

**PLANNING COMMISSION AGENDA
REGULAR MEETING
MONDAY, MAY 21, 2012**

**STUDY SESSION 4:30 P.M. CITY COUNCIL CHAMBERS
MEETING 5:00 P.M. CITY COUNCIL CHAMBERS**

1. Meeting Called to Order
2. Roll Call
3. Determination as to Legality, Notice of Meeting and Agenda
4. Reading of the Minutes of the April 16, 2012, Regular Meeting.
5. Public comment period. The general public is invited to address the Planning Commission regarding any item on this agenda. The overall and individual speaking time allotments may be limited by the Chair.
6. Consider request of Sylvia D. Gocken to rezone part of the SE ¼ of the SE ¼ of Section 33, Township 17 North, Range 8 West from AG - Agricultural/Urban Reserve District to RR – Rural Residential District (1212 County Road X).
7. Consider request of Sylvia D. Gocken to subdivide part of the SE ¼ of the SE ¼, Section 33, Township 17 North, Range 8 West of the 6th P.M., Saunders County, Nebraska (1212 County Road X) into two lots.
8. Consider request of Health Care Professionals, Inc. and Don Peterson and Associates to subdivide part Lot B, R & Z Addition and Lots 1 and 2, Block 2, Rodamar Addition, Fremont, Dodge County, Nebraska into two lots.
9. Consider request of William D. Perry, dba Irving Development, LLC, to add second floor residential space at 408 North Main as part of a permitted conditional use. Article 4, Section 405. DC – Downtown Commercial District.
10. Consider Resolution approving amendment of Blight and Substandard Designation for Downtown Area.
11. Continued consideration of adoption of Planning Commission By-laws.
12. Study Session Item: Tech Park Zoning Options
13. Study Session Item: Tax Increment Financing.

AGENDA POSTED AND KEPT CONTINUALLY CURRENT AT THE MUNICIPAL BUILDING, POLICE STATION AND THE DODGE COUNTY COURTHOUSE AND DISTRIBUTED TO THE MAYOR, CITY COUNCIL AND THE PLANNING COMMISSION ON MAY 16, 2012. COPIES AVAILABLE AT THE CITY MUNICIPAL BUILDING, 3RD FLOOR. A COPY OF THE OPEN MEETING LAW IS POSTED IN THE CITY COUNCIL CHAMBERS.

STAFF REPORT

TO: Planning Commission

FROM: Rian Harkins, Planning Director

DATE: 14 May 2011

SUBJECT: Request to re-zone the SE ¼ of the SE 1/4 , Section 33, Township 17 North, Range 8 West of the 6th P.M., Saunders County, Nebraska (1212 County Road X) (Gocken)

<p>Recommendation: Staff recommends approval of the rezoning of the proposed four (4) acre tract only.</p>

Request:

The applicant seeks approval of a re-zoning at the address listed above in order to sell four (4) acres (that includes the house and adjacent barns) and the remaining farmland separately. The property is currently under contract to be sold as one four acre tract with the remaining acreage sold separately.

Background:

The property is located on the north side of Nebraska Highway 109, and is currently zoned AG Agricultural. The four acres of the property contained in the rezoning request is both agricultural and rural residential in nature, and currently contains a single family residential dwelling and associated barns that were previously used for horses. The adjacent properties are also zoned AG Agricultural and are both rural residential and agricultural in nature with regard to their land use.

This property was originally two separate lots that were previously combined in order to allow for the owner to engage in equestrian activities on the property and be in conformance with the standards of the AG Agricultural Zoning District concerning the minimum lot size of 20 acres. There is a separate lot split application regarding this property on the Planning Commission agenda also.

While the rezoning would create an area of spot-zoning, the rural residential nature of the properties land use would lend itself more to the RR Rural Residential Zoning District. Because this area was simply classified as AG Agricultural Zoning when the City's Extraterritorial Jurisdiction, there was no review of what the proper zoning would or should be. As a follow up to this rezoning request, staff will be reviewing the zoning of the properties to the south and will likely be pursuing a request to rezone these single family dwellings to RR Rural Residential over the summer months.

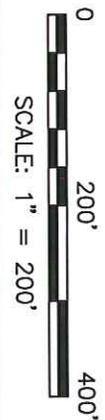
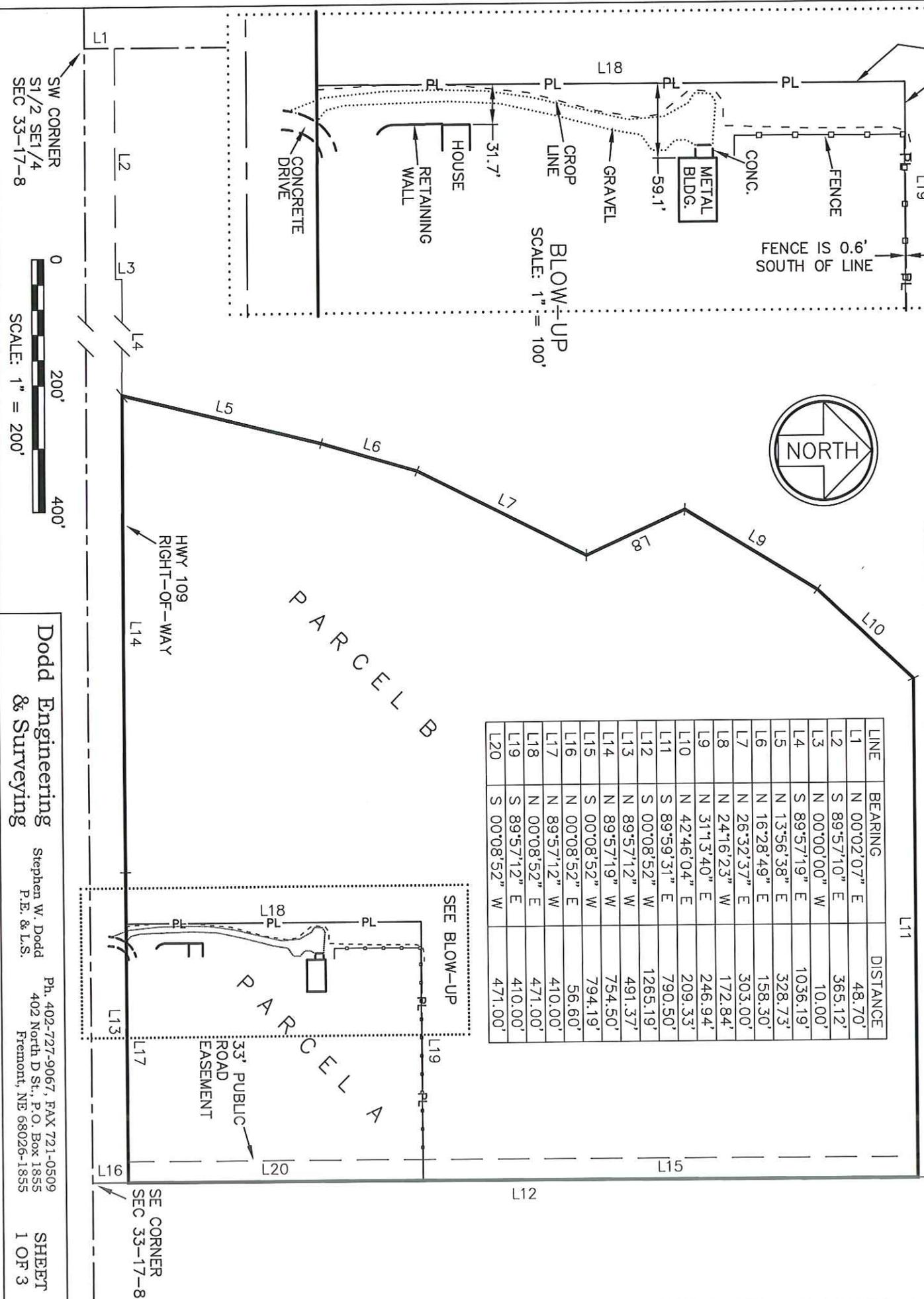
Findings:

The proposed rezoning will allow the four acre property to conform to the standards of the RR Rural Residential Zoning District and the remaining farm land to conform to the AG Agricultural Zoning District. Additionally, the rezoning request is similar to other areas of the southwest quadrant of the extraterritorial Jurisdiction in that the City has other areas that are not zoned AG Agricultural but are zoned to more closely match the appropriate land use. Furthermore, the rezoning request is generally in conformance with the proposed rural land use as indicated on the Future Land Use Plan element of the proposed Comprehensive Plan, Blueprint for Tomorrow.

PROPOSED LOT SPLIT - SYLVIA D. GOCKEN
 PART OF THE SE1/4 SE1/4, SEC. 33-17-8
 SAUNDERS COUNTY - MAY, 2012



LINE	BEARING	DISTANCE
L1	N 00°02'07" E	48.70'
L2	S 89°57'10" E	365.12'
L3	N 00°00'00" W	10.00'
L4	S 89°57'19" E	1036.19'
L5	N 13°56'38" E	328.73'
L6	N 16°28'49" E	158.30'
L7	N 26°32'37" E	303.00'
L8	N 24°16'23" W	172.84'
L9	N 31°13'40" E	246.94'
L10	N 42°46'04" E	209.33'
L11	S 89°59'31" E	790.50'
L12	S 00°08'52" W	1265.19'
L13	N 89°57'12" W	491.37'
L14	N 89°57'19" W	754.50'
L15	S 00°08'52" W	794.19'
L16	N 00°08'52" E	56.60'
L17	N 89°57'12" W	410.00'
L18	N 00°08'52" E	471.00'
L19	S 89°57'12" E	410.00'
L20	S 00°08'52" W	471.00'



Dodd Engineering & Surveying
 Stephen W. Dodd
 P.E. & L.S.
 Ph. 402-727-9067, FAX 721-0509
 402 North D St., P.O. Box 1855
 Fremont, NE 68026-1855

LEGAL DESCRIPTIONS:

LEGAL DESCRIPTION OF ENTIRE PROPERTY:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 17 NORTH RANGE 8 EAST OF THE 6TH P.M., SAUNDERS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER, THENCE N00°02'07"E (ASSUMED BEARING) ON THE WEST LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER, A DISTANCE OF 48.7 FEET;
THENCE S89°57'10"E ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109 A DISTANCE OF 356.11 FEET;
THENCE N00°00'00"W ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109 A DISTANCE OF 10.00 FEET;
THENCE S89°57'19"E ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109 A DISTANCE OF 1036.19 FEET TO THE POINT OF BEGINNING;
THENCE N13°56'38"E A DISTANCE OF 328.73 FEET;
THENCE N16°28'49"E A DISTANCE OF 158.30 FEET;
THENCE N26°32'37"E A DISTANCE OF 303.00 FEET;
THENCE N24°16'23"W A DISTANCE OF 172.84 FEET;
THENCE N31°13'40"E A DISTANCE OF 246.94 FEET;
THENCE N42°46'04"E A DISTANCE OF 209.33 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER;
THENCE S89°59'31"E ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER A DISTANCE OF 790.50 FEET TO THE NORTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER;
THENCE S00°08'52"W ON THE EAST LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER A DISTANCE OF 1265.19 FEET MORE OR LESS AND TO THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109, AND BEING ;
THENCE N89°57'12"W ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109 A DISTANCE OF 491.37 FEET;
THENCE N89°57'19"W ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109 A DISTANCE OF 754.50 FEET TO THE POINT OF BEGINNING, CONTAINING 31.00 ACRES MORE OR LESS.

