

CITY OF LA VISTA
PLANNING COMMISSION MINUTES
NOVEMBER 15, 2007

The Planning Commission meeting of the City of La Vista was convened at 7:00 p.m. on Thursday, November 15, 2007 at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Andsager, Horihan, Carcich, Malmquist, and Gahan. Hewitt was absent. Also in attendance were City Engineer John Kottmann, City Planner Marcus Baker and Community Development Director Ann Birch.

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 7:03 p.m. A copy of the agenda and staff report was made available to the public.

2. Approval of Meeting Minutes – September 20, 2007

Malmquist motioned to approve the minutes of September 20, 2007. Carcich seconded. Ayes: Andsager, Gahan, Carcich, Krzywicki, Malmquist, and Horihan. Nays: None. Motion carried.

3. Old Business

None.

4. New Business

A. Proposed Revisions to City of La Vista Zoning Ordinance – Section 5.13 I-1 Light Industrial, Section 5.14 I-2 Heavy Industrial, Section 2.02 Definitions, and Section 7.16 Performance Standards for Industrial Uses.

i. **Staff Report:** Revisions have been made to these sections of the Zoning Ordinance to create more generalized categories of uses, to clarify and/or define uses and standards, and allow a greater diversity of services in the Industrial Zoning Districts. The proposed revisions are shown in a preliminary draft, which is currently under review by City staff. A more refined version should be available for discussion at the next Planning Commission meeting. At this time, staff is recommending a continuance to the next meeting.

ii. **Public Hearing:** Malmquist motioned to open the public hearing. Andsager seconded. Ayes: Andsager, Krzywicki, Gahan, Carcich, Malmquist, and Horihan. Nays: None. Public hearing was opened at 7:05 p.m.

There was no one in the audience to speak on this request.

iii. **Recommendation:** Carcich motioned to continue the public hearing to the December 20th meeting. Malmquist seconded. Ayes: Andsager, Gahan, Krzywicki, Carcich, Malmquist, and Horihan. Nays: None. Motion approved.

B. **Rezoning request for Lot 26, Oakdale Park, land owned by Colonial Press.** The proposed rezoning would "down zone" property from I-2 Heavy Industrial to C-1 Shopping Center Commercial.

i. **Staff Report:** The applicant Tom Visty of Colonial Press, Inc. is requesting a rezoning and amendment to the Future Land Use Map of the Comprehensive Plan for a portion of Lot 26, Oakdale Park, proposed as Lots 1 and 2 of Colonial Press Addition. The property currently contains Colonial Press on the western half of the original parcel and is zoned I-2 Heavy Industrial. The eastern half of the parcel is vacant.

The proposal is to rezone a portion of Lot 26, Oakdale Park (proposed Lot 2, Colonial Press Addition) from I-2 to the C-1 zoning district. Colonial Press is on the western portion of the property. The land to be rezoned is vacant. Harrison Street exists on the north side of the property; Cimarron Woods Subdivision (R-1 zoning) is to the east; Rotella's Italian Bakery, Inc. is to the south and west.

The Future Land Use Map of the Comprehensive Plan designates this property for industrial uses. The proposal would revise the plan to designate Lot 2 for commercial uses.

The Colonial Press Addition Administrative Plat has been submitted and is under review. The plat proposes two lots. Lot 1 is the site of Colonial Press; future plans for Lot 2 (the subject of the rezoning) are unknown.

1. An existing access allows ingress / egress via 107th Street to Colonial Press. An easement would have to be granted across proposed Lot 1 in order for proposed Lot 2 to have access to 107th Street
2. A second full access is proposed to 104th Street with the possibility of a cut in the landscaped median. Information has not been received from Sanitary and Improvement District (SID) 237, Cimarron Woods, regarding their support or opposition to this median

reconstruction. Without their support, a right in/ right out access onto a 104th Street may be a consideration, but this could encourage unsafe traffic patterns by forcing people to do u-turns at the end of the median in order to get to Harrison Street.

