

## 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, September 10, 2024.*

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, September 18, 2024, 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, Brett Ebert, Gloria Eddins, Rich Rodenburg and Cristy Joy. Bailey Feit and Cindy Ryman Yost absent. David Cary, Steve Henrichsen, Shelli Reid, Jennifer McDonald, and George Wesselhoft with the Planning Department; media and other interested citizens were present.

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

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

**Note:** This is **Final Action** on the following item **Pre-Existing Special Permit 28F** and **Special Permit 19006B** unless appealed by filing a Notice of Appeal with the **City Council** or the **County Board** within 14 days.

Joy requested a motion approving the minutes for the regular meeting held September 4, 2024.

Motion for approval of the minutes made by Campbell; seconded Eddins.

Minutes approved 6-0: Ball, Campbell, Ebert, Eddins, Rodenburg and Joy voting "yes"; Cruz abstained, Feit and Ryman Yost absent.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

**September 18, 2024**

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

**The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 24017, Street and Alley Vacation 24009, Pre-Existing Special Permit 28F and Special Permit 19006B.**

Joy stated that she will abstain from voting on the consent items due to being associated with Pre-Existing Special Permit 28F.

Eddins stated that SAV24009 is within the borders of the Clinton Neighborhood Association and was discussed at the last meeting.

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

Campbell made a motion for approval of the Consent Agenda; seconded by Eddins.

Motion carried 6-0: Ball, Campbell, Cruz, Ebert, Eddins, Rodenburg voting "yes"; Joy abstained, Feit and Ryman Yost absent.

**COMPREHENSIVE PLAN AMENDMENT 24004**

**TO AMEND THE LINCOLN-LANCASTER COUNTY 2050 COMPREHENSIVE PLAN TO CHANGE THE FUTURE LAND USE DESIGNATION FROM URBAN-DENSITY RESIDENTIAL TO COMMERCIAL; AND**

**CHANGE OF ZONE 24003**

**FROM AGR (AGRICULTURAL RESIDENTIAL DISTRICT) TO O-3 (OFFICE DISTRICT); AND USE PERMIT 24003**

**TO ALLOW A USE PERMIT IN THE O-3 (OFFICE DISTRICT) ZONING DISTRICT FOR APPROXIMATELY 51,000 SQUARE FEET OF COMMERCIAL FLOOR AREA, WITH WAIVERS TO SETBACKS, ON PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF S 70TH STREET AND NEBRASKA PARKWAY.**

**PUBLIC HEARING:**

**September 18, 2024**

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

**Staff Recommendation:** Denial

There were no ex-parte communications disclosed.

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

**Staff Presentation:**

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE** came forward and stated that he will go over all three applications at one time. Henrichsen stated that all three applications are in the triangle section of the corner of 70th Street and Nebraska Parkway. This property is surrounded by AGR zoning. Henrichsen stated that the site plan submitted showed two future office buildings. The grading plan showed drop off, removal of trees and a proposed retaining wall due to dropping the site as much as 15-20 feet in some places. Henrichsen

stated that Nebraska Parkway has a long history of being treated as an expressway with limited access on it. Henrichsen referenced the City of Lincoln, Access Management map (Exhibit 1). The access points must be streets and at a minimum of half a mile apart. Over the years there has been many questions regarding the redevelopment of the property and having the access to 70<sup>th</sup> Street. Henrichsen stated that in May, the Nebraska Department of Transportation (NDOT) decided to grant access given certain conditions met by the developer. Henrichsen stated that this access point is not wise or keeping with the long character of trying to develop an expressway in the community. The city is concerned with the changing of the character overall with a driveway. Nebraska Department of Transportation has control over the access and has granted with certain conditions, access approval. In addition to the access, there are also concerns with the land use of the property. This site can be developed with urban residential uses. The Southfork Estates Homeowners Association sent in a letter of approval for this application and is present to discuss that further. Henrichsen stated that there is concern with the amount of traffic that will be going through the neighborhood. Henrichsen showed one example of multiple ways to develop this property (Exhibit 2). The exhibit showed 14 townhomes that would require less grading and retention of retaining walls. Henrichsen stated that multiple houses have been built along Nebraska Parkway with setbacks of 50-60 feet within the price range of \$430,000-\$550,000 have been developed and occupied since. Henrichsen is stating that the Planning Department is recommending denial of the Comprehensive Plan Amendment, Change of Zone and the Use Permit.

Campbell stated that even through the city is recommending denial for access to Nebraska Parkway, the State of Nebraska can grant access to the property from Nebraska Parkway? Henrichsen stated that is correct. The State is in control of the access and the city is in control of the Comprehensive Plan, Zoning, Special Permit and Use Permit that go with it. Henrichsen stated that all three applications were recommended denial but if this is to be approved, there are conditions that were put together for the Use Permit that would be appropriate for how this would be developed.