LEGAL DESCRIPTION OF PARCEL A:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 17 NORTH RANGE 8 EAST OF THE 6TH P.M., SAUNDERS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER,
THENCE N00°08'52"E ON THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 56.60 FEET MORE OR LESS TO A POINT ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109, ALSO BEING THE POINT OF BEGINNING;
THENCE N89°57'12"W ON THE NORTH RIGHT-OF-WAY OF STATE HIGHWAY #109 A DISTANCE OF 410.00 FEET;
THENCE N00°08'52"E PARALLEL TO THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 471.00 FEET;
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THENCE S00°08'52"W ON THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 471.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4.43 ACRES, MORE OR LESS.

LEGAL DESCRIPTION OF PARCEL B:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 17 NORTH RANGE 8 EAST OF THE 6TH P.M., SAUNDERS COUNTY, NEBRASKA, CONTAINING 25.57 ACRES, MORE OR LESS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER, THENCE N00°02'07"E (ASSUMED BEARING) ON THE WEST LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER, A DISTANCE OF 48.7 FEET;
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EXCEPTING THEREFROM

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 17 NORTH RANGE 8 EAST OF THE 6TH P.M., SAUNDERS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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STAFF REPORT

TO: Planning Commission

FROM: Rian Harkins, Planning Director

DATE: 14 May 2011

SUBJECT: Lot Split Request to divide part of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 33, Township 17 North, Range 8 West of the 6th P.M., Saunders County, Nebraska (1212 County Road X) (Gocken)

Recommendation: Staff recommends approval.

Request:

The applicant seeks approval of a lot split at the address listed above in order to sell four (4) acres (that includes the house and adjacent barns) and the remaining farmland separately.

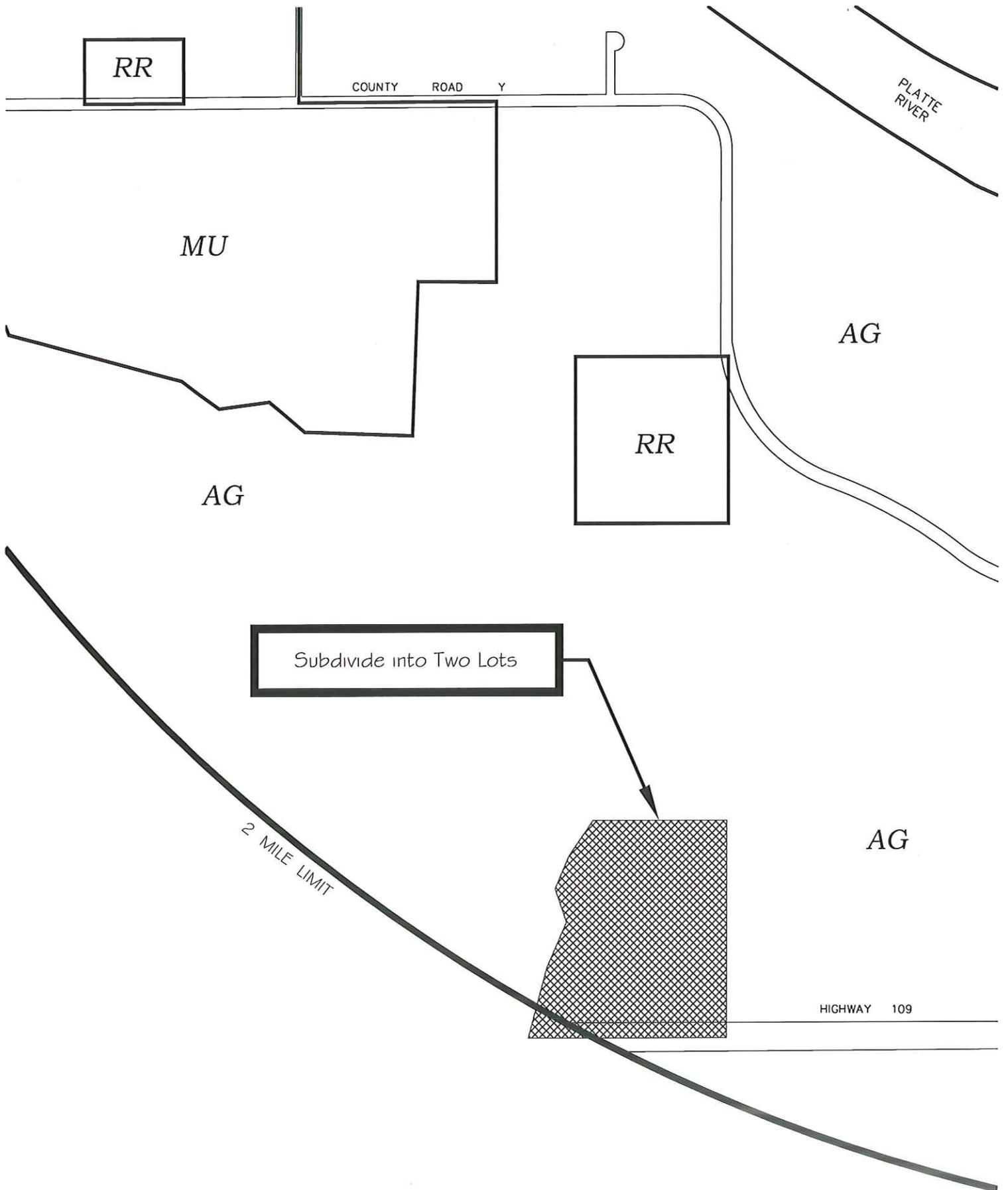
Background:

The property is located on the north side of Nebraska Highway 109, and is currently zoned AG Agricultural. The majority of the property contained in the lot split request is agricultural in nature, with the remainder currently a single family residential dwelling and associated barns. The adjacent properties are also zoned AG Agricultural and are both rural residential and agricultural in nature with regard to their land use.

This property was originally two separate lots that were previously combined in order to allow for the owner to engage in equestrian activities on the property and be in conformance with the standards of the AG Agricultural Zoning District concerning the minimum lot size of 20 acres.

Findings:

The proposed lot split will continue to allow the properties to meet the intent of the RR Rural Residential Zoning District and the AG Agricultural Zoning District, and is in conformance with the proposed rural land use as indicated on the Future Land Use Plan element of the proposed Comprehensive Plan, Blueprint for Tomorrow.



Sylvia D. Gocken
Saunders Co. Nebraska
Zoned AG
Date: 5-2012

PROPOSED LOT LINES

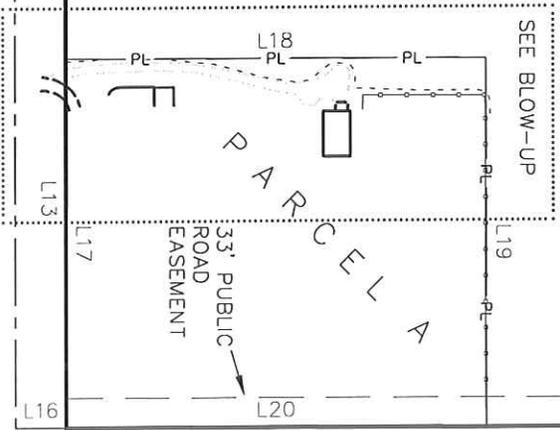
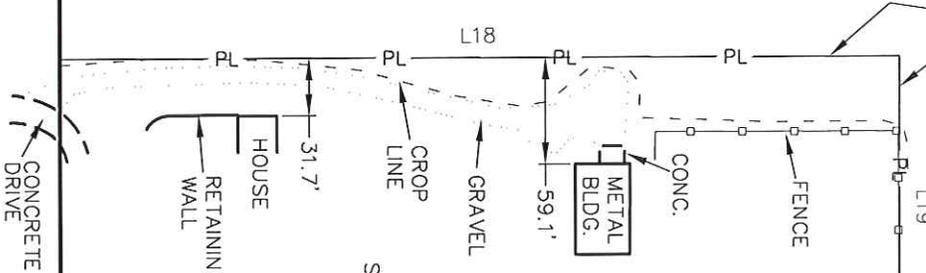
PROPOSED LOT SPLIT - SYLVIA D. GOCKEN
 PART OF THE SE1/4 SE1/4, SEC. 33-17-8
 SAUNDERS COUNTY - MAY, 2012



FENCE IS 0.6' SOUTH OF LINE

BLOW-UP
 SCALE: 1" = 100'

LINE	BEARING	DISTANCE
L1	N 00°02'07" E	48.70'
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PARCEL B

PARCEL A

HWY 109
 RIGHT-OF-WAY

SE CORNER
 SEC 33-17-8

SW CORNER
 S1/2 SE1/4
 SEC 33-17-8



Dodd Engineering
 & Surveying

Stephen W. Dodd
 P.E. & L.S.

Ph. 402-727-9067, FAX 721-0509
 402 North D St., P.O. Box 1855
 Fremont, NE 68026-1855

SHEET
 1 OF 3

LEGAL DESCRIPTIONS:

LEGAL DESCRIPTION OF ENTIRE PROPERTY:

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STAFF REPORT

TO: Planning Commission

FROM: Rian Harkins, Planning Director

DATE: 14 May 2011

SUBJECT: Lot Split Request to divide part of Lot B, R & Z Addition and Lots 1 and 2, Rodamar Addition, Fremont, Dodge County, Nebraska (620 E. 23rd Street (Health Care Professionals & Don Peterson & Associates)

Recommendation: Staff recommends approval.

Request:

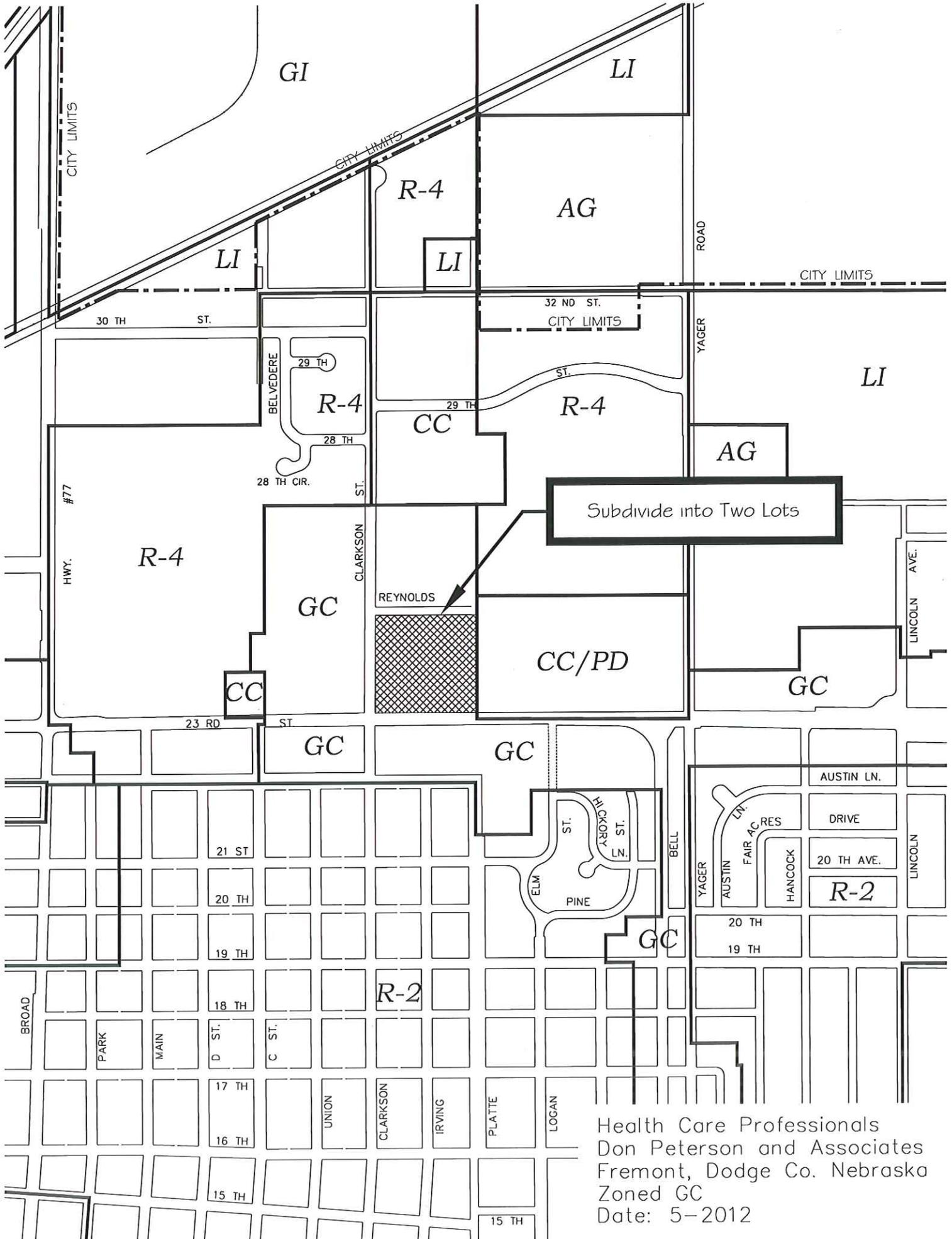
The applicants seek approval of a lot split at the address listed above in order to provide improved ingress/egress to the property as well as additional parking.

