



CITY OF LA VISTA
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PLANNING COMMISSION MINUTES
JULY 21, 2016-7:00 P.M.

The City of La Vista Planning Commission held a meeting on Thursday, July 21st, in the Harold "Andy" Anderson Council Chamber at La Vista City Hall, 8116 Park View Boulevard. Chairman Gayle Malmquist called the meeting to order at 7:00 p.m. with the following members present: Mike Krzywicki, Gayle Malmquist, John Gahan, Tom Miller, Jackie Hill, and Jason Dale. Members absent were: Harold Sargus, Kevin Wetuski, Kathleen Alexander, and Mike Circo. Also in attendance were Chris Solberg, City Planner; Meghan Engberg, Permit Technician; Ann Birch, Community Development Director; John Kottmann, City Engineer; and Tom McKeon, City Attorney.

Legal notice of the public meeting and hearing were posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission. 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 Chairman Malmquist at 7:00 p.m. Copies of the agenda and staff reports were made available to the public.

2. Approval of Meeting Minutes – June 16, 2016

Miller moved, seconded by *Hill* to approve the June 16th minutes with corrections. **Ayes:** *Krzywicki, Gahan, Malmquist, Hill, Dale, and Miller.* **Nays: None.** **Abstain: None.** **Absent: Sargus, Wetuski, Alexander, and Circo.** **Motion Carried. (6-0)**

3. Old Business

None.

4. New Business

A. Public Hearing for Zoning Ordinance Text Amendments – Section 7.08 (Off – Street Parking: Parking for Individuals with Disabilities) – City of La Vista

- i. **Staff Report – Chris Solberg:** Solberg stated upon staff review of Section 7.08, Off – Street Parking: Parking for Individuals with Disabilities, it was concluded an update to the regulations was warranted. The proposed changes add a separate column for the required Minimum Number of Van Accessible Parking Spaces within the table in Section 7.08.01. Additional minor changes are proposed to increase the number of accessible spaces that shall be served by an access aisle. Redline copies of the aforementioned sections are attached. Staff recommends approval of the proposed amendments.
- ii. **Public Hearing- Opened by Gayle Malmquist**

No members of the public came forward.

Malmquist closed the Public Hearing.

Malmquist asked if these changes were in compliance with the ADA or if there were changes to the ADA that mandated this.

Solberg said there were some changes from the Department of Justice that were sent down regarding changes in their requirements and we are updating our regulations accordingly.

Krzywicki said he had a question in regards to Section 7.08.04. He asked since there is a possibility that two signs will need to be attached if one is van accessible as well as handicapped, if it can be clarified whether 60" refers to the higher sign or the lower sign.

Malmquist asked if it says at least 60" above ground surface measured from the lowest sign, so you would only need to add the word "lowest". So the last sentence would read "ADA mandates at least 60 inches above ground surface measured from the bottom of the *lowest* sign."

iii. **Recommendation:** Gahan moved, seconded by Hill to approve to the City Council the Zoning Ordinance Text Amendment - Section 7.08, Off-Street Parking: Parking for Individuals with Disabilities, as it is consistent with the Comprehensive Plan and Zoning Ordinance. **Ayes:** *Krzywicki, Gahan, Malmquist, Hill, Dale and Miller.* **Nays:** *None.* **Abstain:** *None.* **Absent:** *Sargus, Wetuski, Alexander, and Circo.* **Motion Carried.** (6-0)

B. Public Hearing for Zoning Ordinance Text Amendments – Sections 2.14 (Definitions "M"), 5.13 (I-1 Light Industrial District), 5.14 (I-2 Heavy Industrial District) – City of La Vista

i. **Staff Report – Chris Solberg:** Solberg stated although microbreweries are currently allowed outright in the I-2 Heavy Industrial District through Section 5.14.2.15, staff review has concluded that this use needs to be specifically addressed. The proposed changes to the Zoning Ordinance provide for the use of microbreweries outright in both the I-1 Light Industrial and I-2 Heavy Industrial zoning districts. However, if the microbrewery were to include on-site sales as part of the operation on site, a Conditional Use Permit would need to be obtained. Staff recommends approval of the proposed amendments.

ii. **Public Hearing – opened by Gayle Malmquist**

No members of the public came forward.

Malmquist closed the Public Hearing.

Malmquist inquired whether microbreweries currently are allowed in I-1 and I-2, but the problem is if it includes on-site sales, then a Conditional Use Permit would be required.

Solberg confirmed and added we are also allowing for microbreweries in I-1.

Hill noted that the definition of brew pubs indicated that no more than 10,000 barrels of beer annually are to be produced. She noted in our new definition we are going with these establishments not producing more than 20,000 barrels per year and wanted to know why we were increasing from 10,000 barrels to 20,000 barrels. She wanted to know why 20,000 is the magic number.

