

**CITY OF LA VISTA
PLANNING COMMISSION MINUTES
MAY 18, 2006**

The Planning Commission meeting of the City of La Vista was convened at 7:00 p.m. on Thursday, May 18, 2006 at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Malmquist, Hewitt, Gahan, Andsager, Rizzo, Roarty, Horihan and Carcich. Also in attendance was Ann Birch, community development director.

Legal notice of the public meeting and hearing was posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission and a copy of the acknowledgement of the receipt of notice is attached to the minutes. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

1. Call to Order

The meeting was called to order by Chairperson Krzywicki at 7:00 p.m. A copy of the agenda and staff report was made available to the audience.

2. Approval of Meeting Minutes of April 20, 2006

Roarty motioned to approve the minutes of April 20, 2006. Malmquist seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Rizzo, Roarty, and Krzywicki. Nays: None. Motion carried.

3. Old Business

None.

3. New Business

4A. An amendment to a Final P.U.D. Plan (Ordinance) for Southport West (Lots 1-4, 15-27, and Outlots A&B) and Southport West Replat One (Lots 1-3) located in parts of the SE1/4 and SW1/4 of Section 18, T-14-N, R-12-E, of the 6th P.M., Sarpy County, Nebraska, generally located at 126th and Giles Road.

i. Staff Report: A public hearing was continued from the April 20, 2006 meeting to consider amendments to the final P.U.D. plan for approximately 150 acres zoned C-3 PUD-1 and I-2 PUD-1 and known as Southport West, generally located at 126th Street and Giles Road. The application is consistent with the comprehensive plan and compatible with surrounding developments.

An application was made to amend the current Planned Unit Development (P.U.D.) Plan which was approved by the City Council on December 21, 2004. The most recent proposed Final P.U.D. Plan is designed to compensate for project demands concerning height, setback, use limitations, parking requirements, etc. According to the La Vista Zoning Ordinance, the intent of the PUD-1 District is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, and their inter-relationship while protecting the health, safety and general welfare of existing and future residents of surrounding neighborhoods.

Staff is in the process of reviewing the application for an amendment to the Final P.U.D. Plan and will need additional time to provide a recommendation. A copy of the proposed P.U.D. Plan will be distributed for your review prior to action being taken.

Staff recommends continuation of the hearing until the next meeting.

ii. **Public Hearing:** Carcich motioned to further continue the public hearing. Rizzo seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Rizzo, Roarty, and Krzywicki. Nays: None. Motion carried.

4B. A conditional use permit application to locate and operate a hotel on Lot 1, Southport West Replat Two, located southeast of I-80 and Giles Road.

i. **Staff Report:** Public hearing was held to consider an application for a conditional use permit to locate and operate a hotel on Lot 1, Southport West Replat Two. The property is zoned C-3 Highway Commercial/Office Park with a P.U.D. Overlay. The application was submitted by Steve Minton on behalf of John Q. Hammons Industries.

The applicant is proposing to construct a 7-story Embassy Suites hotel with 257 rooms. The hotel will be a full-service hotel and will be constructed to be part of a future conference center.

Staff is in the process of reviewing the application for design approval based upon the Southport West P.U.D. Plan and design guidelines and will need additional time to review re-submittals prior to a recommendation of the conditional use permit. A copy of the conditional use permit application on this proposed use will be distributed for your review prior to action being taken.

Staff recommends continuation of the hearing until the next meeting.

ii. **Public Hearing:** Carcich motioned to further continue the public hearing. Horihan seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Rizzo, Roarty, and Krzywicki. Nays: None. Motion carried.

4C. An amendment to Sections 5.10.05, 5.11.04, and 5.12.04 of the La Vista Zoning Ordinance pertaining to permitted temporary uses.

i. **Staff Report:** Public hearing was held to consider proposed zoning text amendments to Sections 5.10.05, 5.11.04 and 5.12.04 of the Zoning Ordinance pertaining to permitted temporary uses. Such proposed changes are consistent with existing commercial uses. The specific zoning text amendments proposed by staff are as follows:

5.10.05

Permitted Temporary Uses

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. **All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year lasting no more than two (2) weeks per use.**

- 5.10.05.01 Temporary greenhouses.
- 5.10.05.02 Temporary structures as needed for sidewalk and other outdoor sales events.
- 5.10.05.03 Fireworks stands, provided the criteria is met as established by the City through separate Ordinances.
- 5.10.05.04 Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 5.10.05.05 Temporary structure for festivals or commercial events.