Background:

The property is located on the north side of 23rd Street, and is currently zoned GC General Commercial. The majority of the property contained in the lot split request is commercial in nature, with the remainder currently vacant. The adjacent properties are also zoned GC General Commercial and are commercial in nature with regard to their land use.

Findings:

The proposed lot split will continue to allow the property to meet the intent of the GC General Commercial Zoning District, and is in conformance with the proposed Comprehensive Plan, Blueprint for Tomorrow.



Health Care Professionals
 Don Peterson and Associates
 Fremont, Dodge Co. Nebraska
 Zoned GC
 Date: 5-2012

EXISTING LEGAL DESCRIPTIONS:

THE EAST 75 FEET OF THE SOUTH 175 FEET OF LOT B, R&Z ADDITION TO THE CITY OF FREMONT, DODGE COUNTY, NEBRASKA.

LOT 1 AND LOT 2, BLOCK 2, RODAMAR ADDITION AND LOT C AND THE NORTH 125 FEET OF LOT B, R & Z ADDITION, ALL IN FREMONT, DODGE COUNTY, NEBRASKA.

PROPOSED LEGAL DESCRIPTIONS:

THE EAST 75 FEET OF THE SOUTH 175 FEET OF LOT B, R&Z ADDITION TO THE CITY OF FREMONT, DODGE COUNTY, NEBRASKA TOGETHER WITH THE WEST 18 FEET OF THE SOUTH 175 FEET OF LOT 1, BLOCK 2, RODAMAR ADDITION EXCEPT 23RD STREET RIGHT-OF-WAY, ALL IN FREMONT, DODGE COUNTY, NEBRASKA.

LOT 1 AND LOT 2, BLOCK 2, RODAMAR ADDITION AND LOT C AND THE NORTH 125 FEET OF LOT B, R & Z ADDITION, ALL IN FREMONT, DODGE COUNTY, NEBRASKA EXCEPT THE WEST 18 FEET OF THE SOUTH 175 FEET OF LOT 1, BLOCK 2, RODAMAR ADDITION AND EXCEPT 23RD STREET RIGHT-OF-WAY, ALL IN FREMONT, DODGE COUNTY, NEBRASKA.

STAFF REPORT

TO: Planning Commission

FROM: Rian Harkins, Planning Director

DATE: 14 May 2011

SUBJECT: Conditional Use Application to add second floor residential space as a permitted conditional use at 408/414 North Main Street (Irving Development)

<p>Recommendation: Staff recommends approval of the Conditional Use Application.</p>

Request:

The applicant, Irving Development, LLC seeks approval of a conditional use in order to allow for residential lofts to be located on the second floor of 408/414 North Main Street.

Background:

The applicant is requesting the conditional use permit in order to fully maximize the development opportunity on the second floor, which is now currently vacant and/or storage space. The property is located in the DC – Downtown Commercial Zoning District. The adjacent properties are also located within this zoning district, and are primarily retail and/or service commercial in nature with regard to their land use.

Two residential lofts are proposed for the second story, along with a small office and a party room for the restaurant located on the first floor. At the present time, the DC Downtown Commercial Zoning District does not have parking requirements. However, the property is able to sustain two parking stalls off of the alley in the rear that would be continued with the proposed residential lofts. The commercial uses located on the first floor would remain in place as well.

Findings:

In accordance with Section 1203, Table 12-1, the following criteria shall be utilized to determine approval of the Conditional Use Permit. The proposed use will comply with all of the criteria with the proposed conditions.

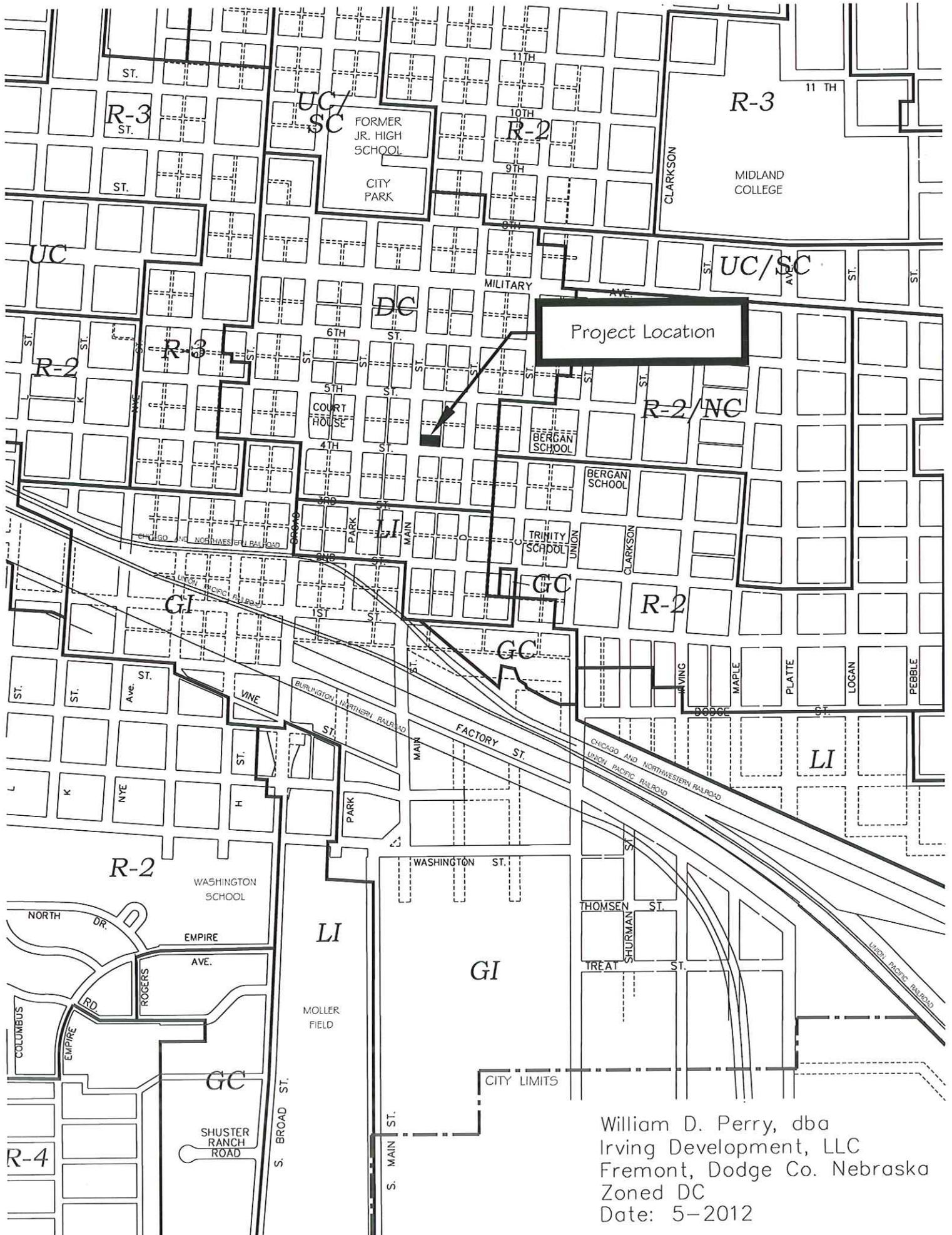
	CRITERIA	Compliance
Land Use Compatibility		
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.	Yes
Height and Scale		
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	Yes
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.	Yes
Building Coverage	Building coverage should be similar to that of surrounding development of possible. Higher coverage should be mitigated by landscaping or site amenities.	Yes
Site Development		
Frontage	Project frontage along a street should be similar to lot width.	Yes
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	Yes
	All structures must be accessible to public safety vehicles.	Yes
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	Yes
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved.	Yes
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations	Yes
Operating Characteristics		
Traffic Capacity	Project should not obstruct traffic on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	Yes
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	Yes
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	Yes
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	Yes
Public Facilities		
Sanitary Waste Disposal	Developments within 500 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	Yes
	Sanitary sewer must have adequate capacity to serve development.	Yes
Utilities	Project must be served by utilities.	Yes
	Rural estate subdivisions should be located in designated areas which can accommodate utility and infrastructure installation consistent with the need to protect the environment and public health.	NA

Comprehensive Plan

Projects should be consistent with the City of Fremont's
Comprehensive Development Plan.