Ball asked if there was a driveway outlet in place on 69<sup>th</sup> Street. Henrichsen stated that 69<sup>th</sup> Street is currently a dead-end and will remain unchanged.

Rodenburg read that in O-3, the proposal is for medical use only, but an O-3 will also allow for future retail. Henrichsen stated that is correct, there is a percentage of retail that can be done in an O-3. What is being encouraged is to have more than solely one use. If this is approved, the recommendation would be to remove the word "medical". It is a term that is no longer used in some requirements.

**Applicant:**

**David Clausen, 129 N. 10<sup>th</sup> Street, Suite 313, Lincoln, NE** came forward and stated that he is representing Glenbrook LLC, which is the developer. Clausen stated that this project represents in support of the proposed medical office complex project which includes an offset turn lane for access off Nebraska Parkway. The design of the medical office will provide viable development of the property. Clausen stated that this proposal represents an investment in the health and well-being of the citizens by increasing the availability of medical office space. Clausen stated that he must express that the Planning Department's recommendation of

denial of the approval of the access request and has found concern over the decision and its potential ramifications. Clausen stated that the Planning Department does not have a strong basis for denial. Clausen is asking that this project move forward and find solutions to the concerns. This will allow improving health care, access and quality in creating jobs.

**Robert Otte, Senior Council for the applicant, 129 S. 10<sup>th</sup> Street, Suite 313, Lincoln, NE**, came forward and stated that sometimes change is hard. Otte stated that Nebraska Parkway has changed over the past 40 years. Otte has met with builders, and it was concluded that no builders would take this project due to abutting to Nebraska Parkway and 70<sup>th</sup> Street. This is not a place where anyone would want to build a house or a townhome because of the noise and traffic from the area. Otte stated that housing will not work for this area. Otte states that the Access Management Policy states that there is not an access, but the State noted that it will work. Otte displayed a map (Exhibit 3, page 12) of the businesses surrounding the Medical Park request. After reexamination, it was stated that Nebraska Department of Transportation (NDOT) endorsed this proposal. Otte stated that eventually the Neighborhood Association will work with the developers and come to a working conclusion.

Rodenburg asked Otte if the updated traffic study was completed. Otte stated that it has been completed.

**Nate Burnett, 601 Old Cheney Road, Suite A, Lincoln, NE** came forward and stated that REGA engineering has worked with many medical offices and facilities in the past. There have been several letters from the Country Meadows Homeowner's Association. They have voiced their concerns and Burnett stated that they have addressed some of their concerns and visited with Lincoln Transportation and Utilities (LTU) about how to mitigate those concerns. Burnett would like to keep the use of the word "Medical". This will help prevent concerns that the neighbors would have for other uses. Burnett stated that there are conditions and changes that would need to be addressed once there is a final plan.

Campbell stated that the Planning Department is opposed to an entrance off 70<sup>th</sup> Street. Campbell asked if there are ways to bring traffic off 70<sup>th</sup> Street rather than Nebraska Parkway and if that has that been looked at? Burnett stated that it difficult with the sight distance. Campbell stated that this is almost directly across from the Berean Church entrance. Burnett stated that there is a decent amount of grade change creating significant issues. Otte approached and stated that there were many conversations about using an entrance/exit on 70<sup>th</sup> Street by the Berean church, but with the double curve, changing grade and speed would be cataclysmic to that area.

**Proponents:**

**Ann Post, Rembolt Ludtke, 1128 Lincoln Mall, Suite 300, Lincoln, NE** came forward representing the Southfork Homeowner's Association in support of this application. Post stated that there is a shortage of housing with multiple policies in place to address the desperate need for housing. Post stated that traffic is the main concern with the neighborhood. The neighborhood currently has patched asphalt streets and does not have curbs and gutters. Post stated that the streets are in poor condition. Given the additional traffic on the streets, the Neighborhood Association voiced their concerns to the developer

and no matter what would arise, the neighborhoods interest would still be addressed. Post stated that a set of covenants would remain in place with the neighborhood. There has been an extensive process of the use restrictions that the neighborhood would be able to enforce.

**Sean Barry, President of the Homeowner's Association of Southfork Estates, 6801 Northfork Dr, Lincoln, NE** came forward and stated that the project proposed will have the least impact and effect on this neighborhood. Barry stated that they are in favor of proceeding.

**Bill Joe Kerr, 6811 Southfork Circle, Lincoln, NE** came forward and stated that his property backs up to the development and had worked with the developer for a long time. Kerr approves this development.

**Neutral:**

No one approached in neutral.