5.11.04 Permitted Temporary Uses

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. **All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year lasting no more than two (2) weeks per use.**

- 5.11.04.01 Temporary greenhouses.
- 5.11.04.02 Temporary structures as needed for sidewalk and other outdoor sales events.
- 5.11.04.03 Fireworks stands, provided the criteria is met as established by the City through separate Ordinances.
- 5.11.04.04 Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 5.11.04.05 Temporary structure for festivals or commercial events.

5.12.04 Permitted Temporary Uses

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. **All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year lasting no more than two (2) weeks per use.**

- 5.12.04.01 Temporary greenhouses.
- 5.12.04.02 Temporary structures as needed for sidewalk and other outdoor sales events.
- 5.12.04.03 Fireworks stands, provided the criteria is met as established by the City through separate Ordinances.
- 5.12.04.04 Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 5.12.04.05 Temporary structure for festivals or commercial events.

Staff recommends approval of the proposed amendments to City Council as they are consistent with existing commercial and industrial developments and uses and with the Comprehensive Plan.

Birch explained there was an update on their desks with proposed revised language. Dave Potter had a discussion with Commissioner Roarty regarding contradictory language that appears later in some of the allowed temporary uses.

Roarty commented that construction trailers may be on a site longer than two weeks and this language seems to say it would only be allowed two weeks. He felt Dave had addressed this with the proposed revision.

Carcich asked if it lasts that long doesn't it become null and void. Birch explained that as long as the trailer is related to the construction work, it can be there. If the construction work is done, the trailer has to be removed. Birch referred the Commissioners to paragraph 04.04 in each section regarding buildings and uses incidental to construction work.

ii. **Public Hearing:** Carcich motioned to open the public hearing for Item 4C. Hewitt seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Rizzo, Roarty, and Krzywicki. Nays: None. Motion carried. Public hearing opened at 7:05 p.m.

Hewitt asked about restricting a temporary greenhouse to two weeks, which is too short and there is no exception, only the exception for construction buildings. She questioned if all the other temporary uses would be limited to two weeks, including fireworks stands. Birch explained the timeframe for a fireworks permit was addressed in the fireworks ordinance. Further, the temporary green houses listed here are not those seen at grocery stores. Those are provided for as a conditional use in another section.

Hewitt questioned if the intent was to limit fireworks stands to two weeks, why are we limiting all the others to two weeks.

Birch explained the issue originated with a discussion of a permit for a fireworks stand being located on a lot which is unimproved and there had been an amendment approved recently to require hard surface parking. The proposed limit for temporary uses includes fireworks stands as well as other uses listed. With regard to permits for the other temporary uses listed, Birch was not aware of any that are issued on a regular basis. There was general discussion about the purpose of the amendment.

Rizzo commented that it appeared the proposed revisions were prepared at the last minute and questioned whether there had been enough thought. She asked if there was a need to proceed with this revision soon because of the fireworks permits. The Commission generally discussed temporary uses and how they are regulated in the commercial zones.

Roarty asked if this amendment was approved as proposed, what would be the worst case scenario if someone took advantage of the provision. Birch stated there would be less advantage with the proposed revision because a timeframe is specifically listed, as opposed to the current code which does not specify a time limit.

There was further discussion by the Commissioners about the need to limit the timeframe for temporary uses. Birch gave the Commissioners a brief summary of an application for a fireworks stand on an unimproved lot. The applicant requested that he be allowed to pave a parking lot for the stand, however, no other structure would remain after the fireworks stand was removed and parking lots are not a permitted use on their own. Council directed staff to look at amending the hard surface parking requirement so that temporary uses did not have to have hard surface parking. The Council however wanted to make sure these uses were limited. Potter proposed these amendments in response to this discussion.

Roarty questioned if the proposal should further regulate the length of time between uses so that the four instances, each for two weeks, could not occur consecutively.

Hewitt felt staff already has the authority to limit the time and this would be taking away any discretion staff currently has. Bird stated that a zoning regulation should not be discretionary. Hewitt also commented that the language did not capture the intent. Birch requested any suggested language from the Commissioners.

Malmquist and several Commissioners discussed alternative language for the amendments.

Krzywicki suggested that the public hearing for the following agenda item be opened since the two proposals are related. Malmquist moved that items 4C and 4D be combined and discussed simultaneously. Rizzo seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Rizzo, Roarty, and Krzywicki. Nays: None. Motion carried.

4D. An amendment to Section 7.05.03 of the La Vista Zoning Ordinance pertaining to off-street automobile storage.

i. **Staff Report:** A public hearing was held to consider a proposed zoning text amendment to Section 7.05.03 of the Zoning Ordinance – Off-Street Automobile Storage. Such proposed changes are consistent with existing commercial and industrial developments. The specific zoning text amendment proposed by staff is as follows:

Section 7.05 Off-Street Automobile Storage.