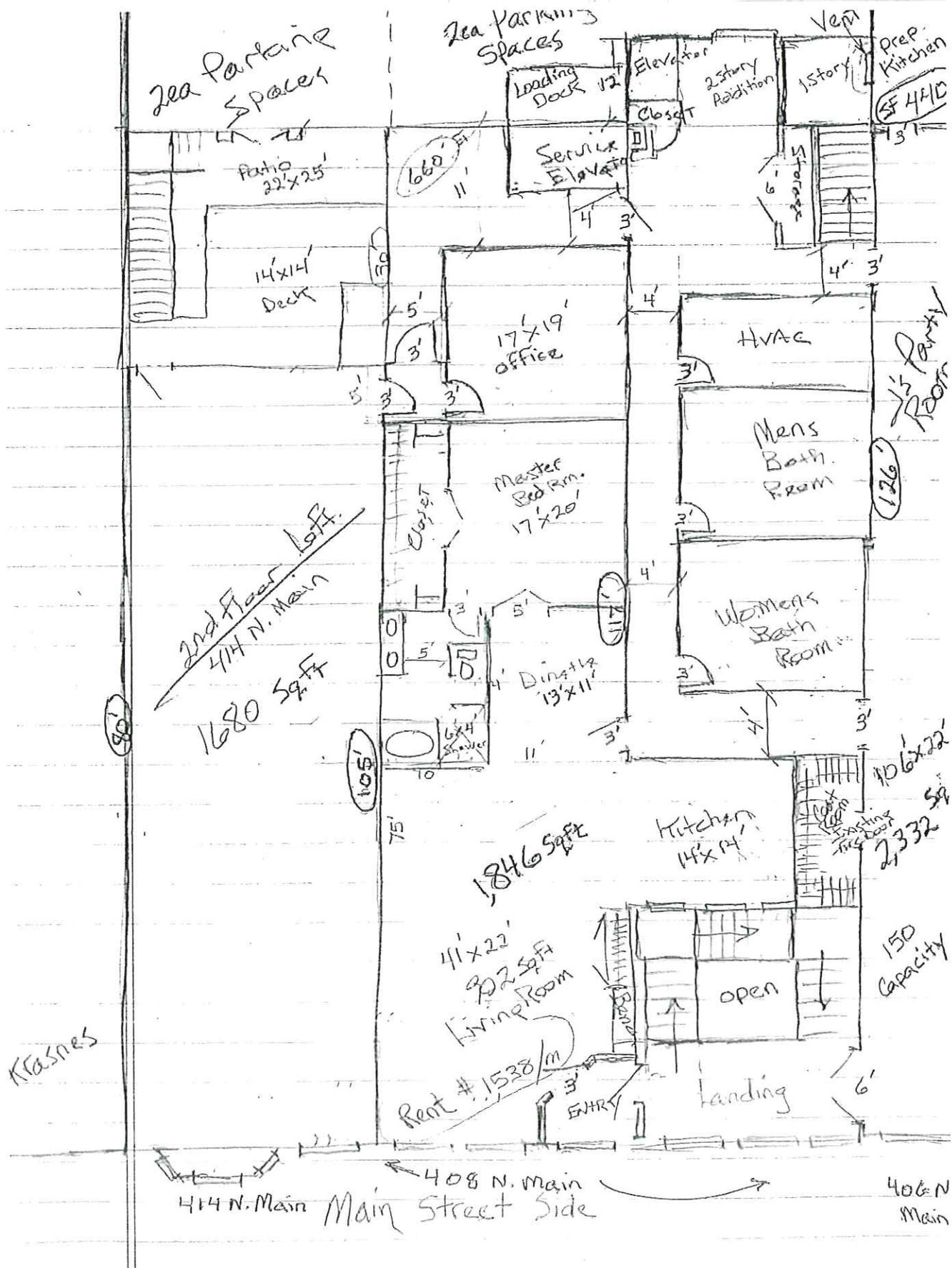
Yes

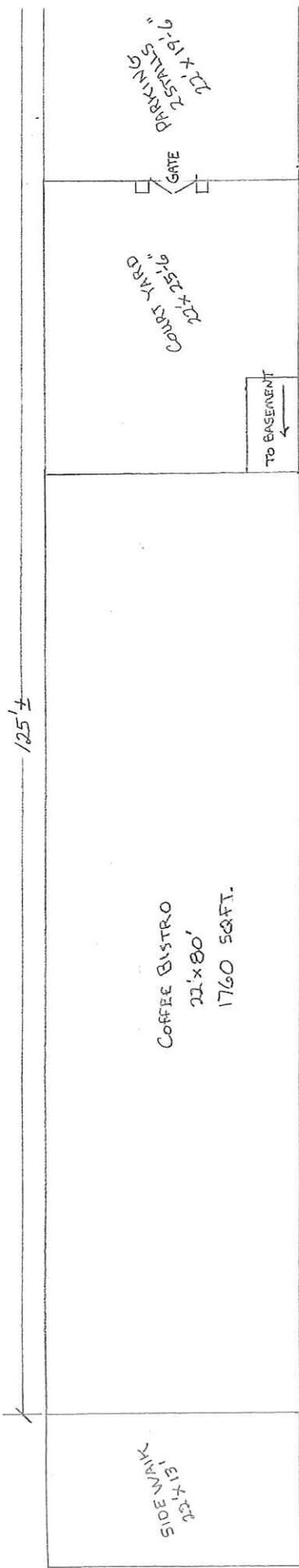
The proposed conditional use meets the criteria of Table 12-1 of the Zoning Ordinance as well as the general intent of the Zoning Ordinance. Additionally, the proposed conditional use is in conformance with the proposed Comprehensive Plan, Blueprint for Tomorrow.



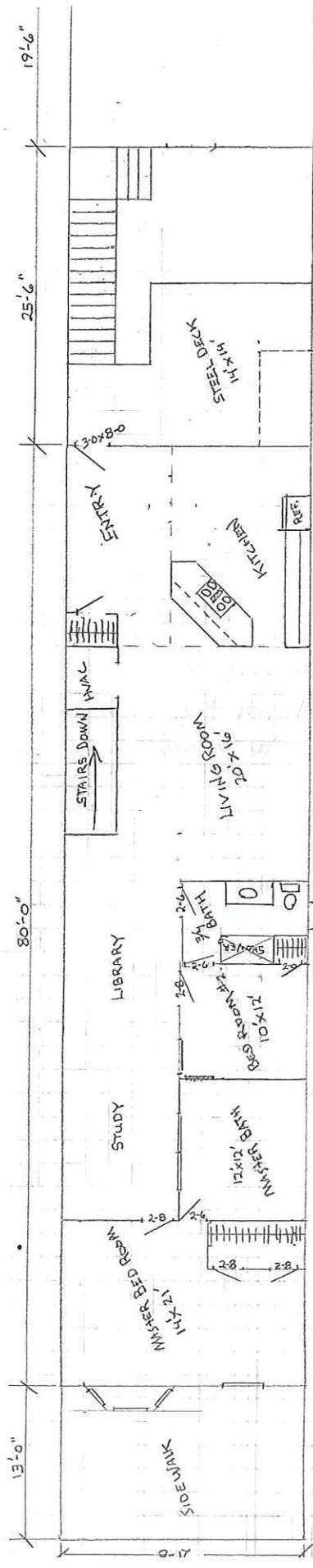
Project Location

William D. Perry, dba
 Irving Development, LLC
 Fremont, Dodge Co. Nebraska
 Zoned DC
 Date: 5-2012



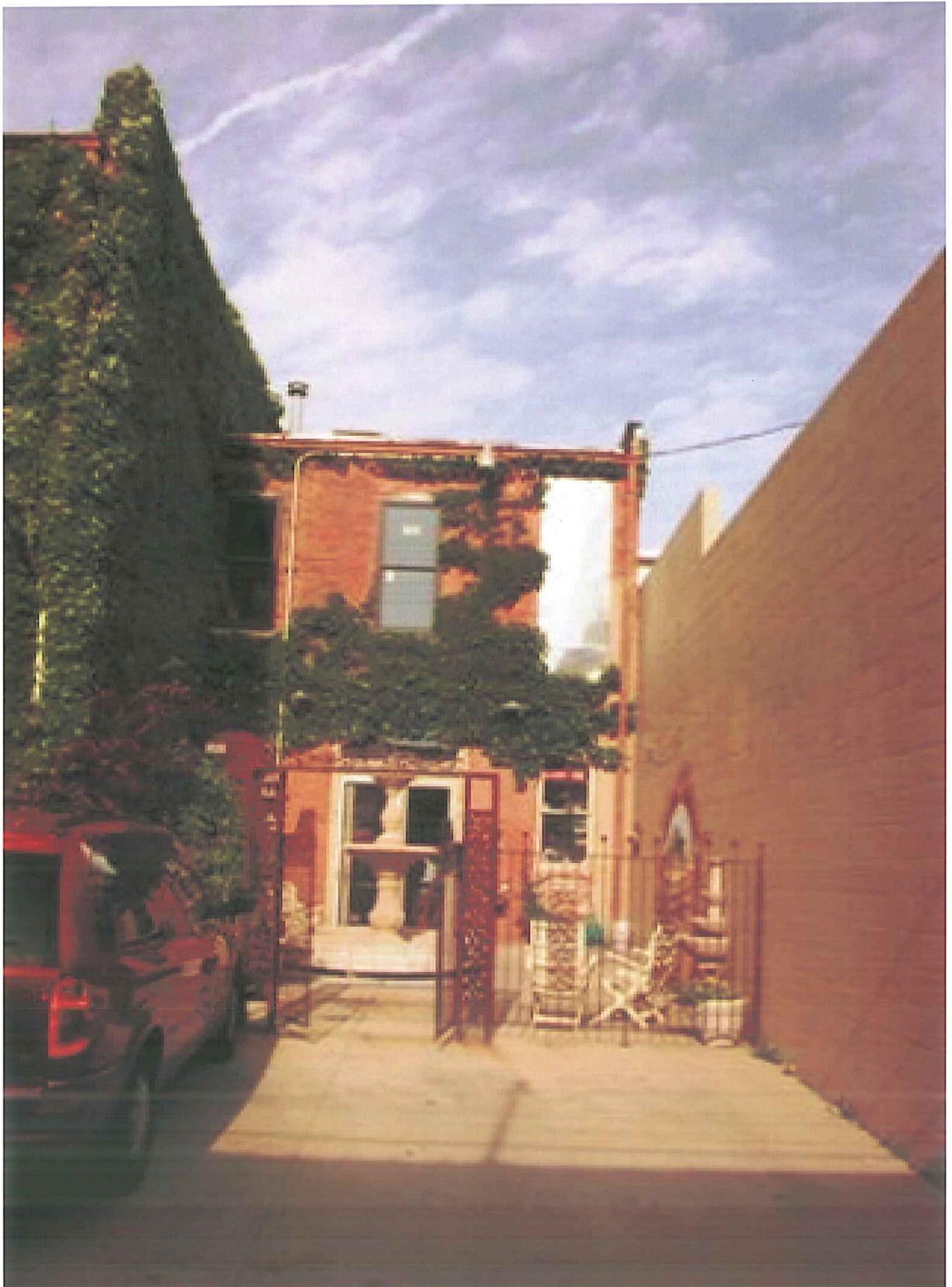


PLOT PLAN
 414 NORTH MAIN
 SCALE $\frac{1}{8}'' = 1'-0''$
 LOT SIZE 22 x 125'-0"



OWNER: W.D. PERRY
 414 NORTH MAIN
 2nd FLOOR LOFT 1,680 SQFT
 SCALE 1/8" = 1'-0"



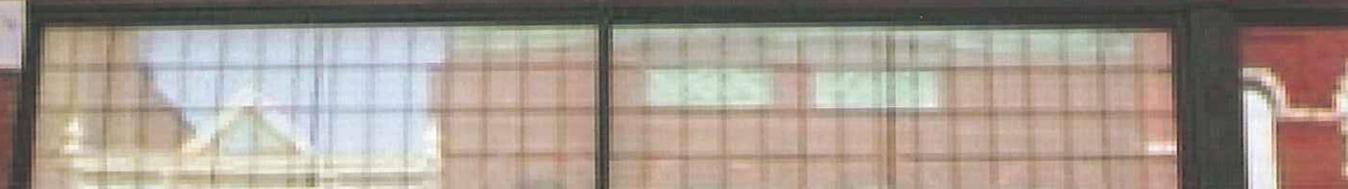


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STAFF REPORT

TO: Planning Commission

FROM: Rian Harkins, Planning Director

DATE: 3 May 2011

SUBJECT: Amendment of Blight & Substandard Declaration of Downtown Area

<p>Recommendation: Staff recommends approval of the Blight Declaration amendment.</p>
--

Request:

Modify the blight study, and the subsequent blight/ substandard declaration, of the downtown area to include two additional properties.

Background:

To facilitate the ability of two additional properties to participate in potential redevelopment opportunities, and provide the city with the most flexibility possible, staff has studied two additional tracts for inclusion of the downtown area as an amendment of Resolution PC 2011-011, which declared the downtown area blighted and substandard.

The two additional tracts of land are located at 301 E 1st Street (a.k.a Tax Lot 564, Block 212, Original Town, City of Fremont, Nebraska); and 445 E 1st Street (a.k.a. Turner Square Subdivision Lot 2, City of Fremont, Nebraska).

