cajka stated that under the approved plan today it would be five lots in addition to the four that are already there. Edgerton asked if the current four lots have direct access to 68th Street and Cajka stated that he believes that three of the existing houses do have access to 68th Street.

Eckart approached to agree with Cajka that the 1st Addition is semantics then if it changes again, it would be the 2nd Addition and so on. Eckart stated that with every AG CUP plat, there are site distant requirements that need to be met. With this location, it meets those requirements and has been satisfied. The five lots can be done prior to the road improvements. Eckart stated that the professionals have approved the design perspective and conditions and as commissioners they should accept the professionals that have approved the work.

Campbell asked if after the five lots are completed, will the remaining lots need to come back to the Planning Commission for approval. Eckart stated that this project approves the total of 14 lots. The conditions will be noted in the CUP, then the Planning Commission will have the right to deny.

Rodenburg is curious about the site line and if crest of hills is considered. Eckart stated that is a Federal Standard that the County adopts specifically for the crest and speed limit.

Campbell moved to close the public hearing, second Joy.

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

SPECIAL PERMIT 16026A

ACTION BY PLANNING COMMISSION:

JULY 26, 2023

Campbell moved to approve Special Permit 16026A, second Joy.

Campbell stated that this was approved three years ago in a different configuration and thinks that the new configuration is better. Campbell understands that 68th Street is a busy road and does requires people to pay attention. Campbell stated that due diligence with everyone involved has been done and he will be voting 'yes' to approve this.

Joy will be supporting the motion and agrees with Campbell. The safety and road improvements are number one and believes the County Engineer has done their due diligence.

Eddins will be supporting but is hoping that with the waiting of the lots may increase the pressure to have the road done sooner.

Corr appreciates the testimony from the Mason's and that they did a great job presenting.

Edgerton stated she appreciates the testimony also. Edgerton stated that safety is of importance and will be voting to approve.

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

David Cary, Planning Director, 555 S. 10th Street, Lincoln, NE approached and stated that there is a hearing open today for the Street and Alley Vacation 23005 that is delayed for two weeks. Cary stated that if there is anyone here that would like to testify for that hearing today and that if they do testify, then they will not be able to testify at the next hearing.

Edgerton requested that the Street and Alley Vacation 23005 be read into the record the Street and Alley Vacation 23005 for testimony.

Campbell stated that if anyone testifies today, then they will not be able to testify at the next hearing.

**STREET AND ALLEY VACATION 23005
TO VACATE A PORTION OF THE SOUTH 1ST STREET (RIGHT OF WAY) BETWEEN PIONEERS
BLVD. AND OLD CHENEY ROAD, ADJACENT TO PROPERTY GENERALLY LOCATED AT SOUTH 1ST
STREET AND PIONEERS BOULEVARD.**

Bill Behmer, 5620 Hunts Drive, Lincoln, NE came forward with concerns and is neither for nor against the closing of South 1st Street. Behmer stated that half of South 1st Street will be closed and that there is over 500 housing units currently, and there will be only two exits for this many housing units. Behmer asked what the plans are for paving the other half of South 1st Street. Behmer is also wanting to know who is responsible for paying for the paving of the street. Behmer asked if the Old Cheney and Highway 77 intersection was going to be closed in the future

and wanted to know if this was true. Behmer stated that there are a lot of questions that he has and did not know who to discuss them with.

Egerton stated that the Commissioners are not able to answer Behmers questions but have made notes to ask the questions at the next hearing. Egerton also requested that Behmer reach out to Ben Callahan, with the Planning Department as a start for answers to his questions.

