

MINUTES

**PLANNING COMMISSION
REGULAR MEETING
JUNE 18, 2012 - 5:00 P.M.
CITY COUNCIL CHAMBERS**

PRESENT: Chairman Sookram, Members, Barton, Fooker, Ridder, Sawyer and Synovec, Planning Director Rian Harkins, Chief Building Inspector Marv Hansen and Secretary Deb Pruss

ABSENT: Members Emanuel, Wiese and Winter

Chairman Sookram called the meeting to order. Roll Call Vote was taken - 6 present.

Chairman Sookram read a statement that this meeting was preceded by publicized notice in the Fremont Tribune and the agenda displayed in the lobby of the Municipal Building and posted online at www.fremontne.gov; and distributed to the Planning Commission, Mayor and City Council on June 13, 2012 and is open to the public. Chairman Sookram also stated a copy of the agenda was kept continually current and available to the public at 400 East Military, 3rd floor and a copy of the open meeting law is posted continually for public inspection located near the Council Chambers entrance door by the agendas.

Moved by Fooker, seconded by Synovec, to approve the legality of the meeting. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

It was moved by Fooker, seconded by Sawyer, to dispense with the reading of the Minutes of the May 21, 2012 Regular Meeting and the June 4, 2012 Special Meeting and approve as received. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

Chairman Sookram stated the general public is invited to address the Planning Commission regarding any item on this agenda at this time or wait until discussion of their request is taking place. No public comments were received.

- **Consider request of Nebco to erect deck with sunscreen as part of a permitted conditional use at 255 North Ridge Road, #26, Fremont, Nebraska. RL - Lake and River District.**

Planning Director Harkins stated this is Lot 26 on Lake Leba. He stated it is a two part deck, is detached. Each section is 12' x 20'. The decks are basically flush with ground and are being used to provide some extra enjoyment space but because it is detached, hence the conditional use application. Applicant is using 4 x 4 posts, there are railings, and they are putting a sunshade on the upper part of the deck. It is generally in conformance and fits with the character of the area and that is why staff is recommending approval of the conditional use.

Applicant's son, Brad Burianek was present. Mr. Burianek stated they are requesting to build a deck as his mother always wanted a deck. He stated it is always very hot in the sand so they are installing a sunshade. He stated it is just poles and 2 x 2's that run at the top. The deck is ground level, 12' out and as long as the cabin, 20' wide. It will drop down one and then go out another 12' x 20' wide. Applicant stated he has gone over the plans with the Building Inspector. Chairman Sookram also stated the applicant has a letter from the Lake Leba Committee granting permission to erect the deck.

Moved by Sawyer, seconded by Barton to recommend approval of the request. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

- **Consider request of Gifford Construction, LLC/Randal & Melissa Nieman to subdivide Lot 1, Block 1, Brentwood 6th Addition and Lot 28, Block 6, Day Acres East 3rd Addition, Fremont, Dodge County, Nebraska into two lots. R1 - Single Family Residential District.**

Planning Director Harkins stated the owner, who is a builder, purchased Lot 1, Block 1 of Brentwood 6th with the idea of constructing a single family residence for sale. Upon purchase, he realized that the property to the south, which is in Day Acres East 3rd Addition, is actually encroached by nine feet across the property line into the part of the easement that lies in the Brentwood lot so encroachment in this case meant having sod and sprinklers so the owner of the Brentwood lot, Marty Gifford, is actually trying to be gracious and split off the nine foot strip to sell to the individuals that own the house to the south so that the encroachment issue is being taken care of. This was done as an alternative to pursuing any type of claim in Small Claims Court or forcing them to remove the sod and the sprinklers. The easement will still be kept in place and that part of it will just be maintained by the property to the south as well as the rest of that 15' easement that they have already. There would be essentially a notch created in the property to the back corner of the southwest side but the applicant is aware of that and wishing to proceed.

Moved by Fooker, seconded by Synovec to recommend approval of the request. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

- **Consider request of Fremont Travel Center (Sapp Bros. Real Estate) to subdivide Tax Lot 74, located in Section 11, Township 17 North, Range 8 East (3225 North Broad and 3227 North Broad), Fremont, Dodge County, Nebraska into two lots. GI - General Industrial District.**

Planning Director Harkins stated this property is the old Sapp Brothers facility. They recently went to auction and decided to sell the property in two parcels. Again, the configuration of which they did not share with staff. This is how the applicant applied for the request. Harkins stated while it meets with the general intent of the General Industrial Zoning District, staff is recommending approval simply because they would be able to do some building on the first parcel, the second parcel would have plenty of room for anything they would need to do so there is some ability for either property owner to continue the uses or any general industrial type uses.