Findings:

There are three primary structures on these two tracts (two on one tract and a single building on the second tract of land), with each structure noted to be over 40 years of age. In addition, the population of these properties has been stagnant or declining due to the vacancy of some buildings and the remainder used as office space.

The three structures noted are in deteriorating and/or dilapidated condition due to walls cracking, a porch sagging, and the presence of window, door, and foundation issues. The drainage is fairly inadequate, and the little existing infrastructure is in a deteriorating condition (especially the curb and gutter). No sidewalk is present on either property.

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FREMONT, NEBRASKA, MAKING RECOMMENDATIONS WITH RESPECT TO AMENDING THE BLIGHT AND SUBSTANDARD STUDY FOR THE DOWNTOWN AREA IN THE CITY PURSUANT TO THE NEBRASKA COMMUNITY DEVELOPMENT ACT.

WHEREAS, the Mayor and City Council of the City of Fremont, Nebraska, (the "City") by its Ordinance created the Community Development Agency of the City of Fremont, Nebraska (the "Agency") pursuant to Sections 18-2101 through 18-2154, Reissue Revised Statutes of Nebraska, as amended (the "Act");

WHEREAS, the City has adopted and has in place a Comprehensive Plan, which includes a general plan for development of the City, within the meaning of Section 18-2110 of the Act;

WHEREAS, this Commission has previously received a study to determine whether an area within the city should be declared blighted and substandard under the Act for purposes of review and recommendation pursuant to Section 18-2109 of the Act;

WHEREAS, the City has adopted the previously mentioned study to determine whether an area within the city should be declared blighted and substandard under the Act for purposes of review and recommendation pursuant to Section 18-2109 of the Act;

WHEREAS, The City has previously declared the downtown area blighted and substandard under the Act for purposes of review and recommendation pursuant to Section 18-2109 of the Act;

WHEREAS, The City has determined the need to add an additional two tracts of land to the downtown area that has been declared blighted and substandard under the Act for purposes of review and recommendation pursuant to Section 18-2109 of the Act;

WHEREAS, The two additional tracts of land are located at 301 E 1st Street (a.k.a Tax Lot 564, Block 212, Original Town, City of Fremont, Nebraska); and 445 E 1st Street (a.k.a. TURNER SQUARE SUB LOT 2, City of Fremont, Nebraska);

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF FREMONT, NEBRASKA, AS FOLLOWS:

RESOLVED, that the Planning Commission hereby makes the following findings with respect to the amending Downtown Area Study prepared by the Planning Department, (the Study):

1. The Planning Commission has reviewed the additions to the Study as to its conformity with the general plan for the development of the City as a whole; and
2. The Planning Commission confirms that the area described in the Study meets the definition of blighted and substandard as set forth in the Act.
3. The Planning Commission makes no other recommendation with regard to such Study.

RESOLVED FURTHER, that any Resolution passed and approved prior to the passage, approval and publication of this Resolution which is in conflict with the terms and provisions of this Resolution is hereby repealed. This Resolution shall take effect and be in full force and effect from and after its passage, approval and publication as required by law. The provisions of this Resolution are separable, and invalidity of any phrase, clause or part of this Resolution shall not affect the validity or effectiveness of the remainder of this Resolution.

DATED: _____

**PLANNING COMMISSION OF THE CITY
OF FREMONT, NEBRASKA**

ATTEST:

By: _____
Dev Sookram, Chair

By: _____
Deb Pruss, Recording Secretary

STAFF REPORT

TO: Planning Commission
FROM: Rian Harkins, Planning Director
DATE: 3 May 2011
SUBJECT: Planning Commission By-Laws

Recommendation: Staff recommends approval the proposed By-Laws and Rules of Procedure for the Planning Commission.

This item was continued from last month's meeting. The only change staff has made is changing the maximum number of terms for the chair and vice-chair to three years. The Planning Commission can make additional changes if it desires, or take other action. As mentioned at the last meeting, adoption of the attached by-laws will help clarify procedures for handling matters before the Planning Commission, and help keep the Planning Commission in line with state statutes.

**CITY OF FREMONT, NEBRASKA
PLANNING COMMISSION
BY-LAWS AND RULES OF PROCEDURE**

ARTICLE I - Objectives

The objectives and purposes of the Planning Commission of Fremont, Nebraska are those set forth in Chapter 18-1301 to 19-1307, Nebraska State Statutes and amendments and supplements thereto, and powers and duties delegated to the Planning Commission by the Fremont City Council by ordinance and such other duties as the City Council has or may in the future delegate to the Commission.

ARTICLE II - Officers and Their Duties

1. The Planning Commission shall organize annually at its first meeting after January 1, and elect from among its members a Chair and a Vice-Chair to serve for a term of one year. The chair and vice-chair shall be elected by a majority vote of the Board members present. The chair shall not serve for more than three consecutive terms. The Board shall appoint a Secretary who may be an officer or employee of the City.
2. The Chair shall preside at all meetings of the Planning Commission. In the absence of the Chair, the Vice-Chair shall preside. In the absence of both the Chair and the Vice-Chair, the Planning Director or their designee shall preside to select a temporary Chair, and the Planning Director shall forthwith relinquish the Chair after selection of a temporary Chair.
3. The presiding officer shall direct the conduct of and shall preserve strict order and decorum in all meetings of the Planning Commission. Subject to these rules, the presiding officer shall, on the recommendation and advice of the duly appointed legal counsel, decide all points of order and procedure, unless overruled by a majority of the members present.
4. The Chair or other presiding officer shall have the right to make motions and to second motions without vacating the Chair; provided, however, that when the Planning Director is serving as presiding officer, under the provisions of Article I, paragraph 2 above, he or she shall not have the right to make or second motions, nor shall he or she have a vote.
5. The officer presiding at the meeting and the Secretary shall sign any resolutions and other official documents adopted or approved by the Planning Commission.
6. Subject to these Rules and the direction of the Board, the Secretary and/or Planning Director shall submit reports on all official matters occurring between meetings; conduct all official correspondence; send all notices required by these Rules and orders of the Board; prepare meeting agendas; make the necessary inspections of premises; attend all meetings and hearing; keep the Minutes of the

Board's proceedings; prepare the necessary resolutions; compile the required records; maintain the necessary files and generally supervise all the clerical and technical work of the Board.

7. The Board shall be composed of nine members appointed by the Mayor per Chapter 2.202 of the Fremont Municipal Code.

ARTICLE III - MEETINGS

1. Regular meetings shall be held at 5:00 PM on the third Monday of each month if there is business to transact. The Commission will meet in the Fremont City Hall Council Chambers.
2. A majority of the membership of the Commission shall constitute a quorum, and the number of votes necessary to transact business shall be a majority of the members of the Commission present. Voting shall be by roll call. A record of the roll call shall be kept as a part of the minutes.
3. The Chairman may call special meetings. The Chairman shall also call a special meeting when requested to do so by four members of the Planning Commission.
4. All meetings at which official action is taken shall be open to the general Public, in accordance with the Nebraska Open Meetings Act.
5. Upon the absence of any member without prior notification for four consecutive meetings, the Planning Commission shall notify the Mayor and City Council for action in accordance with Section 18-1303, Nebraska State Statutes. The Mayor shall be notified of upcoming vacancies on the Commission by the City Clerk and/or Planning Director.
6. During the course of any meeting, the presiding officer may grant permission to abstain from voting when a board member has a conflict of interest or has not been present during or reviewed the official record of proceedings regarding a matter before the Planning Commission and such member requests permission to abstain. If a member is granted permission to abstain from voting, such member shall not participate in the discussions or proceedings regarding the application or appeal and shall disassociate themselves from the Planning Commission. Unless such permission shall have been granted, or unless there shall have been a negative vote cast by such member, that member's silence in voting shall be recorded as an abstention.
7. If a member is deemed to have a conflict of interest on a matter before the Planning Commission, that member shall leave the room during all matters pertaining to that agenda item.

ARTICLE IV - Committees

1. Committees may be appointed by the Chairman for purposes necessary for fulfilling the duties of the Planning Commission.
2. The terms of the members of committees shall be concurrent with the term of the Chairman.
3. The Chairman may appoint committees as he/she feels appropriate in order to conduct Planning Commission business.

ARTICLE V - Referrals

1. All applications received by the City for amendments to the zoning ordinance, approval of subdivision plats, vacation of streets or alleys and other matters pertaining to the physical development of Fremont shall be referred to the Planning Commission for their recommendations.
2. Original applications shall be filed with the Planning Department by the cut-off date noted on the meeting schedule approved by the Planning Commission.
3. The Planning Commission shall review each application before submitting their recommendations to the City Council for amendments to the zoning ordinance, approval of subdivision plats, vacation of streets or alleys, and all other zoning and/or subdivision items.
4. The Commission may, at its discretion, hold public hearings on any other matters when it decides that such hearings will be in the public interest.

ARTICLE VI - Public Hearings and Notifications

1. Notice of public hearings required herein or called by the Commission shall be published in the official newspaper of Fremont at least 10 days before the time of the hearing.
2. A sign needs to be posted in accordance with the City of Fremont Municipal Code 10 days prior to the hearing.
3. A notice of the hearing and subject matters shall also be mailed to the property owners within 100 ft whose names and the applicant shall furnish addresses.
4. The public hearing shall be conducted in accordance with the rules and procedures determined by the Chairman in concurrence with the Commission.

ARTICLE VII - Final Disposition of Application

1. The final disposition of every application shall be in the form of a voice vote or a resolution signed by the Chair and Secretary. Every zoning or subdivision action taken by the Planning Commission shall be accompanied by findings of fact and reasons for granting or denying the action and various conditions may be

stipulated by the Planning Commission to be fulfilled as a condition of granting of the action.

2. An affirmative vote of at least a majority of the members appointed and qualified, shall be necessary to approve an action. In case of failure to reach an affirmative vote of a majority of the members, the item shall be denied.
3. An applicant may withdraw the application at any time prior to the final action of the Planning Commission. Such a withdrawal would cancel and close the case, but the filing fee shall not be refunded.
4. The Secretary shall notify the applicant in writing of the final action of the Planning Commission if the applicant is not present at the meeting.
5. The Planning Commission may delegate to the Planning Director such duties as review and approval of a landscape plan, site plan, restrictive covenant, or other such documents or information required as a condition of approval of an application. The Planning Commission shall give specific direction to the Planning Director as to what it expects the plan or document to include.
6. If, after reviewing the plan or document and discussing the same with the applicant, the Planning Director does not believe that the intent of the Planning Commission has been carried out, the Planning Director shall schedule the plan or document for review by the Planning Commission at its next meeting. The Board shall then determine whether such plan or document satisfies its previous requirement for approval of the application.
7. The Planning Commission may delegate to the Planning Director such duties as to review and monitor compliance of any condition to which any zoning or subdivision action is approved. If the Planning Commission, based on the information provided by the Planning Director determines that such conditions have not been met, the Planning Commission may request that the matter be placed on the agenda of its next meeting for review. The Secretary shall notify the applicant that the matter is to be reviewed by the Planning Commission.

ARTICLE VIII - Amendments

1. Amendment to these rules may be introduced at any meeting of the Planning Commission and voted on at the same or any subsequent meeting, provided that notice of the consideration of any such amendment or passage, either in the form of a letter or official Agenda of the board, is mailed to each member prior to its first introduction at a regular meeting.