Adam Hintz, Friends of Wilderness Park, 1919 Prospect Street, Lincoln, NE approached and stated that he wanted to express his appreciation of everything that the Planning Commission does with working through issues with the community. Hintz stated that he has met with Ben Callahan of the Planning Department about vacating the street to the west to provide some light pollution blocking into Wilderness Park. Hintz stated that the county road being unlit is what they really want and was hoping that a buffer would be in place. Hintz stated that the water quality is a concern ~~Hintz~~. With the recent rain, the detention pond overflowed, and the reason is because there is not a mechanism that allows the detention area to drain. Hintz stated that the sediment and sandstone went into the creek. Hintz stated that Watershed addressed this with the developer, but it was a little too late. Hintz stated that the City of Lincoln is one of only 12 cities in the world that was chosen to participate in the Leading Civic Engagement Training Program from Bloomberg/Harvard. The goal of this training is to re-think how we approach community engagement and develop improvement processes and outcomes.

Kjersten Hyberger, 7201 Candletree Lane, Lincoln, NE came forward and stated that she too appreciates the extra time and work that the Commissioners are doing. Hyberger stated that the date chosen for the deferral of Street and Alley Vacation 23005 is August 9th and that is the first day of the Indigenous People Summit in Omaha, Nebraska. Hyberger stated that the extra time and delaying another two weeks is a plus because it allows more communication between the local stake holders and the Commission. Hyberger stated there has been a lot of conflict within the past year. Although the 2050 Comprehensive Plan has met some of the goals, it disregards some of the other goals. Hyberger read through goal number nine of the 2050 Comprehensive Plan, which included the lack of trust.

Ken Winston, 1327 H Street, Suite 300, Lincoln, NE came forward to reserve his testimony but wanted to make a formal request on behalf of Kathleen Danker that the hearing be continued until the August 23rd Planning Commission hearing. Winston has a testimony on behalf of the ACLU (Exhibit 1) that was distributed to the commissioners.

Egerton asked the Commissioners if they wanted to have additional conversation about the testimony from a community member about requesting a deferral to August 23rd.

Campbell stated that the applicant can review the additional request to see if another date would work for the applicant. Campbell stated that there are ample ways for people to communicate with the Planning Commission if they are unable to attend the hearing. Campbell stated that they the applicant can review the additional request and see if they can put forth another two-week delay.

Eddins asked the Commissioners if an additional two weeks can be approved now or if it needs to wait until the August 9th hearing to request the additional two weeks.

Joy stated that the hard part is that the people that have been given the opportunity in the past have a major conference that day and that does not feel good to her.

Cary approached and stated that a motion to delay further can be done, but wanted to state for the record that the applicant already requested a two-week delay to August 9th. Cary stated that testimony has been heard today to ask for a further delay. Cary stated that on the August 9th hearing, that a further delay can be asked for at that time also. Cary stated that the applicant is okay with a two-week delay but cannot say if the applicant will be okay with an additional two-week delay.

Corr asked if it was possible to talk to the applicant.

Cary stated that a representative for the applicant is here and does not know if that is what is needed to be done since it has already been approved for a delay in two-weeks.

Corr wanted to ask the applicant if they are okay to a four-week delay. Cary stated that that can be asked from staff to the applicant after the hearing today to see if there is a way to do that.

A motion was made by Eddins to delay the hearing an additional two weeks to August 23rd out of the respect of the Conference, second Rodenburg.

Campbell stated that he would rather staff ask applicant for extension. Then if the applicant would not extend, then the motion would be appropriate.

Eddins is requesting it to be moved now because the more notice that can be given to individuals that it is being deferred, the better off it is. Eddins does not think that the initial deferral date of August 9th was intentionally planned on to be on the same day as the National Conference.

Corr agrees with Eddins and would rather have more notice than less notice to the community members. Corr would rather it be settled now instead of the back and forth waiting.

Rodenburg is agreeing with Eddins for determining the deferral an additional two-weeks now instead of people having to change plans, making plans, or even finding out at the last minute that another deferral came forward.

Motion to approve deferral until the August 23rd Planning Commission carried 8-0: Ball, Campbell, Corr, Eddins, Joy, Rodenburg, Ryman Yost and Edgerton voting "yes". Cruz absent.

Campbell moved to adjourn the Planning Commission meeting of July 26, 2023, seconded by Eddins.

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

There being no further business, the meeting was adjourned at 2:20 p.m.