Solberg said the state statutes refer to 20,000 barrels. Microbrewery would now be specifically permitted within the I-1 and I-2 districts and as a conditional use within the C-3 district and the goal is to separate that use from brew pubs. Previously it was referencing back to brew pubs, so they are trying to separate brew pubs from microbreweries because brew pubs are more restaurant based. They are trying to create a distinction between uses.

Hill asked if the 20,000 was consistent with adjacent communities. She wanted to know where the definition came from, what it was modeled by.

Solberg said they took a number of different definitions from a number of different locations. However, there was some linkage back to state statutes that define a microbrewery and that the figure is somewhere within the state statute.

Malmquist agreed and said she believed it was somewhere in the state statutes when the state come up with regulations for these “creatures” and that’s where the 20,000 came from.

Krzywicki asked about the definition where it says 75% sold off-site and wanted to know how this will be monitored and if all microbreweries in the city will be required to file a report of what their percentage is. He then asked if the existing ones are grandfathered or if they will have to apply for the special use permit.

Solberg said that will be addressed at the time that a complaint would come up. It would be a lot like the other regulations that might require an inquiry at the time of complaint, on the 75% aspect. He said if there was a complaint that someone was selling more than the 25% on-site then we would investigate that.

Krzywicki said the reason he was asking about the grandfathering is because there is a pretty easily identified number of these currently in the city and asking them about this change and whether they had any concerns and whether they thought they would be able to comply. He wanted to know what the City’s position would be in requiring the change in the ordinance to be complied with for somebody who is already invested in the business.

Solberg said he didn’t think we would chase after those businesses unless there was a complaint or if there was a change in their use.

Krzywicki said it seemed like a lot of the microbreweries now have party rooms, tours, and selling product in their shops.

Solberg said that’s part of the reason that we’re requiring the Conditional Use permit, is for the on-site sales because of the possible traffic and parking concerns. He said a lot of times they wait for them to expand or change their use at some point and deal with it then.

Krzywicki asked if there have been any instances where the parking that's adjacent to the microbrewery is significantly under where people are having to park on streets in that area.

Solberg said he has received no complaints on that.

- iii. **Recommendation:** Hill moved, seconded by Gahan to approve the proposed amendments. **Ayes:** *Krzywicki, Gahan, Malmquist, Hill, Dale and Miller.* **Nays:** *None.* **Abstain:** *None.* **Absent:** *Sargus, Wetuski, Alexander, and Circo.* **Motion Carried.** (6-0)

C. Public Hearing for the proposed Redevelopment Plan for the 84th Street Redevelopment Area – Amendment No. 1 – City of La Vista

- i. **Staff Report – Chris Solberg:** Solberg stated the Mayor and City Council, on behalf of the City and after review and recommendation of the Planning Commission and satisfying all notice, public hearing and other applicable requirements, by Resolution No. 12-011 declared the 84th Street Redevelopment Area as a substandard and blighted area in need of redevelopment.

Subsequent approval of Resolution No. 13-064 on July 16, 2013 approved of a Redevelopment Plan of the 84th Street Redevelopment Area. Also, on July 16, 2013 the City Council approved Resolution No. 13-065 approving of the Redevelopment Plan for the 84th Street Redevelopment Area.

He mentioned in their packet is an amendment to the Redevelopment Plan for the 84th Street Redevelopment Area Amendment No.1. He asked them to please note that they have received a red line version of that amendment to replace the existing text of the document, as there are some minor changes that have been incorporated since the packets were compiled. The public copy has been updated with this new red line version.

Staff recommends approval as follows: After review, recommending to the Community Development Agency and governing body of the City of La Vista the Redevelopment Plan Amendment presented at the meeting as in conformity, and conformity of the Redevelopment Plan as amended, with the La Vista Comprehensive Plan, subject to (i) exhibits satisfactory to the City Engineer, (ii) such modifications, if any, the City Administrator or her designee determines necessary or appropriate , (iii) making or performance of any required findings, actions or analysis under the Community Development Law to the satisfaction of the City Administrator or her designee, and (iv) City Council adoption of the proposed amendment to the Comprehensive Plan to incorporate the Redevelopment Plan Amendment into the Comprehensive Plan. Solberg asked the commission members to please note that any motion follows that recommendation.

- ii. **Public Hearing – Opened by Gayle Malmquist**

No members of the public came forward.

Malmquist closed the Public Hearing.

Malmquist noted they had before them a revised amendment copy dated July 20, 2016.