ARTICLE IX - Fees

A fee shall be paid to the City of Fremont for each application in accordance with the current master fee schedule adopted by the Fremont City Council

STAFF REPORT

TO: Planning Commission
FROM: Rian Harkins, Planning Director
DATE: 14 May 2011
SUBJECT: Study Session - Tech Park Zoning Options

Recommendation: None, as a study session item, staff is merely looking for discussion/input for future decisions

Background:

At the present time, the Greater Fremont Development Corporation is in the process of developing, marketing, and constructing the Technology Park area. GFDC is presently working with to recruit potential tenants to the development while finishing the installation of necessary utilities to the site.

As part of the Tech Park's development, there has been discussions between GFDC officials and City Staff regarding the best method to utilize regarding the prohibition of undesired uses, design standards, and other features within the Tech Park. At the present time, the land associated with the Tech Park is zoning LI Limited Industrial, which allows a variety of uses, some of which would be considered incompatible with the technology based companies that are desired for the Tech Park.

Staff and GFDC officials have discussed three different options, which are outlined below for your review. Each option has an example that is mentioned as well to help provide additional information. Some examples are more specific to tech park industrial sites, while others are more illustrative in nature.

Option 1 – Covenants

The option of utilizing covenants would be similar to what is in place at the University of Nebraska Technology Park. While covenants can be structured as the developer sees fit, they often include controls regarding signage, architectural design, accessory buildings, landscaping, and site layout. In the case of the UNL Technology Park, the covenants also control what types of uses are allowed in the park. The covenants are in place on top of what is considered the "base zoning" district.

Option 2 – Establishment of a separate Tech Park Zoning District

The creation of a separate zoning district also allows for some controls to be placed on sites within this specific zoning district. The example below is from the Tech Park Zoning District that is part of the Zoning Ordinance of Elyria, OH

1170.01 PURPOSE.

The TPD Technology Park District is established to provide recognition for a growing number of businesses and industries seeking to develop separate facilities for management headquarters, training areas, research and development operations and offices. Such facilities are often grouped together in order to provide common amenities, such as adequate and convenient parking, service, utilities and a park-like, harmonious atmosphere free from offensive noise, vibration, smoke, odors, glare and other objectionable features. The establishment of such a district requires a predetermined development plan, appropriate screening, adequate separation from other land uses and more stringent controls. It is the primary intent of this District to allow for such areas in order to meet contemporary needs.

1170.02 PRINCIPALLY PERMITTED USES.

The following uses, if conducted within an enclosed building or buildings, shall be permitted in TPD Districts:

- A. Administrative operations (finance, insurance).
- B. Commercial printing.
- C. Commercial testing laboratories.
- D. Communications equipment.
- E. Computer and electronic repair and calibration.
- F. Computer operations and data processing.
- G. Corporate offices or headquarters.
- H. Design and engineering.
- I. Drugs and pharmaceuticals.
- J. Educational services.
- K. Electronic components.
- L. Industrial controls.
- M. Management and professional services.
- N. Metalworking machinery.
- O. Office machines.
- P. Office/research.
- Q. Public buildings.
- R. Pilot plants and production facilities.
- S. Plastic, composite products.
- T. Research and development.
- U. Special industry machinery.
- V. Transportation equipment.

1170.03 PERMITTED ACCESSORY USES.

Permitted accessory uses are as follows:

- A. Employee lunch rooms.
- B. Mass transit shelters.

- C. Outside storage if the same is in conjunction with pilot plants or production facility uses, subject to Section 1170.13.
- D. Recreational facilities for use by tenants, employees and clients.
- E. Signs as regulated in Section 1170.11 and Chapter 1174.
- F. Storage facilities within wholly enclosed buildings.
- G. Trash receptacles.

1170.04 MAXIMUM HEIGHT OF STRUCTURES.

In TPD Districts, no principal building or accessory structure shall be erected to exceed a height of forty (40) feet.

1170.05 MINIMUM YARD STANDARDS.

A. The minimum planned TPD District area size shall be fifty (50) acres.

B. A perimeter transitional yard not less than sixty (60) feet in depth shall be maintained along all the project boundary lines defining the perimeter of the gross site area of the entire District. Only landscaping and access drives approved by the Planning Commission shall be permitted within the perimeter transitional yard.

C. The minimum District frontage shall be three hundred (300) feet, measured at the street right-of-way line. Any street that was a public street at the time of passage of this chapter on March 21, 1988, even though subsequently vacated and constructed as a private street, shall be a street for purposes of the measurement of the District frontage.

D. Not more than twenty percent (20%) of the District shall be buildings or structures (not including parking lots).

E. Building orientations and minimum separation for principal and accessory buildings shall be as follows:

1. Purposes.

The orientation and minimum separation of all buildings shall be as prescribed below in order to provide:

- a. Adequate light and ventilation to protect the health of the occupants and users thereof;
- b. Necessary access and maneuvering area for fire-fighting equipment and other emergency vehicles; and
- c. A reasonable degree of visual and audible privacy between adjacent buildings for residents and occupants.

2. Standards.

The minimum horizontal distance between facing walls of any two (2) or more buildings on a lot shall be as follows:

- a. Two (2) facing walls, both containing a window or windows, shall in no case be less distant from each other than the average height of the facing walls, but not less than forty (40) feet apart.

- b. Two (2) facing walls, only one of which contains a window or windows, shall in no case be less than thirty (30) feet apart.
- c. Two (2) facing walls, neither of which contains a window or windows, shall in no case be less than twenty (20) feet apart.
- d. The shortest distance of separation between corners of the two (2) buildings where there are no facing walls shall not be less than twenty (20) feet.

Facing walls are walls opposite to and parallel with one another or walls which are so oriented that their wall lines extended intersect at an angle of less than sixty-five (65) degrees.

F. Minimum court dimensions for buildings shall be as follows:

1. Outer courts.

The width of any outer court formed by walls on three (3) sides shall be not less than the average height of the opposing walls forming such court, but not less than forty (40) feet. The depth of an outer court shall not be greater than one and one-half times the width.

2. Inner courts.

The dimensions of an inner court formed by walls on all four (4) sides shall not be less than the average height of the walls enclosing such court, but not less than forty (40) feet. An open and unobstructed passageway shall be provided at the grade level of each inner court. Such passageway shall have a cross-section area and sufficient headroom to permit the passage of fire-fighting equipment and shall be continuous from the inner court to a yard or an unobstructed open area between buildings.

G. A TPD District need not utilize lots, but in those Park Districts where the developer proposes to utilize lots, the minimum lot areas and yard standards shall be as follows:

- 1. Minimum lot size shall be three (3) acres;
- 2. Minimum set-back requirements shall be as follows:

Yard	Setback Requirements
Front	60 feet
Side (when adjoining a nonresidential property)	60 feet
Side (when adjoining a residential property)	100 feet
Rear (when adjoining a nonresidential property)	60 feet
Rear (when adjoining a residential property)	100 feet

- 3. Lot width (measured at the setback building line) shall be two hundred fifty (250) feet.
- 4. For corner lots, the building setback from both street right-of-way lines shall be sixty (60) feet.
- 5. The maximum percentage of the lot to be covered by buildings or structures shall be thirty (30) percent.

6. Buildings and other improvements shall be placed so that the existing topography and landscape shall be disturbed as little as possible and so that the maximum number of desirable trees and other natural features will be preserved.

1170.06 LANDSCAPE BUFFERING.

Landscaping for TPD Districts shall be as follows:

A. General Purpose.

The purpose of this section is to promote the health, safety morals, and general welfare of the residents of the community by providing for open space, visual screening and landscape buffers to remove, reduce, lessen or absorb the shock of impact of incompatible uses of real properties between one use or zone district and another.

B. Specific Intent.

The intent of this section is:

1. To create a park-like environment conducive to the permitted uses;
2. To extend space or to screen undesirable views to reduce the impact of the one land use upon another;
3. To increase soil water retention through landscape requirements;
4. To protect and preserve the appearance and property values of residential uses from adverse effects of adjoining nonresidential uses; and
5. To enhance careful land use planning and not be considered as a substitute for it.

C. General Provisions.

1. Landscape buffering may include, but shall not be limited to, trees, shrubs, bushes, grass cover, earth berms or a combination thereof.

2. Screening shall consist of plant material.

3. Buffering is the act of enhancing or lessening the impact of one (1) area on another.

a. Location and width.

Buffered areas shall be located on those portions of land bordering or abutting (adjacent to) more restrictive zoning districts and shall be a minimum of twenty (20) feet in width, unless varied by the Planning Commission.

b. Use.

Designed buffered areas shall be used for no other purpose than planting or screening, except necessary ingress to or egress from the buffered area.

c. Design.

A buffered area shall be designed to allow for access to easements in order to perform the functions for which such easements were granted and for fire protection purposes.

4. Fencing and walls are not desirable and may be used only as needed for screening and limited storage areas. Natural architectural elements of extension from the building may be used for screening. Chain link and/or perimeter fencing are prohibited. Earth mounding is encouraged to be used in screening applications and where aesthetic values could be gained in their placement.

1170.07 STREETS AND DRIVES.

All streets and drives shall meet the standards specified by the Planning Commission, but in no event shall they be required to exceed City specifications. Streets in a Technology Park District may be private or public as approved by the Planning Commission. Where not all or substantially all of a District is to be improved initially, the Commission shall authorize the postponement of improvements and no performance guarantee shall be required prior to the issuance of certificates of occupancy.

1170.08 UTILITIES AND STORM WATER MANAGEMENT.

All Technology Park Districts shall provide for underground installation of electric and telephone utilities, including transformers. Public or private water and sewer facilities shall be available or shall be provided as part of the development. Utilities and maintenance of facilities shall be in accordance with requirements approved by the Planning Commission.

On-site storm water management may include retention ponds, swales and other means and shall be approved by the Planning Commission.

1170.09 SCREENING OF TRASH COLLECTION AREAS.

Trash and/or garbage collection areas for all buildings shall be enclosed on at least three sides by a decorative solid wall or solid fence of at least four (4) feet in height or such greater height as needed to completely enclose the containers from top to bottom. If such area is not within an enclosed building or structure, such solid wall or solid fence shall be situated so as to screen the view of the collection area from adjacent streets and properties.

1170.10 OFF-STREET PARKING.

- A. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided without requiring the movement of another motor vehicle.
- B. The width of entrance and exit drives shall be a minimum of twelve (12) feet for one-way use only and a minimum of twenty (20) feet for two-way use.
- C. Off-street parking requirements for various uses shall conform to Chapter 1175, except as approved by the Planning Commission. The Commission, upon request, may vary the number of spaces required.
- D. All parking spaces and service drives shall be improved with bituminous concrete, Portland cement concrete or equivalent surfacing and so graded and drained as to dispose of all surface water accumulation within the area.
- E. No less than twenty (20) feet of open space shall be provided between any principal building and the curb line of any surface parking area or access drive.
- F. The curb line of any surface parking area or access drive shall be at least five (5) feet from any exterior lot line.

G. All dead-end parking lots shall be designed to provide a sufficient back-up area for the end stall.

1170.11 SIGNAGE.

A. Signage shall be in accordance with the provisions of Chapter 1174, except as provided hereinafter.

B. One identification sign may be located on private property at the entrance of the TPD District. Its maximum height shall be seven (7) feet above finished grade, with a maximum sign face of thirty-two (32) square feet per face with a maximum of two faces. The design, format, materials and color shall be consistent with the architectural design.

C. A ground mounted identification sign consistent with the design of the building may be located at the entrance to each building with a maximum sign face of twenty (20) square feet per face, with a maximum of two (2) faces and with a maximum height of seven (7) feet above finished grade.

D. Sign drawings and details shall be submitted for approval to the Planning Commission prior to the construction of the sign.