Don Quinn, representative for Sapp Bros. Travel Centers, was present. He stated as part of the discussion the reason for the irregular lot shape was that they understood they had to have 60' of frontage for that parcel and the current property owner to the north, John Hickman, purchased that piece and he believes the other individual's name is Jeff Helget also owns property to the south and he bought the south portion. It was part of the agreement as to the auction why the irregular splits.

Chairman Sookram asked if it was typical for subdivides to be so broken up. Planning Director Harkins stated Chairman Sookram would have to ask the applicant why they went this route. Mr. Quinn stated the people that bid on the property obviously had full disclosure of what the property was and they purchased it knowing what the splits were going to be. Member Ridder stated that didn't really have anything to do with the resale value of these particular lots in this configuration. Mr. Quinn stated they knew it going in. Member Synovec stated the Planning Commission's biggest concern is the future potential problems with the lot lines. Planning Director Harkins stated it would create potential issues as far as where setback lines would lie, where you would consider the front yard versus the side, etc. Harkins stated he would probably

call the part that has access to Highway 77 currently the front yard because of that access point which would give them maybe some greater flexibility along the jog as long as an interior side setback. Harkins stated that would be the big concern. Mr. Quinn stated the people that owned the tax lot to the north purchased that property. He thought it was John Hickman, JB Auto Body. Harkins asked if they were looking at doing some kind of lot combination. Mr. Quinn stated he couldn't answer that. Members agreed that would make it easier. Harkins stated that is why he asked the question of whether it was a case of doing that just for the extra space then it may not be as big of an issue. Harkins stated you would then be talking a front yard for example of 132 feet and a rear yard well in excess of 200 feet. Synovec stated it also cleans up the access to the lot.

Moved by Synovec, seconded by Sawyer to recommend approval of the request. Roll Call Vote showed 5 ayes - 1 nay (Sookram). Motion Carried.

- **Consider amending Zoning Ordinance No. 3939, Article 3, Section 305 pertaining to Civic Use Types.**

Chairman Harkins stated this was regarding the amendment to Article 3 as far as use types. Under Section 3, letter J - Emergency Residential Services. Currently emergency residential services is defined or confined more to crisis intervention or emergency housing during intervention for the specific items listed. Staff is proposing to add mental illness as one of those simply for the fact of the potential of being able to have facilities like a shelter of some kind for victims of mental illness or that are dealing with mental incapability. Chairman Sookram stated this topic was covered extensively during the Study Session. Harkins stated again there is no proposal coming forth but staff has been approached in the past by developers, the Planning Department has had discussions with the Police Department and other service providers about the need for it so there is some need there but again there is no proposal or potential proposal coming.

Moved by Synovec, seconded by Sawyer to recommend approval of the amendments to Article 3. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

- **Consider amending Zoning Ordinance No. 3939, Article 5, Section 574 pertaining to Wellhead Protection Area Regulations.**

Planning Director Harkins stated the Wellhead Protection Overlay District currently has five conditional uses that are allowed and this would add a 6th to add Recreational Clubs. Right now the Zoning Ordinance defines those as something that is essentially not a publically owned recreational type facility. That is being added so that a developer can apply for a conditional use as part of the next agenda item. Staff is not proposing any stipulations to that as a conditional use in terms of changing the definition or what's allowed as that is something they are leaving open to every conditional use application that would come in. Harkins stated staff added this proposal so that the sports complex can actually apply for a conditional use permit as right now it is not allowed.

Moved by Sawyer, seconded by Barton to recommend approval of the amendments to Article 5. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

- **Consider request of Neil Schilke to erect recreational sports club as part of a permitted conditional use at the SE ¼ of Section 31, Township 17 North, Range 9 East, Fremont, Dodge County, Nebraska. AG - Agricultural/Urban Reserve District (Wellhead Protection Overlay).**

Planning Director Harkins stated as discussed in the Study Session this is the first phase of the proposed sports complex to the south of the community. It was identified back in the early

stages of the Comprehensive Plan development as a potential facility for the community. It lies to the very almost southern edge of the extraterritorial jurisdiction for the City at that triangle where Old Highway 275 and current Highway 275 align and meet. Harkins stated this part is the smaller of the two tracts in the sports complex. They provided, after numerous discussions, a layout with five septic storage tanks to be placed toward the center of the facility close to parking so it would be easy to pump those out. The original proposal that they had in discussions with the City included septic fields located to the north of the property so the idea was to try and keep those really no further south than where they are at now in order to provide the most amount of protection to the Wellhead area of the City. Harkins stated NDEQ and the Department of Utilities have been in discussions with the applicant and their contractor about doing this instead of a septic tank system with leech fields. They both feel very comfortable with going this route, which is also why staff recommended approval.