3. A traffic study has been conducted and reviewed by the City's traffic engineer to assess the potential access points for proposed Lot 2. The study indicates that a right in/ right out would be possible if permission could be obtained from the State; however, the City's Traffic Engineer does not support this access to Harrison Street due to traffic conflicts with vehicles turning right at 104th Street.
4. The traffic study does not show a need for a signalized intersection at 104th Street at this time, but it is recommended that the intersection be monitored for increased traffic in the future. The future Average Daily Trips (ADT) is partially dependent on the traffic volumes created by the proposed use of lot which is the subject of the rezoning.
5. The rezoning request would allow for commercial uses on proposed Lot 2; however, a specific use and development proposal is unknown at this time.

All utilities are available to the site.

Staff recommends the following:

1. The rezoning and Comprehensive Plan amendment to a commercial district would be a "down zoning" or a rezoning to a less intensive district and may be more compatible with the abutting residential area in Cimarron Woods. However, some uses allowed in the C-1 District could have the effect of being more intensive from a traffic standpoint than some light industrial uses.
2. Access to the property remains an issue and may limit the use of the property if rezoned to a commercial district. Further discussion by staff regarding access to this property is on-going. Access may be possible from 107th Street if an easement is recorded with the Colonial Press Addition to provide such access.
3. To avoid land-locking a parcel, the Colonial Press Addition Administrative Plat cannot be approved until the access issues are resolved. Section 3.09.03 does not allow approval of administrative plats if the subdivision would require additional curb cuts and repaving to gain access (i.e. full access to 104th Street).

A vicinity map and traffic engineer's report are attached to the staff report.

Staff recommends a continuance on the re-zoning request until the Sanitary and Improvement District can provide comments regarding the access to 104th Street and access issues are resolved.

Tom Visty, 1026 Hickory, Papillion, the applicant, and Rich Reeves, the applicants representative, were present to answer questions. Carcich asked if he was aware that staff was recommending a delay. Visty explained there are two separate lots; on the one to the east they are asking for a change. This lot is landlocked and they were hoping for a commercial use such as an office or day care which would be a buffer. Krzywicki asked where he would be providing access. Visty explained there was no access to the south, and to the west is Colonial Press, so the only access is to the north or east. Krzywicki asked if access to the north to Harrison Street has to be applied for and what is the alternative if it isn't allowed. Visty explained the only other option is 104th Street. He further stated during the hearings on Cimarron Woods the plans showed a commercial buffer between the industrial and residential areas. Reeves stated they felt this was an appropriate zoning request as a buffer. There was general discussion about the layout of the lot and the access possibilities.

Jeff Blackwell, 10505 Polk Street, Omaha, stated he lives in the Applewood subdivision and has no opposition to the change of zoning and appreciates the statement that they want to have commercial development. His concern is with the use of the property; he would prefer the day care or office to a lounge or C-store. He further stated he is opposed to a signal at the intersection because of how close it is to other intersections with signals.

Mark Wolter, 7028 103rd Circle, La Vista, and Mike Circo, 7029 S. 103rd Circle, La Vista, stated they lived in Cimarron Woods. Circo stated he is opposed to the commercial use due to traffic problems; he would be opposed to trucks using their street except for workers going to the site during the day. He was also concerned with the interruption of the green space. Wolter agreed there would be an adverse effect between commercial and industrial uses. If the median on 104th Street were cut it would have to be fairly wide in order to make a turn. He has concerns with the use of 104th Street since it is a main entrance into the neighborhood. If there were restrictions for what might be able to be placed on the lot such as a gas station, and there were visual buffers and sound buffers to protect the neighborhood. Mrs. Circo stated she was concerned with the effect of this on the housing market which is already having problems.

Krzywicki asked if permission is required in order to have access to 104th Street. Kottmann explained the 104th Street right-of-way is under the control of the SID. Malmquist asked if access to Harrison Street is limited. Kottmann stated it is unlikely to get a break in the controlled access and reminded the Commission of the Harrison Hills project and the reasons for that access being granted. Kottmann explained this would be a continuous right-turn bay for this lot and 104th Street, and felt the possibility is remote.