E. No other signs on or off premises shall be permitted.

F. Temporary or portable signage shall not be permitted with the exception of construction signs.

1170.12 SITE LIGHTING.

A. Site lighting of roadways, parking and service areas shall be provided by a free-standing pole with cut-off light fixtures to assure that lighting does not spread beyond the site or property limits or create a visual nuisance to adjoining sites or lots.

B. Lighting sources shall be the same throughout the development and shall be of high-pressure sodium or such other source as approved by the Planning Commission.

1170.13 OUTDOOR STORAGE.

A. Except for trash collection areas, outdoor storage shall be permitted only in conjunction with pilot plants or production facility uses.

B. No outside storage shall be permitted within the minimum building setback areas nor shall any outside storage be permitted in the front yard of any site or lot.

C. Outdoor storage must be screened from view by a wall of material similar to and compatible with that of the building or buildings on the site, or be suitably screened by a fence or dense landscaping so that such storage areas are not visible from neighboring sites, lots, common areas or public roads, streets or rights of way.

D. All proposals for outside or outdoor storage shall be subject to the approval of the Planning Commission.

1170.14 PERFORMANCE STANDARDS.

The following performance standards shall be applicable to uses within TPD Districts:

A. Intent.

1. The intent of this section is to require permitted uses to be established and maintained compatible with adjoining properties through the control of noise, odor, glare, vibration, smoke, dust, radiation, waste, etc.

2. It is further the intent of this section to state the requirements for the construction and operation of permitted uses. In many cases, the relation of a prospective use to these performance standards cannot be judged properly at the time of the building permit issuance. In such cases, the recipient of the building permit shall note that these performance standards, like all other provisions of this chapter, are continuing obligations and that all permitted uses shall operate in compliance with these standards.

B. Compliance Required.

The performance standards set forth in subsection C. hereof shall be followed, and any use which fails to comply with these standards shall be in violation of this section.

C. Standards.

1. Noise.

The sound pressure level at the nearest site or property line of any operation on a site or property lot, other than the operation of auto-calls, bells, sirens or whistles, shall not exceed the average intensity of the street traffic noise of the District and no sound shall be objectionable due to intermittence, beat, shrillness or frequency.

2. Odors.

Odors emanating from any activity shall not be discernible beyond the site or property line to such degree or of such characteristic as to be considered objectionable or cause extreme agitation to humans or animals. The evaluation and control of odors shall be in general conformity with procedures described in the "Odors" chapter of the latest published edition of "Air Pollution Manual," published by the American Industrial Hygiene Association.

3. Glare and Heat.

a. No permitted use shall cause heat at the site or property line so intense as to be a public nuisance or hazard. No such use shall cause illumination at or beyond any residence district boundary in excess of 0.1 footcandle.

b. All exterior lighting shall be used in a manner that produces no glare on public highways, neighboring property or adjacent zoning districts.

4. Vibration.

Vibration shall not be discernible to the human sense of feeling beyond any site or property line for three (3) minutes or more duration in any one (1) hour.

5. Smoke.

The measurement of smoke shall be at the point of emission. The U.S. Bureau of Mines Ringelmann Smoke Chart shall be used for this measurement. Smoke no darker nor more opaque

than No. 1 on such Chart shall be emitted. Smoke no darker nor more opaque than No. 2 on such Chart shall be emitted for periods not exceeding three (3) minutes during any sixty (60)-minute period. These provisions apply to smoke of any color, but with an equivalent opacity.

6. Dust.

The emission of dust or other particulate matter shall be controlled to a degree consistent with modern air cleaning capability. At no time shall it exceed No. 1 on the Ringelmann Chart, nor shall it be of such a nature or quantity as to interfere with operations on nearby sites or properties. Control methods described in the latest published edition of "Industrial Ventilation," published by the American Conference of Governmental Industrial Hygienists, shall be followed and used as the standard.

7. Gases.

The emission of gases or fumes shall be controlled to a degree consistent with modern air cleaning capability. At no time shall gases or fumes be discharged into the atmosphere in such concentrations or of such a nature as to be toxic, corrosive or noxious to persons, plants or animals, or to interfere with operations on nearby properties. The latest published edition of "Air Pollution Manual," published by the American Industrial Hygiene Association, shall be the guideline for the control of gaseous emissions.

8. Fire and explosive hazards.

All operations shall be carried on with reasonable precautions against fire and explosive hazards in accordance with all applicable standards.

9. Water pollution control.

The City wastewater regulations and State Environmental Protection Agency requirements shall be in effect and full force in the District.

1170.15 REQUEST FOR REZONING PROCEDURE.

A. Submission of Application.

The owner or owners of a tract of land containing fifty (50) acres or more may request a change in zoning to the TPD District in accordance with the provisions of Chapter 1133 and the following requirements.

B. Pre-application Procedure.

1. The applicant shall meet with the Planning Commission prior to the submission of the preliminary site development plans. The purpose of this meeting is to discuss early and informally the intent and effect of the District regulations and the criteria standards contained in this chapter to familiarize the developer with the City's Comprehensive Future Land Use Plan, the Major Thoroughfare Plan, the Parks and Open Space Plan, this Zoning Code and the drainage, sewerage and water system for the City, to discuss the physical characteristics of the site and the environmental impact of the proposed development, and to explain the rezoning requirements.

2. Generalized conceptual plans (in sketch form) shall be submitted. They shall indicate the approximate location of all buildings, the type and location of parking facilities and access

points, the locations of public and private streets and drives, and the locations, type and approximate acreage of all open spaces. Twenty (20) copies of the conceptual plans shall be submitted.

3. The Commission shall discuss with the developer the changes, if any, that will be required and the procedure for submitting the formal site development plan. The Commission's approval at this stage should indicate a general willingness to approve the proposed development in principle if the applicant meets the necessary requirements of this chapter and any and all additional requirements and conditions imposed by the Commission.

4. Based on the review of the generalized conceptual plan, the Commission may approve the request for rezoning prior to the submission of the final plan.

C. Submission of Final Site Development Plans.

After the pre-application procedure, the applicant may submit final site development plans to the Commission. These plans shall conform with all requirements set forth in this section. Twenty (20) copies of the plans shall be submitted.

1. Survey Plat.

There shall be submitted, on one or more drawings as needed, a survey plat prepared by a professional engineer or surveyor registered in the State of Ohio, to which the registration seal of such professional engineer or surveyor must be affixed. The survey plat shall contain the following information:

- a. A vicinity map drawn to scale showing the location of the project within the City, dedicated streets, easements, any proposed lots, any proposed sites and the location of the perimeter boundary of the area included in the application;
- b. A boundary survey or a boundary map containing a point of reference to a permanent monument or the centerline intersection of two (2) public street rights-of-way, showing the dimensions and bearings of the District and proposed stages;
- c. A topographic survey of all land within the proposed development, showing two-foot contours or less as required by the Commission in order to delineate the character of land within the proposed project;
- d. A drawing indicating all significant features of the proposed development, including wooded areas, existing buildings and structures, dedicated streets, utility lines and easements, water and sewer lines, watercourses and drainage channels, significant historic structures and similar land features;
- e. A soils map indicating the soil type and drainage characteristics as required by the Commission; and
- f. The name, address and telephone number of the professional engineer or surveyor making the survey and the date of the survey.

2. Site development plans.

There shall be submitted, on one or more drawings as needed, site development plans prepared by an architect, landscape architect or professional engineer registered in the State of Ohio, to which the registration seal of such architect, landscape architect or professional engineer shall be affixed. The site development plans shall contain the following information:

- a. The name of the development and the name, address and telephone number of the property owner, the developer and the architect, landscape or professional engineer and other individuals assisting in the preparation of the site plans, as well as the date, north point and scale;
- b. The zoning classification of the proposed development and the surrounding properties;
- c. The location and use of all proposed buildings, including height, setback lines, if any, and yard areas;
- d. The proposed general grading and/or other methods to be used for adequate drainage control;
- e. The location, use and acreage of all required open spaces and access thereto; and
- f. Pedestrian circulation features, including walks and adjoining paved areas for pedestrian use. Section 901.08 of the Streets and Public Services Code shall not apply in TPD Districts.
- g. The location of all public and private streets and drives, the width of rights-of-way, the types and widths of pavements, and the approximate location of all permanent access ways from publicly dedicated streets, roads or highways;
- h. The location and types of surfaces of all parking areas and loading areas and the number of parking spaces;
- i. The proposed sanitary sewers, storm sewers and central water utilities, showing their connections with the existing system; and
- j. A general landscaping plan, showing all existing trees to be retained and indicating all proposed plants and walls, fences, paved areas and similar structures; and the location, height, orientation and square footage of free-standing signs.

3. Development in stages.

Developments larger than five (5) acres may be built in stages. A stage shall be at least five (5) contiguous acres in size. The last proposed stage remaining in the project, which may be less than five (5) acres in size, shall be considered in its entirety as one stage. Each proposed stage submitted for approval shall contain all the requirements listed in this section

4. General requirements.

a. Amendments to the formal plans may be sought by the applicant in accordance with the procedures required by this chapter for original approval, subject to the same limitations and requirements under which such plans were originally approve.

b. The owner or owners may from time to time request modification of the approved final plans from the Commission in a manner consistent with the approved preliminary plans to allow for changed circumstances and conditions unforeseen at the time of original approval.

c. Approval by the Commission shall expire after a period of two (2) years from the date of approval of the final plans for the entire proposed development or for any particular stage, whichever is applicable, unless the development (or stage) is fifty percent (50%) completed in terms of public improvements, including streets, parks and common open spaces, walkways and utility installations, such as electric, gas, water and sanitary sewers, in which latter case an extension of time may be granted by the Commission not to exceed two (2) successive periods of two (2) years each.

d. All proceedings brought under this chapter shall be subject to the rules of procedure of the Commission where not inconsistent with the procedures otherwise stated in this section.

e. The Commission shall review and take action upon the final plans submitted within thirty (30) days, or within such further time as agreed to by the applicant. Upon completion of the review, the action of the Commission shall be noted on two (2) copies of all submitted plans, referenced and attached to any conditions determined necessary for approval. One (1) copy shall be retained by the Commission and filed with the records of the City, and the other returned to the applicant.

Upon approval of the final plans, the signature of the Chairperson of the Commission shall be affixed to all documents. Building permits may then be issued. If the Commission determines that a plan should be disapproved and a building permit shall not be issued, the Commission shall forthwith state on the record the reasons for such determination and shall transmit to the applicant an attested copy of the reasons and recommendations thereon. Approval of plans shall be conditioned upon compliance with all other applicable statutes, ordinances, resolutions and regulations of the City and the State.

5. Effect of approved site development plans.

The building permits issued on the basis of the submitted materials, including site development plans, shall authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and any other use, arrangement or construction at variance with the approved final plan shall be deemed a violation of this chapter and punishable under Chapter 1199. When any of the terms, conditions or restrictions upon which approval was granted are not being followed, the Commission may revoke such approval.

1170.16 APPROVAL OF A BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY.

A. Before a building permit shall be issued for the construction or addition of a building, the following information shall be submitted to and approved by the Planning Commission in addition to the basic information regularly required. Further, when a change in use or occupancy of an existing building is proposed, the information listed below shall be submitted to the Commission and approved before a certificate of occupancy can be issued. The applicant shall submit additional copies as required.

