

## 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, August 29, 2023.*

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, September 6, 2023, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska.

**MEMBERS AND OTHERS IN ATTENDANCE:** Lorenzo Ball, Dick Campbell, Maribel Cruz, Gloria Eddins, Tracy Edgerton, Cristy Joy, Rich Rodenburg, and Cindy Ryman Yost; 9<sup>th</sup> Seat Vacant; David Cary, Steve Henrichsen, Shelli Reid, Jennifer McDonald, Brian Will, and George Wesselhoft of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Hearing

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

Chair Ryman Yost requested a motion approving the minutes for the regular meeting held August 23, 2023.

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

Chair Ryman Yost asked the Clerk to call for the Consent Agenda Items.

### **CONSENT AGENDA**

### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

### **BEFORE PLANNING COMMISSION:**

**September 6, 2023**

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

**The Consent Agenda consisted of the following item: Use Permit 05002A.**

There were no ex-parte communications disclosed.

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

Clerk asked if anyone wanted to speak on the consent items.

Campbell moved approval of the Consent Agenda item, seconded by Joy.

Motion carried 8-0: Ball, Campbell, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost.

**Note: This is Final Action on Use Permit 05002A unless appealed by filing a Notice of Appeal with the City Council or the County Board within 14 days.**

Chair Ryman Yost called for **Requests for Deferral.**

Clerk noted that written communication from the applicant requesting a deferral until the next Planning Commission Hearing of item 4.2 – Change of Zone 23054, which will delay public hearing and action to the September 20, 2023, Planning Commission hearing.

**CHANGE OF ZONE 23054  
FROM AG (AGRICULTURAL DISTRICT) TO H-3 (HIGHWAY COMMERCIAL DISTRICT), ON PROPERTY  
GENERALLY LOCATED AT NW 48TH STREET AND HWY 34.**

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

**Staff Recommendation:** Two-week deferral

Campbell moved to grant the deferral until the September 20, 2023, hearing, seconded Edgerton.

Motion carried 8-0: Ball, Campbell, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost.

**CHANGE OF ZONE 08057F  
TO AMEND THE UNIVERSITY PLACE PUD (PLANNED UNIT  
DEVELOPMENT) BY ALLOWING THE SALE OF ALCOHOL FOR CONSUMPTION ON AND OFF THE  
PREMISES CLOSER THAN 100' TO A RESIDENTIAL ZONING DISTRICT, ON PROPERTY GENERALLY  
LOCATED AT 2737 NORTH 49TH STREET.**

**PUBLIC HEARING:** **September 6, 2023**

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

**Staff Recommendation:** Conditional Approval

There were no ex-parte communications disclosed.

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

**Staff Presentation:**

**Brian Will, Planning Department, 555 South 10<sup>th</sup> Street, Suite 213, Lincoln, NE,** came forward to and stated that the property being discussed today is included in the University Place Planned Unit Development (PUD). This is an existing commercial building that has parking behind and on the west side of the building. There is also entrance doors on the west side of the building for the primary access and an outdoor area. Will stated that this area is zoned B-3 with an R-6 zoning across the street. The measurement between the licensed premises and the residential zoning is less than 100 feet, which failed the requirement of a special permit. Will stated that within the existing PUD, the requirements have been adjusted over time to meet the circumstances. With this request, the applicant is asking for a required separation from the residential from 100 feet to 65 feet. Will stated that if this was zoned B-2, it would meet the criteria of distance between the licensed premises and the residential zoning. Will stated that what the applicant is requesting is within the character of the request. Will stated that the east/west facing door be limited only to an emergency exit with no activity on that side of the building. The Planning Department is recommending conditional approval of this application.

Campbell asked where the doors are located on the west side of the building. Will stated that there are two doors on the west side of the building. Campbell asked if there is a building located in the parking lot, Will stated that it is just an open parking lot.

Rodenburg asked if there are any standards for an emergency exit and if it needs to remain locked. Will stated that there are health and fire safety regulations that will need to be applied.

Edgerton asked if the comparison of a B-2 to a B-3 regulation has any waivers of the requirements to a B-3. Will stated that this is correct with a Special Permit because the authority no longer exists. Will stated that this is not a Special Permit but a unique circumstance within the boundary of a PUD where most use and lot area requirements can be waived or adjusted. Edgerton asked if in comparison to a previous discussion about Open Harvest, that circumstance was not part of a PUD. Will stated it was discussed to be a PUD, but there was not a zoning overlay for a PUD, so a Special Permit was the route that they were left with in the B-3 zoning. Edgerton asked if B-2 is more in suburban areas. Will stated that it is commercial suburban zoning designation, which is designed to fit next to residential setbacks, landscaping etc. Edgerton asked if everything surrounding this is some sort of residential zone and Will stated that only to the east and to the north is a residential area. Ryman Yost asked if the surrounding area of the PUD is primary residential. Will stated that yes, it is.

Joy asked if the comparison of different properties that are within the PUD, where liquor licenses have been allowed, have they all been Change of Zones? Will stated that they were approved as part of the PUD.

Ryman Yost asked if any of the places on 48<sup>th</sup> Street meet the requirements. Will stated that they all have met the requirements. Will stated that a previous amendment had an adjustment from residential to zero feet that was within the building and was within the PUD boundary.

Joy asked if there are any properties along 48<sup>th</sup> Street have been approved. Will stated that he cannot think of anything.