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iii. **Recommendation:** Malmquist motioned to recommend a continuance on the re-zoning request until the Sanitary and Improvement District can provide comments regarding the access to 104th Street and until access issues are resolved. Horihan seconded. Ayes: Andsager, Gahan, Krzywicki, Carcich, Malmquist, and Horihan. Nays: None. Motion approved.

C. **Conditional Use Permit application for a tavern and cocktail lounge in the C-3 Highway Commercial/Office Park district.** The property is located on Lot 2 Southport East Replat 3.

i. **Staff Report:** The applicant, Lylette Fields of Fields, Inc. is requesting approval of a Conditional Use Permit to construct an approximately 2,700 square foot bar and grill inside of a newly constructed commercial flex building. Also, the sidewalk in front of the bays is proposed as an outdoor beer garden.

The property at 7826 S. 123rd Plaza, Suite E & F, Lot 2 of Southport East Replat 3, is zoned C-3 Highway Commercial/Office Park District and Gateway Corridor District and is approximately 1.9 acres. It is owned by Fantasy's Inc. Currently under construction on the site is a gas station/convenience store and a coffee kiosk. Additional commercial uses have been proposed.

PayPal exists to the north and is zoned C-3, Pinnacle Bank zoned C-3 is to the south, Embassy Suites zoned C-3 is to the west, the property to the east is zoned C-3 and is vacant. This lot was replatted as a part of Southport East Replat 3.

The Future Land Use Map of the Comprehensive Plan designates this property for commercial uses in the gateway corridor. Building plans have been submitted and construction is underway for the restaurant portion of the business. Fantasy's Food and Fuel had a Conditional Use Permit approved and architectural design and landscaping requirements were satisfied for all buildings on Lot 2, Southport East Replat 3.

Ingress / egress will be provided via South 123rd Plaza only. The applicant did not provide the number of proposed parking spaces; however, the City Engineer has calculated that 21 parking spaces would be available for the proposed bar and grill. A request was made to the owners to provide a revised site plan to show how many spaces would be provided and what parking spaces would be reserved for the Island Bar and Grill. Pedestrian sidewalks and access is not provided to this site. No other modes of transportation exist to this site at this time. The only sidewalks on-site

are in front of the buildings' entrances. The bar and grill proposes to use 8' x 27' of their sidewalk as a beer garden. All utilities are available to the site.

The site plan for Fantasy's Food and Fuel shows 74 parking spaces to be divided among the convenience store (14 required spaces) and retail space (50 required spaces). The convenience store may also count spaces in front of the gas pumps as parking spaces. To accommodate each tenant, seven parking spaces would be available per bay. Ideally, the proposed use should not exceed fourteen parking spaces in order to prevent overflow parking from affecting other businesses. The application states that 10-12 employees will be the maximum number per working shift. The number of employees alone will nearly fill fourteen parking spaces. Both the Fire Chief and the Police Chief have reviewed the proposal and have no concerns at this time. The City Engineer and Planning Staff recommend against having the beer garden, as this adds additional seating capacity which further adds to the problem of limited parking.

A vicinity map, the City Engineer's letter and the draft Conditional Use Permit with Exhibits is attached to the staff report.

Staff recommends approval of the Conditional Use Permit to allow a bar and grill in the C-3 zoning district with the following conditions:

1. The applicant shall demonstrate they can provide the necessary number of parking spaces for the bar and grill without negatively impacting the parking required for future tenants on this lot. A revised site plan shall be submitted prior to City Council's review.
2. No additional restaurants will be allowed in the same building as tenants.
3. The beer garden shall not be permitted. All seating shall be inside the building.

ii. **Public Hearing:** Carcich motioned to open the public hearing. Malmquist seconded. Ayes: Andsager, Krzywicki, Gahan, Carcich, Malmquist, and Horihan. Nays: None. Public hearing was opened at 7:40 p.m.