**Opposition:**

**Jeff Woita, President of Country Meadows Homeowner's Association, 6401 S 66<sup>th</sup> Street, Lincoln, NE** came forward and stated that this is a dangerous intersection at 70<sup>th</sup> and Nebraska Parkway. Woita stated that the current speed limit is 55 and since it is no longer considered a Highway, it should be reduced for public safety. Woita stated that there is not a right turn lane coming off 70<sup>th</sup> Street and Nebraska Parkway. The traffic tends to get backed up during volume times. The public safety, concern with the traffic, and the U-turns needs to be addressed. Woita stated he is recommending a no U-turn sign and speed limit reduction. Woita stated some of the surrounding neighborhood Homeowner Associations did not receive notice to the change of zoning.

**Terry and Cheryl Boulay, 6565 S. 70<sup>th</sup> Street, Lincoln, NE** came forward and stated that this is a speedway. Terry Boulay stated that they own their property and own the property that is to the corner south of the property where they currently live as well. Cheryl Boulay stated that there are fatalities and accidents that happen frequently at the intersection. Cheryl Boulay is also concerned with the zoning potential and how everyone will be affected by this.

Campbell asked where they their house is located compared to the site requested. Terry Boulay stated that they are the property on the south side of Nebraska Parkway. This is to the south of the property being discussed.

Campbell asked Henrichsen what requirements that the Planning Department would be suggested if this was approved by the City Council. Henrichsen stated that the Use Permit 24003 has site specific conditions that is listed with the staff report.

**Bob Simmering, Lincoln Transportation and Utilities (LTU), 949 Bond Street, Lincoln, NE** came forward and stated that there has been discussion and that a resolution to the issue of

the U-Turn on 70<sup>th</sup> Street needs to happen. Simmering stated that there are issues that need to be addressed with the traffic study and has conditions that would need to be addressed. There are conditions that Simmering stated that he would like to see addressed in addition to the U-Turn.

Henrichsen stated that the condition of changing the 5-year time to 10 years cannot be waived. It is in the subdivision ordinance and cannot be changed. The rest of the conditions are required items, but in terms of the conditions that are proposed, leave all the conditions because some of them are to protect the neighborhoods.

Ebert asked Henrichsen about the speed limit and who's authority it is. Henrichsen stated that this is an expressway that was built in the city and with the expectation is that you can drive at a higher speed. Henrichsen stated that changing the speed limit will not work because this was designed as a roadway designed to facilitate fast movements. Henrichsen stated that the simplistic of changing the speed limit will not solve the problem because the design of the streets dictate how people feel.

Henrichsen stated that residential involvement and commercial development is supported within the Planning Department and important to the community. Henrichsen stated that Nebraska parkway still has vacant lots east of 84<sup>th</sup> street that can accommodate a commercial development, a medical office and a medical facility. Henrichsen stated that this is not about supporting health care or not, but does this corridor have adequate commercial development. This is not one of the corridors that lack this type of development.

Ball wanted clarity on the conditions with adding a right turn lane. Henrichsen stated that there are two conditions. The first condition is that the applicant's plan shows a right turn lane in Nebraska Parkway that is being designed to the NDOT standards. The second is that the southbound right turn lane to the west, that the traffic study showed. Henrichsen stated that those improvements are listed as items that need to be addressed as part of a future building permit final plat process.

Rodenburg asked Henrichsen that on 33<sup>rd</sup> Street to 27<sup>th</sup> Street, there is a right lane that runs the whole length. Rodenburg asked if there will be something like this on 70<sup>th</sup> Street for potential access into the commercial development? Simmering approached and stated that you could not drive through 70<sup>th</sup> Street all the way through the intersection. There would need to be a turning move after the intersection. Campbell asked about the view to the turn lane again. Henrichsen stated that the turn lane would be off set, so the view is not being blocked.

Otte came forward and stated that he agrees with the Country Meadows neighbors and thought that it was far enough away that it would not make a difference. Otte disagrees with Henrichsen about the speed being reduced coming into Lincoln and that the speed could step down as it comes into Lincoln. Otte stated that they met with Traffic with LTU, to determine what could be done to the. Otte stated that this is a long turn lane is separated and not in the

traffic movement. Otte stated that there is not a turn lane coming off 70<sup>th</sup> Street heading west or a turn lane on Nebraska Parkway turning towards Home Depot. Otte stated that the overall increase in traffic is 2 percent. Otte stated that all the important issues have been addressed. There needs to be a gradual turn lane.

Burnett requested that the landscape buffer be addressed at the time of the building permit.

Otte stated that it took 9 months to negotiate the covenants. Otte stated that they have a more expansive set of covenants with the Neighborhood Association than most developers have.