Krzywicki said in the overview of the item, the last sentence in the very large paragraph referencing where it talks about eliminating and preventing the recurrence of the substandard and blighted area. He wanted to know what in the amendment would prevent any future recurrence of substandard or blighted area.

McKeon said there are two pieces to the amendment. The first being the mixed-use redevelopment project and that includes the private improvements by the redeveloper. Then, there is also the vision for the La Vista Community Development Agency to do the demolition and site preparation. In doing so, that is the elimination of the substandard and blighted area. Then there is a second project which is the public improvement project and that's where the City will come in and put in streets and parking and recreational areas that are going to be needed. In doing all that, both the public investment and the private improvements, you are essentially preventing the recurrence of the substandard and blighted area. He then asked Krzywicki if that answered his question.

Krzywicki said it explains the goal, but if we have an owner of these properties in the future who decides not to maintain them, what would be in this document to prevent it from going into disrepair.

McKeon said this is really the first step and there are multiple layers to this. These are the ground rules of how it's going to develop and that's required for us to actually adopt something like this under state statute before adding other steps. He said that the Council review will take place in August, where this item will come up and, subject to approval of this item, the redevelopment contract and a subdivision agreement will get into the private improvements and it also has a provision about maintenance. He said the redeveloper is putting a lot of money into it and the assumption is that they will maintain it, but there will be provisions in the agreement as well about maintenance. Then, on top of that, you will have laws and regulations that generally apply as far as maintenance goes. So, you will have multiple layers of addressing that interest.

Solberg added that within the redevelopment contract there will be a set of design guidelines, and as with any of the other design guidelines within the City of La Vista, it requires durable materials which help with the longevity of any development like that.

Krzywicki said the main reason that he brought it up was because he had found an article online that he passed around to other planning members that was pointing the finger at cities for not protecting the taxpayers from areas going into blight like the Walmart abandonment and things like that. He said there were things in original redevelopment contracts that made it easier for cities to step in sooner, and that could have prevented things like that from happening.

Gahan asked if someone could explain what the TIF financing was.

McKeon said essentially what it is that you've got your property set at a valuation currently and the redeveloper is going to come and actually put private investment in and increase the value. The taxes on that increase in value will be turned back essentially for him to help service his debt on the public improvements he's going to be responsible for building. In this case it would be site acquisition, the façade enhancements that are over and above the existing standards, streetscaping and sidewalks are the primary parts.

Gahan asked if these are the property taxes.

McKeon said that was correct.

Gahan said the property taxes are paid to the county and asked if it was the entire amount that they would get.

McKeon said that it is. He then mentioned that it is limited to 15 years.

Gahan asked if it is capped at 37 million.

McKeon said that was correct.

Chris Erickson from City Ventures then came forward to speak. He said tax increment financing was described correctly. He said they are looking to invest about \$230 million into the project and they are projecting for that to go onto the tax roles at about \$175 million. He said today's current tax value on the property is about \$10 million and that will continue to go to everyone that it goes to currently, so they call that the base and then the increment is the added value above that, so it would be the \$175 [million] minus the \$10 [million]. The \$165 million in value would come back to them. They will write a check to the county, the county collects all the money and they take some fees out of it and they will then turn around and write a check back to them for a period of 15 years. It actually ends up being less than that because it takes some time to build the project.

Gahan asked once they reach a point in the contract, the dollar amount, if it's over.

Erickson said that's basically the way it works. He said in some instances if there's excessive increment sometimes a second note is floated. It's a 15 year note, but they're building the first 2 years so there's no incremental value there, so it's typically only 13 years of payments. He said it hardly ever gets paid off significantly early; it's usually only a year or so prior.

Gahan said the sooner you can get the project up and going and it gets above a certain level, the sooner they will start realizing some of that money.

Erickson said that's why this tax increment financing has become such a tool that is used throughout the United States because it's truly based on the success of the private investment, so if the increment is not there, there's really no risk. All he gets is a note saying that he gets those future cash rolls, but only on the value that they create and so if he does not create that much value then he doesn't get back that much money.

Gahan asked if the county is going to reap the extra value after the 15 years.

Erickson said yes and then it will start coming back to everyone.

Krzywicki then asked if the First National Bank, Chili's, McDonald's and Car Wash will be staying where they are or if there were plans to move them to a different location on the property.

Erickson said there are currently negotiations ongoing with First National Bank that are progressing in a really positive direction to relocate them. They have submitted an offer to Chili's to relocate, but that is a much more challenging structure they have from an ownership perspective because there are 4 layers there. They are attempting to work through that and if they are fortunate enough to do it, the tenant has expressed interest in moving with the project. They have planned around their building for now. McDonald's is locked in until 2049 and are not willing to give that up. The car wash is staying as well because there really is no way to reconfigure that.