Lylette Fields, 7405 S. 77th Ave., the applicant, clarified there would only be four employees per shift total, not 10-12 as stated in her application. She also explained she would like to have the option of extending the hours of operation listed in the CUP as beginning at 7 a.m. so they may serve breakfast if they decide to. She also explained that the landlord indicated to them they have 21 parking stalls for their business. She would like to open the beer garden and asked if this can be revisited at a later date. Krzywicki asked if there was a concern with the use of the sidewalk. Baker replied the problem is adding to the seating capacity and the parking demand. Kottmann asked the applicant about the licensed capacity of the restaurant. Fields stated the architect had told her it was 104 persons.

Kottmann explained with a 40% parking requirement for a restaurant, 22 stalls would be required. Fields explained the parking on the west side of the lot was also available. She also explained if the state adopts a non-smoking ban she would like to offer outdoor seating. There was general discussion about the parking requirement.

Malmquist questioned the square footage of each bay as noted on the site plan and these were determined to be in error. Gahan noted his concerns stating this is the only gas station in the area and with Cabela's and the hotels nearby there will be a lot of activity and traffic, and inadequate parking could cause problems. Baker explained the site plan was approved with the required parking provided; however, the property owner will have to be careful with the other proposed tenants so as not to overload the parking capacity of the lot. Gahan asked if there was any off-site parking. Baker stated that should not be encouraged and the development should support itself on its premises. Gahan expressed concern with the parking. Baker agreed and explained this was the reason staff was recommending no other restaurant be allowed if this CUP is approved.

Horihan noted a typo in the draft CUP in section 2c. It was also noted that the number of employees would be corrected and a revision to the proposed hours of operation would be made. There was further discussion regarding the parking count; the stalls counted under the gas canopy; and the effect on other potential tenants. Baker stated it would be possible to add the beer garden in a future amendment to the CUP if the parking numbers supported it. He further explained a restaurant can go in as a tenant without a conditional use permit and this was the reason for the staff recommendation, which will limit the property owner to only one restaurant tenant. There was further discussion about the occupancy numbers of the restaurant and regulating the parking. Kottmann stated there were two aspects to consider: the parking will be somewhat self-regulating in that Fantasy's will have trouble leasing the other bays; and the CUP gives the city some control over the operation. There was general discussion regarding other potential tenants. Gahan felt there should be no other fast food uses and only retail tenants would be better for the parking situation since most retail businesses slow down during the evening hours. Gahan asked the applicant if most of their sales will be liquor or food. Fields stated liquor and suggested some customers may walk from the office buildings. Baker explained additional pedestrian connections will need to be installed with the development of the lot to the east.

Gahan motioned to close the public hearing. Malmquist seconded. Ayes: Andsager, Gahan, Krzywicki, Carcich, Malmquist, and Horihan. Nays: None. Public hearing closed at 8:06 p.m.

iii. **Recommendation:** Gahan motioned to recommend approval based on no additional restaurants will be allowed and the applicant must demonstrate they can provide the necessary parking without negatively impacting the rest of the site, and no beer garden will be

allowed. Carcich seconded. Ayes: Andsager, Gahan, Krzywicki, and Carcich. Nays: Malmquist and Horihan. Motion approved.

This item is tentatively scheduled to be on the City council agenda of December 4, 2007.

5. Comments from the Floor.

None.

6. Comments from the Planning Commission.

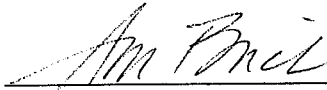
Krzywicki noted it was Marcus's birthday the Commission wished him a happy birthday. Carcich stated he was happy to be back and was walking without a limp for the first time in years however he will have to go in to test for a blood clot tomorrow. Gahan asked about the status of the home beauty salon which was causing some complaints. Baker stated no further complaints have been received.

Baker noted several informational items on the desks. The city has subscribed to APA's Commissioner Newsletter and received two back issues. Additional newsletters will arrive quarterly. Baker also reported 2-3 applications have been received for the openings on the Commission and new members should be forthcoming.

7. Adjournment

Malmquist motioned to adjourn. Horihan seconded. Ayes: Andsager, Gahan, Carcich, Krzywicki, Malmquist, and Horihan. Nays: None. Meeting adjourned at 8:15 p.m.

Reviewed by Planning Commission: John Gahan



Recorder

Planning Commission Chair

Approval Date