Campbell moved to close the public hearing; seconded by Eddins.

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

Campbell moved to approve Comprehensive Plan Amendment 24004, seconded by Rodenburg.

Campbell stated that he travels this area daily. Campbell does not see that city would not want to help figure out something better on 70<sup>th</sup> Street and is not sure that 70<sup>th</sup> Street is the right answer. Campbell thinks that having LTU reduce the speed limit would help the entire situation as the city grows and expands. The turning lane that is being proposed makes the most sense from the safety standpoint for traffic and vehicles in the entire area. Campbell does not see any other solution for that property. Campbell is in support of all three of the items.

Ball asked for a clarification of the motion that Campbell stated. Campbell stated that he is voting to approve.

Cruz stated that this location is a hot dumpster fire. Cruz stated the Highway 2 is the only way to get through town. Commercial developments exist off the major streets. Cruz states that the staff makes the recommendations that are within the best interest in all the citizens. What needs to be thought about is how this space is meant to be used. There is plenty of commercial health care spaces in the city. If this area is to be used for infill, then residential makes sense. Cruz stated regardless of the usage, the turn lane situation and access does need to be figured out. Cruz does not see why an exception needs to be made especially when it's for commercial use and especially when it does not conform to the 2050 Comprehensive Plan. Cruz appreciates Henrichsen and the staff making the expert informed recommendations.

Eddins agrees with Cruz. This is not a bad location for commercial use, but access does need to be considered. There is a shortage of medical offices in north Lincoln, but not south Lincoln. Eddins does think that this intersection needs work. Eddins stated that the access off Nebraska Parkway would be creating more of a troubled intersection.

Rodenburg stated that the city has done a great job, and the traffic lights do regulate the traffic. Rodenburg does agree with Campbell that if the developer is willing to put a turn lane on 70<sup>th</sup> Street and on Nebraska Parkway that this will help with the traffic. Rodenburg stated that it was determined that the residential aspect is not feasible, but a medical office building is. Rodenburg will vote to approve assuming with all the safety factors.

Ebert stated that Nebraska Parkway is a freeway. Ebert applauds the developer for trying to find a solution and appreciates the time and expense that was put in to get the application to this point. Ebert feels that this does not conform to the comprehensive plan. It is commercial surrounded by residential, and not conformance with the Access Management Policy.

Ball stated that he is in favor of approval like Campbell and Rodenburg stated. As a transportation prospective, this gets us to a better point. Ball stated from a zoning perspective, there is precedent around it for commercial. This will be going to the City Council for review as well and that there are opportunities to evaluate the transportation request and the framework for allowable use. Ball will be supporting this.

Joy stated that she is agreeing with all the fellow commissioners one way or another. Joy asked what the role is based on with the information that is shared. As a planning commission, they are very supportive of infill and the type is not really pushed. The other issue of one access point is very challenging from a sites standpoint and how to help accommodate that. Joy stated that she is leaning towards voting 'no' but is a big proponent of the infill aspect. Joy appreciates the long turn lane that Campbell mentioned seems to be very appropriate to get in and out, but how do you navigate all the pieces of the development from the access management standpoint.

Motion failed for approval due to the lack of not obtaining five affirmative votes: 4-3; Ball, Campbell, Rodenburg and Joy voting "yes": Cruz, Ebert, Eddins voting "no"; Feit and Ryman Yost absent.

**David Cary, Director Planning Department, 555 S 10<sup>th</sup> Street, Lincoln, NE** approached and stated that a 4-3 vote is not sufficient vote to move forward, these applications will be held over for two weeks until the next Planning Commission Meeting.

Campbell moved to approve Change of Zone 24003; second Ball

Motion failed for approval due to the lack of not obtaining five affirmative votes: 4-3; Ball, Campbell, Rodenburg and Joy voting "yes": Cruz, Ebert, Eddins voting "no" Feit and Ryman Yost absent.

Campbell moved to approve Use Permit 24003; second Ball.

Motion failed for approval due to the lack of not obtaining five affirmative votes: 4-3; Ball, Campbell, Rodenburg and Joy voting "yes"; Cruz, Ebert, Eddins voting "no" Feit and Ryman Yost absent.

Cary came forward and stated that the public hearing has been closed on these items and there will not be a public hearing on these items at the next Planning Commission Hearing. There will just be a vote on the carried over items, due to not obtaining five affirmative votes.

Campbell moved to adjourn the Planning Commission meeting of September 18, 2024; seconded by Eddins.

Motion to adjourn 7-0: Ball, Campbell, Cruz, Ebert, Eddins, Rodenburg and Joy voting "yes"; Feit and Ryman Yost absent.

There being no further business the meeting was adjourned at 3:10 p.m.