Applicant Neil Schilke was present. Mr. Schilke stated he was seeking to find a place to build two baseball diamonds in Fremont but knew nothing about the plan Bill Ekeler and his group had. After looking for those sites, Mr. Ekeler called him and stated they needed to talk. Mr. Schilke stated he then first learned of Mr. Ekeler's project and that he would be a part of it. It appeared that he wasn't going to have the money he needed to go ahead with the whole thing, Mr. Schilke didn't want to wait so Mr. Ekeler agreed to split off what is now 20.1 acres and applicant would do four ball fields instead of two ball fields. It is totally independent from the other group. Applicant stated he gets along with Mr. Ekeler, will cooperate where they can but the projects are not tied together. This is totally independent and if his part doesn't go this part will still go. It's going to be there. It's going to be funded and there will be endowment for the expense and a bunch of endowment to pay for needy kids to use that as well as other sports. Mr. Schilke stated it cost him a whole lot more for professionals involved in this project. This isn't just a matter of going out and grading a couple of ball fields. Mr. Schilke stated he has 11 different professionals that worked on this. HDR has one person doing nothing but storm water and flood plain, another doing nothing but wastewater system, another doing traffic, several doing landscape designs. He has soil reports, boundary reports, topography. Mr. Schilke stated it was frightening because he hasn't gotten the bill yet for any of those. He stated he was not coming in without being prepared so that this is going to be a good project. He wants it to be a good project, want it to be good for Fremont and mostly want it to be good for kids and he thinks it will be. Mr. Schilke stated he wanted to correct one thing Mr. Harkins stated in that he was basically right but not 100%. Mr. Harkins talked about with the wastewater this being just a summer project. Mr. Schilke stated that is probably 99% correct but plans are to build inside one of the buildings, probably the storage building; a facility so the kids can use it in the wintertime for batting practice so there will be a few people out there they anticipate in the winter months for that purpose. They will also have one of the buildings built with sufficient structure so that it will serve as a storm shelter because it is kind of out alone and they need that. Beyond that, there will be the four diamonds. One will be the regular 90' diamond built top quality good. The other will be an 80' base that can be adapted 80' and 70' base spans for the kids about 10 up. The other two diamonds will be 60' diamonds which will be softball size and suitable for the younger kids which will mostly be t-ball. So there will be two basically softball and tball diamonds, adult men and adult boy, kids over about 14 will play on the 90' diamond and the ones about 14 and younger will play on the 70 or 80' diamond. The contractors indicated to Mr. Schilke that they can have two of them ready next spring. He stated he will go ahead with it and if he doesn't have enough money, which he pledged a total of \$5,000,000 for this project but \$1,800,000 will go to endowment which leaves \$3,200,000 for the construction and the construction costs. Mr. Schilke stated if that won't do it he will have to raise some more money possibly by sponsorships, scoreboards, naming field rights and individual contributors. Mr. Schilke stated if he can't get that done then he will have to do some alternates which would be maybe cutting out a fourth field initially or something of that type. Mr. Schilke stated he thinks it will be a great project for Fremont and more importantly for kids. The trust is a totally charitable trust and neither he nor his family can ever take a dime out of it for expenses or fees or anything and it is for kids 18 and under. The trust is for kids having financial need. You can't possibly split off diamonds and say, "ok we're going to build one for kids in financial need but

not the kids that can't do it" so you have to put them together. That's what they have done. Mr. Schilke asked if there were any questions and Chairman Sookram stated it looked like he covered a lot his bases.

Member Sawyer asked if traffic would come off the old highway. Mr. Schilke stated it would as it would come off the old highway. Mr. Schilke stated Tara Kramer is the traffic designer and he hasn't seen what she has yet. The contractor is telling him that the State or someone may require a turn lane and he thinks that will happen as they may be concerned about problems if they don't do it.