7.05.03 All parking spaces for *residential, commercial, industrial, public or quasi-public uses* shall be paved with asphalt or concrete. (*Ordinance No. 975, 12-20-05*)
All parking spaces for permitted temporary uses not located on the same lot as a permitted use may be exempt from a paved surface but shall have access to a hard-surface road and have a rock drive for emergency vehicles.

Staff recommends approval of the proposed amendment to City Council as it is consistent with existing commercial and industrial developments and uses and with the Comprehensive Plan.

Horihan asked about the term residential under item 4D, the section regarding off-street automobile storage, because it references all parking spaces for residential, commercial, and industrial uses. Birch explained this parking section is under the general provisions of the Zoning Ordinance and applies to all districts. There are no permitted temporary uses in the residential zones, and the amendment under item 4C only applies to the commercial zones.

Krzywicki commented that he does not have an updated Zoning Ordinance with the amendments. Birch explained Potter was in the process of preparing updated copies.

iii. **Recommendation:** Gahan motioned to continue the hearing on agenda item 4C to the next meeting and send it back to staff to clarify concerns with back to back permits being issued which turns into an eight week temporary use; concerns regarding buildings and uses related to construction which may go beyond an eight week period in that the new language would not allow for it to go beyond eight weeks; also, concerns if the two week restrictions for fireworks stands has not been thought through how it would effect greenhouses, outdoor sales, building construction, and festivals and commercial events. She stated the language being proposed and the reasons behind it do not flow from the information received at this point.

Carcich questioned if this would infringe upon the upcoming fourth of July. Krzywicki stated the Council can make their own decision.

Rizzo seconded the motion. Malmquist asked if they continue this item, would it go on to Council. Birch stated no. Hewitt felt the Council would have the same concerns and they would return it to the Planning Commission which would slow the process down further. Hewitt felt there were too many revisions to the proposal to look at to be able to accomplish that during this meeting.

Birch summarized the proposal stating the two week restriction was proposed to regulate how many temporary uses someone could have, not for the purpose of regulating fireworks stands only. The Council discussed allowing for fireworks stands, which are listed as a temporary use, to have unimproved parking, but they do not want to allow this to open the flood gates for other temporary uses. Birch suggested several changes to address the Commissions concerns with the timeframe or number of permits.

Krzywicki stated there was a motion on the floor. Commissioners continued to discuss alternatives. Horihan suggested passing item 4D regarding parking and continue item 4C regarding temporary uses. Krzywicki stated that item 4D was critical for the fireworks issue and item 4C was not critical in order for them to operate.

Vote on the motion was as follows. Ayes: Carcich, Hewitt, Horihan, Gahan, Andsager, Roarty, Rizzo, and Krzywicki. Nays: Malmquist. Motion carried.

Carcich motioned to close the public hearings on items 4C and 4D. Rizzo seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Roarty, Rizzo, and Krzywicki. Hearing closed at 7:46 p.m.

Horihan asked if there was something to ensure in the future temporary uses were not permitted in the residential zones. Birch explained that there are no temporary uses listed in the residential zones and they have to be listed in order to be permitted.

iii. Recommendation: Roarty motioned to recommend approval of item 4D to the City Council as consistent with existing commercial and industrial developments and uses and with the Comprehensive Plan. Rizzo seconded. The motion was amended to take out the word "principal" since the phrase used in the ordinance is "permitted uses". Ayes: Carcich, Malmquist, Horihan, Gahan, Andsager, Roarty, Rizzo, and Krzywicki. Nays: Hewitt. Motion carried.

5. Comments from the Floor

None.

6. Comments from the Planning Commission

Birch announced that Planner Potter and his wife had a baby boy, Dawson Lee Potter, on Wednesday.

Gahan asked if a decision had been made to the changing of the meeting times. After some discussion it was agreed for now to leave the Planning Commission start time at 7 p.m.

Carcich asked about the church steeple and antennae at 96th and Harrison. Birch said they have applied for their construction permit.

Carcich mentioned that the City Council would be conducting a tour and wondered if perhaps it could be done again by the Planning Commission. Birch suggested that because of the large volume of things going on that this be considered again in the fall.

7. Adjournment: Carcich motioned to adjourn. Rizzo seconded. Ayes: Carcich, Malmquist, Hewitt, Horihan, Gahan, Andsager, Rizzo, Roarty, and Krzywicki. Nays: None. Motion carried. Meeting adjourned at 8:00 p.m.

Reviewed by Planning Commission: John Gahan

Sharon Dennis
Recording Secretary

Michael J. Krzywicki
Planning Commission Chair

6-15-2006
Approval Date