1. A plot plan of the land or parcel of land to be used, showing the dimensions and locations of all existing and proposed buildings, driveways, off-street parking areas, topography, abutting streets, railroads, highways, loading and unloading areas, watercourses and other topographic features within two hundred (200) feet of the project boundaries;

2. Architectural plans for all proposed buildings, walls and fences;
 3. A description of the proposed pilot plant and production facilities in sufficient detail to fully describe the nature and extent of the proposed use;
 4. Plans or reports describing the proposed treatment of any excess traffic conditions, noise, glare, air pollution and treatment or handling of hazardous gases, liquids or other materials;
 5. Plans or reports showing the proposed treatment and disposal of sewage and industrial wastes; and
 6. A description of any fuel proposed to be used, including engineering plans for the control of any smoke which may be generated.
- B. Additional data, documented reports, reviews and data prepared by a qualified consultant, agreed to by the Commission and the developer, will be required to ascertain conformity with the requirements of this Zoning Code.
- C. If a building is to be constructed and no specific occupant has been identified, a building permit may be issued without the specific information required in this section. The detailed information shall be provided to the Commission when an occupant applies for a building permit for structural alterations (if needed) or a certificate of occupancy.
- D. A change or changes in the physical facilities or use permitted by a certificate of occupancy shall occur only after the holder of such certificate has obtained an amendment thereto allowing such change or changes.
- E. A certificate of occupancy for a building or use of land in TPD Districts may be revoked after a hearing by the Commission if the Commission finds that the holder of the certificate has failed to comply with the development of approved plans.

1170.17 OTHER BUILDING AND OCCUPANCY PERMITS.

The application for other building and occupancy permits required shall be reviewed and approved by the Building Inspector for both new and/or changes in use and occupancy.

1170.18 APPLICATION OF SUBDIVISION REGULATIONS.

The provisions of the Subdivision Regulations of the City (Title Three of Part Twelve of these Codified Ordinances) shall not apply to TPD Districts owned entirely by a political subdivision.

1170.19 CONDITIONALLY PERMITTED USES.

Conditionally permitted uses, in accordance with Chapter 1135, are as follows:

- A. Hotels.
- B. Restaurant facilities associated with hotels.

Option 3 – Zoning Overlay District

A zoning overlay district is a tool that creates or establishes a special zoning district, which is placed over an existing base zoning district. The overlay district has specified boundaries that are delineated with the text of the overlay district as well as on the official zoning map. Within the zoning overlay district, the requirements can be modified (added to, subtracted, or new provisions added) to meet the desired needs of a particular area. Shown below is a zoning overlay district from Wichita, Kansas

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION III.C SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 44-975, BY THE ADDITION OF SECTION III-C.8D-O, DELANO NEIGHBORHOOD OVERLAY DISTRICT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA;

SECTION 1. Section III-C of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition), as adopted by reference in City of Wichita Code Sec. 28.04.010 by Ordinance No 44-975, is hereby amended by the addition of the following:

8. **D-O, Delano Neighborhood Overlay District**

a. **General parameters.**

- i. **Purpose.** The D-O Delano Neighborhood Overlay District is intended to preserve, enhance, and promote the character of the Delano neighborhood as prescribed in the Delano Neighborhood Revitalization Plan. The D-O district is an overlay district; property development within the district shall comply with the **Delano Neighborhood Design Guidelines** and the standards of this district and the underlying zoning district. The design review provisions applicable within the D-O district are intended to recognize the special architectural character and proposed land-use mix of the Delano neighborhood, and to protect the private property values and public investments in the Delano Neighborhood. In the case of conflict between the regulations in this section and those of the underlying zoning district, the regulations in this section shall prevail.
- ii. **Boundaries of the Delano Neighborhood Overlay District.** The Delano Neighborhood Overlay District applies to all property within the following geographic boundaries:

West Boundary - Meridian Street from Central Avenue south to Kellogg

North Boundary - Central Avenue east to the Arkansas River and following the Arkansas River to Kellogg

East Boundary - the Arkansas River

South Boundary - Kellogg from the Arkansas River west to Meridian Street;

but exempting from the D-O district, those properties falling within that portion of the Urban Village Redevelopment Area as depicted on Page 26, Figure 15 of the Delano Neighborhood Revitalization Plan and located east of Seneca Street, south and west of McLean Boulevard, and north of Douglas Avenue (except any properties directly fronting on Douglas Avenue or Seneca Street). The Urban Village redevelopment area has been excluded from these guidelines on the basis that the City of Wichita will be a partner in any major redevelopment initiatives. While flexibility will be key to encouraging redevelopment initiatives, the City itself should play an important role in finalizing any land use mix and design approach proposed.

The City has the ability to ensure that redevelopment in the Urban Village area is done in a fashion that is compatible with the Delano neighborhood, and reflective of the spirit and intent of the Urban Village design guidelines contained in the Delano Neighborhood Revitalization Plan. The City Council also has the authority to amend the D-O district under the procedures of this Code, as it deems appropriate in the future, to include portions or all of the Urban Village redevelopment area.

Use regulations. The use regulations of this overlay district shall control over the underlying zoning district.

Prohibited uses. Subject to Section III-C.8.c(1)(b), the following uses are explicitly prohibited in the D-O district, regardless if said uses are stated as permitted or conditional uses in the underlying districts:

Asphalt or Concrete Plant, Limited and General
Businesses of an adult entertainment nature requiring a license under the Code of the City of Wichita, Chapters 3.05, 3.07, 3.56 and 3.74
Correctional Facilities
Correctional Placement Residence, Limited and General
Gas and Fuel, Storage and Sales
Manufactured Home Subdivision
Manufactured Home Park
Mining or Quarrying
Oil or Gas Drilling
Rock Crushing
Sign (off-site)
Solid Waste Incinerator
Vehicle Storage Yard
Wireless Communication Facility
Wrecking/Salvage Yards

i. **Conditional uses.** Subject to Section III-C.8.c(1)(b), the following uses shall be allowed only as a conditional use in the D-O district, regardless if said uses are stated as permitted uses in the underlying districts:

Car Wash
Convenience store
Freight Terminal
Manufacturing, General and Limited
Parking Area, Commercial
Restaurant (drive-in/drive-through)
Service Station
Storage, Outdoor
Utility, Major
Vehicle and Equipment Sales (indoor)
Vehicle and Equipment Sales (outdoor)
Vehicle Repair, General
Vehicle Repair, Limited
Warehouse, Self-service Storage
Warehousing
Wholesale or Business Services

ii. **Accessory uses.** The following accessory uses shall be prohibited in the D-O district regardless if said uses are allowed in the underlying districts:

Portable Storage Containers

Design review standards and procedures.

Review procedures.

- i. **Applicability.** Except as provided in Section III-C.8.d, no permits for building demolition, construction or alterations, signs, nor alterations to fences adjacent to public streets (not including alleys), sidewalks, parking areas and driveways may be issued for any property, structure or site located wholly or partially within the D-O district, unless a permit has been reviewed for compliance with this district and the **Delano Neighborhood Design Guidelines** and approved by the Design Review Committee.
- ii. **No nonconformities created by adoption of the D-O district.** No use of a building, structure or property that complied with the zoning ordinance or zoning resolution in effect prior to the effective date of the D-O district shall become or be deemed to have become nonconforming due to the adoption of the D-O district. However, all other nonconforming provisions of Article VII shall apply.
- iii. **Application.** An application for a design approval within the D-O district shall be submitted in a form required by the Design Review Committee. A complete application shall include building elevations, a site plan and list of the types of building materials to be used, along with any other information deemed necessary by the Design Review Committee to conduct an adequate review of the application.
- iv. **Design Review Committee.** The Director of Planning, the Zoning Administrator and the Historic Preservation Officer shall constitute a Design Review Committee that shall administer and render decisions on applications that require compliance with the **Delano Neighborhood Design Guidelines**. The Design Review Committee shall have the authority to approve all applications submitted in accordance and compliance with the **Delano Neighborhood Design Guidelines**. The Design Advisory Committee shall advise the Design Review Committee on those applications submitted that do not conform to the requirements of the **Delano Neighborhood Design Guidelines**. In making its decisions, the Design Review Committee shall specify those critical exterior design elements (e.g. roof pitch, architectural style, window rhythm, porch requirements) and screening requirements that cannot be changed without reapplying to the Design Review Committee. All other aspects of exterior design changes would be subject to approval by any individual member of the Design Review Committee.
- v. **Design Advisory Committee.** A Design Advisory Committee shall be appointed by the City Manager that includes representation from the Delano Business Association, the Delano Clergy Association, the Delano Neighborhood Association, the Delano Development Corporation, the Wichita Historic Preservation Board, the District IV Advisory Board, the Metropolitan Area Planning Commission, the Wichita Area Builders Association, the Wichita Independent Business Association, or the successors of such, or any other organization with a substantial interest in the Delano district. The Design Advisory Committee shall advise the Design Review Committee on all decisions pertaining to those applications submitted that do not conform to the requirements of the **Delano Neighborhood Design Guidelines**.
- vi. **Action.** After reviewing the completed application, the Design Review Committee shall approve, approve with conditions or modifications, or deny the request, in accordance with the design standards of this section. Any person with standing may appeal the written decision of the Design Review Committee to the City Council, by filing a written notice of appeal to the Planning Director within 30 days of the date of the written decision of the Design Review Committee.
- vii. **Time limit on action.** If within 20 days from the date of receipt of a complete application by the Planning Director, no action has been taken on the application, the Office of Central Inspection may issue the necessary permits and the project may proceed. This time limit may be waived by mutual consent of the applicant and staff. It shall not apply if review by the Historic Preservation Board is required.
- i. **Design standards.** All applications for design review approval within the D-O district area shall comply with the criteria established in the **Delano Neighborhood Design Guidelines**, and all subsequent amendments to said design guidelines, as established by the governing body of the City of Wichita.

Exceptions and modifications.

Alterations, repairs, improvements or construction that do not require a building permit shall be exempt from the D-O district design standards and review procedures. Notwithstanding the aforementioned exemption, fences adjoining a public street shall be subject to the D-O district design standards and review procedures, as shall the removal of more than 40% live material in a residential front or side yard abutting a public street (alleys are excluded).

- i. Routine maintenance and repairs, including roof re-shingling and building re-siding using natural or synthetic materials with the same appearance, shall be exempt from the D-O district design standards and review procedures.
- ii. Any buildings or structures in lawful existence prior to the effective date of this D-O district that are subsequently damaged or destroyed may be reconstructed or repaired in their prior architectural style and character.
- iii. In addition to the requirements of Chapter 24.04 of the Code of the City of Wichita, existing non-conforming off-site signs may be modified or altered on existing sites if, in the opinion of the Design Review Committee, such modifications or alterations will improve the overall appearance and compatibility of said signs within the Delano district.
- iv. The design standards in this section shall be modified or waived by the Design Review Committee to allow for alternatives which are required in order to maintain the continued functional viability of existing uses, or in extraordinary situations of development characteristics, economic hardship, or other circumstances, provided that the purposes and intent of these standards are maintained through such interpretation.

Emergency repairs. The Superintendent of Central Inspection may waive the standards and review procedures of this section in instances in which emergency repairs are required, provided that subsequent repairs of a non-emergency nature comply with these standards.

Conflicts with other Code provisions. No section of this Code shall be construed to compel alterations that will conflict with any health or safety codes, or prohibits any alterations that are required to bring buildings into compliance with the Building Code.

SECTION 2. This ordinance shall be included in the Code of the City of Wichita and shall become effective upon its adoption and publication once in the official City newspaper.

STAFF REPORT

TO: Planning Commission
FROM: Rian Harkins, Planning Director
DATE: 14 May 2011
SUBJECT: Study Session - Tax Increment Financing

<p>Recommendation: None, this is merely a study session item designed to begin discussion</p>
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Background:

There has been a great deal of discussion as the proposed Comprehensive Plan has begun the adoption process regarding the use of Tax Increment Financing. As a follow up to these discussion, staff has prepared a short introduction to the subject of Tax Increment Financing.