Gahan then asked about the exhibit in regards to the Engineer's Opinion of Costs. He said he believed the City was responsible for these improvements, which include the site demolition, the grading, paving, utilities, etc. He asked if this was the extra $\frac{1}{2}$ cent sales tax that was going to pay for that.

McKeon said that work is actually being done by the Community Development Agency and then the City would either directly pay using the $\frac{1}{2}$ cent sales tax because it's intended to be used for redevelopment projects in this area or other public infrastructure projects. Then there's the potential to also issue bonds or have financing backed by that additional $\frac{1}{2}$ cent.

Gahan said he was curious if the extra $\frac{1}{2}$ cent was on line to meet the cost. He said assuming the $\frac{1}{2}$ cent was being put towards this.

McKeon said that it is being set aside, but he's not sure how much is in that account.

Solberg said the last he heard it was over 1.5 million. He said that the $\frac{1}{2}$ cent sales tax is only meant to pay for a portion of the overall project because it is a very large project.

Gahan asked if everyone was comfortable with the direction the City is heading as far as the City's responsibility for these costs.

Solberg said he wanted to clarify that we're not talking about the $\frac{1}{2}$ cent here. He asked McKeon to verify that this is just for TIF related aspects.

McKeon concurred, stating what they are approving is if this proposed plan is in conformity with the Comprehensive Plan. He said we are not getting into the financing and things like that. He said that is actually going to be taken up by the Council at the first meeting in August and maybe other meetings. He mentioned there was a bond resolution at the last meeting to pay for some of this project, which was backed by the additional $\frac{1}{2}$ cent.

iii. **Recommendation:** Miller moved, seconded by Gahan for approval recommending to the Community Development Agency and governing body of the City of La Vista the Redevelopment Plan Amendment presented at the meeting as in conformity, and conformity of the Redevelopment Plan as amended, with the La Vista Comprehensive Plan, subject to (i) exhibits satisfactory to the City Engineer, (ii) such modifications, if any, the City Administrator or her designee determines necessary or appropriate , (iii) making or performance of any required findings, actions or analysis under the Community Development Law to the satisfaction of the City Administrator or her designee, and (iv) City Council adoption of the proposed amendment to Comprehensive Plan to incorporate the Redevelopment Plan Amendment into the Comprehensive Plan. **Ayes: Krzywicki, Gahan, Malmquist, Hill, Dale and Miller. Nays: None. Abstain: None. Absent: Sargus, Wetuski, Alexander, and Circo. Motion Carried. (6-0)**

D. Public Hearing regarding Comprehensive Plan amendment to incorporate Redevelopment Plan for the 84th Street Redevelopment Area – Amendment No. 1 – City of La Vista.

i. **Staff Report – Chris Solberg & Tom McKeon:** Solberg stated the existing Redevelopment Plan is incorporated within the Comprehensive Plan as an appendix to the Comprehensive Plan. He said in essence we are amending that document and we are going to have to amend the Comprehensive Plan as well. Through this agenda item they will be recommending approval to amend the Comprehensive Plan. McKeon then said the idea behind that is the Redevelopment Plan has to be consistent with the Comprehensive Plan and the easiest way to do that is to amend the Comprehensive Plan to incorporate the Redevelopment Plan. So, the recommendation would be to amend the Comprehensive Plan to incorporate the Redevelopment Plan Amendment No. 1.

ii. **Public Hearing – opened by Gayle Malmquist.**

No members of the public came forward.

Public Hearing Closed by Malmquist.

iii. **Recommendation:** Gahan moved, seconded by Dale to recommend approval of the Comprehensive Plan Amendment to incorporate the Redevelopment Amendment No. 1 be approved to the City Council. **Ayes: Krzywicki, Gahan, Malmquist, Hill, Dale and Miller. Nays: None. Abstain: None. Absent: Sargus, Wetuski, Alexander, and Circo. Motion Carried. (6-0)**

5. Comments from the Floor

None.

6. Comments from Planning Commission

Krzywicki asked for an update on Costco's progress.

Kottmann said the street construction portion of it, Portside Parkway, will be putting in a change order to extend the deadline approximately 30 days from that primarily due to rain delays and construction coordination delays with the Costco construction team. He said they are also behind schedule, however they “swear” that they will be opening this fall and will do what it takes to make that happen.

7. Comments from Staff

Solberg mentioned Taste of La Vista is next Saturday and everyone should have received postcards in the mail regarding it. He said we would love everyone to come out. We will be reviewing the goals this time around and presenting them to everybody and we would like their input.

8. Adjournment

Meeting adjourned by Malmquist at 7:56

Reviewed by Planning Commission:

Planning Commission Secretary

Planning Commission Chairperson

Approval Date

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