Planning Director Harkins stated to follow-up on that, staff did try to have some conversations with HDR and HDR just didn't have some very complete answers yet from the state as far as how long that turn lane would be required or where specifically or if so that is why it was not included in the staff report. Again, they felt that it would be something that would likely have to be part of the project.

Moved by Fooker, seconded by Synovec to recommend approval of the request with two additions (1) make sure there is some kind of spill containment system on the tanks, more than just an alarm and (2) when the second phase is ready to go that the applicant hook into City sewer. Roll call vote showed all members present voting aye - 6 ayes. Motion Carried.

- **Consider the Preliminary Plat of Fremont Technology Park, consisting of Lots 2,3, 4, 5, 6, 7, 8 and Tax Lot 144 of D. Schroeder's Subdivision, Fremont, Dodge County, Nebraska. LI - Limited Industrial District.**

Planning Director Harkins stated this is the Preliminary Plat for the Fremont Technology Park. Harkins stated many of the Planning Commission members know about the progress the park has been taking on over the last few months. The tract is 80 acres in size, it is zoned Limited Industrial. Harkins stated a study session was held about the zoning aspects of the park last month at the Planning Commission's regular meeting in May. Staff is anticipating bringing the proposal in July to deal with the zoning issue for the park after discussions with the Board from GFDC. The application is filed jointly because the City owns the property technically. GFDC works as the City's marketing agent. There are numerous public utilities surrounding the property which are outlined in the staff report. At the time the staff report was written, there were some easements that were not identified. The developer and the engineer have actually worked together to provide a revised plat, which is in the Commission's packet, which indicates where easements are as well as the actual street widths which are in accordance with subdivision regulations.

In terms of response times for public services, both Police and Fire can adequately service any of the lots in the proposed development. The only thing aside from making sure they have the easements that are outlined in the additions, staff was asked for proof of adequate drainage to make sure that there is positive drainage for each of the lots and additional problems would not be created when the Final Plat is done. Harkins stated staff also indicated the desire that if there are going to be specific design standards or covenants that those are done as part of the Subdivision Agreement or filed with the plat at the final platting stage including if there is any traffic island that was originally shown in the initial concept to staff. Any traffic islands or to replace any areas like that would be identified as far as whose maintenance responsibilities they are. The other thing that Mr. Harkins stated he did not see in the revised submission that the Planning Commission had before them is actual lot numbers so that would be part of the final plat process as well as far as additional information. Mr. Harkins stated that Todd Lorenz with Olsson Associates was the engineer for the project and he was available to answer any additional questions.

Mr. Lorenz wanted to remind the Planning Commission that this is a preliminary plat, it is concept and this is certainly being marketed to a variety of different companies and business

types so the actual size and scope of a particular lot and a particular user is really unknown at this time. The beauty is that Technology Park can accommodate a wide range of users. If someone comes in and says they want 30 acres, they could do that. If someone came in and said they want one acre, they could do that too. It is truly meant to be an employment center and it is well positioned to do so.

Member Sawyer asked if it was bad to have a little square in there that is zoned AG. Mr. Lorenz stated he didn't believe it was really a hindrance. Access is fairly good; there certainly could be worse neighbors. Mr. Lorenz stated he was originally concerned about the residential that backs up to this property for their sake as well as the user's sake. They have planned for a 100 foot buffer area. They can do some berming, which some is done but will be much more significant in the future, with some tree plantings to try and screen off those individuals from this development. There is certainly potential that there could be data centers with back-up generation on sight and so there could be noise issues from time to time but they are certainly aware of the neighbors and want to protect their interests. Mr. Lorenz stated it would be nice if the acreage was part of this development but if it is not, it is still ok.

Planning Director Harkins stated part of the proposal will be coming in July with a proposal to rezone this from Limited Industrial to Business Park so that would take some of the potential buffering issues away and some of the landscaping and buffering that is being looked at on the residential side will help provide some adequate spacing. Staff isn't really concerned about the AG property to the south as at some point it is felt that will develop in some form or fashion in a compatible manner with what is seen in this area already.

Moved by Fooker, seconded by Barton to recommend approval of the Preliminary Plat of Fremont Technology Park subject to the conditions listed in the staff report. Roll Call Vote showed all members present voting aye - 6 ayes. Motion Carried.

Meeting adjourned at 5:38 p.m.