Ryman Yost questioned if the outdoor area on the west side would be used for smoking or beer garden. Will stated that the applications states that no smoking or alcohol outside. There can be performances or bands. Ryman Yost asked if the change of zone will impact future use. Will stated that is correct. Will stated if this use was to move on, then the sale of alcohol is authorized at this location. Edgerton stated that they would need to go through the liquor license process though.

**Applicant:**

**John Osiri, 2737 N 49<sup>th</sup> Street, Lincoln, NE**, came forward to discuss the plans for this property. Osiri stated that this is a place for people to come for intellectual and cultural exchange space. It will be for selling artwork and paintings from different parts of the world, exhibits, food would be catered in, and culture alcohol and wine would be served. Osiri has invited the neighbors to come see what is being done and to get their support. Osiri wants the neighbors to see what he is going to provide to the space and to the Lincoln community. Osiri wants to create something unique that Lincoln can be proud of.

**Proponents:**

No one came forward for support testimony.

**Neutral:**

No one came forward for neutral testimony.

**Opposition:**

**Derek Aldridge, 7401 S 37<sup>th</sup> Street, Lincoln, NE**, came forward to state that he owns a property north of the commercial area. Aldridge stated that this is a residential area, and it has been for longer than it has been a commercial area. There are a lot of residential characteristics that the area has. Aldridge stated that there is a diagram in the Staff Report stating that a grocery store will be included in this space. Aldridge stated that there should be an equal balance between the residential and commercial. Aldridge pointed out that the hours of operation are 7:00 a.m. to 2:00 a.m., which would cause a lot of activity in a residential area. Also, that parking is an issue with only 12 stalls available on the premises with the maximum capacity of 49 people. Aldridge stated that the LLC was formed in June and there is no history of this business being successful.

**Staff Questions:**

Edgerton asked Will what the situation of the parking will be. Will stated that with in a B-3 it is one space per 600 square feet and by the requirements of a B-3 PUD, this meets the requirements for parking.

Joy asked if the parking to the west would be able to be utilized. Will stated that it is a public lot, and anyone can use it.

Edgerton asked when the PUD was created, Will stated in 2008. Edgerton asked what it was prior to that, Will stated it was a B-3 zoning prior to that. Will stated that the PUD did not expand the B-3, it used the existing B-3 district as a boundary.

Joy asked when the PUD was created if it allowed alcohol sales in that area at that time. Will stated that it would have been the same circumstances as it is today to have met the requirements or adjust to meet the requirements.

Eddins asked if there was not a PUD, would this be possible. Will stated that without the PUD, it would not be possible.

Ryman Yost asked if the building is being used as a commercial building and not residential. Will stated that it is a commercial building.

Edgerton asked Will what he knows about the Creative Arts District. Will stated that this is play a big part on the unique character of University Place.

Ryman Yost stated that it is a state designation through the arts council to create a district.

**Applicant Rebuttal:**

Osiri approached and stated that he has signed names and phone numbers of the neighbors that they have discussed their plans with. Osiri understands that alcohol always raises a concern with people. Osiri stated that he is a trained seminarian, and he will have two managers for the property. Osiri stated that they have made effort to make the building beautiful. Osiri stated that the LLC was just established to follow the laws and to proceed forward.

Edgerton asked how the idea of a grocery space will fit within the building. Osiri stated that from conversation from the neighbors, it was requested that a small grocery store with eggs, bread, milk, snacks, dry foods, and fresh produce be available.

Campbell moved to close public hearing, second Joy.

Motion carried 8-0: Ball, Campbell, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost.

**CHANGE OF ZONE 08057F**

**ACTION BY PLANNING COMMISSION:**

**September 6, 2023**

Campbell moved to approve Change of Zone 08057F, second Joy.

Campbell stated that this is a unique business involvement that is being set forth to the University Place. It is geared more towards the arts. Campbell will be supporting this.

Joy will also be in support of the motion. Joy noticed that if the exit door to the east is emergency only, it will be unintrusive to the neighborhood. Joy also noticed the parking is available to take it off street with the onsite stalls and the public stalls to the west.

Edgerton stated that she did struggle with the balance of it being surrounded by residential, but now has a vision of what it is. Edgerton compared this to Open Harvest that was presented years ago. Edgerton stated that with this already being in a PUD, it provides flexibility to think outside of the box. This is an area and opportunity to serve the community in a different way. Edgerton will be supporting this project.

Eddins stated that she is struggling with is that if this project fails and what comes in next to give it a balance in the long term. Eddins stated that the houses have been there for a long time with a college student mix. Edgerton stated that with the restriction of egress and restriction of the outdoor area will still be the limitations to the next business that comes in.

Ryman Yost stated that a liquor license will still need to be applied for and approved.

Cruz stated that there is support from art orientated organizations. Cruz does not know if it would be easy or feasible to make this into a full bar. This is a college area and will attract students that will be walking. Cruz so does not think traffic and parking would not be an issue. Cruz will be supporting this.

Ryman Yost stated that University Place has done a lot of work to create a vibrant space and a sense of community. Ryman Yost sees this as an opportunity to bring people together creating a community conversation space. Ryman Yost will be supporting this development.

Motion approved 8-0: Ball, Campbell, Cruz, Eddins, Edgerton, Joy, Rodenburg, and Ryman Yost.

Campbell moved to adjourn the Planning Commission meeting of September 6, 2023, seconded by Joy.

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

There being no further business, the meeting was adjourned at 1:50 p.m.